
CHIRIQUI GRANTS.

LETTER,

TO THE

PRESIDENT

OF THE

UNITED STATES.

Washington, October 18th, 1860.

SIR :

On the 21st day of May, 1859, the Honorable Secretary of the Navy entered into a contract with me, by which he secured to the United States the use of lands in the harbors of the Chiriqui Lagoon on the Atlantic, and in the harbors of Golfo Dulce on the Pacific.

These lands were, and are intended for coal and other station purposes: and the contract states that the United States shall have the benefit of any portions or small indentations of water specially adapted to harborage, which may be partially surrounded by any lands of my own, or of the Chiriqui Improvement Company.

This portion of the contract was intended by the Honorable Secretary, to secure such advantage for repairs, &c., of vessels, as that afforded by the sheltered cove of the Brooklyn Navy-yard.

I name this, because it has erroneously been asserted by some who have had no access to the terms of the contract—that the said contract conveys to the United States the entire control of the harbors named—a conveyance which I could not make, nor the Government accept, without the express consent of New Granada.

The contract also secures to the United States Government the perpetual use of the coal mines for Naval purposes, subject only to the local tax of one dime per ton, upon all coal which may be mined for that purpose.

And the contract further secures to the United States Government the transit over the road-way, from the Chiriqui Lagoon towards the Pacific, of the Mails and property of the Government *free from any charge for toll*, for the period of the road grant, which is for sixty years.

By this, it will be seen, that the United States Government have secured a participation in the grants and privileges, which were legally acquired by one of its citizens, and which through such mode of acquirement it has a perfect constitutional, and international right thus to secure for its own especial purposes.

The original titles to the property, rights and privileges, are

derived in several grants from the Legislature and Executive powers of the province of Chiriqui, one of the provinces of New Granada, and these grants were made and executed in strict conformity with the provincial Constitution and laws, as well as with the Constitution of the Republic of New Granada.

The special grant for the road-way was made by the Legislature directly to myself.

The grant of coal lands which surround the Chiriqui Lagoon, was made to J. A. Morel & Co.

The grant of lands which lay upon Golfo Dulce, and surround Golfito, was made to Santiago Agnew.

These two last named grants were purchased from those parties.

This brief narration will make clear, that which is to follow.

Immediately after the report of the Honorable Secretary of the Navy was communicated to the Thirty-sixth Congress—what purported to be an abstract of the contract relative to the Chiriqui road and harbors—was published in the “New York Herald.” A copy of this publication was sent by the Minister of New Granada near the United States, to his Government at Bogota; that Government, at the time it received this irregular and incorrect abstract, was engaged in the formation of an additional contract with me, through my attorney, Mr. Francisco Parraga, and the President of that Republic had himself drawn out, in full form, the articles which he proposed as a law, or contract by which a railroad should be constructed over the *Isthmus of Chiriqui*.

Without any assigned open reason, this new additional contract was abandoned by the Government, and an order issued to the Attorney-General to procure the annulment of the grant of road-way, made to me by the Provincial Government of Chiriqui.

Subsequently it has been ascertained that this attempted annulment was intended as a secret insult to the Government of the United States, covertly made by an attack upon the private vested rights of one of its citizens, under the excuse that those rights were in conflict with another grant, or the rights of another party, and by raising this question of conflict, it appears to have been supposed, that they would avoid the consequences of a more open course, and accomplish a grave disappointment to the commercial interest of the people of the United States, and a no less disappointment to the Government by the loss of the convenience

for naval purposes, which the road and other grants had lawfully afforded.

In the consideration of the question as submitted to the Supreme Court of New Granada, the following papers have been produced. I beg to submit copies of them in their consecutive order—they are as follows :

No. 1. Note of the Secretary of Government to the Attorney-General, requiring him to procure the annulment of the Ordinance of Chiriqui, of February 20th, 1854, granting certain privileges to Mr. Ambrose W. Thompson.

No. 2. Opinion of the Attorney-General on the said application.

No. 3. Opinion of the Attorney-General of the Province of Chiriqui, delivered to the Judges of the Supreme Court of the Republic of New Granada.

No. 4. Answer of Mr. Parraga, Attorney of Mr. Thompson, to the note of the Secretary of Government, asking for the annulment of the grant by Chiriqui to Ambrose W. Thompson, filed before the Supreme Court.

No. 5. Note of the Secretary for Foreign Affairs, to Hon. G. W. Jones, in answer to his protest against the annulment of the Ordinance of Chiriqui, granting a privilege to A. W. Thompson.

