

ture of the frontier line from the junction of the Poteca or Bodega with the Guineo or Namaslí up to the *Portillo de Teotecacinte*, which was the point to which the Mixed Commission had brought the frontier line from its western boundary point. An examination of the Award fails to reveal that there is in fact any gap with regard to the drawing of the frontier line between the junction of the Poteca or Bodega with the Guineo or Namaslí and the *Portillo de Teotecacinte*.

In view of the clear directive in the operative clause and the explanations in support of it in the Award, the Court does not consider that the Award is incapable of execution by reason of any omissions, contradictions or obscurities.

For these reasons,

THE COURT,

by fourteen votes to one,

finds that the Award made by the King of Spain on 23 December 1906 is valid and binding and that Nicaragua is under an obligation to give effect to it.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this eighteenth day of November, one thousand nine hundred and sixty, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of Honduras and the Government of the Republic of Nicaragua, respectively.

(Signed) Helge KLAESTAD,  
President.

(Signed) GARNIER-COIGNET,  
Registrar.

Judge MORENO QUINTANA makes the following Declaration:

Although I am in agreement with the virtually unanimous opinion of my colleagues with regard to the decision reached in this case, I consider that it should have been arrived at by a different procedural method. As a representative on this Court of a Spanish-American legal system and confronted with a dispute between two Spanish-American States, I believe that the legal questions which are of particular concern to them should have been dealt with in the first place. I refer in particular to that provided for in Article II, paragraph 3, of the Gámez-Bonilla Treaty, which relates to the

application by the arbitrator of the principle of *uti possidetis juris* which for more than a century has governed the territorial situation of the Spanish-American States. By reason of its importance this principle called for initial attention by the Court since Nicaragua based a major ground of nullity of the Award of the King of Spain on the arbitrator's failure to observe it.

Again, the case essentially involves the validity or invalidity of an international legal act. The Judgment might therefore with advantage have established the intrinsic regularity of the Award, after having analysed its extrinsic regularity, instead of—as it does—resting the solution of the case in advance upon acquiescence in the Award by the Parties. This latter situation, in the present case, in which one of the Parties contends for the nullity of the Award, is of no more than subsidiary importance. It provides a procedural argument based on a situation of fact, but it does not provide an adequate legal ground upon which to base the Judgment.

Furthermore, the features of the case do not put in issue the good faith of the unsuccessful party. Nicaragua, during the half century in which the Award was not implemented and in which the question of its non-implementation was not referred by Honduras to any international tribunal, may have had reasons, although ill-founded, for believing in the nullity of that legal act. A number of attempts by Nicaragua to obtain an arbitral decision to that effect remained unsuccessful. There was nothing to prevent the Court from so finding. Honour was due to the State which, together with the successful party and with Costa Rica, Guatemala and El Salvador, gave so splendid an example of devotion to the cause of law in setting up in 1907 the Central American Court of Justice, the first example in the world of an international judicial tribunal. The technical function of the Court is not incompatible with that of rendering in its judgments peace to the spirit, particularly in the case of sovereign States. *Pax est justitia.*

Judge Sir Percy SPENDER appends to the Judgment of the Court a statement of his Separate Opinion.

M. URRUTIA HOLGUÍN, Judge *ad hoc*, appends to the Judgment of the Court a statement of his Dissenting Opinion.

(Initialled) H. K.

(Initialled) G.-C.