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**BEFORE THE VENEZUELA BOUNDARY COMMISSION**



**BRIEF FOR VENEZUELA**

***FIRST PART:* INTRODUCTION AND SUMMARY.  
NOTE ON THE SCHOMBURGK LINE.**

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**REVISITED EDITION; SEPTEMBER, 1896.**



96,247.

RECEIVED

JUN 16 1897

WIS. HIST. SOCIETY

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1897

## Brief Submitted by Venezuela to

THE COMMISSION APPOINTED "TO INVESTIGATE AND REPORT UPON THE TRUE DIVISIONAL LINE BETWEEN THE REPUBLIC OF VENEZUELA AND BRITISH GUIANA."

*FIRST PART: INTRODUCTION AND SUMMARY.*

On January 10, 1880, Lord Salisbury wrote that the Essequibo River was the boundary " claimed by Venezuela " as that to which she was justly entitled, " and that, to admit this, " would involve the surrender of a province now inhabited by 40,000 British subjects, and which has been in the "uninterrupted possession of Holland and of Great Britain " "successively for two centuries. "

The claim of Great Britain to the land *east* of the Essequibo has not been the subject of dispute; the trouble has arisen from British pretensions to territory on the *western* or Venezuelan side of that river. The right of Venezuela up to the Essequibo is dealt with in a brief by another hand, wherein it may appear that the alleged " uninterrupted possession," by Dutch or English west of that river, has been only the continued repetition of a wrong and not the justification of it.

But the British claim is put explicitly upon title by occupation. Lord Salisbury appeals to the hardship of giving up territory which British subjects and their Dutch predecessors have long made their home. The fact is, however, that this occupation on the western or Venezuelan side of

the Essequibo has covered only a narrow strip on the Essequibo estuary and shores immediately adjoining, running back not more than three miles from salt water. It constitutes less than of the disputed territory, and the definite establishment of the right of Venezuela to the other, including the mouth of the Orinoco, will not require a single one of Lord Salisbury's 40,000 British subjects to change his allegiance in order to preserve his home. The object of the present paper is to define the limits of that narrow-inhabited strip, and to show the clear right of Venezuela to the great region west of the Essequibo and outside of that strip.

In 1890, asking for arbitration, and disposed to compromise in order to obtain it, Venezuela proposed to recognize in Great Britain a right to its settlements on *both* banks of the Essequibo; to reserve for itself the banks of the Orinoco, which the treaty of Aranjuez had recognized as Spanish, and which every English ministry except Lord Salisbury's had offered to so recognize; and to arbitrate the rest where, even then, England had no settlements; but Lord Salisbury refused the offer. The embarrassment of his ministry which his observation we have quoted was intended to express is, therefore, one of its own makings. Lord Salisbury not only attempts to stretch a small occupation to create title to an enormous territory, but he endeavors to excite sympathy by the suggestion that the considerations, which touch only to one per cent of the territory, apply to the whole. For this attempt there is no foundation in fact; and, there is reason to think that Lord Salisbury himself was misled as to the actual situation.

The settlement of the Dutch, and of the English, their successors, has never extended beyond the rich alluvial land of the sea coast and the river estuaries. This paper

will assume for the sake of argument that England may have a right, by occupation, wherever its people have had their established homes, we will not say for two centuries, but for a single generation; but we assert that England can have no title by occupation to forty thousand square miles in which, during Lord Salisbury's "two centuries," neither the Dutch nor the English ever had settlement.

Now we propose to show:

1. The Spanish, in 1500, discovered Guayana, and soon established themselves so strongly that no other power has ever been able to penetrate inland beyond the reach of its ships' guns; the most noted failures being those of Raleigh in 1595-1616.

2 The earliest Dutch attempt at settlement was after this; and consisted first in an occasional touching for trade near the mouth of the Essequibo, where the Spaniards already had had a fort; and, certainly not before 1621, a first attempt at *settlement*.