No. 6. Note of Mr. Parraga to Hon. G. W. Jones, Minister Resident of the U. S. at New Granada, refuting the arguments of the Secretary of Foreign Affairs, set forth by the Secretary in note No. 5, in which note he answered the protest of the Hon. Mr. Jones.

No. 7. Argument of Mr. Parraga, presented to the Supreme Court of New Granada.

No. 8. Decree of the Supreme Court in the case of Ambrose W. Thompson.

No. 9. Protest of Mr. Parraga, in behalf of Mr. Thompson, against the sentence of the Supreme Court, annulling the Ordinance of Chiriqui.

I would respectfully request your attentive perusal of these several papers, that you may see the entire disregard of obligations sacred in their nature as the acts of an independent State deliberately entered upon should be, and the unconstitutional and illegal manner in which the Government of New Granada has sought to annul these obligations.

In addition to these nine papers, I also present a review of the decision of the Supreme Court, made by a gentleman of eminent legal ability; which shows that the decision is, from its utter illegality, absolutely null and void.

To render this nullity still more apparent, I will give a brief outline of the origin of the grant in question, and its continuance under various ordinances.

The road from the Chiriqui Lagoon and Admirals Bay, existed as an Indian road, anterior to the Spanish Conquest, and along the ancient line of that road are found the "Huaccas," or Indian burying places. The *continuous* line of the road was lost; but in several portions traces of its having been widely paved have been found.

In 1841 the inhabitants of the province commenced the re-opening of the road, and so far completed it as to make it available for mule travel. In 1847 the General Government, through its President, Mosquera, entered into a contract with Ricardo de la Parra, to improve this road for the benefit of the district; and it was stipulated that the bridges should be solid and substantial, not less than eighteen feet wide on the surface, and that, where necessary, the road should be paved with stone.

La Parra commenced the work; but the Government failing to make the payment, it was discontinued. He made a transfer of his doubtful contract to T. Moore, of Pennsylvania, who visited the locality,—but finding that the Province of Chiriqui had been organized, and that by the act of organization the road had become Provincial property, he obtained a grant from the Governor to construct the road.—This grant came into my hands.

Moore's rights were subsequently annulled, and a new grant was made to me, in 1851.

This grant was rejected and annulled because of its improper wording, and a new grant was issued in its stead, on the 21st of October, 1852. This grant was also found to be unsatisfactory—modifications were asked for, and a new grant was issued on the 31st of December, of the same year. The surveys and work upon the line of road were immediately commenced; and from that time I have held a *vested right* in the property.

In 1853 it was supposed that a change would take place in

the form of Government in the Province;—to guard against any evil which should arise from this, a modification of the contract, guaranteed under it, or a new form of grant was asked for and obtained on the 20th of February, 1854. This last is the existing grant, and Article 4 contains the guarantee of title which was desired.

Neither of the preceding grants were surrendered, abrogated or annulled, until a new one was issued; and the provision was inserted as in Article 21st of the present grant, that when it was accepted, the former one should become annulled. It will thus be seen, that my actual *title* to the road, dates back to its first opening by the people of the district, in 1841, as by that opening they obtained the right to convey, and that my vested rights were acquired, and have been held without a lapse, since 1852.

Under the Original Constitution of New Granada, and its amendments, the Provinces had the right to, and control of, all the roads within their limits. It was not until the new Constitution of 1853, that the General Government assumed control of those roads denominated inter-oceanic. And as my rights became vested in the Chiriqui road before the adoption of that Constitution, it is not within the legal force of that Constitution to deprive me of them, unless I should fail to comply with the obligation of my title.

That these obligations have been faithfully complied with, I beg to submit the evidence of the following:

Certificate of the Prefect of Chiriqui.

Certificate of the Alcalde of Bocas del Toro.

Certificate of the Ex-Mayor of Bocas del Toro.

Certificate of the Citizens of Bocas del Toro.

Notice from the Agent of the Company to the Prefect of the Department of Chiriqui that the road was open.

Official recognition of the prefect of the opening of the road, and his authorization of the transit of the mails over it.

Copies of these several certificates are herewith submitted on pages 36 to 39 of the Report of the Naval Committee of the House of Representatives, and the originals now in my possession, are at your disposal whenever they may be required.

These papers then, establish beyond controversy or doubt, the compliance up to this time with the obligation necessary to render my title perfect, if that title in its inception was legal.

