

ARBITRAL AWARD<sup>1</sup> MADE ON 23 DECEMBER 1906 BY  
H.M. ALFONSO XIII, KING OF SPAIN, IN THE BORDER  
DISPUTE BETWEEN THE REPUBLICS OF HONDURAS AND  
NICARAGUA<sup>2</sup>

Détermination de la ligne frontière entre les Républiques du Honduras et du Nicaragua de l'Atlantique au *Portillo de Teotecacinte*.

DON ALFONSO XIII by the Grace of God and the Constitution of Spain.

WHEREAS the question of boundaries pending between the Republics of Honduras and Nicaragua has been submitted to me for my decision by virtue of Articles III, IV, and V of the Treaty of Tegucigalpa of the 7th October, 1894, and pursuant to the notes addressed by my Minister of State on the 11th November, 1904, to the Ministers of Foreign Affairs for the Said Powers;

INSPIRED by the desire to correspond to the trust equally vested by both the said Powers in the mother-country in submitting to my decision a matter of so great importance:

INASMUCH as for that purpose and by the Royal Decree of the 17th April, 1905, a Commission was appointed to inquire into the said question of boundaries in order that it might clear up the points in dispute and draw up a report preparatory to the arbitral finding:

INASMUCH as the High Parties interested presented in due course their respective allegations and replies together with the corresponding documents, in support of what each considered its right:

INASMUCH as the boundaries between the Republics of Honduras and Nicaragua are now definitely settled by mutual consent of both Parties, from the coast of the Pacific Ocean up to the Portillo de Teotecacinte:

INASMUCH as according to the records of Amapala of 14th September, 1902, and 29th August, 1904, the joint Honduras-Nicaragua Commission endeavoured to select a common boundary point on the Atlantic Coast to continue thence the demarcation of the frontier up to the aforesaid Portillo de Teotecacinte, which could not be carried out, as an understanding could not be arrived at:

INASMUCH as the territories in dispute comprised an extensive zone bounded by:

On the north side, starting from the Portillo de Teotecacinte, continuing along the crest of the range and following the water-shed line terminating in the Portillo where the source of the River Frio originates, and following after-

<sup>1</sup> International Court of Justice, *Case Concerning the Arbitral Award made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)*, application instituting proceedings filed in the Registry of the Court on 1st July 1958, p. 37.

<sup>2</sup> English translation of the Spanish original. The English translation appearing in the above document of the International Court of Justice is the same as that published in the *British and Foreign State Papers*, vol. 100, 1906-1907, p. 1096.

wards the course of said river up to where it unites with the Guayambre and afterwards by the source of the Guayambre up to where this river unites with the Guayape, and from here up to where the Guayape and Guayambre take the common name of Rio Patuca, following the water-course of this river until it encounters the meridian which passes by Cape Camarón and following this meridian up to the coast;

On the south from the Portillo de Teotecacinte from the headwaters of the River Limón, following the course of this river and afterwards by the Poteca up to its confluence with the River Segovia, continuing the water-course of the latter until it reaches a point situated 20 geographical miles in a straight and perpendicular line from the Atlantic Coast turning southwards at this point on an astronomical meridian until the geographical parallel of latitude which crosses the mouth of the River Arena and the lagoon of Sandy Bay is intercepted, said parallel being followed towards the east from the above-mentioned intersection up to the Atlantic Coast;

INASMUCH as the question which has given rise to this arbitration consists in fixing the dividing lines of both Republics comprised between a point on the Atlantic Coast and the aforementioned Portillo de Teotecacinte;

WHEREAS, as agreed upon between both Parties in the third Stipulation of the second Article of the Treaty of Tegucigalpa or Gámez-Bonilla of 1894, by which this Arbitration is governed, it is to be understood that each of the Republics of Honduras and Nicaragua possesses such territory as on the date of their independence formed respectively the provinces of Honduras and Nicaragua belonging to Spain;