3. The settlements of the Dutch and of the English were confined to the rich alluvial swamps on the tide-water of the ocean and of the river estuaries; they never had nor attempted to have any settlement in the basin of the Cuyuni and Mazeruni above their lower cataracts, nor on the Essequibo above its lowest cataracts, nor in the coast region west of the Pomeroon.

4. The British claim has, confessedly, no basis except occupation; the attempt this paper combats is an attempt to extend it beyond the occupation. Now the facts as they are proved, and the rules of law applied even to the facts alleged, not only give no support to this attempt, but are specifically and affirmatively fatal to it,

For:

a. The British allegation is that at or before 1700 the in the Cuyuni basin and a Dutch had a temporary "post" "post" at Barima Point — though it is now shown by the

Dutch official correspondence that the Dutch Company refused to establish a post at Barima. But these were at most mere shops, of very brief duration, for friendly trade with the older settlements of the Spaniards or the Indians. Such "posts" are not an assertion of hostile dominion; they are a recognition that the Spaniards were already established there.

b. It is alleged that in the next century, and between 1755 and 1770, the Dutch had for a short time a second post in the Cuyuni basin, and a second at Barima Point. That there was something at or near each of those places at that time is true, But it turns out from the contemporaneous documents from the Spanish and Dutch archives, that these were temporary huts, chiefly, if not entirely, for slave raids on the Spanish Indians; that the Spaniards sent expeditions against each as soon as discovered, destroyed both, carried away as prisoners the occupants of two, while the occupants of the other escaped ; and that the place on the Barima was purely private, and not a government post, nor specially authorized by the Dutch colonial authorities.

The Spaniards asserted their right to do this on the ground of territorial sovereignty; the States-General complained to the King of Spain, but they got no redress, never afterwards renewed their attempts, indeed abandoned their claim, and remained permanently excluded from the interior Cuyuni basin and from the Barima region. It is upon these acts of attempted occupation (if they could be dignified by that word) that the English base their claim to the "Old regions of the southern part of the Cuyuni basin, and of the Barima and Barima rivers, and the still more monstrous claim to hold the mouth of the Orinoco, whose entire basin, nearly as large as France and Spain combined, has always been held by Spain and its successors, and by no one else. But the true history of both these regions is that of a forcible exclusion of the Dutch by the Spaniards, and a *de facto* submission by the Dutch.



5. The actual *settlements* of the Spaniards and the Dutch were separated by 150 miles of forest, in which no white man lived. There are two rules of law which designate where, between them, the boundary line shall run:

*a.* When, either by nature or by the habits of the settlers, a *tract* has been defined, the rule is that *the first* of a part is, in law, an entry upon and possession of the whole. But the entry of a *second* claimant cannot displace the legal possession of the first beyond the actual occupation of that second.

*b.* Where, between the settlements of two nations in a country otherwise wild, there are features which form a natural barrier or line of demarcation, and which in a long series of years have not been overpassed nor attempted to be overpassed by the actual settlements of either party, the law makes that line the international boundary.

Now there is such a tract, defined by such a line; the Dutch and English settlements have never attempted to overpass it. This line also defines the tract from which, as already stated, the Spaniards expelled the Dutch posts, and no part of which either Dutch or English ever vainly attempted to rest in until the invasion by an armed English force, after the discovery of gold, about a dozen years ago.

The British claim, therefore, is limited to their settled districts, and cannot reach the ultra-settlement region.

The facts, more fully stated, are as follows:

1. Spain, about 1500, discovered the northeastern part of South America. Within a few years its explorers had coasted the whole of Guiana and sailed up the Orinoco. Soon they brought back stories of gold, and, in the space of forty years, more than twenty expeditions penetrated Guiana to search for it. They were all Spanish, but their reports excited other nations, Raleigh devoted twenty

years and all his fortune to the effort to acquire those riches for himself and his country. He sent out four expeditions, the first and last of which (1596, 1616) he led. But he never was able to penetrate the country, because everywhere the Spaniards confronted him. His last expedition, of fourteen ships, on the success of which he risked his life, captured, sacked and burned "Old Guayana," a Spanish town on the Orinoco. But it could not maintain itself, and within four weeks retreated before the Spaniards, irretrievably ruined. Raleigh's son was killed; his lieutenant, Keymis, committed suicide in despair; and Raleigh, on his return to England, went to the block.

