

ARBITRATION OF SANTOS CLAIM

Convention signed at Quito February 28, 1893

Senate advice and consent to ratification September 11, 1893

Ratified by the President of the United States September 16, 1893

Ratified by Ecuador August 26, 1894

Ratifications exchanged at Washington November 6, 1894

Entered into force November 6, 1894

Proclaimed by the President of the United States November 7, 1894

*Terminated upon fulfillment of its terms*¹

28 Stat. 1205; Treaty Series 80

The United States of America, and the Republic of Ecuador, being desirous of removing all questions of difference between them, and of maintaining their good relations, in a manner consonant to their just interests and dignity, have decided to conclude a convention, and for that purpose have named as their respective Plenipotentiaries, to wit:

The President of the United States; Rowland Blennerhassett Mahany, Envoy Extraordinary and Minister Plenipotentiary of the United States to Ecuador; and

The President of Ecuador;

Honorato Vazquez, Plenipotentiary *ad hoc*, of that Republic,—who, having communicated to each other their respective Full Powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The two governments agree to refer to the decision of an arbitrator, to be designated in the manner hereinafter provided, the claim presented by the Government of the United States against that of the Republic of Ecuador, in behalf of Julio R. Santos, a native of Ecuador, and naturalized as a citizen of the United States in the year 1874; the said claim being for injuries to his person and property, growing out of his arrest and imprisonment by the authorities of Ecuador, and other acts of the said authorities in the years 1884 and 1885.

¹ The arbitrator made an award of \$40,000 in favor of the claimant.

ARTICLE II

1. In order to secure the services of a competent and impartial arbitrator, it is agreed that the Government of Her Britannic Majesty be requested to authorize its diplomatic representative in Quito, to act in that capacity; or in the case of his absence from the country, that this permission be given his successor.

2. In case of the failure of the diplomatic representative of Her Britannic Majesty's Government, or of the successor of the said representative, to act as such arbiter, then the said representative, or his successor, be requested to name an arbitrator who shall not be a citizen either of the United States or of Ecuador.

3. Any vacancy in the office of Arbitrator, to be filled in the same manner as the original appointment.

ARTICLE III

1. As soon as may be after the designation of the Arbitrator, not to exceed the period of ninety days, the written or printed case of each of the contracting parties, accompanied by the documents, the official correspondence and other evidence on which each relies, shall be delivered to the Arbitrator, and to the agent of the other party; and within ninety days after such delivery and exchange of the cases of the two parties, either party may, in like manner, deliver to the Arbitrator, and to the agent of the other side, a counter case to the documents and evidence presented by the other party, with such written or printed argument as may, by each, be deemed proper. And each government shall furnish upon the request of the other, or its agent, such papers in its possession as may be deemed important to the just determination of the claim.

2. Within the last named period of ninety days, the Arbitrator may also call for such evidence as he may deem proper, to be furnished within the same period; and shall also receive such oral and documentary evidence as each government may offer. Each government shall also furnish, upon the requisition of the Arbitrator, all documents in its possession, which may be deemed by him as material to the just determination of the claim.

3. Within sixty days after the last mentioned period of ninety days, the Arbitrator shall render his opinions and decisions in writing, and certify the same to the two governments. These decisions and opinions shall embrace the following points, to-wit:

(a) Whether, according to the evidence adduced, Julio R. Santos, by his return to and residence in Ecuador, did or did not, under the provisions of the Treaty of Naturalization between the two Governments, concluded May 6, 1872,² forfeit his United States citizenship as to Ecuador, and resume the obligations of the latter country.

² TS 78, *ante*, p. 319.

(b) If he did not so forfeit his United States citizenship, whether or not it was shown by the evidence adduced, that Julio R. Santos has been guilty of such acts of unfriendliness and hostility to the Government of Ecuador, as, under the Law of Nations, deprived him of the consideration and protection due a neutral citizen of a friendly Nation.

ARTICLE IV

1. In case either one or the other of the points recited in clauses (a) and (b) of the last preceding article, should be decided in favor of the contention of the Government of Ecuador, said Government shall be held to no further responsibility to that of the United States for arrest, imprisonment, and other acts of the authorities of Ecuador towards Julio R. Santos, during the years 1884 and 1885.

2. On the other hand, should the Arbitrator decide the above recited points against the contention of Ecuador, he shall, after a careful examination of the evidence touching the injuries and losses to the person and property of the said Santos, which shall have been laid before him concerning the arrest and imprisonment of said Santos, and other acts of the authorities of Ecuador towards him, during the years 1884 and 1885, award such damages for said injuries and losses as may be just and equitable; which shall be certified to the two Governments and shall be final and conclusive.

ARTICLE V

1. Both Governments agree to treat the decisions of the Arbitrator and his award as final and conclusive.

2. Should a pecuniary indemnity be awarded, it shall be specified in the gold coin of the United States, and shall be paid to the government thereof within sixty days after the beginning of the first session of the Congress of Ecuador, held subsequent to the rendition of the award, and the said award shall bear interest at six per centum from the date of its rendition.

3. The Government of Ecuador, however, reserves the right to pay, before the expiration of the above stated time, the whole amount to the Government of the United States, with interest at six per centum from the date of the announcement of the award till the date of the payment thereof.

ARTICLE VI

1. Each government shall pay its own agent and counsel, if any, for the expenses of preparing and submitting its case to the Arbitrator.

2. All other expenses, including reasonable compensation to the Secretary, if any, of the Arbitrator, shall be paid upon the certificates of the Arbitrator, by the two Governments in equal moieties.

ARTICLE VII

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof; by the Congress of Ecuador and by the President thereof; and the ratifications exchanged at Washington as soon as possible.

In faith whereof, the Plenipotentiaries have signed and sealed this Convention in duplicate, in the City of Quito, this twenty eighth day of February, in the year of our Lord one thousand eight hundred and ninety three.

ROWLAND BLENNERHASSETT MAHANY [SEAL]
HONORATO VÁZQUEZ [SEAL]