

The Treaty Between the United States and Haiti of September 16, 1915

Author(s): George A. Finch

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Dane, who did not propose to sell; it was Seward and it is Seward's countrymen who flip the coin in their faces. It is a question of lessening their national domains already lessened by their southern neighbor. The islands are comparatively valueless to Denmark, and they would only be a cause of war with the United States if they passed into other hands without the consent of the United States, and the United States is not inclined to consent for the reasons set forth by Senator Lodge in his report to the Senate from the Foreign Relations Committee:

The arguments in favor of the possession of these islands can be briefly stated, and appear to the undersigned to be unanswerable. So long as these islands are in the market there is always the danger that some European Power may purchase or try to purchase them. This would be an infraction of the Monroe Doctrine, and would at once involve the United States in a very serious difficulty with the European Power which sought possession of the islands. In the interest of peace, it is of great importance that these islands should pass into the hands of the United States and cease to be a possible source of foreign complications, which might easily lead to war.

From a military point of view the value of these islands to the United States can hardly be overestimated. We have always been anxious to have a good naval and coaling station in the West Indies. Important in time of peace, such a station would be essential to our safety in time of war. Successive administrations have labored to secure a West Indian naval station. During the war of the rebellion the United States leased the harbor of St. Nicholas from Hayti for this purpose. General Grant endeavored during his presidency to secure Samana Bay. The effort to obtain the Danish Islands, as has been shown, was begun by Mr. Seward during the presidency of Abraham Lincoln. The fine harbor of St. Thomas fulfills all the required naval and military conditions.

As has been pointed out by Captain Mahan, it is one of the great strategic points in the West Indies. The population of the three islands is only 33,000, of whom nearly 30,000 are negroes, the others being chiefly of English or Danish extraction. There is no possibility of any material increase in the population, and annexation would never involve at any time the troublesome question of Statehood. The Danish Islands could easily be governed as a Territory—could be readily defended from attack, occupy a commanding strategic position, and are of incalculable value to the United States, not only as a part of the national defense, but as removing by their possession a very probable cause of foreign complications.⁵

JAMES BROWN SCOTT.

THE TREATY BETWEEN THE UNITED STATES AND HAITI OF SEPTEMBER 16, 1915

On May 3, 1916, there were exchanged at Washington the ratifications of the treaty signed at Port-au-Prince on September 16, 1915, having for its object, as stated in the preamble, to remedy the present condi-

⁵ Senate Executive Report No. I, 57th Congress, First Session.

tions of the revenues and finances of Haiti, to maintain the tranquility of the Republic and to carry out plans for the economic development and prosperity of the Republic and its people, with which aims and objects the United States expresses itself as being in full sympathy and toward the accomplishment of which it is desirous in all proper ways to contribute.¹ That the misfortunes of the black republic of the Caribbean, to which the preamble to the treaty alludes, are only too true is evidenced by the record of events in that country. The complications with foreign Powers growing out of the inability of the Republic to meet its financial obligations, the repeated revolutionary wars in which the native blood has been shed, in some instances in the most shocking manner; the backward state of the development of the resources of what is acknowledged to be a rich and fertile country and the consequent poverty of its people, are all matters of which the casual observer of current events is aware.

Were these unfortunate conditions the result of some temporary derangement in the domestic affairs of Haiti, there might be some question as to the expediency and propriety of the intervention of the United States. Unfortunately, however, instead of such conditions being of a temporary nature they seem to the sympathetic critic to have existed too long almost as a part, one might say, of the national life of the Republic. The present treaty is not the first attempt on the part of enlightened leaders of Haiti to secure order and peace in their country by appealing to its happier neighbor of the North. The United States, however, adhering strictly to its policy of non-intervention in the domestic affairs of other nations of the Western as well as of the Eastern Hemisphere, has always heretofore turned a deaf ear to such appeals. But the construction of the Panama Canal as a national enterprise of the United States, now regarded as a vital spot in the self-preservation of the nation, has made it essential that conditions should not be permitted to continue to exist which would justify any foreign Power in establishing itself in the vicinity of the canal and thus become a menace to it in case the friendly relations of such a Power with the United States should unfortunately be interrupted. In consequence, a notable change has taken place in the attitude of the United States toward countries bordering on the Caribbean Sea, and in recent years, instead of repelling their advances, the United States has welcomed their appeals for material and moral aid, and it is believed that those countries which have been so fortunate as to receive such aid are better off as the result.

¹ The text of the treaty is printed in the Supplement to this JOURNAL, p. 234.

An examination of the provisions of the treaty will disclose the extent and nature of the new relations between the contracting parties.

Article I pledges the good offices of the United States to aid Haiti in the proper and efficient development of the agricultural, mineral and commercial resources of the latter on a firm and solid basis.

