

Tratado

entre

37
Su Majestad Británica y
los Estados Unidos de Norte Am
rica referente a Centro América
firmado en Londres el 17 de Octubre
de 1850.

Clarendon - Dallas.

TREATY between Her Majesty and the United States of
America, respecting Central America; with three
Separate Articles thereunto annexed.

Signed at London, October 17, 1856.

[*Ratifications exchanged at London,*

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HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, being desirous to settle in a friendly manner the questions which have come into discussion between them relative to Central America, have resolved to conclude a Treaty for that purpose, and have named as their respective Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, The Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And The President of the United States of America, George Mifflin Dallas, Esquire, Envoy Extraordinary and Minister Plenipotentiary of the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

Her Britannic Majesty and the United States of America agree jointly to propose to the Republics of Nicaragua and of Costa Rica the arrangements contained in the following Articles.

ARTICLE II.

A territory comprised within the following limits shall be set apart for the Mosquito Indians.

The boundary line shall begin at the mouth of the River Rama in the Caribbean Sea; thence it shall run up the midcourse of that river to its source, and from such source proceed in a line due west to the meridian of 84° 15' longitude west from Greenwich; thence due north up the said meridian until it strikes the River Brachma, and down the midcourse of that river to its mouth in the sea at about latitude from 14° to 15° north, and longitude 83° west, from the meridian of Greenwich; and thence southerly along the shore of the Caribbean Sea to the mouth of the River Rama, the point of commencement.

The inland boundary shall be designated and marked out by two Commissioners, to be appointed, one by Her Britannic Majesty, and one by the President of the Republic of Nicaragua.

If, in making the survey for this purpose, there should be discovered any natural boundary within fifteen English miles of the above-mentioned meridian line, on the western side of such meridian line, and extending the whole distance from the River Brachma to the parallel of the River Rama, it shall be the duty of the Commissioners to report the same; and such natural boundary shall be adopted instead of the astronomical one.

If, in making the survey, it should be found that the due north line on the meridian of $84^{\circ} 15'$ longitude west from Greenwich does not strike the River Brachma, it is agreed that the boundary shall be completed by a line to be drawn due west from the source of the said river to the said meridian; and that if the Commissioners should discover any natural boundary within five English miles north of the line to be in such case drawn due west from the source of the River Brachma to the meridian of $84^{\circ} 15'$ longitude west from Greenwich, it shall be their duty to report the same; and such natural boundary shall be adopted in preference to the due west line.

ARTICLE III.

The Mosquito Indians, confining themselves within the territory designated by the preceding Article, shall enjoy the right to make, by their national Council or Councils, and to carry into effect, all such laws as they may deem necessary for the government and protection of all persons within the same, and of all property therein, belonging to their people or to such persons as have connected themselves with them. Their rights of property and of local government within the territory defined, as described in the preceding Article, shall be recognized, affirmed, and guaranteed by the Republic of Nicaragua in Treaties to be made by that State with Great Britain and the United States, respectively; and the Republic of Nicaragua, in each of those Treaties, shall stipulate and engage that it will enact laws to prevent the purchase of lands from the Mosquito Indians, and the introduction and sale of spirituous liquors among the said Indians, and that the Republic will protect them from all inroads, intrusions, or aggressions, along their western and northern frontier.

The Mosquito Indians shall not be able to cede their territory or rights to any other State without the consent of Great Britain and the United States, by each separately expressed; it being, however, understood that nothing shall preclude the conclusion of such voluntary compact and arrangements between the Republic of Nicaragua and the Mosquito Indians, by which the latter may be definitively incorporated and united with the former; but it shall be stipulated, in such case, that the said Mosquito Indians shall enjoy the same rights, and be liable to the same duties, as the other citizens of the said Republic of Nicaragua.

ARTICLE IV.

All the territory south of the River Wanx or Segovia, not included within the limits of the reservation set apart for the Mosquito Indians as described in Article II, shall, without prejudice to the rights of the Republic of Honduras, or to any question of boundary between that Republic and the Republic of Nicaragua, be recognised and declared to be within the limits and sovereignty of the Republic of Nicaragua, on the following conditions:

1. The Republic of Costa Rica shall retain for its citizens the freedom of navigation up and down the River San Juan, from its mouth to the mouth of the Serapiqui river, with liberty to enter and quit the port of San Juan or Greytown with their vessels, and to store their cargoes in that port, and without being subject to any duties of import or export, tonnage duty, or other tax or public charge whatever, except for light-money and other necessary port charges.

