

INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING
ARBITRAL AWARD OF 3 OCTOBER 1899**

CO-OPERATIVE REPUBLIC OF GUYANA

v.

BOLIVARIAN REPUBLIC OF VENEZUELA

GUYANA'S MEMORIAL ON THE MERITS

VOLUME IV

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VOLUME IV

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Annex 58

Extract from a Report on Trinidad de la Guayana in reference to the Dutch Settlements on the Coast between the Amazon and the Orinoco, from Señor Don Antonio de Muxica, Deputy Governor of Santo Thomé de la Guayana, to His Majesty (25 June 1613)

No. 5.

*Extracts from a Report on Trinidad de la Guayana in reference to the Dutch Settlements on the Coast between the Amazon and the Orinoco (1613).**Señor Don Antonio de Muxica, Deputy Governor of Santo Thomé de la Guayana, to His Majesty.*

June 25, 1613.

"Archivo de Indias,"
Seville. "Audiencia
de Santo Domingo.
Extracts from the
"Expediente"
referring to the affairs
of Trinidad de la
Guayana, 1586;
1614.

The Dutch have a strong fortress, well defended by artillery, in the Corentyne. That river is situated at a distance of 200 leagues from Santo Thomé de la Guayana, and the Dutch are strongly united with the Caribs.

And with regard to the other settlements existing, it would be well to clear those coasts of them, for, from the River Marañon to the River Orinoco, there are three or four more settlements, very flourishing, from which they derive much utility and very great profit; and with the mouths of these two rivers they are making themselves masters of the possessions and the fruits of the natives; and this must call for some remedy, for there is great necessity for sending men, artillery, and arms for the defence of the city of Guayana must not be neglected.

No. 6.

Don Juan Tostado, Acting Governor of Trinidad (in the absence of Don Sancho de Alguisa) to His Majesty.

(Extract.)

Trinidad, June 16, 1614.

"Archivo de Simanca,"
Bundle 2289, 1607.

The barterers are driven away from this [island]. But 60 leagues from that Government in Terra Firma, in Santo Thomé de la Guayana, which they call the River Orinoco, they are now located, the which parts are frequented by foreign ships.

No. 7.

Vicar of the Island of Trinidad to the King.

(Extract.)

Ditto.

And Joan Diaz de Mansilla, Vicar of the Island of Trinidad, in a communication of the 30th June, 1614, to His Majesty, gives an account of the trustworthy information he received, that from the River Guayapoco (Wiapoco) to that of the Orinoco, in a distance of 200 leagues, there are four settlements of 'Flamencos,' to which some remedy must be applied. The reports sent [to the Court of Spain] by parties therein interested, all prepared for their own special ends, are grossly exaggerated, and merit little confidence.

Annex 59

*Report on Conditions for Colonies, adopted by the West India Company (the
Nineteen) (22 Nov. 1628)*

April 17, 1628.

Jan Henderixsen Benckelaer is aengenomen om te liggen op de Wilde Cust voor assistendt, voor den tijd van 3 jaren tot 18 ghulden ter maent.

Oock is binnen gestaen Burger Graeff: ende aengenomen, om te liggen op de Wilde Cust, voor den tijd van 3 jaaren voor assistent, ter plaetse daer men hem sal van doen hebben—tegen 12 f. ter maent.

Jan Hendrikszen Benckelaer is engaged to lie on the Wild Coast, as assistant, for the space of three years, at 18 guilders a-month. **A**

Also presented himself Burger Graeff, and was engaged to lie on the Wild Coast for the space of three years, as assistant, wherever he may be needed, at 12 guilders a-month.

No. 30. **B**

Conditions for Colonies, adopted by the West India Company (the Nineteen), November 22, 1628.

Vryheden ende Exemption voor particuliere die op de Wilde Custe van Brasil ofte de eylanden daeraen ende ontrent liggende, eenige colonien ende vee sullen planten, toegestaan ende vergunt by de geestroyerde West Indische Compaignie.

Liberties and Exemptions accorded and granted by the Chartered West India Company to private Individuals who on the Wild Coast of Brazil or the Islands lying there and thereabout shall plant any Colonies and [introduce?] Cattle.

1.

DAT alle de participanten in de gemelde Comp^e die genegen sullen sijn eenige colonien te planten, op de Wilde Custe, ende de eijlanden daeraen ende ontrent gelegen, sullen vermogen met de schepen van dese Comp^e derwaerts gaende te seijnden, drie ofte vier persooenen om de gelegentheijt aldaer te besichtigen, mits dat se neffens de officieren ende bootsvolck den artickelebrief sullen heedigen, voor soovele die haer aengaet ende betalen voor montcoosten, passagie van gaen ende commen ses stuijvers daegs, ende die in de cajute souden versoucken te eten twalff stuijvers, ende hun onderwerpen in cas van offensie oft defensie haer tewere te stellen, gelijk als andere, ende eenige schepen veroverende sullen oock haer portie genieten pro rato neffens de bootsgesellen ider naer sijn qualiteijt.

2.

Ende int sake ware meer persooenen dit versochten als des Comp^e schip ofte schepen welgevoechlijck condon accomoderen soo sullen in desen deele geprefereert worden, die haer eerst aen de Comp^e sullen hebben aengegeven ende versocht sullen hebben overgevoert te worden.

3.

Alle die haer bij eenige camer alhier te lands sullen aengegeven hebben, ofte oock aen den Command^r ende Raedt die de Comp^e ginder sal hebben opgerecht van meijninge te wesen op eenige rievier aen de Wilde Custe ofte eijlanden daer ontrent een colonie te planten van t'sestich zielen sullen voor *patroon* van alsulcke colonie gehouden worden ende verrijgen de naervolgende privelegien ende immunitieijten.

4.

Sullen van eerster uren aen, dat sijn de plaetse daer sijn haer colonie meijnen te planten hebben aangewesen voor alle ander^e geprefereert sijn tot

[696]

1. **C**

ALL shareholders in the aforesaid Company, who shall have the inclination to plant any colonies on the Wild Coast and the islands lying near and about the same, shall have the right to send thither, in the ships of this Company which go thither, three or four persons to inspect the situation there, on condition that they, together with the officers and ship-folk, swear to the articles in so far as these concern them, and that they pay for table-board and passage, both going and coming, 6 stivers per day, and those who may wish to take their meals in the cabin 12 stivers, and that they agree to carry arms in case of offence or defence in the same way as the other ship-folk, and, if any ships are captured, they shall also receive their share *pro rata* together with the ship-folk, each according to his rank.

2. **D**

And if it should happen that more persons applied than the Company's ship or ships could conveniently accommodate, in that case preference will be given to those persons who shall have been the first to signify to the Company their request that they be carried over. **E**

3. **F**

All those persons who to any Chamber in this country, or to the Commandeur and Council established yonder by the Company, shall signify their intention of planting on any river on the Wild Coast, or the islands thereabout, a Colony of sixty persons, shall be regarded as *patrons* of such colony, and shall obtain the privileges and immunities specified hereafter.

4. **S**

From the first moment that they shall have designated the place where they intend to plant their Colony, they shall have preference over all

A de usufruct ende possessie van soodanige landen als sij aldaer sullen hebben vercoren (doch deselve plaetse haer naderhandt niet gevallende ofte int kiesen van de gront bedrogen sijnde, sullen deselve naer voorgaende remonstrancie aen den Commandr ende Raedt aldaer ofte Comp^e alhier een ander gelegentheijt mogen uutkiesen) mits dat zij hier te lande wedergekeert sijnde binnen sjaers gehouden sullen sijn, een derde van t'sestich zielen derwaerts aen te senden, ende binnen drie jare daernaer t'volle getal, van hier aff te schepen, op peijne van bij notoir versuijm te verliesen de vereregen vrijheden.

B

5.

De Colonie nedergeslagen sijnde en sal geen ander op seven ofte acht mijlen haer mogen naerden, tenware de gelegentheijt van t'lant daerontrent sulx ware, dat den Commandr ende Raedt op goede redenen anders ordineeren, dewelcke mede de questien, die over de limiten souden mogen vallen sullen slechten ende teniete doen, ende sal de eerstcommende colonie op elke revier oft eylant het commandem[en]t hebben op deselve reviere ofte eylant, onder de opperdirectie van den Commandr ende Raedt van dit quartier, mits dat de naecommende colonien op deselve reviere ofte eylant sullen vermogen, een ofte meer Raden neffens denzelven to stellen om met gemeijn advijs den oorbaer van de colonien op die revier ofte dat eylant te versorgen.

C

6.

Ende alle het landt binnen de voorsz. limiten gelegen mit[s]g[aders] de vruchten superfities, mineralen, revieren ende fonteijnen van dien voor altoos te besitten tot een onsterffelijck erfleen met middele ende lage jurisdictie, chiensen, thienden, visscherijen ende malerijen, met exclusie van alle andere ter verheergewaden alst versterft, met twintich guldens per colonie aen dese Compe een ijder ter camer daer hij oorspronkelijk vandaen is gevaren.

D

7.

E Sal mede aen alle patroonen die sulx verzoeken vergunt werden *venia testandi* ofte octroij om van de voorsz. leengoederen bij testament te mogen disponeren.

F

9.

Die dese colonien over senden, sullen deselve voorsien met behoerlijke instructie om conform de maniere van regeringe soo in politie als in justitie bij de Bewinthebb[eren] ter vergader[inge] der XIXe beraemt ofte noch te beraemen, geregiert ende gestiert te mogen werden, welcke zij alvoreen de Bewinthebb[eren] van de respective cameran sullen verthoonen.

others to the usufruct and possession of such lands as they shall have selected there (but, if that place afterwards does not suit them, or if they were deceived in the selection of the ground, they shall be allowed to choose another locality upon addressing a Petition to the Commandeur and the Council there, or to the Company here at home), on condition that, on having come home to this country, they shall be required to send out thither one-third of the sixty persons within one year, and within the next three years thereafter the full number, to be shipped from here, on penalty of losing the acquired privileges in case of evident neglect.

5.

The Colony being planted, no other shall have the right to approach it within 7 or 8 [Dutch] miles, unless the condition of the land thereabout were such that the Commandeur and Council for good reasons ordain otherwise, who shall also decide and remove such questions as may arise concerning the limits: and the Colony which comes first to each river or island shall have the command on that river or island, under the supreme direction of the Commandeur and Council of that region, on condition that the Colonies which come later to that river or island shall have the right to appoint beside him one or more Councillors, in order jointly to care for the interests of the Colonies on that river or island.

6.

And all the land lying within the aforesaid limits, with all that grows upon the surface, as well as the minerals, rivers, and springs thereof, they shall for ever possess as an everlasting hereditary fief, with the right of intermediate and inferior jurisdiction, taxes, tithes, fisheries, and mills, to the exclusion of all other persons; and, when death transfers it to other hands, seignorial dues shall be paid to this Company to the amount of 20 florins per Colony, each to pay to the Chamber at the place where he originally set sail.

7.

Furthermore, all patrons who request this shall be granted *venia testandi*, or authorization to dispose by testament of the aforesaid fiefs.

8.

The patrons shall also be at liberty to use for their own profit all the lands, rivers, and forests lying near, until such time as these become the property of the same or other patrons or of private individuals.

9.

Those who send out these Colonies shall provide them with appropriate instructions, that they may be governed and ruled according to the form of government, both administrative and judicial, framed, or to be framed, by the Directors in session of the Board of Nineteen; which instructions they shall first submit to the Directors of the respective Chambers.

10.

De patroonen ende coloniers sullen vermogen alle haer volck ende goederen derwaerts te senden in de schepen van de Compe mits den eedt doende ende betalen[de] aen de Compe van t'overbrengen van t'volck als int 1^o Article, ende voor vracht van de goederen, een thien[de] gedeelte van t'gene deselve goederen haer gecost hebben uut de eerste retouren die zij herwaerts sullen overrijgen, sonder nochtans onder te begrijpen het bestiael ende ander gereetschappen tot den lantbouwe dienen[de] die de Compe voor niet sal overvoeren, als sij plaets in haer schepen heeft, mits dat de patroonen de plaetse daertoe approprieren op hare costen, ende alles provideren dat tot onderhout van t'bestiael noodlich is, ende dat voor den tijt van ses eerstcommende jaren, naer expiratie van welken jaren, sulcke ordre sal genomen worden op t'overvoeren van de goederen, ende alle andere behoeften als de reden ende gelegentheit dan vereysschen sal.

11.

Maer ingevalle het de Compe niet gelegen en quame eenige schepen te senden, ofte dat in de gaende schepen geen plaetse en ware, soo sullen in sulcken gevalle de patroonen vermogen naer voorgaende communicatie van haer intentie met dese Compe ende schriftelijck consent daerover aen deselve vercregen, selver schepen ofte jachten derweste* te senden, mits dat se int gaen ofte keeren, nüt en sullen vermogen te loopen buiten haer ordinari water,* ende de Compe daervooren caveren ende een assistent opnemen tot mont-costen van de patroonen. ende maentgelden van de Compe, op peene, dat ter contrarie doende, alle haer vercregen recht ende eigenschap tot de colonie sullen verliesen

12.

Alle patroonen van de colonien in de revieren ofte op de eijlanden, sullen vermogen met jachten, barques, ofte sloepen te bevaren ende te behandelen de gantsche Wilde Custe van de Amazonas aff tot den Oronoque incluijs, ende alle de eijlanden daerwa gelegen,* mits met hare gehandelde goederen vooreerst aenloopen[de] aen de hoofcolonie, ofte plaetse van commandement, die de Compe daer oprechten sal, soo de winden ende stroomen sulcx toelaten, om vandaer naer behoorlijke inventarisatie naer t'Vaderlant gesonden te werden, waervan nochtans uutgenomen werden alle victualie die se tot onderhout van hare colonien verhandelt souden mogen hebben, die zij regelrecht naer haer respective colonien sullen mogen voeren.

13.

Ende indien hij [*sic*] int varem ofte commen ofte int bevaren van de custe ende eijlanden voort, eenige prijsen quamen te veroveren, sullen gehouden sijn deselve te brengen ofte doen brengen aen de camer ter plaetse daer sij uitgevaren sijn, om bij haer E. gebeneficeert te worden ende sal de Compe het derdepart daervan behouden, blijvende de twee resterende derdeparten voor haer oncosten ende risico alles op de ordre van de Compe.

10.

The patrons and colonists shall have the right to send all their folk and goods thither in the Company's ships, on condition that they take the oath and pay to the Company for transportation of the folk as in Article 1, and for freight of the goods one-tenth of what those goods have cost them, to be paid from the first return-cargoes that shall arrive here for them—herein not being included, however, the horses and cattle and other tools used for agriculture, which the Company shall carry over gratis when there is room in its ships, on condition that the patrons fit out at their expense the place therefor, and that they furnish everything needed for the sustenance of the animals: all this to hold good for the first six years, after expiration of which years such rules shall be set for carrying over the goods and all other necessaries as reason and circumstances shall then demand.

11.

But, if it should not be convenient to the Company to send ships, or if there should be no place in the ships which go, in such case the patrons, first having communicated their intention to this Company, and having received the Company's written consent thereto, shall be allowed to send themselves ships or yachts thither, on condition that neither in going nor in coming shall they be allowed to run outside of their usual course,* and that they give security therefor to the Company, and that they take on board an assistant, his table-board to be at the expense of the patrons and his wages to be paid by the Company; on penalty, in case of contravention, of losing all their acquired right and claim to ownership of the Colony.

12.

All patrons of the Colonies in the rivers or on the islands shall be allowed, with yachts, barques, or sloops, to navigate and trade on the whole Wild Coast from the Amazon to the Orinoco, inclusive, and all the islands adjacent thereto,* on condition that with the goods they have acquired by trade they first, if the winds and currents allow, put in at the chief Colony, or seat of Government, which the Company shall establish there, in order that, a proper inventory having been made, they be sent from there to the Fatherland; exception, however, being made for all victuals which they may have bought up for the sustenance of their Colonies—these they shall be at liberty to transport direct to their respective Colonies.

13.

And if, in going out or coming home or in navigating the coast and islands aforesaid, they should come to capture any prizes, they shall be required to bring them or to have them brought to the Chamber at the place whence they sailed out, in order to receive from the Company the prize-money; and the Company shall retain one-third part thereof, the other two-third parts remaining theirs in return for their expenses and risk, all subject to the rules of the Company.

* The italics are those of the manuscript.

14.

- A** De coloniërs sullen haer gewonnen ofte gehandelde goederen overgeven aen de Comp^e tot redelijke prijs ofte soo sij sulcx niet raetsaem en vonden, sullen deselve in de schepen van de Comp^e aen hare patroonen ofte hare factoren moogen oversejnden mits gevende voor vracht van cattoen voor 100 lb. gewichte ses guldens ende voorts, andere waren die het 100 lb. gewichts boven de vijftich guldens waerlich sijn twee guld. voor thondert ende voor andere lastwaren, te weten sout (thien last voor een hondert) ende houdt (vierduisent voor een last gerekent) *achthien gulden per last*, mits dat het bootsvolek van de
- B** Comp^e t'sout sullen gehouden wesen te kruijen ende aen boort te brengen.

15.

- De Comp^e belooft de coloniërs van de patroonen in den tijt van thien jaren ingaende p^r Januarij anno 1600 achte ende twintich niet te beswaren niet convoij, tol, accijs, imposten ofte eenige andere contributien, ende naer expiratie van thien jaren, ten hoogsten met sulcken convoij als de goederen hier te lande tegenwoordich beswaert sijn.
- C**

16.

- Dat zij oock gene coloniërs van de patroonen, man off vrouw soon, dochter, dienstknecht oft dienstmaecht sullen uut haren dienst ontrecken, ende schoon imant alsulcx begeerde, dat se denselven niet sullen aennemen, veelmin gedoogen, dat sij van haer patroonen in een anders dienst soude overloopen, als naer voorgaende schriftelijke bewillinge van hare patroonen, ende dit gedurende den tijt van sulcke jaren, als zij aen haren patroonen verbonden sijn, naer welke expiratie het de patroonen vrij sal staen de coloniërs, die in haren dienst niet willen continueren, hier te doen bringen ende dan eerst in hare vrijheijt te stellen, ende soo wat colonier aen een ander patroon overloopt ofte buijten sijn contract hem in vrijheijt sal begeven, denselven beloven wij naer vermogen te doen leveren in handen van sijnen patroon oft commiss, om aldaer naer gelegentheijt van saken tegens hem geprocedeert te werden naer costuijme van dese landen.
- D**

E

17.

Alle vonnisse bij de gerechte van de patroonen gewesen monterende boven de somme van vijftich guldens, daarvan sal appel vallen aen den Command^r ende Raden van de Comp^e aldaer.

18.

- Ende belangende particuliere personen die voor haerselvs oft andere die in dienst van hare meesters, hier te lande in minder getal als de patroonen derwerts als vrije luijden sullen gaen wonen, sullen met goetvinden van den Directeur ende Raedt aldaer, sooveel lants vermogen te kiezen, ende aenveerden, als zij bequanelijk sullen connen bearbeijden, ende t'selve in volle eijgendom behouden, voor haer oft haer meesters, mits t'selve verheerwadende me thien stuijv^{er} op de mergen.
- F**

14.

The colonists shall hand over to the Company at a fair price the commodities they shall have gained by cultivation or trade; or, if they should not find this advisable, they shall be allowed to send them home in the Company's ships to their patrons or their agents, on condition that they pay for freight of cotton 6 fl. per cwt., and for such other wares as are worth more than 50 fl. per cwt. 2 fl. for each 100, and for goods shipped by the ton, namely, salt (ten double-tons per 100) and wood (counting 4,000 as a double-ton), *18 fl. per double-ton*, it being understood that the ship-folk of the Company are required to remove the salt and put it on board.

15.

The Company promises that for the ten years, beginning on the 1st January, 1628, it will not burden the colonists of the patrons with convoy, toll, excise, duties, or any other dues, and, after the expiration of ten years, at most with such convoy as is at present placed upon the goods here at home.

16.

Also, that it will not induce any colonists of the patrons, husband, wife, son, daughter, manservant, or maid-servant to leave their service, and that, even if any should desire to do so, it will not engage them; much less will it suffer them to desert from their patrons into somebody else's service, except upon a written permit from their patrons; this for the duration of such years as they are bound to their patrons by contract, after the expiration of which the patrons shall be at liberty to transport hither the colonists who do not want to continue in their service, and to release them only then. And when any colonist deserts to another patron, or runs away in violation of his contract, we promise, to the measure of our ability, to have him delivered into the hands of his patron or agent, in order that he be there proceeded against according to the circumstances of the case and the law of the land.

17.

From all judicial sentences pronounced by the patrons for sums above 50 fl., there shall be an appeal to the Company's Commandeur and Councilors there.

18.

And as regards private persons who for themselves, or [as regards] others who in the service of their masters here at home, in lesser numbers than the patrons, shall go to live there as free people, they are allowed to choose and occupy, upon approval of the Directeur and Council there, as much land as they shall be able conveniently to work, and to retain it in full possession for themselves or their masters, on condition of paying seigniorial dues of 10 stivers per acre.

19.

Ook vermogen te vangen alle wildt, ende te visschen onder t'resort van hare woonplaetse naer d'ordre van de Directeur ende Raet.

20.

Soo wie t'sij coloniers van de patroonen voor hare patroonen, ofte vrije luijden, voor haerselven ofte andere particuliere, voor haer meesters vinden bequame gelegenheit om soudtpannen te maecten vermogen t'selve te aenveerden, ende te beaerbeijden, in vollen eigendom, met exclusie van alle andere.