WHEREAS the Spanish provinces of Honduras and Nicaragua were gradually developing by historical evolution in such a manner as to be finally formed into two distinct administrations (intendencias) under the Captaincy-General of Guatemala by virtue of the prescriptions of the Royal Regulations of Provincial Intendants of New Spain of 1786, which were applied to Guatemala and under whose régime they came as administered provinces till their emancipation from Spain in 1821;

WHEREAS by Royal Decree of 24th July, 1791, at the request of the Intendant Governor of Comayagua and in conformity with the decision of the High Council of Guatemala by virtue of the prescriptions laid down in Articles VIII and IX of the Royal Regulations of Intendants of New Spain, the incorporation of the chief municipality (Alcaldía Mayor) of Tegucigalpa with the Administration (intendencia) and government of Comayagua (Honduras) with all the territory of its bishopric was decided upon, by reason of the fact that the said chief municipality was a neighbouring province to that of Honduras and united with it for ecclesiastical purposes as well as for collecting taxes;

WHEREAS, by virtue of this Royal Decree the Province of Honduras was formed in 1791, with all the territories of the primitive province of Comayagua, those of the neighbouring Province of Tegucigalpa and the territories of the bishopric of Comayagua, thus comprising a region bordering on the south with Nicaragua, on the south-west and west with the Pacific Ocean, San Salvador, and Guatemala; and on the north, north-east, and east with the Atlantic Ocean, with the exception of that part of the coast inhabited at the time by the Mosquito, Zambos, and Payas Indians, etc.;

WHEREAS, taking as a precedent what is ordained in the Royal Decree of 1791, regard should be had for the demarcation made by two other Royal Decrees of the 23rd August, 1745, by which Don Juan de Vera was

appointed Governor and Commander-General of the Province of Honduras for the command of this province and the remainder comprised within the Bishopric of Comayagua and district of the chief municipality of Tegucigalpa and of all the territory and coast comprised between the limit of jurisdiction of the province of Yucatan up to Cape Gracias á Dios: and the other Royal Decree appointed Don Alonso Fernandez de Heredia Governor of the province of Nicaragua and Commander-General of same, of Costa Rica, of the district of Realejo and chief municipalities of Subtiaba, Nicoya and the rest of the territories comprised from Cape Gracias á Dios up to the River Chagre (River Chagre excluded);

In said documents Cape Gracias á Dios is fixed as the boundary point of the jurisdiction, assigned to the above-mentioned Governors of Honduras and Nicaragua in the respective capacities in which they were appointed.

WHEREAS, furthermore, there is a precedent worthy of note, in the despatch of the Captain-General of Guatemala, Don Pedro de Rivera, addressed to the King on the 23rd of November, 1742, with reference to the Mosquito Indians, which states that Cape Gracias á Dios is situated on the coast of the province of Comayagua (Honduras);

WHEREAS, when by virtue of the Treaty with Great Britain in 1786 the British evacuated the country of the Mosquitos, at the same time that new Regulations were made for the port of Trujillo, it was likewise ordained to raise four new Spanish settlements on the Mosquito Coast in Rio Tinto, Cape Gracias á Dios, Blewfields, and mouth of the River San Juan, although it is nevertheless true that these settlements remained directly subject to the Captain-General's command of Guatemala, both Parties agreed to recognize that this fact in no way altered the territories of the provinces of Nicaragua and Honduras, the latter Republic having shown by means of certified copies of despatches and accounts that before and after 1791 the Intendant Governorship of Comayagua superintended everything appertaining to its competence in Trujillo, Rio Tinto, and Cape Gracias á Dios.

WHEREAS Regulation 7 of Title II and Book II of the Code of the Indies, in fixing the manner as to how the division of the discovered territories was to be made, ordained that it should be carried out in such a manner that the secular division should conform to the ecclesiastical, and that the Archbishoprics should correspond with the districts of the Courts of Law, the Bishoprics with the Governorships and chief municipalities and the parishes with the districts and District Councils;

WHEREAS the Bishopric of Comayagua or Honduras, which prior to 1791 had exercised jurisdiction in territories which at the present moment are in dispute, exercised beyond doubt such acts of jurisdiction from that date within the limits of the Governorship and Administrations of the same name, as would consist in the collection of titles, matrimonial documents, appointment of church livings, and the settlement of ecclesiastical claims in Trujillo, Rio Tinto, and Cape Gracias á Dios;

