

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Mixed Commission established under the Convention concluded between the
United States of America and Mexico on 4 July 1868

**Case of Maria J. Dennison, administratrix v. Mexico (Case of the *Archibald Gracie*),
decision of the Umpire, Sir Edward Thornton**

Commission mixte constituée en vertu de la Convention conclue entre les
États-Unis d'Amérique et le Mexique le 4 juillet 1868

**Affaire concernant Maria J. Dennison, administratrice c. Mexique (Affaire *Archibald Gracie*),
décision du Surarbitre, Sir Edward Thornton**

VOLUME XXIX, pp.149-151



NATIONS UNIES - UNITED NATIONS
Copyright (c) 2012

MIXED COMMISSION ESTABLISHED UNDER THE
CONVENTION CONCLUDED BETWEEN THE UNITED STATES
OF AMERICA AND MEXICO ON 4 JULY 1868

COMMISSION MIXTE CONSTITUÉE EN VERTU DE LA
CONVENTION CONCLUE ENTRE LES ÉTATS-UNIS D'AMÉRIQUE
ET LE MEXIQUE LE 4 JUILLET 1868

**Case of Maria J. Dennison, administratrix v. Mexico (Case of the
Archibald Gracie), decision of the Umpire, Sir Edward Thornton***

**Affaire concernant Maria J. Dennison, administratrice c. Mexique
(Affaire *Archibald Gracie*), décision du Surarbitre,
Sir Edward Thornton****

Authority to act as Government's agent—organization of unauthorized expedition viewed as piratical—lawful seizure of vessel carrying Mexican flag and exercising rights of a Mexican man-of-war without authorization—no indemnification for losses resulting from acts accomplished with the knowledge that they were in violation of United States law.

National protection—United States has the right to expect that its citizens, even when accused of a crime against the laws of Mexico, should receive proper treatment at the hands of its authorities.

Due process—delay in beginning and concluding of trial viewed as unnecessary and illegal—compensation granted for lengthened imprisonment, ill treatment and unnecessary loss of time.

Pouvoir d'agir en tant qu'agent du gouvernement—organisation d'une expédition non autorisée considérée comme un acte de piraterie—saisie légale d'un vaisseau battant pavillon mexicain et exerçant les droits d'un navire de guerre mexicain sans autorisation—aucune indemnisation pour pertes résultant d'actes exécutés en toute connaissance de leur illégalité en vertu du droit des États-Unis.

* Reprinted from John Bassett Moore (ed.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. III, Washington, 1898, Government Printing Office, p. 2766.

** Reproduit de John Bassett Moore (éd.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. III, Washington, 1898, Government Printing Office, p. 2766.

Protection nationale—les États-Unis ont le droit de s'attendre à ce que leurs citoyens, même s'ils sont accusés de crimes à l'encontre des lois du Mexique, soient traités convenablement lorsqu'ils sont détenus par les autorités mexicaines.

Jugement en bonne et due forme—retard dans le commencement et la clôture du procès considéré comme inutile et illégal—compensation accordée pour emprisonnement prolongé, mauvais traitement et perte inutile de temps.

In the case of *Maria J. Dennison v. Mexico*, No. 213, it appears that one Roderick Matheson, of San Francisco, was authorized in 1855 by General Alvarez, not in the character of the head of the Mexican Government, but as the leader of a revolution against that government, to negotiate a loan for the purpose of contributing to the success of that revolution. This loan was to be guaranteed by the State of Guerrero. The umpire does not find that any authority was given to Matheson or to those who assumed to act with him as agents for Alvarez and Comonfort, to purchase a vessel for the use of the Mexican Government, together with the necessary supplies, for he does not believe in the authenticity of the letter of Rodrigo de la Torre, dated "Texca, August 17, 1855." Such a letter could not have been written by anyone whose native language was Spanish.

But whatever the contract was which Samuel L. Dennison made with Matheson, it was entered into voluntarily on his part, and it was not therefore one the fulfillment of which by the Mexican Government that of the United States was called on to enforce.

It further appears to the umpire that Dennison was cognizant of and a party to the fitting out of the *Archibald Gracie*, and of the enlisting of men at San Francisco, for hostile purposes in violation of the laws of the United States and of international law.

Before the *Archibald Gracie* arrived at La Paz, Lower California, the Mexican Government had been informed by certain diplomatic agents accredited to it, of whom the United States minister was one, that a piratical expedition had left San Francisco under the command of Zerman. Before arriving at La Paz, a Mexican vessel, with which the *Archibald Gracie* had fallen in, had been compelled to deviate from its course to accompany the expedition. Under these circumstances, the Mexican authorities were justified in seizing a vessel which had without any authority assumed to carry the Mexican flag and to exercise the rights of a Mexican man-of-war, forcing a Mexican vessel to deviate from its course. Nor can the United States Government call upon Mexico to indemnify Dennison for a vessel which with his knowledge was fitted out in violation of the United States law.

The umpire is therefore of opinion that the Mexican Government can not be held responsible for any pecuniary losses suffered by Dennison in consequence of the seizure of the *Archibald Gracie*.

But although Dennison brought upon himself these losses by acts which were in contravention of United States and international law, the umpire considers that the United States have a right to expect that one of their citizens, even when accused of crime against the laws of Mexico, should receive proper treatment at the hands of its authorities. In the present instance there was unnecessary and illegal delay in beginning and concluding the trial of Dennison, and after his arrest at La Paz he was treated with undue severity and even cruelty.

For the lengthened imprisonment and ill treatment suffered by Dennison and the unnecessary loss of time to which he was forced to submit, the umpire considers that the sum of one thousand dollars (\$1,000) in gold will be a fair compensation; and he therefore awards that this sum, without interest, in gold coin of the United States, be paid by the Mexican Government for Maria J. Dennison, as administratrix for the aforesaid Samuel L. Dennison.

**Case of Fernando M. Ortega v. the United States of America,
decision of the Umpire, Sir Edward Thornton, dated 11 July 1876***

**Affaire relative à Fernando M. Ortega c. les États-Unis d'Amérique,
décision du Surarbitre, Sir Edward Thornton,
datée du 11 juillet 1876****

Competence of the Commission—question of the *locus standi* of a Mexican claimant arrested by the United States authorities upon accusations of treason against Mexico.

State responsibility—arrest by the United States viewed as a matter of comity towards a friendly government—duty under international law to prevent a breach of neutrality.

Compétence de la Commission—question du *locus standi* d'un demandeur mexicain arrêté par les autorités des États-Unis sur accusation de trahison à l'encontre du Mexique.

* Reprinted from John Bassett Moore (ed.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. IV, Washington, 1898, Government Printing Office, p. 4027.

** Reproduit de John Bassett Moore (éd.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. IV, Washington, 1898, Government Printing Office, p. 4027.