21.

Ende indien imant van dese coloniers door sijn industrie ende neersticheit quame te ontdekken eenige mineralen costelijcke gesteenten, cristalen marmoren ofte iets diergelijck oock eenigie visscherijen van peerlen, sullen deselve de patroon ofte patroonen van alsulcke colonie eijgen blijven, mits de vinder toeleggen[de] voor een premio sulck als de patroon allvoorent met sijn colonen sal stipuleren bij contract, ende sullen de patroonen vrij sijn van alle recongnitie aen de Comp^e den tijt van acht jaren, ende alleen voor t'overbrengen betalen twee ten hondert, ende naer de voorsz. acht jaren voor recongnitie ende vracht, een achtstepart van tgene het hier te lande weerdlich is.

22.

Sullen haer oock de patroonen ende coloniers insonderheit evertueren, om op spoedichtste eenige middelen onder haer de vinden, waermede zij een predicant ende schoolmeester sullen mogen onderhouden, opdat de Godslietst ende iver tot de religie in haer niet en verflouwe ende voor t'eerste derwaerts een sieckentrooster versorgen.

23.

De colonien die op de respective rivieren ofte eijlanden sullen commen te liggen sullen vermogen teweten elke reviere ofte eijlant voor sich een gecommiteerde uijt te maecten, die den Commandeur ende Raet van dat geweste sall informeren ende sijns coloniers saecken bij den Raedt bevoorderen, van welcken gecommiteerde alle twee jaren de helft verandert sal worden ende alle de colonien sullen gehouden sijn ten minsten alle twaelf maenden pertinent raport van hare colonien ende landen daerontrent aen den Commandeur ende Raedt aldaer over te seijnden.

24.

De coloniers en sullen niet vermogen aldaer eenige wollen linnen ofte cattone lakenen te maecten, ofte eenige andere stoffen te weven op peene van uutgestooten te worden, ende als meijneedige arbitralijck gestraft te worden.

25.

Eijndelijck soo sal de Comp^e haer evertueren om aen de coloniers soo vele swarten toe te stellen, als haer mogelijk wesen sal, op de ordre daervan te maecten, sonder nochtans daerin gehouden ofte verbonden te zijn verde ofte langer als haer sulcx soude mogen gelieven.

19.

They shall also have the right to catch all game and to fish in the district of their dwelling-place, subject to the orders of the Directeur and Council.

20.

Whosoever, be it colonists of the patrons for their patrons, or free people for themselves, or other private persons for their masters, finds a suitable locality for making salt-pans, is at liberty to occupy the same, and to work it in full ownership, to the exclusion of all others.

21.

And if any one of these colonists by his exertions and application should come to discover any minerals, precious stones, crystals, marble, or anything of that sort, or any pearl fisheries, these shall remain the property of the patron or patrons of that Colony, on condition that to the finder there be assigned a premium such as the patron shall beforehand agree upon by contract with his colonists: and the patrons shall for the time of eight years be free from all fee to the Company, paying only for transportation 2 per cent., and after the aforesaid eight years for fee and freight one-eighth part of the value here at home.

22.

The patrons and colonists shall also take especial pains to find among themselves at the earliest date some resources wherewith to maintain a preacher and schoolmaster, in order that divine worship and religious zeal may not lose vigour in them, and in the meantime they shall send thither a comforter of the sick.

23.

The Colonies, which in course of time shall be situated on the respective rivers or islands, shall have the right, namely, each river or island for itself, to designate one deputy, who shall report to the Commandeur and Council of that region, and shall further in the Council the interests of his colonists: of these deputies every two years one-half shall be replaced, and all the Colonies shall be required to send to the Commandeur and Council there, at least once in every twelve months, a pertinent report concerning their Colonies and adjacent lands.

24.

The colonists shall not be at liberty to make there any cloth of wool, linen, or cotton, or to weave any other stuffs on penalty of being expelled and punished as perjurers at the discretion of the Company.

25.

Lastly, the Company shall take pains to furnish the colonists with as many negroes as shall be possible, on the conditions to be formulated, without, however, being holden or bound thereto further or longer than it shall be pleased so to do.

Annex 60

Report from the Council of the Indies, to the King of Spain (8 July 1631)

Report and Resolution as to the Sacking of Santo Thomé (1631-3).

(1.)

Report of the Marquis de Sofraga to the King, July 8, 1631.

Señor,

" Archivo General de Indias." Seville. Simancas. Secular Audiencia de Santa Fé. Letters and " Expedientes " of the President and Auditors of the Audiencia, seen by the Council from 1629 to 1634. Press 72. Case 3. Bundle 26.

C EN 10 de Marzo de este año se recibieron en esta audiencia cartas de la ciudad de Santo Tome de Guayana y de Don Luis de Monsalbe Gobernador y Capitan General de aquella provincia avisando como el año de 1629 llevo a aquel puerto una esquadra de nueve navios de enemigos Yngleses y Olandeses y hechando mucha gente en tierra trataron de tomar la dicha ciudad y apoderarse della y allandose los vezinos con poca gente y sin armas y por este respecto yndefensos pusieron fuego a las casas y las quemaron con la hazienda que en ellas tenían y desampararon retirandose al monte con sus familias y que aviendose ydo esta esquadra vinieron otras de cosarios y se poblaron y presidiaron en los brazos y caños del Río de Orinoco y en una ysia que llaman del tabaco confederan con los Yndios Caribes que abitan aquellas costas de los quales se havia tenido relacion de que este año abía de venir la misma u otra esquadra a apoderarse de la ciudad y de una mina de Azogue que dizen se a descubierto junto a ella a la orilla del dicho Río de Orinoco y para reparo de este daño y de otros muchos que podrian resultar si por falta de defensa se despoblase aquella ciudad y el enemigo se apoderase della y de los Yndios que ya estan combertidos y reducidos a nuestra Santa Fé Católica pidieron socorro de gente armas y municiones y aviendo parecido con estos despachos Alonzo de Aguilar Trujillo alcalde ordinario de aquella ciudad que vino por Procurador General della y representado ymbose y por peticion lo mismo se hizo junta en el acuerdo en que concurrieron el visitador desta audiencia tribunal y oficiales Reales y otras personas de practica y esperiencia y aviendose conferido la materia y vistos los autos y ynformaciones que precedieron se juzgo por importante y necesario socorrer la dicha ciudad con cinquenta hombres Arcabuceros y rodileros probeidos de las armas municiones y bastimentos necesarios y se acordó que se pagase de la hazienda de vuestra Magestad el gasto que con esto se hiciere. Obligose el dicho Alonzo de Aguilar Trujillo a que embiaria a esta audiencia escritura otorgada por la dicha ciudad de Santo Tome de Guayana en que se obligaria atraer confirmacion de vuestra Magestad dentro del quatro años en que se dara por serbido de que el gasto se aya hecho de su Real Hacienda y aunque en esta seguridad no se reconocio abono Bastante la admitimos juzgando por de tan conocida ymportancia al servicio de vuestra Magestad embiar este socorro que aun sin ninguna seguridad se debian hacer como lo hizo el año de 1618 Don Juan de Borja mi antecesor (de que vuestra Magestad se dio por serbido) en ocasion que Gualterreal Yngles saqueo aquella ciudad y mato en el asalto al Gobernador Diego Palomeque de Acuña.

Sire,

ON the 10th March of this year letters were received in this Audiencia from the City of Santo Tome de Guayana, and from Don Luis de Monsalbe, Governor and Captain-General of that province, reporting that in the year 1629 a squadron of nine ships of English and Dutch enemies arrived at that port, and, landing a number of men, endeavoured to seize the said city and take possession of it, and the residents, finding themselves with few men and without arms, and consequently defenceless, set fire to the houses and burned them, with the property therein, and abandoned them by withdrawing to the woods with their families; and that after this squadron had departed, other squadrons of corsairs came and settled and fortified themselves in the arms and creeks of the River Orinoco, and in an island they call Tobago, they join with the Carib Indians who inhabit those coasts, from whom information has been received that the same or another squadron was coming this year to take possession of the city and of a quicksilver mine which is said to have been discovered close to it on the bank of the said River Orinoco, and to prevent this injury and many others which might follow, if for want of defence that city should be depopulated, and the enemy should take possession of it and of the Indians who are already converted and reduced to our Holy Catholic Faith, they have begged for help in men, arms, and munitions; and Alonzo de Aguilar Trujillo, ordinary Alcalde of that city, having appeared with these despatches, as Procurator-General thereof, and represented the same thing by word and petition, an assembly of the Council was called, wherein appeared the Visitor of this Audiencia, the Tribunal, and Royal officers, and other persons of practice and experience, and having considered the matter and inspected the foregoing Acts and Reports, it was decided to be important and necessary to assist the said city with fifty men with arquebuses and shields, and provided with the necessary arms, munitions, and stores, and it was agreed that the expense incurred thereby should be defrayed from your Majesty's Treasury.

The said Alonzo Aguilar Trujillo undertook to send to this Audiencia a deed executed by the said City of Santo Thome de Guayana, in which it would undertake to obtain confirmation from your Majesty within four years, in which you would be pleased to grant that the expenditure be allowed from your Royal Treasury. And although this security was not regarded as sufficient warrant we accepted it, considering how highly important it was for your Majesty's service to send this assistance, which would have to be given even without any security, as was done in 1618 by Don Juan de Borja, my predecessor (whereof your Majesty was pleased to approve), on the occasion when the Englishman, Walter Raleigh, sacked that city and killed the Governor, Diego Palomeque de Acuña, in the assault.

Partio de aqui este socorro por el mes de mayo de este año llebolo a su cargo el Gobernador Juan de Campos Capitan de credito y experiencia a quien di ynstrucion para la orden que a de tener en su viaje y asistencia y en las ocasiones que se le ofrecieren y en reconocer la sustancia de la mina de Azogue y el gasto que se a echo de la hazienda de vuestra Magestad (por que se miro con todo cuidado) monta cinco mill y seiscientos y veinte y ocho pesos de a ocho reales como todo consta por los autos cuyo traslado autorizado ba con esta guarde nuestro Señor la Católica Real persona de vuestra Magestad como la Cristiandad a menester.

EL MARQUES DE SOFRAGA.
(Hay una Rubrica.)

Santa Fée, a 8 de Julio de 1631.

A el margen se lee (no vinieron estos autos).

This relief party started from here in the month of May of this year, under Governor Juan de Campos, a Captain of credit and experience, to whom I gave instructions for the conduct of his journey and relief operations, and for occasions that might arise, and for examining the facts concerning the quicksilver mine; and the expenditure which has been made from your Majesty's Treasury (which was spared to the utmost) amounts to 5,628 pesos of 8 reals each, as fully shown by the Acts of which a certified copy is sent herewith.

May our Lord preserve your Majesty's Catholic Royal person as Christendom needs.

THE MARQUIS DE SOFRAGA.
(Rubric.)

Santa Fée, July 8, 1631.

On the margin is written, "These 'Autos' did not arrive."

(2.)

Docket on above Letter.

Santa Fée. A su Magestad. 1631.

El Marques de Sofraga. 8 de Julio. Que aviendo recibido en la Audiencia en 10 de Marzo de 631 carta del Gobernador de la ciudad de Santo Tome de Guayana y de la dicha ciudad avisando como el año de 629 lleo a aquel puerto una esquadra de 9 nabios Yngleses y Olandeses y aviendo echado gente en tierra para tomar la ciudad por ser los vezinos pocos y no tener armas la pegaron fuego y a sus haciendas y se retiraron a el monte con sus familias y despues llegaron otros dos navios y poblaron y presidiaron en los caños y brazos del Rio de Orinoco y en una ysla que llaman del tabaco confederandose con los Yndios Caribes y por averse entendido que el dicho año avia de ir la misma o otra esquadra a apoderarse de la ciudad y de una mina de azogue que se a descubierto junto a ella y dieron socorro de gente armas y municiones y aviendo echo junta de hazienda se acordo se hiciese de 50 hombres arcabuceros y rodeleros probeydos de las armas municiones y bastimentos necesarios por cuenta de la Real Hazienda obligandose la ciudad a llebar confirmacion dentro de 4 años.

Dice partio el socorro por mayo a cargo de Juan de Campos que monto 5628 pesos y que le dio ynstrucion para reconocer las sustancias de la mina de azogue.

En el consejo a 17 Marzo 1633. Denseles las gracias y en quanto al gasto llevese al fiscal.

Santa Fée. To His Majesty. 1631. The Marquis de Sofraga. 8th July. That a letter having been received in the Audiencia on the 10th March, 1631, from the Governor of the City of Santo Thome de Guayana, and from the said city, reporting that in the year 1629 a squadron of nine English and Dutch ships arrived in that port, and having landed men to take the said city, the residents being few in number and without arms, set fire to it and to their property, and retired to the wood with their families; and afterwards two other ships arrived and settled and fortified in the creeks and arms of the River Orinoco, and in an island they call Tabaco, uniting with the Carib Indians. And as it has been understood that the same or another squadron was going in the same year to seize the city and a quicksilver mine, which has been discovered close to it, they gave help in men, arms, and munitions, and having called a Treasury Council, it was agreed that it should consist of fifty men with arquebuses and shields, provided with the necessary arms, munitions, and stores, for account of the Royal Treasury, the town undertaking to obtain confirmation within four years. He states that the relief party started in May, under Juan de Campos: that the amount was 5,628 pesos, and that he gave him instructions to investigate the facts concerning the quicksilver mines.

In the Council, 17th March, 1633. Let them be thanked, and with respect to the expenditure, let it be referred to the Fiscal.

(3.)

Advice of the Fiscal.

El fiscal dice que escriba del nuevo Reyno sea si abra de algun adbitrio o forma como alibiar este puerto de la Hacienda Real pero que continue en hacer quantos esfuerzos fueren menester en echar de alli al enemigo sin perdonar a gasto ni diligencia alguna por la suma importancia que en esto interbiene pues siendo asi que aquel rrio es fondable para nabios de alto bordo fortificandose alli como se dice que sea fortificado se halla desenhogado para salir a correr todas las costas de tierra firme e yslas de Barlovento y por el rio adentro puede segun tiene entendido por reja-

The Fiscal says that a letter should be written from the New Kingdom to see if there be any means or manner by which this port can be assisted from the Royal Treasury, but that he is to continue to make needful exertions to eject the enemy therefrom, without sparing expense or trouble, on account of the extreme importance of the matter: for since that river affords anchorage for ships of large draught, by fortifying themselves there, as it is said they are fortified, they are free to issue forth and overrun all the coasts of the mainland and Windward

A ciones que an benido al consejo nabegar hasta el Río de Casanar que confina con el nuebo Reyno de Granada en infestar todas aquellas provincias y quando no sea si no escusar que el enemigo se baya fortificando en diferentes partes de las Yndias Occidentales es unicamente necesario y asi pide que en esta ocasion de galeones se le responda al Governador y baya el despacho en que se le ordena acuda a todo como aqui se pide en Madrid a 7 de Abril de 1633 años.

(Hay una Rubrica.)

Islands, and along the river inland, as he has gathered from reports which have reached the Council, they can navigate as far as the River Casanar, which bounds the New Kingdom of Granada; and even if it be only to prevent the enemy from continuing to fortify themselves in different parts of the West Indies, it is absolutely necessary, and he therefore begs that on this question of galleons a reply be given to the Governor, and the despatch be sent directing him to take measures for everything as requested herein.

(Rubric.)

B

Madrid, April 7, 1633.

(4.)

Resolution of the King.

Agasa consulta como lo pide el fiscal y advirtiendole que este gasto se puede dar por bien hecho por aora y pidiendole ynformes al tribunal y fiscales Reales si esto se gasto como se dize.

(Hay una Rubrica del Rey.)

Let a Consulta be drawn up as the Fiscal requests, pointing out that this expedition can be approved for the time being, and calling for Reports from the Tribunal and Royal Fiscals if this expenditure has been made as stated.

(The King's Rubric.)

C

No. 32.

Articles of Agreement between the West India Company (Zeeland Chamber), and Abraham van Perce for the Conduct of the Trade on the Wild Coast, July 16, 1632.

Articulen ende Conditien geoordeert ter Vergaderinge van de West Indische Compe. ter camer van Zeelandt tot Middelburch op den 16 July, 1632, met dheer Abraham van Peres, wegen de negotie op de Wilde Cust ende continuatie van sijn colonie in de riviere van Berbice ende die van Isequepe voor de Compe.

Articles and Conditions agreed upon, in the Meeting of the Zeeland Chamber of the West India Company held at Middelburg, 16th July, 1632, with Abraham van Perce, regarding the trade on the Wild Coast and the continuation of his Colony in the River Berbice and that of Essequibo for the Company.

D

4. IS geresolveert 3 cargasoenen te maecken te weten een voor hem particulier voor de reviere van Berbice, een voor de Compe. voor de reviere van Isequepe, ende het derde om op diverse plaetsen, op de Wilde Cust te verhandelen.

Welck derde cargasoen bij de Compe. ende van Peres, half en half gekocht sal werden ende verhandelt tot gemeenen profijte half en half, mitsgaders oock de prinsen die geduerende de reijse souden mogen becomen werden als oock allerhande mineralen die mette selve schepen sullen becomen werden.

5. Sullen alle de retouren gestelt worden in handen van de Compe. om deselve te vercoopen ende daervan genieten provisie van een pour cento.

8. Is veracordeert dat ingevalle de Comp. meer orane verwe uiijt Isequepe quame te ontfangen als d'heer van Peres uiijt Berbice, ofte dat d'heer van Peres meer verwe ontfinge, uit Berbices, dat in dien gevalle degene die meer verwe sal becomen, naer rato in de oncosten sal moeten gelden.

9. Indien de Compe. eenige persoenen maer Isequepe met de voorsz. schepen geliefde te senden sullen daervoren betalen voor ider persoon seven stuijvers daechs ende voor die in de cajute sullen eten veerthien stuijvers, behalven dat den Comijs die op de voorsz. schepen souden mogen geemployeert werden, soo om de negotie te doen als anders gedurende de reijse, sal wesen tot coste van d'heer van Peres.

4. IT was resolved to make three cargoes of wares, namely, one for him himself for the River Berbice, one for the Company for the River Essequibo, and the third to be traded with at various places on the Wild Coast.

This third cargo shall be bought by the Company and Van Perce half and half, and be traded with at joint profit half and half, as also the prizes that may be taken during the voyage, and all minerals of any kind that may be obtained with the said ships.

5. All the return cargoes shall be placed in the hands of the Company to sell them, and receive thereon a brokerage of 1 per cent.

8. It was agreed that, in case the Company should receive more annatto dye from Essequibo than Mr. van Perce from Berbice, or Mr. van Perce should receive more dye from Berbice, in that case the one who shall get more dye shall be bound to bear *pro rata* the expenses.

9. In case the Company should wish to send any persons to Essequibo in the aforesaid ships, it shall pay therefor 7 stivers per day for each person, and for such as shall take their meals in the cabin, 14 stivers. Except that the agent who might be employed on the aforesaid ships, whether for managing the trade or for other purposes during the voyage, shall be at the expense of Mr. van Perce.

P

Annex 61

Memorandum by Don Juan Desologuren in Santa Fé, as to the Powers of the Dutch in the West Indies (19 Nov. 1637)

VIII.

Ende sullen ghelijcke recognitie betalen alle vreemde ende uijtheemsche de voorschreve Waren met eijgen ghehuijrdle of bevrachte Scheden van dese Landen inbrengeende, 't zij die a droiture komen, ofte dat sij in andere Landen haer last mochten gebroocken hebben, uijt wat oorsaecke sulcks oock soude mogen zijn geschiet.

VIII.

And all strangers and foreigners importing such goods in their own vessels, or those freighted or hired in this country, shall pay similar recognition dues, whether they have come straight here or have broken their cargo in other countries, for whatever reasons such may have occurred.

No. 39.

Memorandum by Don Juan Desologuren, as to the Powers of the Dutch in the West Indies, dated November 19, 1637.

(Extract.)

A LAS Mayores, Monarchias, y Señorías causan desvelo, y al cavo la desestimacion y poco recelo de los oppuestos pequeños les suele affigir, y acavar, y siendo assi mucho se deve temer de los que de tan pequeños ban siendo ya tan grandes como los Olandeses por si, y sus valedores en tiempo que se hallan con tantas ramas arraygadas como tienen en esta America, cuyos pronosticos propusse á Su Magestad y á su Consejo de Guerra, y Indias á principio del año de trece, y otros mas proximos al daño dixen en la Junta General que agora dos meses se hizo en razon de si se devia ymbiar socorro a la Guayana, y los escribi con yntento, de que quedasen en el archivo, y no los di por escussado su traslado sin el del boto, con un papel que hize para que el Sr. Marques de Sofraga comenzase á disponer ymbiar por armas en la primera ocaSSION á España, y no le di por haver llegado la nueva de la llegada de V. Sa. á Onda. Pongo en manos de V. Sa. para se sirva de mandar tratar de los medios y los papeles son deste thenor.