WHEREAS the settlement and township of Cape Gracias á Dios, situated slightly to the south of the cape of the same name and of the southern margin of the most important mouth of the river known at the present day as the Coco or Segovia, was, prior to 1791, included in the ecclesiastical jurisdiction of the Bishopric of Comayagua, and continued under said jurisdiction until the old Spanish Province of Honduras was constituted into an independent State;

WHEREAS the Constitution of the State of Honduras of 1825, drawn up at the time it was united to the State of Nicaragua, and forming with other States the

Federal Republic of Central America, sets forth that its territory comprises all that corresponds and corresponded with the diocese of Honduras ;

WHEREAS the demarcation fixed for the Province or District of Comayagua or Honduras, by virtue of the Royal Decree of the 24th July, 1791, continued to be the same at the time when the Provinces of Honduras and Nicaragua achieved their independence, because though by Royal Decree of the 24th January, 1818, the King sanctioned the re-establishment of the chief municipality of Tegucigalpa with a certain degree of autonomy as to its administration, said chief municipality continued to form a district of the Province of Comayagua or Honduras, subject to the political chief of the province; and in that capacity took part in the election, 5th November, 1820, of a Deputy to the Spanish Cortes and a substitute Deputy for the Province of Comayagua, and likewise took part together with the other districts of Gracias, Choluteca, Olancho, Yoro with Olanchito and Trujillo, Tenco and Comayagua, in the election of the Provincial Council of Honduras, said election having taken place on the 6th November of the same year, 1820;

WHEREAS on the organization of the Government and Administration of Nicaragua in accordance with the Royal Administrative Statutes of 1786 it consisted of the five districts of Leon, Matagalpa, El Realejo, Subtiaga, and Nicoya, not comprising in this division nor in that proposed in 1788 by the Governor and Intendant Don Juan de Ayssa territories to the north and west of Cape Gracias á Dios, which are at the present day claimed by the Republic of Nicaragua, there being no record either that the jurisdiction of the diocese of Nicaragua reached to that Cape, and whereas it is worthy of note that the last Governor and Intendant of Nicaragua, Don Miguel González Saravia, in describing the province which had been under his rule in his book "*Bosquejo político-estadístico de Nicaragua*", published in 1824 stated that the divisionary line of said Province on the north runs from the Gulf of Fonseca on the Pacific to the River Perlas on the Northern Sea (Atlantic);

WHEREAS the Commission of investigation has not found that the expanding influence of Nicaragua has extended to the north of Cape Gracias á Dios, and therefore not reached Cape Camarón; and that in no map, geographical description or other document of those examined by said Commission is there any mention that Nicaragua had extended to said Cape Camarón, and there is no reason, therefore, to select said Cape as a frontier boundary with Honduras on the Atlantic Coast as is claimed by Nicaragua;

WHEREAS, though at some time it may have been believed that the jurisdiction of Honduras reached to the south of Cape Gracias á Dios, the Commission of investigation finds that said expansion of territory was never clearly defined, and in any case was only ephemeral below the township and port of Cape Gracias á Dios, whilst on the other hand the influence of Nicaragua has been extended and exercised in a real and permanent manner towards the aforementioned Cape Gracias á Dios, and therefore it is not equitable that the common boundary on the Atlantic Coast should be Sandy Bay as claimed by Honduras;

WHEREAS in order to arrive at the designation of Cape Camarón or Sandy Bay it would be necessary to resort to artificial divisionary lines which in no wise correspond to well-defined natural boundaries as recommended by the Gámez-Bonilla Treaty;

WHEREAS all the maps (Spanish and foreign) examined by the Commission appointed by the Royal Decree of April, 1905, with reference to the territories of