The control of customs houses has always been one of the first objectives of revolutions and the improper use of the funds there collected has too often been the cause of complications with foreign Powers. Article II, therefore, places the responsibility of collecting and applying the customs receipts upon a General Receiver who, with necessary aids and employees, is to be nominated by the President of the United States and thereupon appointed by the President of Haiti. This provision differs in form, but not in substance, from a similar provision in the Receivership Convention between the United States and Santo Domingo, Haiti's neighbor upon the island occupied by the two republics. Under the Dominican Convention the General Receiver and his assistants and employees are appointed directly by the President of the United States instead of being nominated by him for appointment by the President of Santo Domingo. While the result is the same in each case, the procedure adopted in the case of Haiti seems to have more regard for the sovereignty of the Republic.

It is further provided in Article II that a Financial Adviser, similarly nominated and appointed, shall be attached to the Ministry of Finance for the purpose of devising an adequate system of public accounting, aiding in increasing the revenues and adjusting them to the expenses, inquiring into the validity of the debts of the Republic, enlightening both governments with reference to all eventual debts, recommending improved methods of collecting and applying the revenues, and making such other recommendations to the Ministry of Finance as may be deemed necessary for the welfare and prosperity of Haiti, and the latter official is required to lend efficient aid to give effect to all of such proposals and labors. It is further provided in Article IV that the Financial Adviser shall, in co-operation with the Government of Haiti, collate, classify, and make a full statement of all the debts of the Republic, the amounts, character, maturity and condition thereof, and the interest accruing and the sinking fund requisite to their final discharge. No such provisions are found in the convention with Santo Domingo, for the reason that the adjustment and settlement of the debts and claims of Santo Domingo had been previously arranged by a financial adviser designated

by the United States, and his work was performed before the convention was concluded and the general results thereof were set out in the preamble.

In order to enable the General Receiver properly to exercise his functions, Article III requires the Government of Haiti to provide by law or appropriate decrees for the payment of all customs duties to the General Receiver, and to extend to him and to the Financial Adviser all needful aid and protection in the execution of the powers conferred and duties imposed upon them, and the United States on its part is to extend like aid and protection. The necessity for such a provision is obvious, for unless the General Receiver has the proper authority and protection guaranteed by both contracting parties, the fulfillment of the terms of the treaty might easily be placed in jeopardy. A similar provision is contained in the Dominican Receivership Convention.

Article V of the treaty prescribes how the funds collected by the General Receiver shall be applied, namely, first, to the salaries and expenses of the Receivership and of the Financial Adviser, which, under Article VI shall not exceed five per cent of the collections and receipts from customs duties unless by agreement of the two Governments; secondly, to the interest and sinking fund of the public debt; thirdly, to the maintenance of a constabulary, referred to in a later article of the treaty; and, finally, the remainder to be paid to the Haitian Government for its current expenses. The Dominican Receivership Convention likewise contains detailed stipulations concerning the application of the funds collected. They necessarily differ in detail to conform to the provisions of the loan contract, the execution of which was the principal object of the Dominican Convention.

The General Receiver is required by Article VII to make monthly reports to the appropriate officer of the Republic of Haiti and to the Department of State of the United States, which reports shall be open to inspection and verification at all times by the appropriate authorities of each of the contracting governments. An identical provision is contained in the Dominican Receivership Convention.

In order to safeguard Haiti against the unwise accumulation of debts, it is provided in Article VIII that Haiti shall not increase its public debt except by previous agreement with the President of the United States. A like provision is found in the Dominican Convention, with the interesting distinction that the previous agreement under the latter convention is made with the Government of the United States instead of with the President of the United States. The change of phraseology is no

doubt due to the desire to remove any question that such an agreement can be made by the President as an executive act as distinct from an agreement by the Government of the United States requiring the advice and consent of the Senate.

Article VIII contains a further provision that the Republic of Haiti shall not contract any debt or assume any financial obligation unless the ordinary revenues of the Republic available for that purpose after defraying the expenses of the government, shall be adequate to pay the interest and provide a sinking fund for the final discharge of such debt. This provision is not taken from the Dominican Receivership Convention, but is modeled after Article II of the Platt Amendment to the Constitution of Cuba and incorporated as Article II in the treaty between the United States and Cuba, concluded May 22, 1903.

By Article IX Haiti further agrees not to modify the customs duties in a manner to reduce the revenues therefrom without a previous agreement with the President of the United States. A similar provision is contained in the Dominican Receivership Convention. This article of the Haitian Treaty contains an additional pledge by the Government of Haiti to co-operate with the Financial Adviser in his recommendations for improvements in collecting and disbursing the revenues and for new sources of needed income.