After that, other freebooters ravaged its coasts as far as the guns of their ships could reach, but no one was ever able to affect a lodgment on the shores of Guiana, or to penetrate to the interior. Spain prevented it.

Against such a history it is useless to quibble about the exact size of the Spanish settlements. Spain possessed the land; and so strongly as to hold it against all comers.

The Spaniards settled on the lower Orinoco at and near San Thomé, not merely or indeed chiefly for the value of that spot in itself, but because it was the entrance to the interior. By it they went in; by holding it they kept everyone else out. We must look at the large region as *one integral whole*, of which by nature and in history the landing on the Orinoco was a part. This part was occupied because it was part of a larger whole; and because the occupation of this part practically (gave control of the whole. Such an occupation of such an entrance is, in law, possession of the whole, at least if the purpose be followed up. And it was.

The Spaniards reached towards the interior not merely with their expeditions, but with their civil settlements and This was done so their extensive mission villages, thoroughly, and by Spaniards alone, that we find to-day a

vast region pervaded with Spanish language, Spanish names, Spanish religion and Spanish habits; and where no European civilization has been received from any nation except from Spain.

2. The English claim is that the Dutch obtained a title by occupation, and that, by conquest and treaty, between 1796 and 1814, the British succeeded to the Dutch title. Assuming, for the purposes of this argument, that a title can be so acquired for this case, the real inquiry is, *what did the Dutch occupy?*

They came by sea to the mouth Of the Essequibo, and sailed part way up its estuary. There and there only (we do not speak of their Berbice and Surinam settlements to the south, which are not here material) they settled. Until the middle of the last century, they were barely strong enough to live. Two companies that fostered them became insolvent. In 1735, one hundred and fifty years after their alleged first landing, Essequibo had but one hundred and fifty whites and three thousand negroes. All their cultivation, all their houses, and all their use Of the soil west of the Essequibo, were within two or three miles of the Atlantic coast, not reaching to the Pomeroon River; along the Essequibo estuary itself; and five or ten miles up the banks Of the Essequibo, the Cuyuni and the Mazeruni, above their confluence, but below their lowest cataracts and on tide water. The English extended substantially no further. Thus, it came to pass that between the Dutch-English settlements and the Spanish towns and missions, there intervened about one hundred and fifty miles of unbroken forest without settlements; *and that constitutes, in substance, the disputed territory.*

3. There are several well-known rules which bear upon such a case:

a. The Spaniards were the first to occupy the country;

and in such case the material occupation of a substantial part, in name of the whole, is, in law, possession of the whole. But here the Spaniards also, in fact, excluded all other persons from the interior of Guiana, and this, of itself, is held by all jurists to be a most decisive act of dominion.

*b.* Against such, or against any possession, a second comer may, in the absence of other controlling elements, acquire title by open, notorious, adverse occupation, if continued long enough; but in such case his title is limited to his *actual occupation*. Now the Dutch were the second comers, for they did not attempt to settle until after the failure of the Raleigh had proved the fact and the strength of Spanish possession.

*c.* The English assert a right one hundred and fifty miles beyond any actual Dutch occupation. When the rule is invoked that occupation of part of a tract may be, in law, an entry upon and possession of the whole; and if the law would permit the *second* comer to invoke this rule for anything beyond what may be called the curtilage or appurtenances of his actual occupation; the crucial question arise — what constitutes a tract, or unit, such that the occupation of a part is, in law, possession of the whole? Now the most controlling element, where there is no defining deed or treaty, is found in a *natural barrier*. In this case. —to consider first the main basin of the Cuyuni and Mazeruni, — that basin is not a prolongation of the low lands of the coast, gradually sloping up as they recede from the sea, as many drainage areas are. It consists in a true interior basin like a great tray with a rim, and tipped so as to throw *all* its waters to the eastern corner, where they escape through What is virtually a single breach in its rim, and pour one Stream into the Essequibo estuary. The passage of all these waters at this one point through this small range of mountains, through which the river has

