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DISSENTING OPINION OF THE AMERICAN COMMISSIONER

The American Commissioner concurs in the findings of the Presiding Commissioner to the effect that the Treaties of 1848 and 1853 did not establish a fixed and invariable line; that the Treaty of 1884 was retroactive, and in the finding of the Presiding Commissioner and the Mexican Commissioner to the effect that the United States has not established a title to the Chamizal tract by prescription. He is compelled to dissent *in toto* from so much of the opinion and award as assumes to segregate the Chamizal tract and to divide the parts so segregated between the two nations, and from that part of the opinion and award which holds that a portion of the Chamizal tract was not formed through "slow and gradual erosion and deposit of alluvium" within the terms of the Treaty of 1884.

The reasons for the dissent are three-fold: First, because in his opinion, the Commission is wholly without jurisdiction to segregate the tract or to make other findings concerning the change at El Chamizal than "to decide whether it has occurred through avulsion or erosion, for the effects of Articles 1 and 2 of the Convention of November 12, 1884," (and Article 4, Convention of 1889). Secondly, because, in his opinion, the Convention of 1884 is not susceptible to any other construction than that the change of the river at El Chamizal was embraced within the first alternative of the Treaty of 1884. And, thirdly, because, in his opinion, the finding and award is vague, indeterminate and uncertain in its terms and impossible of execution.

DIVISION OF TRACT A DEPARTURE FROM CONVENTION OF 1910

In the judgment of the American Commissioner, Articles 1 and 3 of the Convention of June 24, 1910, providing for the present arbitration, submit to this Commission the question as to the international title of the Chamizal tract in its entirety and this question only. Article I of the convention bounds the Chamizal tract with technical accuracy, while Article 3 provides that "the commission shall decide solely and exclusively as to whether the international title to the Chamizal tract is in the United States of America or Mexico."

It is believed that by those provisions, when read together, the two governments have asked this Commission a specific and definite question and that the Commission is "solely and exclusively" empowered and required to give a specific and definite answer — either that the inter-