THE greatest Monarchies and States have cause for vigilance, and have often been ruined in the end by a contempt and carelessness of small obstacles. This being so, how much more are things to be feared which, from small beginnings, have grown to such a height as the Dutch and their protectors, at a time when they possess so many settlements as they now have in America. I sent warnings of what would happen to His Majesty and his Council of War, and the Indies, at the beginning of the year '13, and have pronounced other discourses relating to this evil in the General Assembly, which took place two months ago, to consider whether succour should be sent to Guayana. I wrote these down with the intention that they should remain in the office of the archives, but I did not give them, as the copy of them was useless without that of the vote. Another paper which I drew up, that the Marquis de Sofraga might arrange for the sending of arms from Spain by the first opportunity, was never delivered, news having reached me of your Lordship's arrival at Onda. These papers, which I now lay before your Lordship, that you may be pleased to command them to be considered, are of the following tenour:—

E hecho esta narracion para prueva de quan valientes conservadores de lo una vez adquirido lo hace el hallarse su Magestad occupado con tantas partes á que acudir, y no poco el descuydo que ay en no estar armados los vecinos de nuestras poblaciones y lo que a engrossado el comercio de olanda lo precioso que llevan del oriente, y lo apetecible al fomento dello y de sus vicios los tabacos, açucares, medicamentos, maderas preciosas, tintas y otras mercaderias que llevan del Brasil, y estas partes y que lo licensioso de su vida y esto les hace dueño de toda la multitud de gente que pueden abraçar en si aquellas yslands de las que proceden ellas, y ay en todos los otros estados de herejes del sententrional, y mucha de la que no cave en los de los chatolicos por sus excessos y vicios, y lo que algunos principes, y republicas desto por fomento contra su Magestad ynvian y otros disimulan, y con la que les sobra y no pueden sufrir llenan estas colonias y poblaciones, y que los yndios abraçan su compañia por lo que les ymitan en la varvaridad de la vida y la libertad conque goçan della sin apremio de tributos, y labores ni del suave yugo del evangelio pessado en su sentir y lo acomodado á que tienen dellos todas las cossas de europa que es á menos precio que en españa, y sus frutos les venden á mas precio de aquel á que

I have made this narration to prove what valiant keepers of what they have once acquired they become on finding your Majesty occupied by the defence of so many parts, and the great negligence of leaving the inhabitants of our settlements unarmed, and how the valuables which they bring from the east have increased the commerce of Holland, and how desirable for their enrichment and the fostering of their vices are the tobacco, sugar, medicaments, precious woods, dyes, and other merchandize, which they bring from Brazil and those parts. The licence of their lives has made them masters of all the people of those islands from which their merchandize is drawn, and of those in all the other States of the northern heretics, and many of those whose vices and excesses make them unfit for the Catholic States, and those sent by several Princes and Republics of the north, to stir up rebellion against His Majesty, which others conceal, and with their surplus population they fill these Colonies and settlements, and the Indians embrace their company, because they imitate the barbarity of their lives and allow them to enjoy full liberty without constraint of tributes, labour, or the sweet yoke of the Gospel, heavy in their opinion. They obtain from them all goods from Europe with

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" Archivo General de Indias." Press 72. Case 3. Bundle 30. Simancas. Secular Audiencia de Santa Fé. Letters and " Expedientes " of the President and Auditor of the Audiencia seen by the Council from 1641 to 1643.

A les podemos comprar, porque los otros demas del ahorro de los derechos y crece del valor que da el traerlo desde España, ó llevarlo á ella les es de mas comodo el traerlo á estas partes que á España, y el llevar las cosas de aca desde las partes en que se cojen, que de España, por que llevan mas frescas y de mejor calidad y de que estos en ninguna parte se pueblan que no les sea de gran util pressente, y aun que parece herrada materia de estado el divertirse en tantas no viene á ser en ellos por lo que con con esto divierten las armas de su Magestad y no les cometa su potencia hallandose en pocas y poder adelantarse en la tierra firme por la parte que les fuese mas comoda.

B

Desde la costa á Caçanare ay cinquenta mill yndios los mas dellos caribes y los otros cassi sus sujetos por lo que les temen, y segun los avisos que da Don Diego Lopez de Escovar, Governador de la Guayana é yslas de la Trinidad con solo noventa y dos españoles, y sessenta yndios echó de la ysla de la Trinidad los olandesses que estavan poblados y fortificados con siete poblaciones grandes de yndios de su debocion y passó á la parte de la ysla del Tavaço, en que se hallavan con labranças del y una fuerça con veynte y ocho pieças y muchas armas y municiones y ciento y cinquenta olandesses, y los rindió y despobló y con todo se hallan poblados en el Rio Esquivo que esta á ciento leguas con ciento y veinte y muchos negros y en el rio Bervis á noventa leguas con quarenta y veinte y cinco negros ambas hacia la parte del Brasil en el mismo rio orinoco y boca principal del en la parte de tierra firme de la poblacion de Santa Tomé de la Guayana treynta leguas della diez olandesses desde el año de seiscientos y treynta y seis aguardando socorro para fortificarse y en todas partes con lavores y comercio con los yndios, y en este, ultimo con los sujetos y encomendados y libres y ofendidos del dicho Governador por haverlos vencido, y despoblado y haver degollado el de la Margarita los prissioneros que le remitió y los españoles tienen en la Guayana de cinquenta á sessenta mill cabezas de ganado bacuno, apeteçible hacienda á los olandesses para la provision de carnes de sus poblaciones y corambre á sus tierras y con tan poco resistencia como es la de sessenta vecinos y menos de quatro mill yndios tributarios de quienes se deven temer lo jmesmo que de los enemigos si no viesen que tienen el abrigo y amparo de aca, y en la tierra firme desde la costa asta subir á Caçanare ay los yndios referidos que si no ven españoles abraçaran la amistad de los setentrionales, con que poderse señorear de este Reyno con menos de dos mill ynfantes y se halla el dicho Governador con justos recelos de que el enemigo se a de hacer dueño del dicho pueblo de Santo Tome y pide socorro para fortificarse y despoplarlo de la boca del rio.

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Dice el Governador haver suplicado á su Magestad le ynvie socorro con aviso de que a pedido aca conque á haver alla mas comodidades de las que se pueden prometer en los tiempos pressentes puede caussar descuydo mayormente con el exemplo de los que se an ymbiado en otras oçassiones y es de reparar en las dificultades que tiene el

great convenience, at a lower price than in Spain, and sell their produce at a lower price than we can obtain it there, for, besides the saving of the duty and increase in value caused by bringing them to and from Spain, it is more convenient to carry them to these parts than to Spain, and to take the produce straight from the places where it is raised than from Spain, and it arrives in a fresher condition and of better quality, so that each new settlement which they found is a source of present advantage to them, and though it may seem an error of judgment to scatter their strength in so many places, it is not so in them, because by these means they divert His Majesty's arms and are not molested by his power, as they would be if their settlements were few, and they can thus advance upon the mainland in whatever part is most convenient to them.

Between the coast and Caçanare there are 50,000 Indians, mostly Caribs, and the others may almost be counted their subjects such is their fear of them; and according to the report of Don Diego Lopez de Escovar, Governor of Guiana and the Islands of Trinidad, with the sole assistance of ninety-two Spaniards and sixty Indians, he drove the Dutch from the Island of Trinidad, where they had settled and fortified themselves, with seven large settlements of their Indian allies. He then proceeded to the Island of Tabaco, where they had cultivated land and built a fortress with twenty-eight pieces of cannon and a quantity of arms and ammunition, and 150 Dutch, whom he conquered and dislodged, and they finally settled on the River Essequibo, 100 leagues off, with 120 Dutch and many negroes, and on the River Berbice, 90 leagues off, with forty Dutch and twenty-five negroes, both in the direction of Brazil; on the same River Orinoco and its chief mouth, on the part of the mainland of the settlement of Santo Thomé de la Guayana, at 30 leagues distance from it, there were ten Dutch waiting for reinforcements to fortify themselves from the year 1636, and in all these parts they have dealings with the Indians, and in the last-named with the inhabitants both vassals and freemen, and they are incensed against the said Governor for having overcome and dislodged them, and with the Governor of Margarita for having beheaded the prisoners sent to him. The Spaniards of Guayana possess from 50,000 to 60,000 head of cattle, much coveted by the Dutch to provide their lands and settlements with meat and hides, and these have no other defence than that of sixty inhabitants and less than 4,000 tributary Indians, who are as much to be mistrusted as the enemy, unless they see that they have shelter and protection here; and on the mainland from the coast as far as Caçanare are the aforesaid Indians, who, unless there are Spaniards there, will embrace the friendship of the northerners, who will then be able to make themselves master of this kingdom with less than 2,000 infantry; and the said Governor justly fears that the enemy will possess themselves of the town of Santo Thomé, and asks for help to fortify himself and dislodge the enemy from the mouth of the river.

The Governor says that he has begged His Majesty to send him help, giving notice that he has asked for assistance here, but that there are better means of providing help from Spain than can be hoped for here at present. This may cause anxiety, especially with the example of those which have been sent on former occasions, and it

ymbiarse de España con los aprietos de las guerras de Francia, Flandes, y Lombardia y los exemplares propuestos de los yntentados ó ymbiados á estas y las otras partes de la America y que quando aya comolidad de ymbiar a de ser de una de tres formas y son que los galeones que bienen por la plata y navegan por delante á quarenta ó cinquenta leguas hagan la faccion y pasen á Cartagena ó Puertobelo á recevir la esta tiene mucha dificultad por el tiempo que an de ocupar en bajar desde la derrota por donde navegan á la costa y volver á subir á tomarla, y en la faccion con riesgos del suceso della y de los vajios, travessias y temporales, que son mayores que los que se pueden tener enmarados por la vecindad de la tierra y rios y puede obligar á ymbiarnar y no volver á España asta el año siguiente mayormente siendo el tiempo, en que de hordinario bienen, desde mediado Junio en adelante, otra es que en los mismos galeones creciendo la ynfanteria sobre la que traen de hordinario y artilleria, oficiales y peltrechos para fortificacion echen en la costa y sin detenerse en ella hagan su viage, este modo en quanto los riesgos de los galeones son poco menos que los primeros y los de gente que quedase sin su abrigo muy sujetos á obrar poca y á perder mucho y la otra es el venir armada á solo el efecto que es el medio mas effectuoso pero muy costoso por crecer el de los buques y gente de mar pues para solo seiscientos ynfantes son necessarios quatro galeones de quatrocientas y cinquenta á quinientas toneladas y costaran ciento y cinquenta mill ducados y con lo que vale el dinero menos aqui que en España por veinte y dos por ciento que tiene de consumo asta alla en gastos haverias y seguro ciento y noventa y dos mill trescientos y diez ducados conque estara cada ynfante en trescientos y veinte ducados y medio y sus efectos seran de la contingencia propuesta no habiendo quien divierta al enemigo por los espaldas y le ynpida el retiro á los Yndios y los que se ymbiasen desde aqui por este respecto hendoran á ser con el gobierno del dicho Don Diego Lopez de Escobar de mas util que mucho mayor numero de los que biniesen de España porque los efectos no se an de obrar en las poblaciones y retiro que los enemigos tienen en virtud de potencia si no de ardid y el exemplo de los que alcanca el dicho Governador se ve en las facciones hechas que son singulares, y dignas de reparo y costara cada uno menos de ciento ducados, y aunque conforme á horden Judicial y los reparos que piden los engaños que puede haver en relaciones de parte tan remota y nescesitada no tiene la comprobacion que pedia, deve acreditarle la fee de decirlo un cavallero soldado nuevo en judicatura y desde lugar de quarenta vecinos desnudos en que no es poco aya quien escriba (mal) quanto y mas quien sepa ajustar los hechos con el derecho, y no es de pressumir que ayan de querer engañar á su Magestad y á este Real acuerdo él y el cavildo y quando quisiesen es muy pequeño en opposicion del daño que puede caussar el no darles credito quando lo estan dando las noticias que se tienen de las poblaciones que tiene el enemigo.

Para el conocimiento del socorro que se puede

must be remembered that the exigencies of the wars with France, Flanders, and Lombardy make it difficult to send help from Spain, and the above-said examples of the fleets intended for and dispatched to these and other parts of America. When there is an occasion of sending help from Spain it must be done in one of the three following ways:—That the galleons which come to fetch the silver should extend their navigation by 40 or 50 leagues, and accomplish the end in view, and then proceed to Cartagena or Puertobello to receive it. This plan presents many difficulties because of the time it takes the ships to vary their course and descend the coast, and afterwards return to receive the silver, and the risk of the undertaking, and the shoals, winds, and storms to which they are more exposed than when far out at sea, on account of the vicinity of the shore and rivers, and they may even be obliged to winter there, and not return to Spain till the next year, especially as the time at which the galleons usually start is from the middle of June forward. Another way is to increase the usual infantry on board the said galleons, and send out artillery, officers, and warlike stores, which the galleons may land upon the coast, and continue their journey without delay. This plan, in which the risk to the ships is little less than in the former, and that of the people landed and left without their protection very great, is liable to end in great loss and little result. The third way is to send out a fleet for this sole purpose, which is the most effectual way, but also the most costly, on account of the expense of providing ships and sailors, for four galleons of 450 to 500 tons are required to carry 600 infantry alone, and these cost 150,000 ducats, which at the present rate of exchange here (which is 22 per cent. lower than the value in Spain), makes the expense of the voyage there and back in costs and averages and insurance, 192,310 ducats; thus each man will cost 320½ ducats, and the result of the enterprise will be as before said, there being no land force to harass the enemy in the rear and prevent the retreat of the Indians; so that help sent from here to this end will be more useful under the command of the said Don Diego Lopez de Escobar than a much larger number sent from Spain, for the ends to be accomplished are only to be effected by stratagem in the settlements and retreats which the enemy possess by right of might. And an example of what the said Governor can accomplish is seen in the remarkable feats already performed by him which are worthy of notice, and each man sent from here will cost less than 100 ducats. Notwithstanding that these reports are not accompanied by such judicial proofs as are required by law, and the misrepresentations likely to be found in accounts from parts so remote and unprovided, yet they are worthy of credit, being vouched for on the word of a gentleman, and a soldier unversed in legal matters, and in a small place with forty poor inhabitants, it is no small thing that there should be some one who can write (even badly), much more one able to draw up an account of facts according to law; and it is not to be supposed that he or the Corporation would attempt to deceive His Majesty and this Royal Tribunal, and even should they do so, it would be a lesser evil than that we should doubt their report, which is credited by other information received respecting the settlements of the enemy.

As regards the help which can be sent from

- A ymbiar de España ademas de lo referido es de advertir que la armada de galeones que viene por el tessoro se hace á costa de su Magestad y de los otros ynteressados en el para solo ello, y el consejo de las Yndias por quien se hace su despacho y gobierna no tiene en España para otros ningun dinero, vajeles ni armas á su distribucion y quando acuerda hacer alguno nescessita de muchas consultas y juntas para su provission por dessear cada consejo acudir primero á los efectos de su cuydado y haverse de tomar los vajeles, artilleria, y gente de otros puestos y el dinero de asentistas á camvio ó reteniendo de los efectos que les estan consignados, que es lo mesmo, conque es cassi ymposible poderse determinar para que venga en la ocaasion primera y sera mucho que venga el siguiente y por las semejantes dilaciones que a savido en otras ocaasiones tienen estas partes el estado pressente y los enemigos tanta ossadia, y para que el que se puede ymbiar de aqui sea moderado, y á tropas es de reparar en las pocas armas, y ningunas municiones que ay, y la poca ynclinacion, y menos havituacion de los moradores Españoles nacidos alla, y aca, y de los mulatos y mesticos que á su abrigo son de yqual ymportancia por lo que saven sufrir trabajos é yncomodidades aunque á solas se puede fiar poco. De la propuesto sientio firmemente que el socorro que se ymbiare tendra el lucimiento que se dessea no solo en el castigo de los que estan poblados en la boca del Rio Orinoco, pero aun en ympedir no buelvan á apoderarse otra vez y los Yndios vayan agregandose á nuestra gente, conque á ymitacion de los Señores Reyes Chatolicos Don Fernando y Doña Isabel se trate expeler estos herejes y los judios de entre nosotros y de los ygnorantes Yndios y poner los esfuerzos posibles en la de los vicios publicos, y que si se deja que los Olandeses y las otras naciones sus coligados pueblen y se fortifiquen dentro del Rio Orinoco, y quiten á los Yndios el miedo y respecto (tal qual es) que tienen á los Españoles del pueblo de Santo Tome y se ahunen con ellos no será bastante á desarraygarlos del rio una armada como la que el año de quinientos y ochenta y ocho fue á ynlaterra por que en veinte treynta ó quarenta leguas de rivera de Rio cubierta de arboles y superiores barrancas pocas fuerças son bastantes para trinchearse, y echar á pique toda ella y assi se deve procurar desarraygarlos de toda la costa ó á lo menos de la boca del rio, y si las fuerças y sucesso dieren lugar á mas el Governador dispondrá lo que conforme á ellas pudiere yntentar.

- F En quanto á socorro pressente mi pareser es este y para reparo futuro suplico se miren los riesgos con que estan las Yndias con tantas poblaciones y colonias como tienen los Olandeses y en lo desarmado con que en estas partes se vive les sera facil hacerse dueños dellas sin que el valor y fidelidad de los españoles, y criollos les pueda ser de resistencia por que puede obrar poco donde no ay armas que les defienda, y conque ofenda y goçando en estas partes todos ellos esenciones y libertades que la nobleza por merito de sus pasados es justo obligarles á que en todas las cassas dellos aya las armas nescessarias para armar sus familias y siendo los encomenderos obligados por el feudo no solo á tener las nescessarias para la defensa, sino tambien á acudir por sus personas

Spain, besides what has been already said, it is to be considered that the fleet of galleons sent for the treasure is fitted out by His Majesty and those interested solely for that purpose, and the Council of the Indies, by which it is dispatched and commanded, have no other money, ships, or arms in Spain at their disposition for other purposes; and when it is agreed to provide these, many Councils and Assemblies are first necessary, every Council being anxious to provide first for such things as come under their care; and it is necessary to take the vessels, artillery and forces from other posts, and to raise the money from the contractors at interest, or by their retaining part of the consignments, which comes to the same thing, so that it is almost impossible to hope that it can be decided to send help by the first occasion that offers; and it is a great deal to expect that it may come by the second. Similar delays on other occasions have been the cause of the present state of things in these parts and of the enemy's boldness. Only a moderate reinforcement of troops can be sent from here; the scarcity of arms and total want of ammunition must be called to mind, as well as the disinclination of the Spanish inhabitants, born here or in Spain, and of the mulattoes and half-breeds, who, while under the protection of the inhabitants, are of equal account from the labours and inconveniences they can endure, but when left to themselves are not to be trusted.

From all that has been said I am firmly persuaded that the reinforcement would have the desired effect, not only of punishing those who have settled at the mouth of the River Orinoco, but of preventing them from taking possession of it again, and the Indians would unite themselves with our people, and then, in imitation of their Majesties Don Fernando and Doña Isabel, we may attempt to expel the heretics and Jews from our midst and from among the ignorant Indians, and restrain all public vice as far as possible. But if the Dutch and their allies of other nations are allowed to make settlements and fortify themselves on the River Orinoco, and take from the Indians the fear and respect (such as it is) which they have for the Spaniards of Santo Thomé, and ally themselves with them, even such a fleet as that sent to England in 1588 would not be sufficient to drive them out of the river, because along 20, 30, or 40 leagues of river, thickly wooded and deeply indented, a small force would be sufficient to entrench themselves and sink the fleet; they ought, therefore, to be dislodged from the banks, or at least from the mouth of the river, and should forces and occasion ever offer, the Governor would attempt what he could against them.

This is my opinion as regards present succour, and for the future I beg that the danger of the Indies from so many Dutch settlements may be considered, and that in the unarmed state of the inhabitants it would be easy for them to make themselves masters of the Indies, without resistance from the valour and loyalty of the Spaniards and creoles, for nothing can be done without arms of offence and defence; and as in these parts they enjoy the immunities and liberty of nobility granted to the deserts of their ancestors, it is but just to oblige them to keep sufficient weapons in their houses to arm their families, and the feofees being obliged by their fiefs not only to provide necessary means of defence, but to assist personally in the general defence, there would be no

á la comun conque no fuera rigor mandarles en la ocasion pressente que acudieran con parte del socorro y ya que no se les grava en esto se les deve en que tengan las dichas armas y para que se pueda ymbiar á España por ellas se cobre de la venta que segun las tassas les queda libre en un año de los del termino de Santa Fée, Tunja Pamplona, y Velez el quinto y de los demas por lo que sin embargo de las tassas goçan de util de servicio personal el tercio que todo ymportará de diez á doce mill patacones y se remitan consignados al Cappitan-General y Pagador de la Artilleria de España para que ymbien su valor de Mosquetes y arcabuzes y doscientas picas; un tercio de Mosquetes y en ellos algunos mosquetones, y dos de arcabuzes y traydos que sean se les entreguen las primeras, y necessarias para sí y sus familias y las demas se entreguen á los otros vesinos por los precios á que estuvieren puestos en la parte en que se les entregase, y lo que sobrare de su valor se ponga en renta para pagar á oficiales que aya en Santa Fée, Tunja, Musso, y Merida para que los bayan reconociendo y aderaçando un modo de socorro podia haver menos costosso que los propuestos y es que de las yslas y presidios mas cercanos acudiesen como acudieron de la Margarita en la faccion que avissa el Governador haver hecho pero estando las costas como estan llenas de bajeles de Cossarios, y de poblaciones seria temeridad de los que gobiernan aquellos puestos el darlo aunque tuviessen orden para ello y sin ella aunque sucediese bien fueran merecederes de muy gran castigo por el riesgo que an de llevar en la navegacion, y el conque an de quedar sus puestos.

