

MEXICO—BANCOS IN THE RIO GRANDE.

CONVENTION

BETWEEN

THE UNITED STATES AND MEXICO

FOR THE

ELIMINATION OF THE BANCOS IN THE RIO GRANDE FROM THE EFFECTS
OF ARTICLE II OF THE TREATY OF NOVEMBER 12, 1884.

Signed at Washington March 20, 1905.

Ratification advised by the Senate February 28, 1907.

Ratified by the President March 13, 1907.

Ratified by Mexico March 15, 1907.

Ratifications exchanged at Washington May 31, 1907.

Proclaimed June 5, 1907.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas a Convention between the United States of America and the United States of Mexico, providing for eliminating the bancos in the Rio Grande from the effects of Article II of the Treaty of November 12, 1884, was concluded and signed by their respective Plenipotentiaries at Washington on the 20th day of March, one thousand nine hundred and five, the original of which Convention being in the English and Spanish languages is word for word as follows:

Whereas, for the purpose of obviating the difficulties arising from the application of Article V of the Treaty of Guadalupe-Hidalgo, dated February 2, 1848, and Article I of the Treaty of December 30, 1853, both concluded between the United States of America and Mexico—difficulties growing out of the frequent changes to which the beds of the Rio Grande and Colorado River are subject—there was signed in Washington on November 12, 1884, by the Plenipo-

Por cuanto con el objeto de evitar las dificultades que resultaban de la aplicación de los artículos V del Tratado de Guadalupe Hidalgo, del 2 de Febrero de 1848, y I del Tratado del 30 de Diciembre de 1853, celebrados entre los Estados Unidos de América y México, dificultades originadas por los frecuentes cambios á que en su cauce están sujetos los ríos Bravo y Colorado, se firmó en Washington en 12 de Noviembre de 1884 por los Plenipotenciarios de los Estados Unidos y de

tentiaries of the United States and Mexico, a convention containing the following stipulations:

"ARTICLE I.—The dividing line shall forever be that described in the aforesaid Treaty and follow the center of the normal channel of the rivers named, notwithstanding any alterations in the banks or in the course of those rivers, provided that such alterations be effected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of an existing river bed and the opening of a new one.

"ARTICLE II.—Any other change, wrought by the force of the current whether by the cutting of a new bed, or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid Treaty, shall produce no change in the dividing line as fixed by the surveys of the International Boundary Commissions in 1852, but the line then fixed shall continue to follow the middle of the original channel bed, even though this should become wholly dry or be obstructed by deposits."

Whereas, as a result of the topographical labors of the Boundary Commission created by the Convention of March 1, 1889, it has been observed that there is a typical class of changes effected in the bed of the Rio Grande, in which, owing to slow and gradual erosion, coupled with avulsion, said river abandons its old channel and there are separated from it small portions of land known as "bancos" bounded by the said old bed, and which, according to the terms of Article II of the aforementioned Convention of 1884, remain subject to the dominion and jurisdiction of the country from which they have been separated;

Whereas, said "bancos" are left

México, una Convención que contiene las siguientes estipulaciones:

"ARTÍCULO I.—La línea divisoria será siempre la fijada en dicho Tratado, y seguirá el centro del canal normal de los citados ríos á pesar de las alteraciones en las riberas ó en el curso de esos ríos, con tal que dichas alteraciones se efectúen por causas naturales como la corrosión lenta y gradual, y el depósito del aluvión, y nó por el abandono del canal existente del río y la apertura de uno nuevo.

"ARTÍCULO II.—Cualquier otro cambio ocasionado por la fuerza de la corriente, ya sea abriendo un nuevo canal, ó en donde haya más de uno, haciendo más profundo otro canal que no sea el que se marcó como parte de la línea divisoria al tiempo del reconocimiento hecho conforme á dicho Tratado, no producirá alteración alguna en la línea divisoria tal como fué fijada por los reconocimientos de la Comisión Internacional de Límites en 1852; pero la línea fijada entonces, seguirá siendo el centro del canal original, aun cuando éste llegare á secarse del todo, ó á obstruirse por el aluvión."