2. The Republics of Nicaragua and of Costa Rica shall allow the

territorial disputes between them, and the limits or extension to be given to the town of San Juan or Greytown (if the same cannot be amicably adjusted between themselves and that town), to be settled by the arbitration of Great Britain and the United States of America, who in any doubtful point shall be able to call for the decision of a third party.

3. All *bond fide* grants of land for due consideration made in the name and by the authority of the Mosquito Indians since the 1st of January, 1848, and lying beyond the limits of the territory reserved for said Indians, shall be confirmed, provided the same shall not exceed in any case the extent of one hundred yards square, if within the limits of San Juan or Greytown, or one league square if without the same, and provided that such grant shall not interfere with other legal grants made previously to that date by Spain, the Republic of Central America, or either of the present States of Central America; and provided further that no such grant within either of the said States shall include territory desired by its Government for forts, arsenals, or other public buildings. This stipulation is in no manner to affect the grants of land made previously to the 1st of January, 1848.

In case, however, any of the grants referred to in the preceding paragraph of this section should be found to exceed the stipulated extent, the Commissioners hereinafter mentioned shall, if satisfied of the *bond fides* of any such grants, award to the grantee or grantees, or to his or their representatives or assigns, an area equal to the stipulated extent.

And in case any *bond fide* grant, or any part thereof, should be desired by the Government for forts, arsenals, or other public buildings, the Government shall compensate the holders for the same, the amount of compensation to be assessed and determined by the said Commissioners.

4. The Republic of Nicaragua shall constitute and declare the port of Greytown or San Juan a free port, and the city a free city (though under the sovereign authority of the Republic), whose inhabitants shall enjoy the following rights and immunities:

(a.) The right to govern themselves by means of their own Municipal Government, to be administered by legislative, executive, and judicial officers of their own election, according to their own regulations.

(b.) Trial by jury in their own courts.

(c.) Perfect freedom of religious belief, and of worship, public and private.

(d.) The Municipal Government shall lay no duties on goods exported, nor any duties on goods imported, intended for transit across the Isthmus or for consumption without the city, nor any duties of tonnage on vessels, except such as may be necessary for the police of the port and the maintenance of the necessary lighthouses and beacons. Provided that the present condition shall not interfere with, or prevent the levy of, a temporary duty on imports for the purpose of the payment to the Mosquito Indians as stipulated in Article V.

(e.) Exemption from military service, except for the defence of the city, and within the bounds of the same.

ARTICLE V.

The Republic of Nicaragua shall enter into positive Treaty stipulations with each of the two Governments of Great Britain and of the United States of America, that it will make the grant of freedom to the city of Greytown or San Juan, subject to the condition that the Municipality of the said city shall, as soon as organized, pass laws and ordinances levying, by tax or duty on imports, some reasonable sum to be paid half-yearly to the Mosquito Indians by way of annuity for a limited period, as an indemnity and compensation for their interest in the territory recognized

and declared by the first clause of Article IV to be within the limits and sovereignty of the Republic of Nicaragua.

ARTICLE VI.

Her Britannic Majesty and the Republic of Nicaragua shall, within six months after the exchange of the ratifications of the Treaty to be concluded between them in virtue of the present arrangements, appoint each a Commissioner for the purpose of designating and marking out the inland boundary separating the territory to be set apart for the Mosquito Indians, as described in Article II of the present Treaty, from the rest of the territory of the Republic.

They shall also appoint, within the same period, each a Commissioner for the purpose of deciding upon the *bond fides* of all grants of land mentioned in section 3 of Article IV of the Treaty as having been made by the Mosquito Indians of lands heretofore possessed by them, and lying beyond the limits of the territory described in Article II.

They shall further appoint, within the same period, each a Commissioner for the purpose of determining the amount, the period of duration, and the time, place, and mode of payment of the annuity to be paid to the Mosquito Indians, according to the stipulations of Article V of the present Treaty.

Her Britannic Majesty and the Republic of Nicaragua shall be at liberty either to name the same person to fulfil the duties of Commissioner for all three or for any two of the purposes above described, or to name a separate and distinct person to be Commissioner for each purpose, as they may see fit.

ARTICLE VII.

The Commissioners mentioned in the preceding Article shall meet at such place or places as shall be hereafter fixed, at the earliest convenient period after they shall have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all the matters referred to them for their decision; and such declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some third person to act as Arbitrator or Umpire in any case or cases in which they may themselves differ in opinion. Each pair of Commissioners shall separately name the person so to act as their Arbitrator or Umpire. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the Commissioners, which declaration shall also be entered on the record of the proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing, to act as such Arbitrator or Umpire, another person or other persons shall be named as aforesaid to act in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Nicaragua shall engage to consider the decision of the two Commissioners conjointly, or of the Arbitrator or Umpire, as the case may be, as final and conclusive on the matters to be respectively referred to their decision, and forthwith to give full effect to the same.