De todo lo que se determinare, y pareciere conbenir se de quenta á Su Magestad en su consejo Real de las Yndias para la aprobacion de lo que se hiciere y noticias que bien tenga para la disposicion de lo demas que huviere de mandar.

No distribuyre aqui el estado que las Yslas y costas tienen de enemigos y los utiles presentes, de que goçan ni los futuros que segun razon se prometen remitiendome á lo propuesto en el acuerdo, y á la comun voz de los que tienen mayor razon y noticias que yo de sus puestos, poblaciones, y derrotas y al traslado de mis pronosticos que sirviendose vuestra Señoria de verlos los hare trasladar.

Devese considerar que los enemigos para hacerse dueños de todas las Yndias á lo menos criarlos de su mano no necesitan de mas que tomar las puertos de la Havana, San Juan de Lua, Cartagena, Honduras, y Puertobelo, y con ser las dos mayores fuerças las de la Havana y Cartagena visto es quan deviles son todas las que carecen de vecindad de donde recevoir socorro y padecen de corrupcion de los bastimentos y ambas plaças corren este defecto y aunque por mayor se juzga los puede tener Cartagena desde este Reyno es engaño assi por lo desarmado de la gente del como por la facilidad que el enemigo tendra de ympedirlo con solas seis lanchas con cada un pedrero y veinte y cinco soldados que ponga junto á la Barranca, y los demas de la tierra firme del Perú, y de la Nueva España de su mediterraneo son dificultosos y poco capaces, y las yslas de las unas á las

undue severity in commanding them to provide part of the succour at present required; but if this is not demanded from them, they should be obliged to provide the aforesaid arms; and to enable them to be sent from Spain, a-fifth of the profits of the sales, which according to the rate of taxation are free to them for a year, should be levied from those in the district of Santa Fée, Tunja, Pamplona, and Velez, and from those in other parts a-third of the profit arising to them from their share in the personal labour of their Indians, which they enjoy independent of the taxes, the whole of which would amount in all to from 10,000 to 12,000 patacoons. This sum should be remitted to the Commander-in-chief and Paymaster of the Spanish Artillery, that the value of it may be returned in muskets, arquebuses, and 200 pikes; a-third in muskets, to include a certain number of musketoons, and two-thirds in arquebuses; and when they are received, a sufficient number are to be distributed to arm them and their families, and the rest to be sold to other inhabitants at the price fixed in the places where they are to be sold, the surplus thus arising to be invested for the payment of officers in Santa Fée, Tunja, Musso, and Merida, to go about reviewing and drilling them. There might be another way of providing succour, less costly than those already proposed, which is that help should be sent from the neighbouring forts and islands, as was done from Margarita in the enterprise reported by the Governor; but the coasts being as they are, infested with pirates and foreign settlements, it would be rashness for those in authority to send help, even if they were commanded to do so; and should they so act without orders, they would be worthy of grave censure, though the issue were successful, on account of the danger of the journey and the risk to which their own posts would be exposed meanwhile.

An account of all that may be decided and thought fitting should be given to His Majesty in his Royal Council of the Indies for approval of what is to be done, and that full information may be had for deciding upon further orders.

I will not dilate here on the extent to which the coasts and islands are infested with enemies, nor upon the advantages which the latter at present enjoy, and may reasonably expect in the future, referring myself to what is contained in my Memorial, and to the general voice of those who have better information of their posts, settlements, and navigation, and to the copy of my discourses which I will order to be made if your Lordship should be pleased to read them.

It should be considered that to make themselves masters of the whole of the Indies, or at least to hold the power of doing so in their hands, the enemy have but to possess themselves of the ports of Havana, San Juan de Lua, Cartagena, Honduras, and Puertobello, and the largest forts being those of Havana and Cartagena, it will be seen that these are but weak, there being no place at hand from which they can receive succour, so that they suffer from the deterioration of their provisions, and both the above forts are in this case; and it is an error to suppose that relief can be sent to Cartagena from this kingdom, both on account of our people being unarmed, and the ease with which supplies can be intercepted by the enemy, by means of six gun-boats, each provided with a swivel-gun and twenty-five soldiers, which they may post near the bar; those of the mainland of

A otras no pueden dar ninguno y teniendo el Olandes como tiene puertos y puestos propios á donde retirarse y en ellos gente con que reforçar las que perdiese y nuestros puestos desnudos della, y de los demas aparejos que se necesita para poderse dar mano los unos á los otros y las fuerzas de España tan occupadas, y sus socorros tan tardos piden aya todo el cuydado y prebencion possible.

En lo tan facil como que la gente esté armada, siquiera en lo que alcançan esta governacion no puedo dejar de supplicar á V. S. se sirva de comenzar á disponer para que en la primera ocasion se remita el dinero á España. El Señor Don Juan de Borja ynformó en tiempos menos sospechosos de daño se nescessitava huviese algunas armas. Mandó Su Magestad se remitiesen dineros de su Real Hacienda para que se trujessen, y se repartiessen por el costo que tuviessen y aunque el año de seis cientos y veynte y siete se ymbiaron dos mill ducados como era dinero de su Magestad y no hubo quien solicitava la ejecucion no obró el cuydado de aca pero oy que las nescessidades de alla dan poco lugar de ymbiar socorros, ni permission de saca de dineros de la Real Hacienda de aca piden mas quantiosso gasto no ay otro medio que el propuesto supplico á V.S. lo mire y hordene lo que conviniere para quando llegue el sucesso y en la ocasion primera se remita el dinero quedando á V.S. la gloria de obra y disposicion suya estos son los dos papeles referidos y aunque la materia no nescessita de tan larga relacion la he hecho por que V.S. con mas conocimiento trate della y quanto primero se hiciere asegura mas los buenos sucessos, y pareciendo apropósito lo propuesto en ellos se podia mandar, que de la paga que los Yndios han de hacer de sus tributos para la Navidad proxima se cobre y se entere por los corregidores en esta caxa para que se ynbie por las armas en la ocasion primera, prospere y guarde Dios á V.S. con los aciertos, que desseo, y este Reyno a menester.

JUAN DESOLOGUREN.
(Hay una rubrica.)

Santa Fee, á 19 de Noviembre, de 1637.

E

Peru, and of the central parts of New Spain, are difficult of access, and of little service, and the islands are unable to assist each other. The Dutch having ports and stations of their own to which they can retire, and obtain men to fill up the losses in their ranks, and our posts being totally devoid of them, and of everything necessary to enable us to assist each other, and the forces of Spain being so occupied, and the succour from thence so dilatory, calls for all possible care and precaution.

The ease with which the people might be armed, at least so far as this Government is concerned, moves me to beg your Lordship to make arrangements for sending the money to Spain on the first opportunity. In times less fraught with danger, Señor Don Juan de Borja made known the necessity of supplying arms, and His Majesty ordered money to be sent from his Royal Treasury here, that arms might be sent out and distributed at cost price, but though in the year 1627, 2,000 ducats were sent accordingly, the money being His Majesty's property, and there being no one to press the matter, the arms were not supplied. At present, when the necessities of Spain give small hope of assistance, and will not allow of money being drawn from the Royal Treasury, a larger sum is required, and there is no other means of raising it than that which has been proposed, and I beg your Lordship to consider the matter, and give the necessary orders, that the money may be remitted by the first opportunity, and the whole credit of the undertaking will rest with your Lordship. These are the two papers referred to, and though it was not necessary to treat the matter at such length, I have done so that your Lordship may be better able to deal with it, and the sooner this is done the more likelihood there will be of a successful issue; and should my suggestions be approved, it might be ordered that the necessary sum should be levied by the mayors from the payment of the Indian tribute due next Christmas and lodged in this Treasury, that the arms may be sent for from Spain at the first opportunity. God keep and prosper your Lordship according to my desire and the need of this kingdom.

JUAN DESOLOGUREN.
(Rubric.)

Santa Fe, November 19, 1637.

No. 40.

Jacques Ousiel, late Public Advocate and Secretary of Tobago, to the West India Company, 1637.

[This document (according to its docket) was submitted to the Amsterdam Chamber in December 1637.]

Aen d'E. Heeren Bewinthebberen der geotroyerde West Indische Comprgnie tot Amsterdam :

F JACQUES OUSIEL gewesen Raet Fiscal ende Secretaris van t'Eijlant Tobago, geeft eerbiedelijcken te kennen, hoe hij op sijn wederomme reijse naer t'vaderlant, op seecker Vlaems schip den 7 Sept. lestleden bij U E. Command^r Cornelis Corn. Jol veroovert, ende alhijr ter stede opgebracht; wesende den remonstrant van weghe U E. door haren commijs Kuffelaer aengesocht ende belast geweest, sich alhijr voor een tijdt lanck op te houden, omme deselve van eenighe saecken, dewelcke U E. hem souden hebben voor te stellen,

To the Directors of the Chartered West India Company at Amsterdam :

JACQUES OUSIEL, late Public Advocate and Secretary of the Island of Tobago, respectfully makes known that on his return voyage to the Fatherland on board a Flemish ship, which, on the 7th September last, was captured by your Commander, Cornelis Corn. Jol, and brought to this city as a prize, he was requested and charged on your behalf by your agent (Kuffelaer) to remain here for some length of time, in order to give you information concerning some matters that you were to submit to him. The writer having cheer-

Annex 62

*Report of the Council of War to the King respecting the state of Guayana (10
May 1662)*

A siquiera tengan que comer y me dejen solo por no poderse estorbar. Yo los entretengo porque no se desmantele del todo solo con la esperanza que me prometo de remedio conforme a la poderosa y Real mano de vuestra Magestad cuya Catolica y Real persona guarde Dios como la Christiandad y sus vasallos emos menester.

PEDRO DE VIEDMA.

(Con su rubrica.)

Guayana, á Marzo 20 de 1662.

B

bring them a pail of water, and cultivate their plantations. It must necessarily be abandoned, if some remedy does not come to them within a year, for they are in despair of it. For, although I may deny them the permission, they will fly to some other part, where, at least, they may have something to eat, and they will leave me alone, as it cannot be prevented.

I encourage them, so that it may not be entirely abandoned, solely in the hope I promise myself of a remedy suitable to the powerful and Royal hand of your Majesty, whose Catholic and Royal person may God preserve, as Christendom and we your subjects need.

PEDRO DE VIEDMA.

(Rubric.)

Guayana, March 20, 1662.

No 72.

Report of the Council of War to the King respecting the state of Guayana, May 10, 1662.

"Archivo General de Indias." Seville. Indiferente General. Junta de Guerra. Consultas Originales. Años 1654 to 1663. Est. 147. Caj. 5. Leg. 25.

El Governador del Consejo. Don Antonio Issasi. Don Pedro de Aragon. El Varon de Ansi. El Marques de Trocifal. Don Matheo de Villamarin. Don Pedro de Barreda. Don Alonso Ramirez. El Marques de Montealegre.

The President of the Council. Don Antonio Issasi. Don Pedro de Aragon. The Baron de Ansi. The Marquis de Trocifal. Don Matheo de Villamarin. Don Pedro de Barreda. Don Alonso Ramirez. The Marquis de Montealegre.

Señor,

EN 18 de Enero del año pasado de 1657 hizo la Junta una Consulta á vuestra Magestad sobre las fortificaciones, socorro; misioneros y otras cosas tocantes á las Provincias de la Trinidad, y la Goayana, con ocasion de una Orden que en 6 de Octubre del año antecedente se sirvio vuestra

- D Magestad remitir juntamente con unas cartas que el Obispo Inquisidor havia recibido, una de Cristobal de Vera, Governador de la Ciudad de Santo Thome de la Goayana, otra del cavildo secular de ella, y otra de Dionisio Mesland, de nacion Frances, Religioso de la Compania de Jesus, y misionero, que decia ser, de la Congregacion de Propaganda fide; y con vista de ella fue de parecer la Junta que el Gobierno de aquellas Provincias, que es del distrito de la Audiencia de Santo Domingo, se agregase al del nuevo Reyno, por la facilidad con que de alli podia ser socorrido, y por haver trescientas leguas de distancia hasta
- E Sancto Domingo por Mar, y de muy difecl navegacion, respecto estar la Trinidad á Barlovento de aquella ysla, como se reconoce en los mapas, y llena de riesgos por las muchas poblaciones de Yngleses, y Franceses, que ay en las Yslas de harlovento, y que si el enemigo se apoderase de aquel Gobierno para conseguir con mayor facilidad hacerse dueño del Rio Orinoco, que está junto á Sancto Thome de la Goayana, y que si intentase esto era como casi imposible embarazarlo con socorros embiados de la Ysla Española, y que no havia noticia de que jamas se huviese socorrido
- F por ella en ninguna occassion, y que assi por esto, como porque la Provincia de la Goayana confina por las espaldas con tierra del nuevo Reyno, y que la Ysla de la Trinidad, que es caveca de aquel Gobierno, está muy cerca de la Goayana, y que en las ocasiones que el enemigo la a imbadido le a socorrido con gente, y municiones el Presidente de Santa Fé, y que lo puede hazer mas prompta y facilmente que el de Sancto Domingo por su mayor cercania, y ser tierra continuada en el Nuevo Reyno; por todo lo qual tuvo la Junta

Sire,

ON the 18th January of the past year, 1657, the Junta made a "Consulta" to your Majesty concerning the fortifications, aid, missionaries, and other matters touching the Provinces of Trinidad and Guayana, on the receipt of a command, which your Majesty was pleased to transmit on the 6th October of the preceding year, together with some letters which the Bishop-Inquisitor had received: one from Christopher de Vera, Governor of the city of Santo Thomé de la Guayana; another from the municipality thereof; and another from Dionisius Mesland, a French subject, a Father of the Society of Jesus, and missionary, who described himself as being of the congregation "de propaganda fide." And in view of it, the Junta was of opinion that the Government of those provinces, which belongs to the district of the Audience of Santa Domingo, should be united to that of the New Kingdom [of Granada] on account of the facility with which it could be helped from there, and also owing to its being at a distance of 300 leagues from Santo Domingo by sea, and of very difficult navigation, seeing that the Island of Trinidad is to windward of that island, as may be seen on the maps, and full of dangers owing to the many settlements of English and French existing in the Windward Islands. And that if the enemy should take possession of that Government, so as to make himself with greater facility master of the River Orinoco, which is close to Santo Thomé de la Guayana, and that if he should attempt this, it would be nearly impossible to hinder him by means of any help sent from the Island Hispaniola, and that there was no information to show that it had ever received on any occasion any help therefrom. And therefore on this account, as also because the Province of Guayana is bordered on the rear by the territory of the New Kingdom, and that the Island of Trinidad,

por conveniente se agregasen á aquel Reino las Provincias de la Trinidad, y la Goayana en todo lo que mirase á la Administracion de Justicia y hacienda gobierno politico, y militar, declarándolo vuestra Magestad así y avisandolo á los Presidentes de Sancto Domingo y el Nuevo Reyno para que este cuydase de su defensa, y conservacion, por la summa dificultad que tendria el socorrerle de estos Reynos, y no ser posible hazerlo de Sancto Domingo. Y no pasó la Junta por entonces á tractar de las fortificaciones de la Ciudad de Sancto Thome de la Goayana, y Ysla de la Trinidad hasta que viniese el informe que havia de hazer el Governador que entonces nombró vuestra Magestad y propuso por conveniente que el dicho Governador llevase cierta cantidad de armas, y municiones, y vuestra Magestad se sirvió de responder á esta Consulta en la forma siguiente:—

“ Aunque los informes y Papeles que han venido, y se han visto en la Junta den á entender lo que combiene desagregar de la Audiencia de Sancto Domingo, el Gobierno de la Ysla de la Trinidad, y agregarle á la de Santa Fee, no parece por la relacion que se me imbia que ultimamente ayan informado las Audiencias de Sancto Domingo, y Santa Fee, sobre los inconvenientes, ó combeniencias de alterar la forma que hasta aora ha havido en este Gobierno, ni que se aya reconocido si ay Papeles de lo que se dice que el año de seis-cientos, y quince succedio en admitir Governador en esta Ysla y la de la Goayana, y como en la demarcacion que se hizo quando se señalaron los Gobiernos que havian de tocar á cada Audiencia era preciso tener presente lo que aora se dice de la distancia que ay de la Ysla de la Trinidad á la de Sancto Domingo y sin embargo se le señalo devajo de su Gobierno, y á tantos años que corre así, y la Junta no halla este inconveniente en las materias que tocan á lo espiritual, pues se dice que dé el Gobierno de ellas al Obispo de Puerto Rico, suspendo el tomar resolucion en este punto hasta que se me diga si ay los informes de las Audiencias, Obispo, y oficiales Reales que son los que ordinariamente preceden quando se trata de semejantes desagregaciones, y si se an visto con los demas Papeles que aquí se refiere, para que con noticia de ello mande lo que combenga. Tambien me ha hecho reparo que se aya pasado sin mayor reconocimiento lo que se dice del pasage á aquella parte de Dionisio Miland, con privilegios (segun dice) concedidos por su Sanctidad y Universal Inquissicion de Roma, siendo esta una de las cosas que mas se an procurado excusar se introduzgan, ni dar lugar á que ningun religioso se aya introducido con semejantes patentes á la enseñanza y doctrina de los Yndios; y así reconociendo los exemplares que en cassos de esta calidad a avido, y las Ordenes que sobre ello se huvieren dado, se volverá á ver este punto en el Consejo y se me consultará lo que pareciere.

which is the head of that Government, is very near Guayana, and that on the occasions when it has been invaded by the enemy the President of Santa Fée has rendered it help in people and armaments, and that he can do so more promptly and easily than the President of Santo Domingo, on account of being so much nearer, and it being a country extending continuously to the New Kingdom. For all these reasons the Junta considered it well that the Provinces of Trinidad and Guayana should be annexed to that kingdom in all matters that might relate to the administration of justice, revenue, and military and political government, by your Majesty so declaring it, and advising the Presidents of Santo Domingo and the New Kingdom, in order that the latter should look after its defence and preservation, on account of the immense difficulty there would be in rendering it help from these kingdoms, and it not being possible to do so from Santo Domingo.

And the Junta did not then proceed to treat of the fortifications of the city of Santo Thomé de la Guayana and Island of Trinidad until such time as the Report was received that had to be made by the Governor whom your Majesty then appointed; but suggested as desirable that the said Governor should take with him a certain quantity of arms and munitions, and your Majesty was pleased to reply to this “Consulta” in the following manner:—

“ Although the reports and papers that have arrived, and have been examined in the Junta, point out how desirable it is to separate the Government of the Island of Trinidad from the Audiencia of Santo Domingo and unite it to that of Santa Fée, it does not appear from the account that was sent me that the Audiencias of Santo Domingo and Santa Fée have recently reported upon the inconveniences or conveniences of changing the form which up to now has existed in that Government, nor whether any search has been made to see if any papers exist as to what is said, that in the year 1615 it happened that a Governor was appointed to this island and that of Guayana. And as, in the demarcation that was made when the Governments were indicated that were to belong to each Audiencia, it was necessary to consider what is now said concerning the distance between the Island of Trinidad and that of Santo Domingo, and nevertheless it was placed under its government, and has thus continued for so many years. And the Junta does not find this inconvenience in matters which relate to spiritual affairs, for it is said that the Government thereof in that respect may be given to the Bishop of Puerto Rico.

“ I suspend the taking of a resolution on this point until I am informed whether there are reports from the Audiencias, Bishop, and Royal officers, which are those that usually precede whenever such separations are treated of, and if they have been seen with the rest of the papers referred to here, so that with the information thereof I may command what may be suitable.

“ I have also been notified that without any greater inquiry they (that is, the members of the Junta) have passed over what is said in regard to the passage to that part of Dionisius Miland, with privileges (as it is said) granted

A

by his Holiness and the Universal Inquisition of Rome, this being one of the things of which they have tried hardest to prevent the introduction; and they have tried to give no opportunity for any Father to enter the country with such letters of permission for the teaching and instruction of the Indians, and therefore examining the precedents that in cases of this nature have taken place, and the commands that may have been issued concerning it the Council will again examine this point, and report to me their opinion.

B "Y en lo que toca á las municiones se hará lo que parece. Y en lo demas que se me propone, quando se me aya dado cuenta de lo que aquí resuelvo, tomaré resolucion."

"And in what refers to the munitions, it shall be done as suggested. And in regard to the rest proposed to me, when I have received the Report on the points which I am now considering, I will give a resolution."

Como todo mas particularmente se contiene en la dicha Consulta respondida, que original se pone con esta en las Reales manos de vuestra Magestad juntamente con la relacion que hizo entonces un Relator (y fue con la misma Consulta, del estado que tenian las Provincias de la Trinidad y la Goayana).

All is more particularly contained in the Consulta sent in reply, of which the original is placed here within your Majesty's Royal hands, together with the Report that was then made by a Secretary (and it was sent with the same Consulta on the state of the Provinces of Trinidad and Guayana).

C Ahora Don Joan de Ibarreta, Cavallero del Orden de Alcantara, y Tesorero de la Ysla Margarita, en virtud del poder que tiene de la Ciudad de la Goayana, ha presentado un memorial en la Junta, con diferentes testimonios, y cartas, assi del Governador de la Isla de la Trinidad, como de la Ciudad de Sancto Thome, del Santisimo Sacramento de la Goayana, y de la Trinidad con fechas de Septiembre y Octubre del año pasado de 1659.