Honduras and Nicaragua prior to the date of their independence, show the separation between both territories at Cape Gracias á Dios or to the south of this Cape, and that at a date subsequent to the Independence maps, such as those of Squier (New York, 1854), Baily (London, 1856), Dussieux (prepared in the presence of Stieler, Kiepert, Petermann and Berghaus, Paris, 1868), Dunn (New Orleans, 1884), Colton Ohman & Co. (New York, 1890), Andrews (Leipzig, 1901), Armour's (Chicago, 1901), define the limit at Cape Gracias á Dios;

WHEREAS only five of the maps examined with reference to the question fix the limit between Honduras and Nicaragua on the Atlantic side to the north of Cape Gracias á Dios, and these five maps are subsequent to the date of Independence and even to the date when the dispute arose between the two mentioned States, and that out of the five maps three are by Nicaragua and the other two (one German and another North American), though nevertheless placing the limit to the north of Cape Gracias á Dios, fix it at a point very near this Cape, that is, at the northern extremity of the delta of the River Segovia;

WHEREAS such geographical authorities as López de Velasco (1571-1574), Tomás López (1758), González Saravia (Governor of Nicaragua, 1823), Squier (1856), Reclus (1870), Sonnenstern (1874), Bancroff (1890), have fixed the common boundary between Honduras and Nicaragua on the Atlantic Coast at the mouth of the River Segovia or Cape Gracias á Dios, or a point to the south of this Cape;

WHEREAS Cape Gracias á Dios has been recognized as the common boundary between Honduras and Nicaragua in several diplomatic documents from the latter State, such as Circulars addressed to foreign Governments by Don Francisco Castellón, Minister Plenipotentiary of Nicaragua and Honduras (1844), Don Sebastian Salinas, Minister for Foreign Affairs (1848), and Don José Guerrero, Supreme Director of the State of Nicaragua (1848), and by the instructions sent by the Government of Nicaragua to its Envoy Extraordinary to Spain, Don José de Marcoleta, for the purposes of recognition of the independence of the said Republic, 1850;

WHEREAS, from what is inferred from all the foregoing, the point which best answers the purpose by reason of historical right, of equity and of a geographical nature, to serve as a common boundary on the Atlantic Coast between the two contending States, is Cape Gracias á Dios for the Atlantic Coast, and further, as this Cape fixes what has practically been the limit or expansion or encroachment of Nicaragua towards the north and of Honduras towards the south;

WHEREAS, once Cape Gracias á Dios has been fixed as the common boundary between the two contending States, it is necessary to fix the frontier line between this point and the Portillo de Teotecacinte, which was the point reached by the joint Honduras-Nicaragua Commission;

WHEREAS close to Cape Gracias á Dios on the Atlantic there starts no important range of mountains which by reason of the direction followed could serve as a frontier between both States starting from said point, and that on the other hand there exists in that very spot a perfectly defined boundary, that is to say, the mouth and bed of such an important and copious river as the Coco, Segovia or Wanks;

WHEREAS the course of said river, at least a good portion of it, owing to the direction in which it flows and to the conditions of its bed, offers the most precise and natural boundary which could be desired;

WHEREAS this same River Coco, Segovia or Wanks in a great part of its course has figured and figures on many maps, public documents and geographical descriptions as the frontier between Honduras and Nicaragua;

WHEREAS in the volume of the Blue Book for the years 1856 and 1860 presented by Her Britannic Majesty's Government to Parliament, these documents, appearing amongst the documents produced by Nicaragua, show that according to the Note of Great Britain's representative in the United States who took part in the negotiations to solve the question of the Mosquito territory (1852), Honduras and Nicaragua had mutually recognized as a frontier the River Wanks or Segovia; further, that in Article II of the Agreement between Great Britain and Honduras of 27th August, 1859, Her Britannic Majesty's Government recognized the middle of the River Wanks or Segovia, which flows out at Cape Gracias á Dios, as the boundary between the Republic of Honduras and the territory of the Mosquito Indians; and that, in Article IV of the Treaty with Great Britain and the United States of 17th of October of the same year, 1856, it was decided that all the territory to the south of the River Wanks or Segovia not included in the portion reserved to the Mosquito Indians, and without prejudging the rights of Honduras, should be considered within the limits and under the rule of the Republic of Nicaragua;