That it was legal is evidenced by the then existing laws, both national and municipal at the time of its creation, and its subsequent changes in accordance with the laws down to the time of my rights becoming vested in it. As conclusive evidence of this, is the certificate of the Minister Plenipotentiary of the New Granadian Government which was given under the following circumstances. At the time that the contract between the United States and the Chiriqui Improvement Company and myself was being formed, it became necessary that the Attorney General should examine into all the titles. He entered into a rigorous examination, and required the production of the constitution and laws of New Granada, and certificates of the validity of the papers. The original grants and titles were placed in the hands of the official representative of New Granada, with a request that he would examine them and state whether they were authentic, in accordance with Granadian laws, and entitled to credit. He was informed that I was then negotiating with the United States a contract by which they would acquire the right to mine and use the coal, stations for storing it, and the right of transit over the road way.

With a full knowledge of the uses and importance which his certificate would have, that high functionary clothed with full plenary powers by the Government of New Granada, entered into a careful examination of the titles, and on the 8th of April 1859, gave an official certificate that the documents were authentic and entitled to full faith and credit, that the titles were issued in strict accordance with Granadian laws, that Chiriqui was an independent province, governed by a Legislative Chamber and a Governor, and as such had full power to make the grant of road privilege and lands.

This certificate, with the signature and seal of the Legation in its fullest official form, was freely given by the high representative of the Government, and, as such, became an act of the Nation, binding it to the protection of the grants, and it would virtually have removed irregularity in the titles had any existed. It was regarded, by the Attorney-General of the United States, as satisfactory in every part, and as a complete perfection of the titles.

We have, then, the opinions of two Attorneys-General of New Granada, that the ordinance creating the road grant is essentially

valid, and cannot be annulled; and the unanimous decision of the Supreme Court of that Republic, made the 11th January, 1855, that it was not subject to be annulled; and its order that the ordinance should pass into the archives of the Government: (see pages 25 and 27 of paper No. 6, in proceedings of Supreme Court, presented herewith;) and, further, the act of the Nation itself, through its accredited representative, declaring the ordinance to be full, fair and authentic,—in accordance with law and entitled to *full faith and credit*.

In the face of these decisions, and of this high authority, the Supreme Court of the present day has no authority over the grants; and their decision recently given is null and void.

The statement of the Supreme Court of New Granada, “that there is no place for the Isthmus of Chiriqui,” is as absurd, and exhibits as much ignorance as does their declaration, that “should it be certain that if the Isthmus of Panama commenced at 77 degrees, and terminated at 81, the City of Panama itself would not be within its limits!” The precise position of the City of Panama, is 79°, 31', 2'', W.

The precise limits of the Isthmus of Panama have been well defined by historians and geographers, and they are the two oceans, and the parallels of 77° and 81°. And it was most probable, that owing to these distinctive limits, that the United States Government declined to characterize the entire Isthmus, in the Treaty with New Granada, as the Isthmus of Panama, but inserted the qualifying phrase, “*generally denominated the Isthmus of Panama.*”

That there is an “Isthmus of Chiriqui,” is established by geographical formation, and its political existence is acknowledged in a letter of the Secretary of State of New Granada under date of 28th March, 1860, addressed to my attorney, Francisco Parraga, and also by the President of the Republic of New Granada, in Articles 1, 23 and 43, in the proposed contract, already referred to, drawn up by the President himself, for the creation of a railroad over the Isthmus of Chiriqui. These papers, issued from the State Department of New Granada, are at the disposal of the Government when required.

The various acts recited establish the following:

1. That my grant is legal, that the fulfilment of its obligation

has made it a contract fair and binding, and that it cannot be annulled without my consent.

2. That its locality is on the Isthmus of Chiriqui, and that its terms warrant the construction of a railroad, or any other form of road which is of a higher degree of improvement over an ordinary road.

The Government of New Granada unjustly seek to deprive me of these rights, acquired by great labor, and vast expenditure; and in doing this also insults the dignity of the Government of the United States and violates the existing treaty stipulations between the two Governments.

As an individual, I am powerless, to oppose the oppressive action which New Granada has commenced. I am constrained, therefore, to seek protection for my rights and property from my own Government, and which is guaranteed by the Constitution to all its citizens.

I therefore ask from your Excellency the immediate interposition and active protection of the Government, in order that my rights may not be arrested from me through the approval of the Senate of New Granada, of the Decree of its Supreme Court. And in order to obtain this end, I would respectfully suggest that notice be given to the representative of New Granada, near the United States, that this act of injustice cannot be permitted, and that instructions also be given to the representative of the United States, near the Government of New Granada, to communicate the same information to the Executive power of that Republic.

In the fullest confidence that you will take all proper steps to protect a citizen, and maintain the dignity of the United States, now it is believed sought to be compromised by New Granada.

I have the honor to be your
Obedient servant,

AMBROSE W. THOMPSON.

To His Excellency,

JAMES BUCHANAN,
President of the United States.