Por cuanto en virtud de los trabajos topográficos de la Comisión de Límites creada por la Convención de 10 de Marzo de 1889, se ha observado que hay una clase típica de cambios efectuados en el cauce del río Bravo, en los cuales, á causa de la corrosión lenta y gradual, combinada con la avulsión, dicho río abandona su antiguo canal y se separan de él pequeñas porciones de terreno conocidas con el nombre de "bancos," limitadas por el referido antiguo cauce y que, según los términos del Artículo II de la expresada Convención de 1884, quedan sujetas al dominio y jurisdicción del país de donde han sido separadas;

Por cuanto dichos bancos quedan

at a distance from the new river bed, and, by reason of the successive deposits of alluvium, the old channel is becoming effaced, the land of said "bancos" becomes confused with the land of the "bancos" contiguous thereto, thus giving rise to difficulties and controversies, some of an international and others of a private character:

Whereas, the labors of the International Boundary Commission, undertaken with the object of fixing the boundary line with reference to the "bancos," have demonstrated that the application to these "bancos" of the principle established in Article II of the Convention of 1884 renders difficult the solution of the controversies mentioned, and, instead of simplifying, complicates the said boundary line between the two countries:

Therefore, the Governments of the United States of America and the United States of Mexico, being desirous to enter into a convention to establish more fitting rules for the solution of such difficulties, have appointed as their Plenipotentiaries—

That of the United States of America, Alvey A. Adee, Acting Secretary of State of the United States;

That of the United States of Mexico, its Ambassador Extraordinary and Plenipotentiary, Licenciado Don Manuel de Azpíroz;

Who, after exhibiting their full powers, found to be in good and due form, have agreed to the following articles:

ARTICLE I.

The fifty-eight (58) bancos surveyed and described in the report of the consulting engineers, dated May 30, 1898, to which reference is made in the record of proceedings of the International Boundary

distantes del nuevo cauce del río y en razón de los depósitos sucesivos de aluvión se borra el antiguo canal, confundiéndose el terreno de los mismos bancos con el de los colindantes y originándose dificultades y controversias, unas de orden internacional y otras de orden privado;

Por cuanto los trabajos de la Comisión Internacional de Límites, emprendidos con el objeto de fijar la línea divisoria con relación á los bancos, han demostrado que la aplicación á éstos del principio establecido en el artículo II de la Convención de 1884 hace difícil la solución de las mencionadas controversias, y en vez de simplificar, complica dicha línea divisoria entre los dos países:

Por tanto, los Gobiernos de los Estados Unidos de América y de los Estados Unidos de México, desearios de celebrar una Convención que establezca reglas más acertadas para resolver tales dificultades, han nombrado como sus plenipotenciarios,

El de los Estados Unidos de América, á Alvey A. Adee, Secretario de Estado interino de los Estados Unidos;

El de los Estados Unidos de México á su Embajador Extraordinario y Plenipotenciario, Licenciado Don Manuel de Azpíroz;

Quienes despues de exhibir sus plenos poderes, que encontraron en buena y debida forma, han convenido en los artículos siguientes:

ARTÍCULO I.

Los cincuenta y ocho (58) bancos medidos y descritos en el informe de los Ingenieros Consultores, del 30 de Mayo de 1898, á que se refiere el acta de la Comisión Internacional de Límites del 14 de Junio de 1898,

Commission, dated June 14, 1898, and which are drawn on fifty-four (54) maps on a scale of one to five thousand (1 to 5,000), and three index maps, signed by the Commissioners and by the Plenipotentiaries appointed by the convention, are hereby eliminated from the effects of Article II of the Treaty of November 12, 1884.