“broken itself passage,” takes place down a series of rapids and cataracts, with drop of about two hundred feet in forty miles. Of the cataracts with which the Cuyuni is filled, Schomburgk says:

The difficulties which the Cuyuni presents to its navigation, and those tremendous falls which impede the river in *its first day's ascent*, will, I fear, prove great obstacle to making the fertility of its banks available to the Colony."

The difficulty of penetrating this basin by land is such that, from the earliest times, it has been considered that a single blockhouse placed in this gorge was sufficient to protect the settlements against incursions from the interior, and to prevent the escape of runaway slaves from the plantations. Thus, this basin is an interior region or tract, surrounded by; a ridge or rim and natural barriers which, on the sides towards the Dutch settlements, are in fact recognized by the English explorers to be, and, in the history of the colony, have always constituted, such an absolute barrier to its spread that, during the whole two hundred and fifty years, Dutch and English settlement never passed over into it\*

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\* *Mr. C. Barrington*, the Government Geologist, wrote in 1875: "The civilized and cultivated portion of the Colony lies only along a narrow strip of sea coast. . . .a The portion between the rear of the sugar estate, and the confines of the Colony is known as the "Interior," and, with the exception of a few settlements on the banks of the lower Berbice, Demerara and Essequibo rivers, it remains today in the same state as in the time of Raleigh."

*Parliamentary papers* of 1839, vol. 35, contains Hadfield's map of 1838 (which we reproduce), showing the settlements and cultivation in accord with the foregoing quotation.

*Mr. im Thurn* the explorer, in his Boundary Article of 1879, says: "The territory in dispute commences on the western bank of the Essequibo River, and extends to an undefined distance toward the Orinoco. Along and near the bank of the Essequibo is a fairly dense population of English subjects, at least during the lower part of its course, and along and scattered Indians, and is visited only at long intervals by a few travelers, traders, adventurers, or explorers."

*d.* On the other hand, the natural entrance to that basin is not up these rivers which are blocked by cataracts, but from the ancient Spanish settlements on the Orinoco, over the easy and open slopes of that part of the water-parting. Such been and to-day the access to this interior. The savannas which border the Orinoco extend, with only some fringes and patches of forest, over the neighboring hills and into the northern part of the Cuyuni basin, which itself is a savanna country. In this way settlement penetrated, so that while the whole northern part is, and from the early times has been, occupied by Spanish settlements, there are no settlements anywhere in the basin except the Spanish. Thus, we have a tract defined in its outline by nature, and bound together by nature unit; it is in

The "Local Guide," a volume of nine hundred pages containing the Colony laws, regulations, civil list, etc., published at Demerara in 1843, after describing the sugar islands of the estuary, etc., says (p. ii):

"The banks of are inhabited only by a few scattered cutters; and above the rapids, which occur about fifty miles from its mouth. there inhabitants except Indians. The same the case with the two great tributaries Of the Essequibo, the Cuyuni and Which Come from the West and these unite about eight miles from the Essequibo. and their united joins that river, \*bout miles from it's a distance above their junction, these rivers. become impeded by rapids, above which they are frequented only by a few wandering

*Mr. Dixon*, 1805, visited the British Yuruan station, and wrote that it

"made me, as an Englishman, feel considerably mortified to think that it takes our Government from five to six weeks to reach their frontier station, whereas the Venezuelan outpost Was then being put, and by this time probably is, in direct communication with their capital by road and wire. Also, whereas it costs our government immense annual sum to maintain their small number of police at Yuruan on salt and tinned provisions (sent all the way from Bartica Grove, on the Essequibo, in paddled boats), within 200 yards on the other bank of Kuyuni is the Venezuelan outpost, supplied with all kinds of fresh from their cattle farms and plantations."