WHEREAS it is necessary to fix a point where the course of the River Wanks, Coco or Segovia should be abandoned before it turns to the south-west and enters the unquestionable territory of Nicaragua;

WHEREAS the point which best answers the purpose in view is the place where the said River Coco or Segovia receives on its left bank the waters of its tributary Poteca or Bodega;

WHEREAS this point of confluence of the said River Poteca with the River Segovia has been likewise adopted by several authorities, and particularly by the Nicaraguan engineer Don Maximiliano V. Sonnenstern in his "Geography of Nicaragua for use in the Elementary Schools of the Republic" (Managua, 1874);

WHEREAS, continuing the bed of the Poteca upstream until the River Guineo or Namasli is reached, the southern part of the site of Teotecacinte is struck to which the document presented by Nicaragua, dated 26th August, 1720, refers, according to which said site appertained to the jurisdiction of the city of New Segovia (Nicaragua);

WHEREAS, from the point at which the River Guineo commences to form part of the River Poteca, the frontier line that may be taken is that which corresponds to the demarcation of said site of Teotecacinte until it connects with the Portillo of the same name, but in such a manner that the aforementioned site remains within the jurisdiction of Nicaragua;

WHEREAS if the selection of the confluence of the Poteca with the Coco or Segovia be taken as the point where the bed of the latter river is to be abandoned, to look out for the Portillo de Teotecacinte, in the manner described, might give rise to doubts and controversy under the supposition that Honduras would be favoured in the narrow region of the northern valley of the Segovia, which thus remains within the frontier; whilst, on the other hand, and as compensation for having taken the mouth of the Segovia in the manner previously mentioned, the bay and town of Cape Gracias á Dios remain within the domain of Nicaragua, which, according to facts beyond dispute and with a greater right, would correspond to Honduras; and lastly,

WHEREAS, though Regulation 4 of Article II of the Gámez-Bonilla or Tegucigalpa Treaty provides that to fix the boundaries between both Republics due note will be taken of the territory held under undisputed sway, without giving any legal validity to the fact of possession alleged by one or the other Party, Regulation 6 of the same Article lays down that, if considered convenient, compensations can be effected, and even indemnifications made to bring about, if possible, well-defined natural boundaries;

AGREEING with the solution proposed by the Commission of investigation and concurring with the Council of State in full and with my Cabinet,

I DO HEREBY declare that the dividing line between the Republics of Honduras and Nicaragua from the Atlantic to the Portillo de Teotecacinte where the joint Commission of Boundaries abandoned it in 1901, owing to their inability to arrive at an understanding as to its continuation at their subsequent meetings, is now fixed in the following manner;

The extreme common boundary point on the coast of the Atlantic will be the mouth of the River Coco, Segovia or Wanks, where it flows out in the sea close to Cape Gracias á Dios, taking as the mouth of the river its principal arm between Hara and the Island of San Pio where said Cape is situated, leaving to Honduras the islets and shoals existing within said principal arm before reaching the harbour bar, and retaining for Nicaragua the southern shore of the said principal mouth with the said Island of San Pio, and also the bay and town of Cape Gracias á Dios and the arm or estuary called Gracias which flows to Gracias á Dios Bay, between the mainland and said Island of San Pio.

Starting from the mouth of the Segovia or Coco the frontier line will follow the watercourse or thalweg of this river upstream without interruption until it reaches the place of its confluence with the Poteca or Bodega, and thence said frontier line will depart from the River Segovia, continuing along the watercourse of the said Poteca or Bodega upstream until it joins the River Guineo or Namasli.

From this junction the line will follow the direction which corresponds to the demarcation of the site of Teotecacinte in accordance with the demarcation made in 1720 to terminate at the Portillo de Teotecacinte in such manner that said site remains wholly within the jurisdiction of Nicaragua.

GIVEN in duplicate at the Royal Palace in Madrid, 23rd of December, 1906.

(Signed) Juan Pérez CABALLERO,  
*Minister of State*

(Signed) ALFONSO R. XIII