Within the part of the Rio Grande comprised between its mouth and its confluence with the San Juan River the boundary line between the two countries shall be the broken red line shown on the said maps—that is, it shall follow the deepest channel of the stream—and the dominion and jurisdiction of so many of the aforesaid fifty-eight (58) bancos as may remain on the right bank of the river shall pass to Mexico, and the dominion and jurisdiction of those of the said fifty-eight (58) bancos which may remain on the left bank shall pass to the United States of America.

dibujados en cincuenta y cuatro (54) planos, en escala de uno á cinco mil (1 á 5,000), y tres planos índices, firmados por los Comisionados y por los Plenipotenciarios nombrados para esta Convención, quedan eliminados de los efectos del artículo II del Tratado del 12 de Noviembre de 1884.

La línea divisoria entre los dos países será, en el trayecto del río Bravo, comprendido entre su desembocadura y su confluencia con el río San Juan, la línea roja quebrada que consta en los expresados planos; esto es, seguirá por el canal más profundo de la corriente, y el dominio y jurisdicción de aquellos de los citados cincuenta y ocho (58) bancos que queden en la margen derecha del río pasarán á México; y el dominio y jurisdicción de aquellos de los citados cincuenta y ocho (58) bancos que queden en la margen izquierda, pasarán á los Estados Unidos de América.

ARTICLE II.

The International Commission shall, in the future, be guided by the principle of elimination of the bancos established in the foregoing article, with regard to the labors concerning the boundary line throughout that part of the Rio Grande and the Colorado River which serves as a boundary between the two nations. There are hereby excepted from this provision the portions of land segregated by the change in the bed of the said rivers having an area of over two hundred and fifty (250) hectares, or a population of over two hundred (200) souls, and which shall not be considered as bancos for the purposes of this treaty and shall not be eliminated, the old bed of the river remaining, therefore, the boundary in such cases.

ARTÍCULO II.

En lo de adelante, para los trabajos relativos á la línea divisoria, en toda la parte de los ríos Bravo y Colorado que sirve de límite entre las dos naciones, la Comisión Internacional se regirá por el principio de eliminación de los bancos, establecida en el artículo anterior. Quedan exceptuadas de tal principio las porciones de terreno segregadas por el cambio de cauce de dichos ríos que tengan una extensión de más de doscientas cincuenta (250) hectáreas ó una población de más de doscientas (200) almas y que no se considerarán como bancos para los efectos de este Tratado ni serán eliminadas, quedando por lo mismo, como límite en esos casos el antiguo cauce del río.

ARTICLE III.

With regard to the bancos which may be formed in future, as well as to those already formed but which are not yet surveyed, the Boundary Commission shall proceed to the places where they have been formed, for the purpose of duly applying Articles I and II of the present convention, and the proper maps shall be prepared in which the changes that have occurred shall be shown, in a manner similar to that employed in the preparation of the maps of the aforementioned fifty-eight (58) bancos.

As regards these bancos, as well as those already formed but not surveyed, and those that may be formed in future, the Commission shall mark on the ground, with suitable monuments, the bed abandoned by the river, so that the boundaries of the bancos shall be clearly defined.

On all separated land on which the successive alluvium deposits have caused to disappear those parts of the abandoned channel which are adjacent to the river, each of the extremities of said channel shall be united by means of a straight line to the nearest part of the bank of the same river.

ARTICLE IV.

The citizens of either of the two contracting countries who, by virtue of the stipulations of this convention, shall in future be located on the land of the other may remain thereon or remove at any time to whatever place may suit them, and either keep the property which they possess in said territory or dispose of it. Those who prefer to remain on the eliminated bancos may either preserve the title and rights of citizenship of the country to which the said

ARTÍCULO III.

Tanto respecto de los bancos que en adelante se formen como respecto de los ya formados, pero que aun no están medidos, la Comisión de Límites se trasladará al lugar donde se hubieren producido, para la debida aplicación de los artículos I y II de la presente Convención, levantándose los planos correspondientes, en que se señalarán los cambios ocurridos, de una manera análoga á la empleada en los planos formados con motivo de los expresados cincuenta y ocho (58) bancos.

