

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

---

**RECUEIL DES SENTENCES  
ARBITRALES**

**Torrey Case**

1903-1905

VOLUME IX pp. 225-226



NATIONS UNIES - UNITED NATIONS  
Copyright (c) 2006

## TORREY CASE

Punitive damages not allowed for arrest by mistake where apology for such arrest is promptly made. Damages, however, for personal inconvenience during period of arrest allowed in the sum of 250 dollars.

PAÚL, *Commissioner* (for the Commission):

Charles W. Torrey claims from the Government of Venezuela the sum of \$ 10,000 for damages caused by unjust arrest at the port of La Guaira, on May 3, 1876, and for personal ill treatment in connection therewith.

The memorialist bases his pretension on the following facts:

Early in the year 1876 he went to Curaçao for health and pleasure. Shortly after his arrival there he concluded to go to Venezuela to see the country and visit its capital, Caracas. After remaining in Caracas for about a week, he concluded to return to Curaçao by the English royal mail steamer *Severn*. On the 9th of May, 1876, after having obtained a passport with all the necessary visés by the authorized officers of the Venezuelan Government in Caracas, he started for La Guaira, where he intended taking the steamer *Severn* back to Curaçao. With him at the same time were a Mr. Bartram and Dr. Elbert Nostrand, also citizens of the United States. The steamer was lying out in the stream and the three embarked on a boat belonging to said steamer to reach it. While on the way to said steamer they were hailed from shore and ordered back and commanded to report to the civil officer in charge at La Guaira. This officer ordered them all to be imprisoned in the common jail. Torrey claims that he was lodged in a cell with many low prisoners, his cell containing no other accommodation or furniture than a common table and a set of wooden stocks. His request to remain at the hotel under guard, although he was suffering from an attack of inflammatory rheumatism, was arbitrarily refused, and he was taken to jail, and kept in said prison for four hours. He was released through the immediate exertions of the United States consul at La Guaira and the United States representative at Caracas, and he took the steamer bound for Curaçao the same evening at 7 o'clock.

Among the documents presented there is a copy of the communication addressed on the 12th of June, 1885, by the honorable Secretary of State, T. F. Bayard, to Mr. Torrey in reference to his claim, which in itself is sufficient to fix the appreciation that this Commission must make about the fact of the unjust arrest suffered by Mr. Torrey for a few hours in the port of La Guaira. Said communication reproduces the opinion of Mr. Evarts, Secretary of State, contained in a letter addressed by him to the said claimant on April 5, 1877, after having examined the voluminous diplomatic correspondence caused by this affair. This opinion was as follows:

Though the Department would have preferred that the apology for your arrest should have come directly from that functionary [President Guzmán Blanco], the fact that he ordered his chief of police to make it may be regarded as sufficient. Your complaint may, however, be taken into consideration when diplomatic intercourse with Venezuela shall be resumed, but you [Mr. Torrey] must not expect that this Department will authorize a demand for vindictive damages.

Mr. Bayard, in the same communication, adds:

Under the circumstances of the case as herein presented, further diplomatic intervention in your behalf is thought to be neither expedient or proper. The Department must, therefore, regard the matter as practically closed, unless you can show to it that the apology made was not a sufficient atonement for the injury done to you, or that an error has accrued to your prejudice in the Department's decision.

This decision need not, however, prejudice your ultimate rights if you see fit to present and support a claim before any international tribunal which may hereafter be organized to take cognizance of cases arising since the award of the late Caracas Commission.

As it appears from the above communications, and as it is plainly shown by the voluminous correspondence between the two departments of foreign affairs of both governments, the incident of the four hours' arrest of the American citizen, Charles W. Torrey, in the port of La Guaira was the act of a local officer, and was due to special circumstances of that epoch, in which act there was no intention to hurt, by any means the person of an American citizen, and, on the contrary, the same gave occasion for the President of the Republic, Gen. Guzmán Blanco, as soon as he knew of said arrest to order by telegraph that the prisoners be put at liberty, thus:

Gen. J. J. YEPEZ:

Those gentlemen should not have taken passage to Curaçao when their passports were for the United States of America, but I have reason to confide in them; thus, I expect you will put them at liberty, stating to them that you are sorry for what has happened. The steamer has my permission to leave as soon as those gentlemen are on board.

GUZMÁN BLANCO

In view of the foregoing, and regarding the compensation to be given in this case as limited to reparation for the personal inconvenience and discomfort suffered by the claimant during his brief detention, an award will be made in the sum of \$ 250 United States gold.

---

#### GAGE CASE

(By the Umpire:)

Damages for insults and threatened ill treatment during time of lawful arrest allowed.

BAINBRIDGE, *Commissioner* (case referred to umpire):

This claim arises out of the arrest of the claimant, Gage, and one Fred. R. Bartlett, citizens of the United States at La Guaira, on the evening of December 26, 1900.

The arrest was made by the mayor of La Guaira, who had been a fellow passenger of the parties named on the afternoon train from Caracas, on the ground that the conduct of Messrs. Gage and Bartlett during the trip had been prejudicial to good order, as tending to cause a disturbance of the peace. The testimony as to whether the arrest was warranted or not is conflicting, although it must be said the weight of the evidence is to the effect that the conduct of these men was lacking in discretion. It is not deemed necessary, however, to discuss the evidence upon this point in detail. The claim turns primarily upon the occurrences subsequent to the arrest.

The complaint sworn to by both Gage and Bartlett on December 29, 1900, states:

Arriving at the jail we were placed in a small, dirty, dingy room with eight or ten prisoners and with no accommodations of any kind. Our money and valuables were taken from us as we were registered and searched. Shortly after one of the prisoners offered us a bench and we sat down and conversed quietly together and addressed no remarks to anyone.

After having been seated for about fifteen minutes the chief of the prison guard entered the room and roughly ordered us off the bench, and taking the bench in his