[And] now Don Juan de Ibarreta, Knight of the Order of Alcantara, and Treasurer of the Island of Margarita, by virtue of the power which he holds from the city of Guayana, has presented a Memorial in the Junta, with sundry testimonies and letters, as well from the Governor of the Island of Trinidad as of that of the city of Santo Thomé of the Most Blessed Sacrament of Guayana and of Trinidad, under dates of September and October of the year 1659.

D Y lo que el Governador Pedro de Viedma refiere en su carta de 20 de Octubre del mismo año, se reduce á dar quenta de haver llegado á aquel Gobierno por Agosto del de 658, y haver tomado posesion del, y que le hallo dividido en dos jurisdicciones; porque la de la Ysla Trinidad la governava en interim Matheo Sotelo de Quiros, por nombramiento de la Audiencia de Sancto Domingo y la de Sancto Thome de la Goayana y Provincias de ella el Maestro de Campo Cristoval de Vera, puesto por la Audiencia de Sancta Fee, y que esto procedia de dividirse la Ysla de la Trinidad al gobierno de Sancto Domingo, y la de Sancto Thome al del Nuevo Reyno.

And what the Governor. Pedro de Viedma, states in his letter of the 20th October of the same year, reduces itself to announcing his arrival in that Government in August 1658, and having taken possession thereof; and that he found it divided into two jurisdictions, for that of the Island of Trinidad was governed provisionally by Matheo Sotelo de Quiros, by appointment from the Audiencia of Santo Domingo; and that of Santo Thomé de la Guayana and its provinces by Maestro de Campo, Christoval de Vera, appointed by the Audiencia of Santa Fée; and that this proceeded from assigning the Island of Trinidad to the Government of Santo Domingo, and that of Santa Thomé to the New Kingdom.

E Da quenta, assi mismo, de haver hallado aquel gobierno con necesidad de fortificar, y presidar las plazas.

In like manner he reports having found that Government in the necessity of being fortified, and the forts strengthened.

Refiere el corto numero de gente que havita en la Isla de la Trinidad, que no excede sesenta y seis hombres viejos, y enfermos; y que de estos no pueden servir para la defensa de la tierra mas de quarenta, entre españoles, mestizos y pardos, y muchos de ellos sin armas y que solo havia ochenta ó noventa Yndios, y otros naturales retirados á su libertad.

He refers to the small number of people residing in the Island of Trinidad, which does not exceed sixty-six men, old and sick together; and that of these not more than forty, between Spaniards, half-breeds and mulattoes, can serve for the defence of the country, and many of them without arms, and that there were only eighty or ninety Indians, and other natives withdrawn to freedom.

F Que en la ciudad de Sancto Thomé estava un Religioso Francés de la Compañia de Jesus, en la enseñanza de los Indios, al qual el Governador Don Martin de Mendoza su antecesor, haviendo entendido que tenia fundacion con su compañero, y otros franceses en el Rio Guarapiche, que cae en la costa de tierra firme entre la Goayana y Cumaná, le imbió á llamar, y llevo con otro quatro franceses (lo que causo cuydado á los vecinos), y haviendoseles tomado sus declaraciones se imbiaron á la Audiencia de Sancta Fee, de que resultó que

That in the city of Santa Thomé there was a French Father of the Society of Jesus, occupied in the instruction of the Indians, for whom his predecessor, Don Martin de Mendoza, sent, having learned that he had a settlement, with a companion and some other Frenchmen, in the River Guarapiche, which is on the coast of Terra Firma between Guayana and Cumaná; and he came with four other Frenchmen (which caused some uneasiness among the residents); and their

el Presidente de ella remitiese ochenta infantes al dicho Don Martin de Mendoza para la defensa de su gobierno, y quando llegaron era ya muerto, y se entregaron á su theniente; y por no haversele acudido á esta Infanteria con socorros, se huyeron, y desvanecieron, pues no halló el dicho Governador mas de diez y seis hombres quando llegó á aquella Provincia, y al religioso frances en la enseñanza de los naturales (por haver falta de sacerdotes) el qual le pidió licencia para irse con la nacion olandesa ó Inglesia, y se la denegó: y advierte que si apretava mas sobre esto le remitiria al Nuevo Reyno.

Refiere assi mismo, haver imbiado Persona que reconociese las fundaciones, y poblaciones que alli tienen los extrangeros, la qual reconoció que en la costa de tierra firme (Jurisdiccion de su gobierno, veinte leguas á Barlovento del Rio Orinoco) ay dos fundaciones, una de ciento, y cincuenta olandeses, y otra de doscientos, y ochenta, y que á estos se les agregan doscientos Indios caudalosos de los expulsos del Brasil, y que en ambas poblaciones han metido mil, y quinientos negros esclavos para sus lavores, y que de mas de esto ay la fuerza de Esquivo, que á mas de treinta años que esta fundada dista doce leguas de las nuevas poblaciones, y assiste en ella un Governador y que la fuerza tiene doce piezas de Artilleria, y soldados, y que el olandes havia dicho á la persona que lo fue á reconocer que esperaba mas gente para acabar de poblar aquellos Rios, y dos navios de negros; y que de vuelta de viage havia encontrado un vagel pequeño con dos hombres que le hablaron en lengua castellana, y parecieron ser de la conservacion de los Indios de dichas fundaciones, y el uno nacido en Madrid, que dava á entender haver sido religioso Augustino, sacerdote, y haver passado á Absterdam en compañía de una Muger India; donde se dejó circuncidar, y que por esto le imbio la Inquisicion de Cartagena.

Demas de las fundaciones referidas, van fundando otras los Ingleses en la costa de tierra firme, con mas de mil, y quinientos hombres y muchos negros; y fundaciones de Ingenios; y represento los inconvenientes de estas poblaciones, y la importancia de aquellas Plazas, por ser confinantes á su gobierno, y al nuevo Reino de Granada, Merida y Barinás que se comunican con el Rio Orinoco, y por tierra con la governacion de Venezuela, y Cumaná, y las demas de aquellos Puertos.

Las ciudades de Sancto Thomé, del Santisimo Sacramento de la Goayana, y la de la Trinidad en cartas para vuestra Magestad refieron los mismos puntos que el Governador particularmente el de las poblaciones de extrangeros, y que asi por esto como por ser pocos los vecinos se hallan expuestos á una imbasion.

En consideracion de lo que representa el Governador y ciudades en las cartas referidas, pide el dicho Don Juan de Ibarreta que vuestra Magestad se sirva de socorrer aquellos vecinos con gente, armas y municiones, las quales se pueden conducir

declarations having been taken they were sent to the Audiencia of Santa Fé, from which resulted that the President thereof sent a force of eighty infantry soldiers to Don Martin de Mendoza, for the defence of his Government; and when they arrived he was already dead, and they were delivered to his lieutenant. And as there was no help given to these men they fled and abandoned the place, for the said Governor did not find there more than sixteen men on his arrival in that province, and the French Father instructing the natives (for want of priests), who requested permission to go to the Dutch or English nation, which was refused, and he remarks that if he pressed the matter more he would send him to the New Kingdom.

In like manner he says that he had sent a person to reconnoitre the settlements and towns which the foreigners have there, who found that on the coast of Terra Firma (jurisdiction of his Government 20 leagues to windward of the River Orinoco), there are two settlements: one of 150 Dutch, and another of 280, and to these are added 200 wealthy Indians, of those expelled from Brazil, and that in both towns they have introduced 1,500 negro slaves for their plantations. And that besides these, there is the fort of Esquivo, which has been founded more than thirty years, and is distant 12 leagues from the new settlements. There is a Governor there, and the fort has a battery of twelve pieces of artillery, and soldiers; and that the person who was sent to reconnoitre was told by the Dutch that they were expecting more people for the purpose of completing the settlement of those rivers, and two shiploads of negroes. And that on his return journey he had encountered a small vessel with two men, who spoke to him in Spanish, and they appeared to be of the conservancy of the Indians of the said settlements; and one born in Madrid gave him to understand that he had been an Augustinian Priest, and had gone to Amsterdam in company with an Indian woman, where he allowed himself to be circuncized, and on that account he was sent to the Inquisition of Cartagena.

Besides the settlements above referred to, the English continue to found others on the coast of Terra Firma, with more than 1,500 men, and many negroes, and sugar plantations.

And he represented the inconveniences of those settlements, and the importance of those fortified places, on account of being contiguous to his Government, and to the New Kingdom of Granada, Merida and Barinás, which communicate with the River Orinoco, and by land with the Government of Venezuela and Cumaná, and the rest of those ports.

The cities of Santo Thomé of the Most Blessed Sacrament of Guayana, and that of Trinidad in letters addressed to your Majesty stated the same points as those mentioned by the Governor, particularly that of the settlements of foreigners, and that both for this reason and on account of the residents being few, they are exposed to an invasion.

In consideration of what the Governor and the cities represent in the letters referred to, the said Don Juan de Ibarreta requests your Majesty be pleased to help those residents with men, arms, and munitions, which may be

A sin costa considerable á la Real hacienda en el Navio de Registro que pide la Provincia de Cumaná, ó en el que se inbiaren las municiones para aquel presidio, y su fuerza de Araya, que en su nombre, como su Procurador, tiene suplicado, porque el dicho vagel ha de passar por dicha Isla de la Trinidad, y puede hacer allí escala para el consuelo, y socorro de aquellos pobres vecinos, que por su extrema pobreza ha muchos años carecen de Nao de estos Reynos, que siquiera toque en su puerto para poderse vestir.

B Y que se mande al Presidente del nuevo Reyno se corresponda con el dicho Governador y le socorra con las assistencias necesarias, por lo que puede resultar de las poblaciones que los enemigos tienen en la Isla del Tavaco, que dista diez leguas de aquella de la Trinidad, y por la nueva poblacion que estan fundando en la tierra firme, veinte leguas á la parte del Leste de dicha Goayana la qual corre por mas de cien leguas de costa que ocupan en que ay mas de seiscientos Ingleses, y Franceses, con mas de mil, y quinientos esclavos negros, y tienen muchos de los Indios naturales de aquel

C Pais á su devocion por los generos que les dan en rescates, pues dichas assistencias resultan en defensa del nuevo Reyno, y de la Provinzia de Barinas, á las quales partes tiene el enemigo entrada por las bocas del Rio Orinoco si se señorea de dichas costas. Y en esta parte se remite á lo que escribe el Governador y suplica se mande guardar la cedula de 27 de Octubre de 627 que probye se inbien Governadores en interim á la dicha Provincia, por muerte de los propietarios, sino que gobiernen los Alcaldes mayores hasta que se inbie sucesor, porque de no guardarla se siguen daños

D yrrreparables á aquellos vecinos porque aquel gobierno tiene dividida su Jurisdiccion en dos Audiencias; la parte de la Trinidad á la de Sancto Domingo y la de la Guayana á Sancta Fee, como esta dicho, con que en las vacantes cada Presidente inbia Governador interino, de que resultan los inconvenientes que se dejan considerar de haver dos cavezas en un gobierno sugetas á diversos Tribunales, y á la Real hacienda se le crece la costa del salario de un Governador mas, porque cada uno lleva por entero el sueldo de mil, y quinientos ducados. Y por esto y los inconvenientes que resultan de que un gobierno este sugeto á dos

E Audiencias, suplica á vuestra Magestad que la dicha Isla de la Trinidad (que dista solas doce leguas de la Guayana) se agregue á la Audiencia de Sancta Fee, pues oy con la cercania de las nuevas poblaciones necesita precisamente el Governador de darse la mano con el Presidente de su distrito; y el de Sancto Domingo, demas de estar muy lejos, y ultramar, y siempre necesitado de vageles, no le puede dar assistencia alguna, aunque no huviera los dichos inconvenientes, porque Sancto Domingo es Puerto, y Plaza que necesita para si de todo lo que viene, y se le inbiare, y que assi sera de gran servicio de vuestra Magestad que se execute esta union de todo á la Audiencia de Sancta Fee, que esta mas cerca y tiene el recurso por tierra.

conveyed there, without any considerable expense to the Royal Treasury, in the register ship, requested by the Province of Cumaná, or in that in which the munitions will be sent for that fortress and its fort of Araya, which in its name and as its Procurator he has petitioned for. For the said vessel has to pass by the said Island of Trinidad, and it can call there, for the purpose of consoling and helping those poor residents, who on account of their extreme poverty have not been visited for many years by any ship from these kingdoms, even one touching there so that they might provide themselves with clothing.

And let the President of the New Kingdom be commanded to correspond with the said Governador and help him with the necessary assistance, in view of what may result from the settlements which the enemy have in the Island of Tobago, distant 10 leagues from that of Trinidad, and the new settlement they are founding on Terra Firma, 20 leagues on the east side of the said Guayana, the which runs for more than 100 leagues of coast that they occupy, in which there are more than 600 English and French, with more than 1,500 negro slaves, and they have very great numbers of the Indian natives of that country subject to them, on account of the merchandize they give them in barter. For the said assistance accrues to the defence of the New Kingdom and of the Province of Barinas, to which parts the enemy have an entrance through the mouths of the River Orinoco if they become masters of the said coast. And here he refers to what the Governador writes, and entreats that orders may be given to observe the Cedula of the 27th October, 1627, which prohibits that Governours be sent provisionally to the said province, through the death of the proprietaries, but let it be governed by the Chief Alcaldes until a successor be sent. Because in not observing it irreparable injuries follow therefrom to those residents, as that Government is divided in its jurisdiction between two Audiencias: the part of Trinidad to that of Santo Domingo, and that of Guayana to Santa Fée, as already stated, so that when vacancies occur each President sends a Provisional Governador, from which result the inconveniences that may be supposed from having two Heads in a Government, subject to different Tribunals, and the expense of another Governador's salary is added to the Royal Treasury, because each of them draws the full salary of 1,500 ducats. And on that account, and the inconveniences which result from the fact of one Government being subject to two Audiencias, he entreats your Majesty that the said Island of Trinidad (which is only 12 leagues distant from Guayana) be united to the Audiencia of Santa Fée. For to-day with the proximity of the new settlements the Governador necessarily requires to join hands with the President of his district. And the President of Santo Domingo, besides being very far away beyond the sea, and always requiring the use of ships, cannot render him any assistance whatever, even if no such inconveniences intervened. Because Santo Domingo is a port and fortified place which needs for itself all that come there, and may be sent to it. And therefore it will be a great service to your Majesty that this union be made in all respects to the Audiencia of Santa

Haviendose visto todo en la Junta con la atencion, y cuydado que corresponde á materia de tanta importancia, y teniendo presente lo que vuestra Magestad fue servido de responder á la consulta de 18 de Enero de 657 (cuya respuesta queda arriba inserta), y haviendo, assimismo, reconocido los papeles, y memoriales que despues aca han llegado á la Junta, y todos los que se han juntado tocantes á esta materia. Ha tenido por muy de su obligacion representar á vuestra Magestad de nuevo que juzga por muy combeniente que aquel gobierno en lo temporal (pues en lo que toca al spiritual dice el Consejo á vuestra Magestad lo que se le ofrece en consulta de la fecha de esta por ser punto que le pertenece) se agregue al de la Audiencia de Sancta Fee, y su Presidente, por los incombenientes que se consideran por no poder ser socorrida, y assistida aquella Provincia de la de Sancto Domingo (á cuyo gobierno esta oy agregada) no solo por los riesgos de la navegacion, y mucha distancia, sino por la cortedad de medios que tiene para ello la Isla de Sancto Domingo, y al contrario desde Sancta Fee, donde la disposicion en todo es mayor, y assegura en la brevedad, y en la substancia las assistencias de la Goayana, y demas Pueblos de su Jurisdiccion, y al mismo tiempo se consigue que el gobernador interino sea uno solo, y no dos como hasta aquí, occassionando tantas competencias, y incombenientes como se representan en esta parte en los papeles de que queda hecha relacion.

Y que á Don Diego de Egues, Presidente que oy es de Sancta Fee se le de facultad muy amplia para que assista á aquellos vecinos, y que si pudiere ir en Persona á reconocer la Ysla lo haga, y si no aplique los medios que tuviere por combenientes para su mayor assistencia, y que á este fin vea que gente, armas y municiones seran menester para tener alguna defensa algunas ciudades, y la levante, y remita, como tambien las armas, y municiones y que asegure la assistencia, y socorro de la gente, procurando en todo el mayor ahorro de la Real hacienda.

Y para conservar esta gente, y alentar la demas que huviere en los Pueblos de aquel gobierno, tiene por combeniente la Junta se alcen, y quiten los tributos que huviere impuestos en aquella Provincia, pues de mas de lo referido, llamará esta combeniencia á que aquellos Pueblos se aumenten viniendo mas gente que los haviere.

Assimismo es de parecer la Junta que se de permission á un Navio, del porte que pareciere á la casa de la Contratacion, para que lleve por el tiempo que combiniere, los fructos de que necesita aquella Provincia, y alguna licencia de negros con que se socorra la necessidad, y miseria que padecen aquellos havitadores, sobre lo qual se pedira informe á la Cassa, si vuestra Magestad se sirviere de conformar.

Fée, which is nearer, and possesses access by A land.

Everything having been examined in the Junta with the attention and care proper to an affair of so much importance, and considering what your Majesty was pleased to reply to the Consulta of the 18th January, 1657 (the reply to which is inserted above), and having in like manner studied the papers and representations which since then have come to the Junta, and all others that have been brought together relating to this affair, they have considered it as their imperative obligation to again represent to your Majesty that they deem it for the greatest advantage that that B Government in what relates to temporal affairs be united to that of the Audiencia of Santa Fée and its President (for in what relates to spiritual matters the Council state to your Majesty what they consider advisable in the Consulta of this date, since it is a point which belongs to it), in view of the inconveniences which are considered to arise from that province not being able to be assisted and helped by that of Santo Domingo (to which Government it is at present united), not only on account of the dangers of the navigation and great distance, but also owing C to the small means the Island of Santo Domingo has for the purpose. And, on the contrary, from Santa Fée, where the facilities are altogether greater, the necessary assistance can be rendered to Guayana and the other villages of its jurisdiction quickly and substantially. And at the same time, the end may be attained that there may be only one Provisional Governor, and not two as heretofore, causing thereby so many disputes and inconveniences as are set forth in the papers of which a report D has been made.

And that Don Diego de Egues, actual President of Santa Fée, be granted very ample power to assist those residents. And that if he could go in person to visit the island, let him do so, and if not, let him apply whatever means he may consider necessary for its greater assistance. And that with this object he should examine what men, arms, and munitions may be necessary for maintaining some towns in a state of defence, and raise and forward the same, as also the arms and munitions; and let him insure the help and assistance of the people, whilst endeavouring E in all to spare the Royal Treasury as much as possible.

And to maintain this force and encourage the rest that there might be in the towns of that Government, the Junta consider it well that the tributes which may have been imposed in that province may be stopped and remitted, for besides what is aforesaid, this advantage will attract attention, so that those towns may increase by more people coming to inhabit them.

In like manner the Junta consider it F advisable that permission be accorded to a ship, of such tonnage as the Casa de la Contratacion may think fit, to carry for the time that shall be necessary the products which that province requires, together with some licence for negroes, so that the necessities and misery from which those residents now suffer may be alleviated. upon which subject a Report shall be requested from the Casa, should your Majesty be pleased to agree to the same.

- A Tiene, assimismo, por combeniente que se de orden á Don Diego de Egues que si pasare á la Goayana lleve consigo al Theniente de Ingeniero Mayor de Cartagena Don Juan Betin, y que si el no fuere, le remita con la Persona que imbiare en su lugar que sera de la satisfacion, y experiencias que combenga, y que pueda substituir su Persona, para que reconociendo el terreno de la Isla de la Trinidad, y la Goayana se haga planta de el, y de la fortificacion que tuviere por preciso, y combeniente, con atencion á la gente y medios que se pueden aplicar para defenderla, y que de todo imbie al Consejo informe particular con la dicha planta.

Tambien es de parecer se de orden al dicho Don Diego de Egues para que pueda haver á las manos al Religioso de la Compañia que paso á la Trinidad y la Guayana, y que se le recojan las Bullas, y papeles que huviere llevado, y que todo se remita á estos Reynos con la seguridad que combiene, y assimismo al otro Religioso Agustino circuncidado, de que se ha hecho relacion en esta consulta.

- C Vuestra Magestad mandará en todo lo que fuere su Real Voluntad.

(Hay cinco rubricas.)

Madrid, á 10 de Mayo de 1662.

Carpeta

- D Junta de Guerra de Indias. A 10 de Mayo, 1662. Dice lo que se ofrece sobre la agregacion de las Provincias de la Trinidad y la Goayana al Gobierno de Santa Fee del nuevo Regno de Granada por las causas y razones que dentro se refieren.

(Hay una rubrica.)

- E Proveido en 6 de Junio.
Secretario DON GERONIMO DE ORTEGA.

Further, they consider it desirable that Don Diego de Egues be instructed, in case he should go himself to Guayana, to take with him the Lieutenant of the Chief Engineer of Carthagena, Don Juan Betin, and that if he should not go, he should send him with the person whom he shall commission in his own place, provided he shall be of the necessary qualification and experience, for the purpose of surveying the territory of the Island of Trinidad and Guayana, and drawing up a map thereof, and of the fortifications he shall consider necessary and suitable, having regard to the men and means available for defending it, and to transmit a particular Report of all to the Council with the said map.