En lo tocante á éstos, á los bancos ya formados y no medidos y á los que en adelante se formen, la Comisión marcará en el terreno, con monumentos adecuados, el cauce abandonado por el río, de manera que los linderos del banco queden perfectamente definidos.

En todo terreno segregado en que los aluviones sucesivos han hecho desaparecer las partes del canal abandonado, adyacentes al río, cada uno de los extremos de dicho canal se unirá por medio de una línea erecta al punto más inmediato de la margen del mismo río.

ARTÍCULO IV.

Los nacionales de cualquiera de los dos países contratantes que en virtud de las estipulaciones de esta Convención queden para lo futuro en terreno de la otra, podrán permanecer en él ó trasladarse en cualquier tiempo á donde mejor les convenga y conservar en dicho territorio los bienes que posean, ó bien enajenarlos. Los que prefieran permanecer en los bancos eliminados, podrán conservar el título y los derechos de nacionales del país á que antes pertenecían

bancos formerly belonged, or acquire the nationality of the country to which they will belong in the future.

Property of all kinds situated on the said bancos shall be inviolably respected, and its present owners, their heirs, and those who may subsequently acquire the property legally, shall enjoy as complete security with respect thereto as if it belonged to citizens of the country where it is situated.

dichos bancos ó adquirir la nacionalidad de aquel á que van á pertenecer en lo de adelante.

Las propiedades de todo género existentes en los referidos bancos serán respetadas inviolablemente y sus actuales dueños, sus herederos y los que en lo sucesivo adquirieran legalmente esas propiedades, disfrutarán respecto de ellas tan amplias garantías como si perteneciesen á nacionales del país donde están situadas.

ARTICLE V.

This convention shall be ratified by the two high contracting parties in accordance with their respective Constitutions, and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, we, the undersigned, by virtue of our respective powers, have signed the present convention, both in the English and Spanish languages, and have thereunto affixed our seals.

Done in duplicate, at the City of Washington, this 20th day of March, one thousand nine hundred and five.

ARTÍCULO V.

Esta Convención se ratificará por las dos Altas Partes Contratantes, de conformidad con sus respectivas Constituciones y las ratificaciones se canjearán en Washington tan pronto como sea posible.

En fe de lo cual, nosotros los infrascritos, en virtud de nuestros respectivos poderes, hemos firmado la presente Convención en los idiomas inglés y español y la hemos sellado con nuestros sellos.

Hecho por duplicado en la Ciudad de Washington el 20 de Marzo de mil novecientos cinco.

ALVEY A. ADEE [SEAL]
M. DE AZPÍROZ [SEAL]

And Whereas, the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged at the City of Washington, on the 31st day of May, one thousand nine hundred and seven,

And Whereas, by reason of circumstances unforeseen the Plenipotentiaries of the United States and Mexico who signed the said Convention omitted involuntarily to sign the maps mentioned in Article I thereof and which form a part of said Convention, and the maps were signed on November 14, 1905, by the Plenipotentiaries of the United States and Mexico in conformity with the authority conferred upon them by their respective Governments, as is evidenced by the Protocol of Signature, attached hereto:

Now, therefore, be it known that I, THEODORE ROOSEVELT, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In Testimony Whereof, I have hereto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington, this fifth day of June, in the year of Our Lord one Thousand nine hundred and seven, and of the [SEAL] Independence of the United States the one hundred and thirty-first.

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

PROTOCOL OF SIGNATURE.

The Plenipotentiaries of the United States and Mexico who, on March 20, 1905, signed the treaty for the elimination of bancos in the Rio Grande, having omitted involuntarily to sign the maps mentioned in Article I thereof and which form a part of the said instrument, the undersigned Plenipotentiaries have met together this day and signed the above mentioned maps in conformity with the authority conferred upon them by their respective Governments.

In witness whereof they have signed the present Protocol of Signature and have affixed their seals thereto.

Done at Washington this fourteenth day of November one thousand nine hundred and five.

[SEAL]

[SEAL]

ALVEY A. ADEE

José F. Godoy