ARTICLE VIII.

The Commissioners and the Arbitrators or Umpires shall keep accurate records and correct minutes or notes of all their proceedings, with

the dates thereof, and shall appoint and employ such clerk or clerks or other persons as they shall find necessary to assist them in the transaction of the business which may come before them.

The salaries of the Commissioners shall be paid by their respective Governments. The contingent expenses of the Commissioners, including the salary of the Arbitrators or Umpires, and of the clerk or clerks, shall be defrayed in equal moities by the two Governments.

ARTICLE IX.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, bind themselves, in case the Republics of Nicaragua and of Costa Rica, or either of them, should refuse to accept the arrangements contained in the preceding Articles, not to propose nor consent to any other arrangements more favourable to the refusing party or parties.

ARTICLE X.

The present Treaty shall be ratified by Her Britannic Majesty, and by the President of the United States of America by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London as soon as possible within the space of six months.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the seventeenth day of October, in the year of our Lord one thousand eight hundred and fifty-six.

(L.S.) CLARENDON.

(L.S.) G. M. DALLAS.

SEPARATE ARTICLES.

ARTICLE I.

Whereas the arrangements set forth in the Treaty of this date are provided as an adequate substitute for the protection heretofore extended by Great Britain to the Mosquito Indians; and whereas one or the other, or both, of the Contracting Parties may find in the condition of their political relations with the Republic of Nicaragua, obstacles to prevent an immediate execution of the said arrangements; now therefore it is agreed and understood as follows;—

1. That any delay in carrying out the said arrangements, arising from the circumstances or relations of the Republic of Nicaragua, shall in no respect impair the validity or force of the Treaty as between the Contracting Parties; but the same shall remain obligatory upon, and to be executed by, them as early as may be practicable.

2. That whichever of the two Contracting Parties may soonest find itself in such political relations with the Republic of Nicaragua as enable it so to do, shall first propose singly to that Republic the arrangements contained in this Treaty, and shall obtain by means of a separate

Treaty its assent to those arrangements; the other Contracting Party engaging and reserving to itself the right also to conclude with the said Republic, at the earliest fitting moment, a Treaty containing the said arrangements.

ARTICLE II.

And whereas the relations of amity between the Contracting Parties, and the neutrality of any and every communication by canal or railway across the isthmus which connects North and South America, and to which communication by canal or railway their protection has been or shall be extended, may be further assured by some definite arrangement on two other questions which have come into discussion, now it is mutually agreed and understood:

1. That Her Britannic Majesty's Settlement called the Belize or British Honduras, on the shores of the Bay of Honduras, bounded on the north by the Mexican Province of Yucatan, and on the south by the River Sarstoon, was not and is not embraced in the Treaty entered into between the Contracting Parties on the 19th day of April, 1850; and that the limits of the said Belize, on the west, as they existed on the said 19th of April, 1850, shall, if possible, be settled and fixed by Treaty between Her Britannic Majesty and the Republic of Guatemala within two years from the exchange of the ratifications of this instrument, which said boundaries and limits shall not at any time hereafter be extended.

2. That the islands, and their inhabitants, of Ruatan, Bonaca, Utila, Barbaretta, Helena, and Morat, situate in the Bay of Honduras, and known as the Bay Islands, having been, by a Convention bearing date the 27th day of August, 1856, between Her Britannic Majesty and the Republic of Honduras, constituted and declared a Free Territory under the sovereignty of the said Republic of Honduras, the two Contracting Parties do hereby mutually engage to recognize and respect in all future time the independence and rights of the said Free Territory, as a part of the Republic of Honduras.

ARTICLE III.

The present Separate Articles shall have the same force and validity as if they had been inserted, word for word, in the Treaty between Her Britannic Majesty and the United States of America, signed this day. They shall be ratified by Her Britannic Majesty, and by the President of the United States by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at the same time as those of the Treaty.

In witness whereof the respective Plenipotentiaries have signed the present Separate Articles, and have affixed thereto the seal of their arms.

Done at London, the seventeenth day of October, in the year of our Lord one thousand eight hundred and fifty-six.

(L.S.) CLARENDON.

(L.S.) G. M. DALLAS.