They are also of opinion that orders should be given to Don Diego de Egues, so that he may be able to have at hand the Father of the Society [of Jesus] who went to Trinidad and Guayana, and that the bulls and documents he may have brought be taken from him, and all be forwarded to these kingdoms with the necessary safeguard, and in like manner the other circuncized Augustinian Father, of whom an account has been given in this Consulta.

Your Majesty will command in all whatever may be your Royal pleasure.

(There are five rubrics of the members of the Junta.)

Madrid, May 10, 1662.

Docket.

Council of War of the Indies. May 10, 1662. State what they consider advisable in the matter of the union of the Provinces of Trinidad and Guayana to the Government of Santa Fée of the New Kingdom of Granada for the causes and reasons herein stated.

(Rubric.)

Royal Decree.

Conformome con lo que parece y executese así.

(Hay una rubrica de S. M.)

I agree with what is advised. Let it be carried out in this manner.

(Rubric of the King.)

Decreed on the 6th June.
Secretary DON GERONIMO DE ORTEGA.

No. 73.

Petition of Jan Doenssen and others for the Registry of their Property, preparatory to the erection of a Sugar-mill in Essequibo, July 3, 1664.

- F Aen de heeren Bewinthebberen der geocroijeerde West Ind^e Comp^e ter camer van Zeeland.

VERTHOONT reverentelijck Jan Doensen schipper op den scheepe Zeelandia hoedat hij met eenige gequalificeerde medestanders uut crachte ende in conformite van de vrijheden ende exemptien aen elle de werelt gepresenteert ende uijtgegeven heeft uijtgecoosen ende possessie genoomen een parthije lants ende lantstreecke gelegen in de riviere van Isequebe aen Brouwershoeck laerop hij als feitor heeft gestelt eenen Huibrecht

To the Directors of the Zeeland Chamber of the Chartered West India Company.

JAN DOENSEN, skipper, of the ship "Zeelandia," respectfully makes known that by virtue of, and in accordance with, the liberties and exemptions offered and granted to all the world, he, with several qualified associates, has chosen and taken possession of a piece of land and region situated in the River Essequibo at Brouwershoek, upon which he has placed as agent one Huibrecht Vinou, a Frenchman, provided with several negroes

Annex 63

Memorandum on the Question of Boundaries between British Guiana and Venezuela (*Inclosure* in *Letter* from Earl Granville to Señor de Rojas (15 Sep. 1881))

Earl Granville to Señor de Rojas.

M. le Ministre,

Foreign Office, September 15, 1881.

HER Majesty's Government have carefully considered the proposals contained in your letter of the 21st February last for the settlement of the question of the boundary limits between the Colony of British Guiana and Venezuela.

In reply, I have now the honour to state to you that they regret that they are unable to accept the line of demarcation indicated in that letter as a satisfactory solution of the question. They are, however, anxious to meet the views of the Venezuelan Government fairly, and with this object they are prepared to agree to the line suggested in the accompanying Memorandum, which will leave to Venezuela the complete control of the mouths of the Orinoco, whilst it will furnish a convenient boundary in the interior, conforming to the natural features of the country.

In proposing a line which makes so important a concession to Venezuela, Her Majesty's Government desire to explain that it must not in any way be understood as admitting that they have not a rightful claim to the line which extends to the mouth of the Orinoco, and that the proposal is only made from a sincere desire to bring to a conclusion a question which has too long remained unsettled to the detriment of the interests of both countries.

A map which has been drawn up after Schomburgk's originals is inclosed herewith, showing the exact position of the boundary proposed in the accompanying Memorandum; and I may observe that the whole of the line, except that portion which lies between the source of the Amacura and the sea coast, was surveyed by Schomburgk as far back as 1837.

In conclusion, I have the honour to state that Her Majesty's Government will be happy to confer with you personally should you think it desirable to communicate with them in that manner for the purpose of discussing the proposals contained in the Memorandum which accompanies this letter.

I have, &c.

(Signed) GRANVILLE.

Inclosure 1 in No. 35.

Memorandum on the Question of Boundaries between British Guiana and Venezuela.

AFTER careful consideration of the proposition made by the Venezuelan Minister for an adjustment of the boundary between British Guiana and Venezuela, Her Majesty's Government are of opinion that the line proposed by him could not be accepted without serious injury to British Guiana.

2. They consider that the following are some of the more prominent objections which exist to a division of the territory by such a line as that suggested by Señor de Rojas. The line proposed would sever from the Colony existing settlements, and would cut off lands which have for a long series of years been held by lawful title of Dutch or British origin recognized by the Government. The acceptance of the line proposed would also involve a surrender of a larger portion of territory, to which the claim of Great Britain is unassailable, than any which can be reasonably yielded, even for the purpose of bringing this long-pending question to a close.

3. Moreover, the line proposed by Señor de Rojas offers practical difficulties which appear to Her Majesty's Government to be insuperable. The meridian of 60° of longitude intersects, and would divide, the numerous rivers and creeks and the different watersheds in a manner that would cause lasting inconvenience to both countries. It would also, they believe, be found impracticable to keep such a boundary-line sufficiently marked or defined, and thus, in an acute form, would be perpetuated the evils now felt. The Colonial Government would be exposed to all the special difficulties which would in consequence be created, more particularly with respect to the tribes of aboriginal Indians, who have never recognized other than British authority.

4. Further, the line proposed by Señor de Rojas would place within Venezuelan territory the outlets of that inland water system which, commencing in the centre of the country of Essequibo, flows through a network of rivers and creeks to the sea, and enters the ocean by the Waini and Barima. It is by these channels that fugitives from justice are often enabled to baffle pursuit, and for the due administration of the law and repression of crime in British Guiana, it is essential that the Colonial Government should possess the control of these outlets.

5. As regards that portion of the territory which lies between the . . . and the mouth of the Orinoco, Her Majesty's Government believe that no impartial person, after studying the records, can escape the conviction that the Barima was undoubtedly before, and at the time of the conclusion of the Treaty of Munster (1648), held by the Dutch, and that the right of Her Majesty's Government to the territory up to that point is in consequence unassailable.

6. But they view it as of such importance to the welfare and material advancement of the Colony of British Guiana that this long-pending boundary question should be speedily settled, that they think that if some of the rights of Great Britain can be waived without serious detriment to the Colony, it would be highly desirable to do so if thereby a settlement can be effected.

7. With this object in view, and in a spirit of conciliation, Her Majesty's Government have sought to suggest a boundary which, while it shall afford due protection to the interests of British Guiana, shall

A be such as to recognize the reasonable claims and requirements of Venezuela and avoid the occasion for subsequent disputes.

8. They are disposed, therefore, to submit the following as a line of boundary, which they consider will yield to Venezuela every reasonable requirement while securing the interests of British Guiana :—

The initial point to be fixed at a spot on the sea-shore 29 miles of longitude due east from the right bank of the River Barima, and to be carried thence south over the mountain or hill, called on Schomburgk's original map the Yarikita Hill, to the 8th parallel of north latitude, thence west along the same parallel of latitude until it cuts the boundary-line proposed by Schomburgk, and laid down on the map before mentioned, thence to follow such boundary along its course to the Accarabisi, following the Accarabisi to its junction with the Cuyuni, thence along the left bank of the River Cuyuni to its source, and from thence in a south-easterly direction to the line as proposed by Schomburgk to the Essequibo and Correntyne.

B 9. This boundary will surrender to Venezuela what has been called the Dardanelles of the Orinoco. It will give to Venezuela the entire command of the mouth of that river, and it yields about one-half of the disputed territory, while it secures to British Guiana, a well-defined natural boundary along almost its whole course, except for about the first 50 miles inland from the sea, where it is necessary to lay down an arbitrary boundary in order to secure to Venezuela the undisturbed possession of the mouths of the Orinoco; but even here advantage has been taken of well-defined natural land marks. The Barima, connected as before mentioned by its tributaries with the centre of the country of Essequibo, is also connected with the Waini by a channel through which the tide flows and ebbs.

C 10. The line of boundary now proposed will fall a little to the north of the junction of this channel with the Barima, thus placing these outlets within British Guiana, and enabling the Colonial Government to exercise efficient control over these means of communication with the interior of the Colony. The highland referred to as Mount Yarikita is the top of the watershed between the Barima and the Amacura at that point, and is near the range of hillocks shown on Schomburgk's Map before mentioned. The line proposed does not encroach on any territory actually settled or occupied by Venezuela, and the difference between the line as proposed by Her Majesty's Government and that as proposed by Señor de Rojas is, as regards the portion of the territory most important to Venezuela, not very considerable, while anything short of this would fail to secure to British Guiana the command of the inlets and outlets of her internal water communication.

11. The internal boundary suggested is one that would be well understood by the aboriginal Indians and others. All would soon learn that the boundary-line ran along the Cuyuni from its source to its junction with the Accarabisi, and from that point along the Accarabisi to its source, and from there along the high lands which stretch thence in a northerly direction towards the sea. A line so well marked would prevent many complications, and will commend itself, it is hoped, on that and the other grounds above stated to the acceptance of the Venezuelan Government.

D

Inclosure 2 in No. 35.

*Map showing the Position of the Boundary proposed in the preceding Memorandum **

E

No. 36.

Señor de Rojas to Earl Granville.

My Lord,

Venezuelan Legation, Paris, October 1, 1881.

I HAVE received the note which your Excellency did me the honour to address to me on the 15th ultimo, containing a proposal for the settlement of the boundaries between the two Guayanas, and inclosing two copies of the Confidential Memorandum relative to the said boundaries, and two maps showing the line proposed.

On the 23rd of the same month I forwarded to my Government a copy of your Excellency's note, with one of each of the documents inclosed.

F On receiving their instructions, I shall have the honour of communicating further with your Excellency on this subject.

I have, &c.
(Signed) DE ROJAS.

* The position of this proposed boundary is shown on Map at p. 4 of the Atlas.

Annex 64

Venezuela Ministry of Foreign Affairs, *Memorandum by The Ministry of Foreign Affairs of Venezuela relative to the Note of Lord Salisbury to Mr Richard Olney, dated November 26, 1895, on the question of boundary between Venezuela and British Guayana* (1896)

MEMORANDUM

BY THE

MINISTRY OF FOREIGN AFFAIRS

OF VENEZUELA.

RELATIVE TO THE NOTE OF LORD SALISBURY TO MR. OLNEY, DATED
NOVEMBER 26, 1895,

ON THE QUESTION OF BOUNDARY BETWEEN
VENEZUELA AND BRITISH GUAYANA.

ATLANTA, GEORGIA :
Franklin Printing and Publishing Company.
GEO. W. HARRISON, STATE PRINTER.
1896.

[Translation.]

UNITED STATES OF VENEZUELA,
MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF EXTERIOR, No. 463,

CARACAS, March 28, 1896.

Most Excellent Sir:

The reply, dated November 26th last, transmitted to Your Excellency through the British Ambassador at Washington by the Chief Secretary of State of Her Britannic Majesty's Government, has elicited special interest in this office; the more particularly since it is known to have been occasioned by the very able and lucid exposition which Your Excellency had previously brought to the attention of the Court of St. James touching the question pending between Venezuela and the British Colony of Demerara. The Government of the Republic, naturally desirous of not leaving uncorrected some of the statements and ideas therein put forth by the representative of Her Majesty's Government relative to the question named, has thought it not inexpedient to cause to be prepared by this Ministry a Memorandum on the subject, which, together with a copy of this note, will be handed to Your Excellency by Señor José Andrade, the Venezuelan Minister at Washington.

I beg, therefore, that Your Excellency may be pleased to give this Memorandum your careful attention. The facts and arguments therein are believed to constitute a complete refutation of the adverse opinions and positions put forth and assumed by the British Secretary of State; copies of whose note, together with copies of the very important special message (of December 17th) of His Excellency President Cleveland, and other accompanying documents, Your Excellency

was so good as to transmit hither, through the Venezuelan Legation, on the 26th of December last.

I have the honor to again express to Your Excellency the assurances of my highest consideration and esteem.

(Signed) P. EZEQUIEL ROJAS.

To His Excellency Richard Olney, Secretary of State of the United States,
Washington, D. C.

[Translation.]

MEMORANDUM.

As could not fail to be the case, the message sent by President Cleveland to the Congress of the United States of America on December 17, 1895, relating to the territorial dispute pending between the United States of Venezuela and Great Britain, as well as the printed correspondence sent as an appendix to said document, has been read with deep interest.

It is considered opportune to offer here some observations with respect to the note of Lord Salisbury therein published, and which, under date of November 26th last, treats exclusively of the boundary question as a means of contributing to its elucidation.

* * * * *

Although the boundary dispute commenced in 1840, as regards Venezuela, ever since 1822 her predecessor, Colombia, had given her Agent in London, Señor José Rafael Revenga, instructions to present a *project* of a treaty containing articles relating to boundaries, observing to him that the Colonists of Demerara and Berbice had usurped a great part of the lands belonging to the Republic, and that it was indispensable that they place themselves under the protection of her laws or else withdraw.

In an article in the London *Times* of October 17th last, which appears to have been a reflection of the ideas of the Foreign Office, it is asserted that it is exactly a hundred years since the question of determining the true area possessed by Holland began.

The dispute between it and Spain had existed for a much longer time, as is proved, among other facts, by the assault in 1797 on one of the forts which the Dutch had constructed under the name of New Zealand and Middleberg, near the

Pumaron. Lord Salisbury himself mentioned that in 1759, and in 1769 there were complaints and claims by Holland for the incursions of the Spaniards into the settlements and establishment on the lower Cuyuni, and the advisability was expressed of a proper demarcation between the Colony of the Essequibo and the Orinoco river.

In 1781 the English, having only military occupation of the Dutch Colonies, could illy have laid out their boundaries on the upper Orinoco further than Punta Barima.

If Spain took part in the negotiations which led to the treaty of cession to Great Britain of the Dutch Colonies in 1814, and did not object to the boundaries claimed by her, although fully acquainted therewith, that fact does not appear in any article of the said Convention, to which the only parties were her Britannic Majesty and the United Provinces of the Netherlands. Article 1, principal, and the additional article 1, relating to the cession, speak only of the establishments of Demerara, Essequibo, and Berbice, without in any way establishing their boundaries. It is known that England has gone on advancing them progressively.

When Venezuela proclaimed as her boundaries those of the territory which had constituted the Captaincy-General of the same name, she did no more than to declare herself inheritor of the rights of Spain therein, without pretending to destroy international arrangements previously concluded by the nation from which she separated herself, as has been charged. There is no arrangement through which Spain established the dividing line between her possessions and those of the Dutch in Guayana. Did one exist there would be no ground for this dispute.

The argument of Lord Salisbury in this regard is a *petitio principii*.

He asserts that there is no authoritative statement by the Spanish Government in which the territories of the Captaincy-General of Venezuela are determined; for a decree which the Government of this Republic sets up, and which was issued by the King of Spain in 1768, in which the Province of Guayana

is described as bounded on the south by the Amazon and on the east by the Atlantic, cannot be so regarded. He adds that the decree utterly ignores the Dutch establishments, which not only existed *de facto*, but had been formally recognized by the Treaty of Munster ; that it would, if now considered valid, transfer to Venezuela the British, Dutch, and French Guayanas, and an enormous tract of territory belonging to Brazil.

The Royal Rescript of 1768 has nothing absurd in it. This will be seen by any one who reads the instruction, issued on March 9, 1779, by the Intendant General of Venezuela to settle and occupy lands in the province of Guayana, which says: "The Dutch Colony of Essequibo, and the other colonies of the States-General on that coast were usually situated on the banks of the river near the seacoast without penetrating much into the interior of the country, and that therefore to the rear of the Essequibo and the other Dutch possessions, running towards the east as far as French Guayana, and on the south to the Amazon river, was the territory unoccupied by them, and only occupied by the heathen Indians and a large population of fugitive negroes, slaves of the Dutch ; that the Commissioners should endeavor to occupy the said lands as belonging to Spain, their first discoverer, and not thereafter ceded to nor at any time occupied by, any other power having title thereto ; advancing in the operation as far as possible to the extent of reaching French Guayana ; and extending also as far to the south as possible until the boundaries of the Crown of Portugal should be reached ; that the occupation of the lands of all the said Colonies should be made as though they were a part of the said Province of Guayana, and in the name of the Governor and Commandant thereof, as its head and chief, by command and appointment of H. M."

Therefore, it is clear that, saving the points of the seacoast where the Dutch, the French, and the Portuguese were established, Spanish Guayana was bounded on the south by the Amazon, and on the east, not only by the Atlantic, but (from the Essequibo) by the Dutch, French, and Portuguese Colonies.

It is true that by the boundary treaty of 1750 between Spain and Portugal, the former had ceded the portion which she had on the Amazon from the mouth of the Rio Negro; but as, in 1761, the parties agreed to rescind the said compact and to place things in *status quo ante*, Spain could, in 1768, declare herself riparian owner of the Amazon.

In 1777 the said parties revived the boundary treaty, and then Spain again relinquished her rights to a part of the great river of which she only retained the portion comprised from the mouth of the Jabari up to the westernmost point of the Yapurá, which empties into the Amazon on its northern bank.

Although Commissioners were sent for the purpose of effecting the demarcation, in 1780 it had not been done; nor was it ever concluded, because of the obstacles which the Portuguese obstinately interposed, as may be seen in the "Historical Memorial of the Demarcation of Boundaries of the Dominions of Spain and of Portugal in America, presented in 1797 by Don Vicente Aguilar y Turado, Clerk of the Second Class of the Department of State, and Don Francisco Requena, Brigadier Engineer of the Royal Spanish Armies."

From such a Royal Rescript it cannot be inferred, then, that British Guayana, part of the former Dutch Guayana and recognized by Spain, together with that bearing the same name to-day as belonging to the Netherlands, or that French Guayana, tolerated or virtually recognized by Spain in the compacts of alliances, of guarantee, and of family as a possession of France, or that Brazilian Guayana, recognized by Spain as the property of Portugal in the treaty of October 1 of 1777, belonged to Spain.

So much value is attributed by Spain to that Royal Rescript of 1768, that upon it, above everything else, did its Government (selected as arbitrator in the boundary dispute between Venezuela and Colombia) found its declaration that the latter was joint owner of the Orinoco from the entry therein of the Meta river to the Guaviare river, in the award made on the 16th of March of 1891, and adjudicating thereto several towns founded and possessed by Venezuela.

It may be added that even (according to the Annals of Guayana, published in 1888 by the Englishmen, Messrs. James Rodway and Thomas Watt) King James, learning that the King of Spain had actual possession of Guayana in 1620, revoked the patent that he had granted in 1617 to Captain Roger North to form the Amazon Company, and ordered the immediate return of himself and his companions in adventure, who found themselves called upon to appear before the said King James and renounce all the rights to them granted by the patent.

These compilers add that the Portuguese, when subjects of Spain, succeeded in establishing themselves at the mouth of the Amazon ; and it is further recorded that the Spaniards were the discoverers and first occupants thereof.

That prior to 1750 the Amazon belonged to Spain, appears from the Preamble of the boundary treaty concluded between her and Portugal on the 13th of January of that year, which, in specifying the grounds therefor, says (Paragraph 2): "As the Crown of Portugal is occupying the two banks of the Maranon (or Amazon) river up-stream as far as the mouth of the Tabari river, which enters it on the southern bank, *it clearly results that it has introduced itself in the demarcations of Spain for the whole distance, from the said city [of Pará] to the mouth of that river, the same being the case in the interior of Brazil by the inland advances that this Crown has made as far as Cuyaba or Matogroso.*"

Cayenne, near the Amazon, afterward a French possession, was first colonized by the Spaniards.

"1568. Gaspar de Sotelle, with 126 families from Spain, formed an establishment in Cayenne, whence he was driven out five years later by the Caribs." (Sloane, M.S., Description of Guayana.) *Passage taken from the said "Annals of Guayana."*

"But of the territories claimed and actually occupied by the Dutch, which were those acquired from them by Great Britain," says Lord Salisbury, "there exist the most authentic declarations. In 1759, and again in 1769, the States-General of Holland addressed formal remonstrances to the Court of

Madrid against the incursions of the Spaniards into their posts and settlements in the Basin of the Cuyuni. In these remonstrances they distinctly claimed all the branches of the Essequibo river, and especially the Cuyuni river as lying within Dutch territory. They demanded immediate reparation for the proceedings of the Spaniards and reinstatement of the posts said to have been injured by them, and suggested that a proper delineation between the Colony of Essequibo and the Rio Orinoco should be laid down by authority.

“To this claim the Spanish Government never attempted to make any reply. But it is evident from the archives which are preserved in Spain, and to which, by the courtesy of the Spanish government, reference has been made, that the Council of State did not consider that they had the means of rebutting it, and that neither they nor the Governor of Cumana were prepared seriously to maintain the claims which were suggested in reports from his subordinate officer, the Commandant of Guayana. These reports were characterized by the Spanish Ministers as insufficient and unsatisfactory, as ‘professing to show the Province of Guyana under too favorable a light,’ and finally by the Council of State as appearing from other information to be very ‘improbable.’ They form, however, with a map which accompanied them, the evidence on which the Venezuelan Government appear most to rely.”

The Republic is not acquainted with all the documents here alluded to. It does know that, in 1769, the Dutch asserted the right they believed they had to fish at the entrance of the Orinoco, and that they complained of the actions of the Spaniards who were established there. Then all the data was collected with relation to the extension of the boundaries of the Dutch; which, however, was adverse to their pretensions, and the matter was laid before the Council. But the Dutch Government allowed more than fifteen years to pass without making any move in the premises; wherefore it was felt that, being better informed of the want of just grounds for their claim, they had desisted therefrom. Then came the

Treaty of 1791, which decided the question, describing the Spanish as owners of the establishments of the Orinoco, and the Dutch as owners of those of the Essequibo.