The foregoing provisions relate to the revenues and finances of the Republic. Article X is designed to carry out the second object of the treaty, namely, the maintenance of the tranquility of the Republic. Under this article the Haitian Government, in order to preserve domestic peace, secure individual rights and the observance of the present treaty, obligates itself to create without delay an efficient constabulary, both urban and rural. This constabulary is to be composed of native Haitians, organized and officered by Americans appointed by the President of Haiti upon the nomination of the President of the United States. Haiti agrees to clothe the American officers with proper and necessary authority and to uphold them in the performance of their functions. They are to be replaced by Haitians who are found to be qualified after examination conducted under the direction of a board to be selected by the senior American officer and in the presence of a representative of Haiti. In order to prevent factional strife and disturbances, it is specifically provided in this article that the constabulary shall have, under the direction of the Haitian Government, supervision and control of arms and ammunition, military supplies and traffic therein throughout the country.

Article XI of the treaty follows the Platt Amendment to the Constitution of Cuba (Article I) by providing that Haiti shall not surrender any of the territory of the Republic by sale, lease, or otherwise, or jurisdiction over such territory, to any foreign government or Power, nor enter into any treaty or contract with any foreign Power or Powers that will impair or tend to impair the independence of Haiti.

To take care of the foreign claims against Haiti, Article XII provides that that government shall execute with the United States a protocol for the settlement of such claims by arbitration or otherwise. It would appear from the wording of this article that the United States is to be a party to such settlement.

The final object of the treaty, namely, the economic development of the Republic and the prosperity of its people, is taken care of in Article XIII, which provides for the appointment of an engineer or engineers by the President of Haiti upon the nomination of the President of the United States for the execution of such measures as, in the opinion of the two contracting parties, may be necessary for the sanitation and public improvement of the Republic of Haiti.

There then follows in Article XIV, first, a general provision that the high contracting parties shall take such steps as may be necessary to insure the complete attainment of any of the objects comprehended in the treaty, and, secondly, another provision taken from the Platt Amendment to the Constitution of Cuba whereby it is agreed that the United States shall, should the necessity arise, lend its aid for the preservation of Haitian independence and the maintenance of a government adequate for the protection of life, property and individual liberty (See Article III of the Platt Amendment).²

Article XV contains the usual provisions concerning ratifications, and Article XVI provides that the treaty shall remain in force for ten years and for another ten years if, for specific reasons presented by either of the high contracting parties, the purpose of the treaty has not been fully accomplished.

The treaty will thus be seen to be a composite of provisions taken from conventions which have previously been concluded by the United States and tested by actual experience, namely, the Platt Amendment to the Constitution of Cuba and the Dominican Receivership Convention. The provisions concerning the Financial Adviser and the constabulary,

² For an interpretation by Mr. Root of this expression as used in the Platt Amendment, see this JOURNAL, Volume 8, p. 887.

not found in either of the documents mentioned, follow in many respects the informal agreement between the United States and Liberia, the customs of which are now being administered by a receivership headed by an American official designated by the President of the United States and appointed by the President of Liberia.

The treaty has been popularly referred to as a protectorate treaty. While protection is afforded under its terms in all needed respects, the treaty, like its predecessors, the Dominican Receivership Convention and the Platt Amendment, lacks one essential element of a real protectorate, namely, the conduct of the foreign relations of the protected country by the protecting country. The condition created by the treaty is more analogous technically to the spheres of influence claimed by European Powers in certain parts of the world, but with this very important distinction, that the European spheres of influence are primarily maintained for the commercial advantage of and exploitation by the dominant state, while in the case of Haiti and other countries similarly situated, the motives underlying the arrangements are the domestic security, economic development and national prosperity of the Caribbean countries and the self-defense of the United States.

GEORGE A. FINCH.

THE EXECUTION OF CAPTAIN FRYATT

On June 23, 1916, the steamer *Brussels*, belonging to the Great Eastern Railway, was captured by German warships. The captain of the *Brussels*, one Charles Fryatt by name, a British subject, was taken to Zeebrugge in Belgium, tried by a German court martial at Bruges on July 27th, condemned to death by shooting, and executed the afternoon of the same day, for having attempted, on March 20, 1915, to ram the German submarine U-33.

The facts surrounding the capture, trial and execution of Captain Fryatt and the justification for the action of the German authorities in the premises are contained in what purport to be official statements of the German Government, the material portions of which are quoted without comment. On July 28th, the day after the execution, a despatch, said to be a German communiqué, appeared in the press, which reads in part as follows:

The accused was condemned to death because, although he was not a member of a combatant force, he made an attempt on the afternoon of March 20, 1915, to ram the