Several agents of Venezuela have inspected the old archives of Spain without discovering therein aught, save proofs in every way contrary to those now, for the first time, cited in the communication of Lord Salisbury.

For instance, it appears therefrom, that in 1757 the Commandant of Guayana sent against Cuyuni a detachment by which was destroyed a "post" which the Dutch had established some fifteen leagues from the mouth of this river, taking as prisoners the Dutch, the Indians, and the slaves found there; that in 1758 there was also destroyed the hut that the Dutch had on the island of Caramucuro, on the same river only a short distance from the Essequibo, taking its occupants, etc., prisoners.

Lord Salisbury also asserts that:

"The fundamental principle underlying the Venezuelan argument is, in fact, that inasmuch as Spain was originally entitled of right to the whole of the American continent, any territory on that continent which she cannot be shown to have acknowledged on positive and specific terms to have passed to another power can only have been acquired by wrongful usurpation, and if situated to the north of the Amazon and west of the Atlantic must necessarily belong to Venezuela, as her self-constituted inheritor in those regions."

Venezuela inherited the rights which Spain had in the Captaincy-General of that name, in accordance with the cession contained in the treaty of peace, amity and recognition, concluded at Madrid on March 30, 1845; and in the second article of which it appears, that "H. C. M. recognizes the Republic of Venezuela as a free, sovereign, and independent nation, composed of the Provinces and territories set forth in its Constitution and other subsequent laws, to wit: Margarita, *Guayana*, Cumana, Barcelona, Caracas, Carabobo, Barquisimeto, Barinas, Apure, Merida, Trujillo, Coro, Maracaibo, and *other territory or islands whatsoever that may belong to it.*"

Had not the territory occupied by the Dutch in Guayana constituted a part of the dominions of Spain, the mere fact of its occupation would have sufficed to confer upon them the right of property, without need of the Treaty of Munster in 1648 to perfect their title, stipulating, in Article III., that "The King of Spain and the States respectively shall remain in the possession and enjoyment of those seigniories, cities, castles, forts, commerce, and countries of the East and West Indies, as well as in Brazil and the coast of Asia, Africa, and America, respectively, which the said King and States had and possessed."

Without this treaty, it was then believed, the Dutch occupation would not have had the effect of conferring the title which is exclusively attributed to it.

If, then, what the Dutch occupied in the Essequibo was not considered as legitimately theirs until after, by the Treaty of peace of 1648, Spain ceded it to them, it is clear that prior to this the said territory belonged to Spain. And the same is equally true of territory which was not included in the cession, and which was adjacent to the part alienated. Towards the part not transferred, the Dutch could neither trade nor navigate because they were expressly prohibited therefrom by Article VI. of the said Treaty of Munster.

In like manner, Article VIII. of the Spanish-British Treaty of July 18, 1670, prohibited the English from carrying their commerce and navigation to the posts or localities which the Catholic King had in the West Indies.

Moreover, Great Britain, by the Treaty of July 13, 1713, concluded at Utrecht, had guaranteed to Spain the preservation of the limits of her dominions in America "as they existed in the time of Charles II."

By the Boundary Treaty that Spain and Portugal concluded on the 13th of January, 1750, Portugal obligated herself to uphold Spain in her original right to the territory which lay on the coast between the Amazon and the banks of the Orinoco; and in the interior of America the guarantee was

indefinite. The same guarantee was stipulated by both powers in the treaty of March 11, 1778.

The persistent efforts of Spain to drive the Dutch away from the Orinoco, the Moroco, the Pumaron, the Cuyuni, etc., constitute as many more evidences of her intent to retain the possession of those localities, and to exclude the intruders therefrom.

Title founded on discovery has been held generally as valid; and in their controversy with Great Britain regarding the Northwestern boundary, the United States invoked the same with respect to the mouth of the Columbia river and its sources. They also alleged the acquisition by them of all the titles of Spain, which had derived the same through having discovered the coasts of the region in dispute prior to their having been seen by any other people from a civilized nation.

Another ground upon which the United States based their contention was that of contiguity, arguing that if some few English trading-posts on the shores of Hudson Bay were considered by great Britain as conferring on it a right of property up to the Rocky Mountains; if its new and more southern establishments on the Atlantic coast justified the claim from there to the southern seas, which in effect was sustained to the Mississippi; then the rights of American citizens, already touching the said seas, could not be denied without inconsistency. And, they added that the doctrine was accepted in all its amplitude by Great Britain, as appears from all the privileges it gave to colonies then established only on the shores of the Atlantic, and which extended from that ocean to the Pacific.

Even leaving aside the Bulls of the Popes, who, according to the contemporary jurisprudence, distributed the lands to be discovered between the Spanish and Portuguese, if the practices of peoples who acted independently of the Holy See is examined, it will be found that, "notwithstanding some declarations merely theoretical, occupation is effected in a fictitious manner. Any manifestations, such as the erection of a monument, of a cross, the unfolding of a flag, suffices

to realize the occupation of the vast territories which provoke a thousand difficulties with the competitors as regards the exact limits of the territories belonging to each. Moreover, the religious prejudices from which Francisco Victoria could not free himself in his *Essay de Indis* (1557), make it appear that "the heathens are without any right of sovereignty, or even of *property which should be respected, and the covetous interest of colonizing countries still retains this view, when fanaticism no longer explains it.*"

"We must come down to contemporaneous times to find the condition of taking of *actual possession* of the territory practically demanded, in accordance with rational and juridical ideas of occupation, as it had been understood by the publicists of the XVIIIth century, notably Vattel."

"It is known that this new rule was formally accepted by the powers signing the last Protocol of Berlin, on February 26, 1885, Article 35, as regards *future* occupations of the coast of the African continent; and that the effective character of the taking of possessions, according to the same article, is shown by the fact of establishing or of *maintaining*, should it already exist, an authority sufficient to cause the required rights to be respected, and, should the case arise, the liberty of commerce and of transit." [*General Review of Public International Law, Paris, Nov. 2, 1894. Article on the occupation of Territories and the Process of "Hinterland," a German word which means the back territory.*]

The writer, Mr. F. Despagnet, professor of International Law in the University of Bordeaux, explains that the essence of the process consists in establishing, through an international agreement, a topographical line on this side of which each country has the right of occupation, or to establish a protectorate to the exclusion of the other contracting State; that is its *Hinterland*, or territory this side of the conventional line. On the other hand, each country binds itself to make no attempt at acquisition of territory or of a protectorate, and to not assail the influence of the other State beyond the line established. In practice, the *Hinterland* is the prolongation

towards the interior of the territory first occupied on the coasts up to the limits of the possessions of the other contracting State, or of its *Hinterland*, recognized in the treaty.

The author adds that as the German Foreign Office said on the 30th of December, 1886, "the purpose is not so much to establish the frontiers in accordance with the present possession, as it is to come to an understanding to determine the sphere of reciprocal interests in the future"; that much similarity exists between the present system of the *Hinterland* and the *a priori* limitations of the spheres of influence established in the XVth and XVIth centuries between colonizing countries by the Holy See; that the famous Bull of Alexander VI., of March 4, 1493, is nothing more than the limitation of a vast *Hinterland* divided among the Spanish and the Portuguese, and when these two countries, little satisfied with the Papal decision, modified the frontiers marked by the Sovereign Pontiff in the Treaty of Tordesillas, June 3, 1494, they concluded a convention which does not differ from the modern treaties regulating the *Hinterland*, save in the scope of its application and the spirit of submission to the Pope, to which it was subordinated, since Julius II. had to approve it in 1509: "that the same *Hinterland* system appears in various recent treaties made between France and England in 1847, relative to the Hebrides Islands, and those of the windward of Tahiti; that, with respect to Africa, in those concluded between England and Germany, in eastern Africa and in Zanzibar, in 1886 and 1890; between Germany and Portugal, also relating to eastern Africa in 1886; between France and England in 1889 respecting the western coast of Africa, and in 1890 with regard to the eastern coast of Zanzibar and Central Africa; between France and the Congo along the basin of the Oubangi, in 1887 and 1888; between England and Italy, touching eastern Africa, in March and April of 1891; between the Congo and Portugal regarding Guinea and the Congo, in 1886; and, lastly, between England and Portugal relative to the center of southern Africa, in August and November of 1890."

In the historical memorial regarding boundaries between the Republic of Colombia and the Empire of Brazil, by the national Librarian of the former, Señor Jose Maria Quijano Otero, there appears, in part 1st, paragraph 2 (speaking of the Bull of Pope Alexander VI., identical with that of his predecessors respecting Portugal):

“All the Christian Princes recognized the validity of these Bulls, and there is even cited the case where some English merchants desiring to carry on trade with Guinea, the King of Portugal, Don Juan II., called on the King of England, Edward IV., to prevent the same, relying on the dominion which was granted him by a Pontifical Bull over the same territory; and the prohibition was effected, the British monarch being convinced of the right of the claimant.” In proof of this, he cites *Hackluyt's Navigations, Voyages and Travels of the English*, vol. 2, paragraph 2, p. 2.

Add to this, as appears in Wharton's Digest, Appendix, sec. 2, that “when any European nation takes possession of any extensive seacoast, that possession is understood as extending into the interior country to the source of the rivers emptying within that coast, to all their branches and the country they cover; and to give it a right in exclusion of all other nations to the same.”

“Whenever one European nation makes a discovery and takes possession of any portion of that continent, and another afterwards does the same at some distance from it, where the boundary between them is not determined by the principle above mentioned, the middle distance becomes such, of course.” “Whenever any European nation has thus acquired a right to any portion of territory on that continent, that right can never be diminished or affected by any third Power by virtue of purchases made, by grants, or conquests of the natives within the limits thereof.”

“The two rules generally, perhaps universally, recognized and consecrated by the usage of nations have followed from the nature of the subject. By virtue of the first, prior discovery gave a right to occupy, provided that occupancy took

place within a reasonable time and was ultimately followed by permanent settlement and by the cultivation of the soil. *In conformity with the second, the right derived from prior discovery and settlement was not confined to the spot so discovered or first settled. The extent of territory which would attach to such first discovery or settlement, might not in every case be precisely determined. But that the first discovery and subsequent settlement, within a reasonable time, of the mouth of a river, particularly if none of its branches had been explored prior to such discovery, gave the right of occupancy, and ultimately of sovereignty, to the whole country drained by such river and its several branches, has been generally admitted. And in a question between the United States and Great Britain her acts have with propriety been appealed to as showing that the principles on which they rely accord with their own.*"

The foregoing statements and citations have been made to demonstrate that the argument upon which Venezuela relies is not as groundless as Lord Salisbury asserts, and that Spain, as the first discoverer of the coasts of Guayana, could well be considered as owner of the territories thereof, for otherwise the Dutch would not need her recognition of them to make valid their acquisitions in the said territory.

Finally, as Story says in his Commentaries on the Constitution of the United States: "The discovery was the British title to the territory composing them. That right was held among the European nations a just and sufficient foundation on which to rest their respective claims to the American continent. Whatever controversies existed among them (and they were numerous) respecting the extent of their own acquisitions abroad, they appealed to this as the ultimate fact, by which their various and conflicting claims were to be adjusted. It may not be easy upon general reasoning to establish the doctrine that priority of discovery confers any exclusive right to territory. It was probably adopted by the European nations as a convenient and flexible rule by which to regulate their respective claims. For it was obvious that in the mutual contests for dominion in newly discovered lands,

there would soon arise violent and sanguinary struggles for exclusive possession unless some common principle should be recognized by all maritime nations for the benefit of all. None more readily suggested itself than the one now under consideration; and as it was a principle of peace and repose, of perfect equality, of benefit in proportion to the actual or supposed expenditures and hazards attendant upon such enterprises, it received a universal acquiescence, if not a ready approbation. It became the basis of European polity and regulated the exercise of the rights of sovereignty and settlement of all the cisatlantic plantations." It is also stated there that no one of the European powers gave its assent to this principle more unequivocally than England; that when she commissioned any one to acquire territory she limited the authority to countries "then unknown to Christian people;" that a great part of the territory of the United States, when transferred to them by the treaty of peace and recognition of 1782, was in the possession of Indians, as was a great part of Florida when Spain ceded it to the British in 1763, as was Louisiana almost entirely when Napoleon sold it in 1803, there being there numerous tribes of Indians really independent, etc.

It is seen in the communication of Lord Salisbury that upon the return of an exploration to the interior of British Guayana made by Mr. R. Schomburgk, he suggested to the English Government the necessity of a prompt demarcation of its limits; and that he was then named special commissioner to draw the plan thereof and to temporarily establish the same, notice of which was given to the interested Governments, including that of Venezuela.

It is not strange that this Commissioner, therefore, should endeavor to please the Government that had acceded to his suggestions by presenting it a line in accord with its desires.

It is true that the British Consul-General gave this Government notice of the charge entrusted to Mr. Schomburgk, but that was on the 13th of January of 1841, when he might

have already been in Guayana making the survey and demarcation. Not only was it not stated that the demarcation would be temporary, or that Venezuela was invited to take part on the operation, but the notification was coupled with the threat that there had been sent to the Governor of Demerara an order to resist the aggressions of the Republic in the territory near the frontier, up to that time inhabited by independent tribes, which signified at least that H. B. M. appropriated them to herself and defended them.

In vain did this Government urge the concluding of the boundary treaty.

That Schomburgk did not discover or invent any new boundaries, but relied on the history of the matter, and based his reports on his own explorations and *on information obtained from the* Indians and on the evidence of local remains, as at Barima, and local traditions as on the Cuyuni, and fixed the limits of the Dutch possessions and the zone from which all trace of Spanish influence was absent. That at the very outset of his mission he surveyed Point Barima, where the remains of a Dutch fort still existed, and placed there, and at the mouth of the Amacura two boundary posts, afterwards removed, at the urgent entreaty of the Government of Venezuela, but without prejudice to its (the British) rights to that position. This is what Lord Salisbury says.

Previously he asserted that from 1796, and at the time of a previous occupation of the Dutch settlements in 1781, the British authorities had marked the western limit of their possessions as beginning some distance up the Orinoco beyond Point Barima, in accordance with the limits claimed and actually held by the Dutch, and that from that time on this has always been the frontier claimed by Great Britain.

In the first place, it is not conceivable how the English, mere military occupants prior to 1814, could have made the demarcation of a territory which did not yet belong to them. In the second place, if the boundaries were already designated, what need was there to resort to the traditions of ignorant, barbarous men like the Indians? What did they know of the

Dutch or Spanish occupations? There might be no Spanish settlements, but this does not mean to say that they had not founded any. There was an absence of Dutch settlements also. It is not asserted that any such were found, but only remains of those that had disappeared. Such being the case, the reason for the preference in favor of the Dutch is not announced.

In a previous passage Lord Salisbury wrote that the Dutch claimed immediate reparation for the proceedings of the Spaniards and the reinstatement of the "posts" destroyed by them in 1759, and again in 1769, by reason of the incursions of the Spaniards into the "posts" and settlements in the basin of the Cuyuni. Therefore it is undeniable that the Spaniards did penetrate to that river and did destroy the works of the Dutch, considering them as intruders, and that the influence of the Spaniards made itself felt on the Cuyuni, as well as on the other affluents of the Essequibo.

Lord Salisbury also states that the States-General had suggested to the court of Madrid the feasibility of an authorized demarcation between the Colony of Essequibo and the Orinoco-river. It is readily noticed that if this was demanded by the Dutch, their successors, the British, have carried their pretensions much further, as they have appropriated to themselves several tributaries of the Orinoco, among them the Barima, and the Amacuro.

There was no Dutch fort in Barima. According to the historian cited, Netscher, such a supposition is erroneous, and grew out of the fact that in the XVIIth and XVIIIth centuries, the Commandants of the Netherlands Colonies in Guayana established small "posts" in the most distant part of the territory to trade with the natives or Indians, and that in some maps, without reason and exaggeratedly, they are called "forts." "They were made up," he says, "of a guard—two or three subaltern Europeans and some twenty soldiers as assistants, besides a few Indian or negro slaves. The frame house or guard house was almost always surrounded by an earth-wall or a palisade, as a precaution against the occasional attacks.

of the Indian enemy, and the holder of the post raised the flag of the West India Company."

"That in the middle of the XVIIth century there existed at the mouth of the Barima a post of that kind detached from the Essequibo, appears to be true. Hartzingck, at least, makes mention of it, and we follow his example on page 92 (last line), but after more accurate investigations in the archives of the Kingdom, we have become convinced that that post no longer existed from 1683 to 1684, and therefore it must have been either destroyed by the enemy or abolished."

Netscher concludes by observing that in the very exact correspondence of the Commandants of the Essequibo and of the Pumarón, no mention is made of the said post at Barima, but there is mention of others; and that this is not to be wondered at, for already in 1685, the West India Company had decided not to carry on any more trade by the Orinoco.

It results therefrom: 1st, that the "posts" were not military, but mercantile; 2nd, that that of Barima, if indeed there was any in the middle of the XVIIth century, was destroyed or abandoned.

Although the Dutch subsequently endeavored to return to Barima, the Commandant-General (Centurion) ejected them therefrom forever in 1768.

Schomburgk, on submitting his maps for adoption, as Lord Salisbury states, called the attention of the Government of Her Majesty to the circumstance that it might claim the whole basin of the Cuyuni and Yuruari on the grounds that the natural boundary of the Colony included any territory through which flowed rivers which fall into the Essequibo.

Great Britain, in her discussions with the United States, rejected the said principle which she now endeavors to apply to Venezuela. But she forgets that the Dutch did not discover the coast where the Essequibo empties. It was discovered by the Spaniards, from whom she derived the Dutch title conveyed in the Treaty of Munster.

At Cayena, near the Amazon, afterwards a French possession, the Spaniards began the establishment of a colony.

“In 1568 Gaspar de Sotelle, with 126 families from Spain, formed an establishment at Cayena, from which, however, he was expelled, six years afterwards, by the Carib Indians.” [Sloane, M.S., “Description of Guiana.” The passage is taken from the *Annals of Guayana, etc.*]

In a letter of the Duke de Lerma to the President of the Council of the Indies, dated February 2, 1615, the former reports that the Dutch General, Wilhelm Veelinex, was getting vessels ready to establish and found certain colonies upon three or four coasts in America, West Indies, the first in Wiapons, the second in Cayenne, and the third in Surinama, where there was a body from twelve to fifteen Spaniards, who tilled the soil there to raise *casabe*, from which bread is made, under the authority of the Governor of Trinidad and of Orinoco, Don Fernando de Borrás.

In the same cited Annals of Guayana, it is written (part 1, pages 1 and 2) that Lawrence Keymis, one of the early explorers of Guayana, and a captain under Raleigh when he endeavored to go inland in search of the El Dorado, set sail on the Corentin in the direction of the Essequibo, but *hearing that there were Spaniards on that river*, he did not think his attempted explorations safe.”

Page 7: “It is supposed that Alonzo de Ojeda, in 1499, entered the mouths of the Essequibo and the Orinoco, but did not see any of the inhabitants until he reached Trinidad, or its neighborhood.” Ojeda was a Spaniard.

Page 41: “He (Keymis) in 1596 has something to say of the greater part of the larger rivers. On the Corentin there was an abundance of honey; the Indians of the Orinoco from the east never came this side of Berbice; and on the Essequibo the Spaniards attempted to found a town. The last river flowed into a lake called Roponowini, which was supposed to be the locality of the ‘situation of Manoa.’ The Spanish had made so many inroads *between the Orinoco and the Essequibo* that the Caribs endeavored to combine among themselves in order to oppose resistance. *The Dutch say that their establishments on the Essequibo were destroyed during this year by the Spaniards and the*

Aruacas. Keymis, however, either did not know anything of this Colony or purposely failed to mention it, as it might invalidate Raleigh's rights of discovery."

Page 117: "Leonard Berrie, who commanded the *Wat*, of Raleigh's expedition, in 1596, heard it said in Orcala, on the banks of the Corentin, that *there were three hundred Spaniards on the Essequibo*. Taking the two vessels up stream, they reached the town of Maruranano, and passing on thence in boats and canoes a part of the expedition reached the cataracts of this river, from which place they could not go on further in search of Parima Lake, which was reputed to be situated a short distance from the upper Essequibo, and which could be reached from the Corentin, owing to an affray which had occurred between the friends of Berrie, the Caribs and the Acaruayas. Less than a month before, the latter had come down from the upper part of the cataract and killed ten of the Caribs. Not desiring to be embroiled in the fight, which might bring about disturbances in the future, Berrie decided to return to the vessel. Here it was rumored that the Spaniards had left the Essequibo, and also that ten canoes filled with Spaniards had come to the Corentin, stories whose falsehood he discovered."

Schomburgk, in his description of Guayana, published in 1840, in speaking of the Essequibo river, on page 11, says, that this name comes from the surname of Don Juan Esquibel, one of the officers under Diego Colon; another proof of its discovery by Spaniards.

Great Britain also falls into another inconsistency which consists in not applying to the Orinoco the principle of which it here speaks, for if this river belongs to Venezuela, the right of property therein, perforce, includes that of its affluents, like the Barima, and the Amacura, for instance; and nevertheless H. B. M. following Schomburgk, places them within the limits of the English Colony.

To rebut the assertion of Mr. Olney that it seems impossible to treat the Schomburgk line as being the boundary claimed by Great Britain as matter of right or as anything but a line

originating in considerations of convenience and expediency, Lord Salisbury, at the same time that he characterizes this idea as correct, says that in fact that line was a great reduction of the boundary claimed by Great Britain as matter of right, and its proposal originated in a desire to come to a speedy and friendly arrangement with a weaker power with whom Great Britain was at the time and desired to remain in cordial relations.

As appears from the communication which Lord Palmerston, Secretary of State for Foreign Affairs, instructed to be sent to Lord John Russel, Colonial Minister, on the 18th of March, 1840, published in a parliamentary document, the former suggested to the latter the making of a map of British Guayana, in accordance with the limits described by Mr. Schomburgk, accompanying it with a comprehensive report of the natural features of the line, and its transmission to the Governments of Venezuela and Brazil and of Holland *as an exposition of the British claim*; the appointment of British Commissioners, who should come to establish boundaries on the land, in order to mark with permanent posts *the frontier line thus claimed by Great Britain*; and, finally, the transmission to the three Governments of the said map and report, which done, it would be proper for each of them to make known any objections that might occur to them, with the grounds therefor, to which the Government of Her Majesty would make proper and just answers.

This and the circumstance that in the Schomburgk map the limits were marked with the notice that they were *those claimed by Great Britain* convinces one that she then aspired to nothing further, and that no reservations were made.

Another argument favoring the same conclusion grows out of the fact that when Lord Aberdeen made the Morocco proposition to Señor Fortique, he stated "*that it involved the cession or relinquishment to the Republic of the territory comprised between the mouth of the Orinoco and that of the Amacuro, and the chain of mountains in which it had its source.*" If Great Britain had considered herself as possessing the right to more territory,

that was the opportunity for stating it, in order to augment the proffered favor.

The Schomburgk line designated on the map annexed to a pamphlet on Guayana, published in 1840, and on that attached to the book in German of his travels, printed in Leipzig, in the year 1841, is very different from that claimed since 1886 and communicated to Dr. Urbaneja in 1890 by Lord Salisbury, as has been often pointed out. The new line by which it has been replaced sweeps inland much more considerably into the territory of Venezuela and reaches a point on the Cuyuni, situated in front of the mouth of the Yuruan, where for a short time past an English station has existed.

A single glance at the map of the various lines, made by order of Venezuela, will show the magnitude of the difference noted.

In no other way can be understood the increase of the territory of British Guayana, which in one year, from 1885 to 1886, grew 33,000 square miles, as the Government of the United States has itself observed, and as is evinced by the English publication, "The Statesman's Year Book," and the "British Colonial Office List."

Lord Salisbury, in referring to the negotiation initiated by Señor Fortique, and to which the Foreign office opposed many delays, characterized his arguments as obsolete, and as having no other support than quotations, more or less vague, from the writings of travelers and geographers, but adducing no substantial evidence of actual conquest or occupation of the territory claimed as far as the Essequibo, which he demanded as the boundary of Venezuela.

Although this is a vague charge at best, it will not seem improper to recall that the discovery of America by Spain is a fact which cannot be got away from in any discussion regarding the boundaries of regions of this continent, and that it is not Venezuela alone who has advanced it, as has been before said.

Calvo observes, book 5, section 283, that the dominion of Europe over the lands and islands of the New World did not

rest solely on the decisions of the Holy See and the precepts of canonical law; but that it had another basis, that of discovery, which Spain herself invoked more than once in support of her rights to the territories of which her daring navigators had succeeded in taking possession.

In his turn Lord Aberdeen made use of citations from writers and geographers, and did not adduce any proofs that the Dutch had conquered or legitimately occupied the territory claimed by Great Britain. He did say that Venezuela had no establishment whatever on the Essequibo, and that the acceptance of this river as a frontier involved the delivery of the half, more or less, of the Colony of Demerara, including Point Cartabo, and the Island of Kykoveral, where the Dutch founded their first establishment on the Mazaruni, the missions of Bartika Grove, and many settlements and establishments which existed on the coast of the Acarabisi, up to within fifty miles of the Capital. But even though the said establishments existed to-day, what is important is to demonstrate that they were founded, as Lord Aberdeen said, relying on the terms of some concessions to the West India Company, before the time of the Treaty of Munster of 1648; because what is therein recognized as Dutch is limited to the possessions at the date of the agreement, and advances towards the Spanish possessions were prohibited absolutely. For that reason the Treaty of 1791 between Spain and the Netherlands refers to the colonies of "Essequibo, Demerara, Berbice, and Surinam," and does not say those of Pumarón and the Cuyuni, much less of the Orinoco, because there the Spanish colonies were in front of the Dutch.

When Lord Salisbury refers to the proposition of Lord Aberdeen of 1844, he states that "no answer to the note was ever received from the Venezuelan Government; and that in 1850 Her Majesty's Government informed Her Majesty's Chargé d'Affaires in Caracas that as the proposal had remained for more than six years unaccepted, it must be considered as having lapsed, and authorized him to make a communication to the Venezuelan Government to that effect."

It is true that no immediate answer was made because Dr. Alejo Fortique, to whom it was entrusted, had died; but subsequently, upon the negotiations being renewed, the Minister of Venezuela, Dr. José Maria Rojas, in a note of February 13, 1877, informed Her Majesty's Secretary of State for Foreign Affairs (then Lord Derby) that this government had not accepted the proposal of Lord Aberdeen for such and such reasons. He repeated the same on the 19th of May, 1879, to Lord Salisbury himself, who was then exercising the same functions he now does.

As regards the assertion of having given out in 1850 for the information of the Government of Venezuela the lapsing of the proposal of Lord Aberdeen, what can be said is that the British Legation did not communicate it to the Minister of Foreign Relations of the Republic.

In 1857, on the 18th of December, Lord Clarendon wrote to Mr. Bingham, the British Chargé d'Affaires in Caracas, respecting the permission requested by English subjects to enter the gold lands which had just been discovered in El Caratal, and towards which a road was projected from Demerara; to which this Government could not consent, as entrance into Venezuela ought not to be allowed except through ports of entry, nor was it lawful to open any way through territory not demarked. His Lordship then stated, without in any way mentioning the lapsing of the proposal of Lord Aberdeen, as the occasion would seem to demand, as follows: "It is not impossible that the various questions which have arisen, and that are likely to arise in connection with the gold discoveries, may call the attention of the Venezuelan Government to the advantages which might result from a final settlement of the boundary between the territory of British Guayana and that of Venezuela, and you will point out that the Venezuelan Government in returning no answer to the proposals made by Her Majesty's Government in 1844 is responsible for any inconvenience which has resulted from the question being still undetermined."

There is brought to mind the declaration made in 1850 by

Great Britain that she did not propose, as had been reported, to seize Venezuelan Guayana, and that she would not view with indifference aggressions upon the disputed territory by the Republic, which territory both parties agreed not to occupy or usurp, at the suggestion of the Chargé d'Affaires, Belford Hinton Wilson. And then, to the frequent invocation of the same by Venezuela, it is objected that the Venezuelans repeatedly violated it in subsequent years.

These alleged violations were: 1st, the occupation of new positions to the east of their previous establishments, and the founding in 1855 of Nueva Providencia on the right bank of the Yuruary, all previous settlements being on the left bank; 2d, the granting of licenses in 1876 to trade and cut wood in Barima and eastward; 3d, the concession to General Pulgar, in 1881, which included a large portion of the territory in dispute; and 4th, two different grants made by Venezuela in 1883, which covered the whole of the territory in dispute and which were followed by actual attempts to settle there, by reasons of which the British Government could not remain longer inactive, and a British Magistrate was sent into the threatened district to assert the British rights, warning of which was given to the Venezuelan Government and to the concessionaires.

In this way it is endeavored to justify the violation of the Agreement of 1850 by the English Government, since it has occupied many places comprised within the disputed territory.

To appreciate that conduct it is very pertinent to state that the Agreement of 1850, proposed by Mr. Wilson for the acceptance of Venezuela, did not determine, as it should have done to prevent controversies, the territory in dispute by designating it with precision. Nor is there any place mentioned therein, except incidentally in a passage where the Chargé d'Affaires says he had transmitted to his Government letters from Ciudad Bolivar, in which he was informed "that orders had been communicated to the authorities of the Province of Guayana to place it in a state of defense, and to repair and arm the dismantled and abandoned forts; that the Governor, José Tomás Machado, had spoken of constructing

a fort at *Port Barima*, the right of possession to which is in dispute between Great Britain and Venezuela.”

Point Barima is exactly the place where Sir Robert Ker Porter, Chargé d’Affaires of Great Britain, urgently asked the Government of Venezuela, in an official note of May 26, 1836, to locate a signal or lighthouse which should be sufficiently conspicuous. Sir Robert also spoke of the inefficiency of the pilotage of the Orinoco, recalling that a Venezuelan schooner had been detailed to go out daily from Point Barima and to cruise in aid of the vessels that might seek the entrance of the river; and he observed that the failure of the due arrangement, followed by its abandonment, caused that wise and well known plan of the Department of Marine to be frustrated. Then Venezuela did exercise jurisdiction over Point Barima, and could therefore order that its vessels should depart therefrom, and locate at the proper point the lighthouse whose erection had been recommended, and grant permission to trade therewith and to cut wood.

In the Annals of Guayana already cited, volume P, part first, page 8, we find this:

“1530. In this year the Spaniards who had succeeded in establishing themselves on *Terra Firma* made their initial attempt to settle in the country contiguous to Guayana. One Pedro de Acosta, with two small caravels and three hundred men, reached *Barima* probably from *Cumana* on *Terra Firma*. Nevertheless the party was repulsed from *Barima* in the same year by the Caribs, or it should be said rather, the remains of the expedition, because the cannibals had killed and ate many, and the few who succeeded in escaping with their lives were compelled to abandon all their goods and the houses they had erected.”

Thus it is proven that the Spaniards were the first to discover and occupy *Barima*, and to set up and construct houses there; forcible ejection therefrom by the native Indians not destroying the right acquired, as the English alleged in the analogous case of their expulsion from the island of Santa Lucia.

In the concessions mentioned, and especially in the Manoa concession, it was stipulated in a conclusive manner that it ran to where British Guayana began, without designating the boundary with greater precision, as the demarcation had not been made.

Even though there may have been such violations of the Agreement of 1850, the appropriation by Great Britain of the territory in dispute cannot be justified thereby.

Lord Salisbury asserts that the Government of Venezuela never replied to the proposition of Lord Granville regarding boundaries.

Under date of October 15, 1883, the British Minister at Caracas, Colonel Mansfield, addressed to the Minister of Foreign Relations a note in which he solicited the simultaneous adjustment of the three questions then pending between the two countries, to wit: 1st, the question of limits between Venezuela and British Guayana; 2d, that of differential duties upon importations from British Colonies; and 3d, that of claims of British creditors of the Republic. "As preliminary to the taking up of the negotiations," said Mr. Mansfield, "Lord Granville considers it indispensable that a reply be made to the proposals of Her Majesty's Government in the matter of boundaries. If the reply should be in the affirmative, and if the other questions should be satisfactorily adjusted, the desires of the Government of Venezuela with respect to the island of Patos will obtain favorable consideration."

On the 15 of November following, the Government of Venezuela replied in these terms :

"The citizen President has for many years been consulting the opinion of jurisconsults and public men of great eminence, seeking light which should lead him to the solution of the Guayana boundary question in the form of a treaty; but, as all the documents and all the talent consulted have in each instance more strongly confirmed that the boundary, of right inherited by the Republic, between the former Dutch Colony, now the British Colony, is the Essequibo river, the impossibility of resorting to any other method of terminating that

discussion save the decision of an arbitrator who, by the voluntary and unanimous election of both Governments, shall hear and finally determine it, has been evident.

“This is the obstacle which His Excellency the President encounters in satisfying, as he would like to do, the desire of Lord Granville to determine all cause for discussion between the two Governments through a treaty.”

These words evidently involve the rejection of the proposal of Lord Granville, as it substitutes therefor the proposition to submit the whole matter to the decision of an arbitrator.

After having considered the latter proposition, Lord Granville, through Mr. Mansfield, and under date of March 29, 1884, replied thereto: “That the government of Her Majesty was not of the opinion that the boundary between this Republic and Great Britain should be submitted to arbitration, but at the same time they expressed the hope that some other method of bringing this matter to a satisfactory conclusion for both powers would be evolved.”

In the first months after his arrival at London, the Minister of Venezuela, Gen. Guzman Blanco, insisted that as the fundamental law of the Republic prohibited all alienation of territory, the boundary controversy could not be decided except through arbitration, and he proposed in place of arbitration by a friendly power the judgment of a judicial tribunal, to be made up of persons designated by the parties respectively.

On February 13, 1885, Lord Granville replied in the negative, as appears from these words: “I regret to inform you, Mr. Minister, that the said proposition presents constitutional difficulties which prevent the government of Her Majesty from acceding thereto, and it is not disposed to withdraw from the method proposed by the Government of Venezuela and accepted by the Government of Her Majesty to decide the question by adopting a conventional boundary established by mutual accord between the two Governments.”

Lord Salisbury says: “Mr. Olney is mistaken in supposing that in 1885 ‘a treaty was practically agreed upon containing a general arbitration clause, under which the parties

might have submitted the boundary dispute to the decision of a third power, or of several powers in amity with both.' It is true that Gen. Guzman Blanco proposed that the Commercial Treaty between the two countries should contain a clause of this nature, but it had reference to future disputes only. Her Majesty's Government have always insisted on a separate discussion of the frontier question, and have considered its settlements to be a necessary preliminary to other arrangements."

It might have been added that Lord Granville agreed to it on saying to the Venezuelan Minister, under date of May 15, 1885, that : " Her Majesty's Government agreed in that the obligation was to refer to arbitration all the disagreements that might arise between the High Contracting parties, and not those only growing out of the interpretation of the treaty."

Thus the respective article remained in the following terms :

" If, as it is to be deprecated, there shall arise between the United States of Venezuela and the United Kingdom of Great Britain and Ireland any differences which cannot be adjusted through friendly negotiations, the two Contracting Parties agree to submit the decision of all such differences to the arbitration of a third power, or of several powers, in amity with both, without resorting to war; and that the result of such arbitration should be binding upon both Governments."

The article does not say "*future* disputes." The fact is that Lord Salisbury, successor to Lord Granville, thought it applicable to the pending boundary controversy. In that understanding he retracted it on the 27th of July of the said year in these words, which under any other hypothesis, would not have been opportune :

" Her Majesty's Government are unable to concur in the assent given by their predecessors to the general arbitration article proposed by Venezuela, and they are unable to agree to the inclusion in it of matters other than those arising out of the interpretation or alleged violation of this particular treaty. To engage to refer to arbitration all disputes and controversies whatsoever would be without precedent in the treaties made by Great Britain. *Questions might arise such as those*

involving the title of the British Crown to territory or other rights of sovereignty which the Government of Her Majesty could not bind themselves beforehand to refer to arbitration."

To wean him from this opinion, vain it was to recall to Lord Salisbury examples where Great Britain herself had applied arbitration to the settlement of frontier disputes with the United States of America in 1827 and 1871, in the last case on her proposal repeated as many as six times. Mr. Olney, in his note of the 20th of July last to Lord Salisbury, states that Great Britain has arbitrated the extent of her Colonial possessions, twice with the United States, twice with Portugal, once with Germany, and perhaps in other instances.

The Minister of Venezuela, in London, also recalled at that juncture that the proposition for arbitration had been made to Señor Fortique on this same subject, according to his correspondence ; that Lord Salisbury had declared that he could not fail to carry out the promises made by his predecessors, even though they should be contrary to his ideas ; and that the same had been done with the correspondence addressed to Russia, which was precisely on the subject of boundaries with Afghanistan, although the present Minister deemed it inexpedient.

Lord Salisbury writes: "Early in 1884 news arrived of a fourth breach of the agreement of 1850 through two different grants, which cover the whole of the territory in dispute, and as this was followed by actual attempts to settle on the disputed territory, the British Government could no longer remain inactive."

"Warning was, therefore, given to the Venezuelan Government and to the concessionaires, and a British Magistrate was sent into the threatened district to assert the British rights."

"Meanwhile, the negotiations for a settlement of the boundary had continued, but the only replies that could be obtained from Señor Guzman Blanco, the Venezuelan Minister, were proposals for arbitration in different forms, all of which Her Majesty's Government was compelled to decline as involving a submis-

sion to the arbitrator of the claim advanced by Venezuela in 1844 to all territory up to the left bank of the Essequibo.”

“As the progress of settlement by British subjects made a decision of some kind absolutely necessary, and as the Venezuelan Government refused to come to any reasonable arrangement, Her Majesty’s Government decided not to repeat the offer of concessions which had not been reciprocated, but to assert their undoubted right to the territory within the Schomburgk line, while still consenting to hold open for further negotiations, and even for arbitration, the unsettled lands between that line and what they consider would be the rightful boundary, as stated in the note to Señor Rojas of the 10th of January, 1880.”

Lord Salisbury first said that the violations of the Agreement of 1850 had moved the British Government to remain inactive no longer ; to give notice to the Government of Venezuela and to the concessionaires of 1884, and to send to the threatened district a Magistrate to assert the British rights. But in the next line his Lordship adds: “The progress of settlement by British subjects made a decision of some kind absolutely necessary, and as the Venezuelan Government refused to come to any reasonable arrangement, Her Majesty’s Government decided not to repeat the offer of concessions which had not been reciprocated, but to assert their undoubted right to the territory within the Schomburgk line.”

Add to this the following paragraph from the same communication from Lord Salisbury:

“Señor Rojas’s proposal was referred to the Lieutenant-Governor and Attorney-General of British Guayana, who were then in England, and they presented an elaborate report, showing that in the thirty-five years which had elapsed since Lord Aberdeen proposed concessions, natives and others had settled in the territory under the belief that they would enjoy the benefits of British rule, and that it was impossible to assent to any such concessions as Señor Rojas’s line would involve. They, however, proposed an alternate line which involved considerable reductions of that laid down by Sir Robert Schomburgk.”

From these citations, it results that from 1844 new settle-

ments began to be secretly founded on the territory to which Lord Aberdeen's line referred ; that the agreement of 1850 not to occupy any part of the territories in dispute, did not serve as an obstacle to the fresh occupations ; that consequently the British Government and its authorities violated it, notwithstanding the emphatic assertions and promises of Mr. Wilson ; and that, Venezuela, trusting, as she did, in the strict compliance with such solemn words, could not even suspect that the act which Lord Salisbury now for the first time confesses was being consummated.

Such acts cannot diminish the rights of the Republic, which, as has been said, has been protesting against them since they came to its notice.

So that even if Venezuela had committed the violations imputed to her, Great Britain, which had begun them, would not have the right to complain of her example being followed.

Let it be borne in mind that despite the alleged violations, H. B. M. considered the Agreement of 1850 to be in force, as appears from the official communication addressed on January 31, 1887, by Mr. F. R. Saint-John, Minister Resident of H. B. M. in Caracas, to the Minister of Foreign Relations of Venezuela, in which he says : "*That the intention to erect this lighthouse (at Point Barima) without the consent of the Government of H. M., would be a violation of the reciprocal obligation contracted by the Governments of Venezuela and England in 1850 to not occupy or usurp the territory in dispute between the two countries ; and that the Government of H. M. would have the right to oppose resistance to such a proceeding as an aggressive act on the part of Venezuela.*"

Although it is here called, and in the text, *reciprocal* agreement, Great Britain had been violating it for some time past, signally from 1884, and she was deaf to the complaints in this regard made on July 28, 1886, by the then Minister in London, General Guzman Blanco ; for she made no reply either during that year or subsequently. So that the said Agreement is valid as against Venezuela, but not in favor of Venezuela, to judge from the action of her opponent.

It was not until 1893, when replying to the proposal of

Señor Thomas Michelena to revive the Agreement of 1850, that the English Government, through Lord Rosebery, alleged as a ground for its refusal what Lord Salisbury now repeats with regard to violations by Venezuela, and which no other Minister had advanced.

According to that, then, the Agreement ceased to exist and the Republic is free from the obligation imposed by it, and consequently has recovered full authority to occupy what it understands to belong to it.

But there is more. When two States have subscribed a Convention, if one of them commits a breach thereof the injured party can demand its observance through every means, including the last and most formidable—war; or in case it does not desire to go so far, it may limit itself to the declaration that, on its part, it does not consider it as binding.

Let Vattel, an old and ever-respected master of the science, Book 2, Chapter 13, section 200, state it :

“Treaties contain promises that are perfect and reciprocal. If one of the allies fails in his engagements the other may compel him to fulfill them—a perfect promise confers a right to do so. But, if the latter has no other expedient than that of arms to force his ally to the performance of his promises he would sometimes find it more eligible to cancel the promises on his own side also, and to dissolve the treaty. He has undoubted right to do this, since his promises were made only on condition that the ally should, on his part, execute everything which he had engaged to perform. The party, therefore, who is offended or injured in those particulars which constitute the basis of the treaty, is at liberty to choose the alternative of either compelling a faithless ally to fulfill his engagements or of declaring the treaty dissolved by violation of it. On such an occasion, prudence and wise policy will point out the line of conduct to be pursued.”

Nevertheless, good faith should always govern the relations between States, particularly in the matter of treaties; it is inadmissible to act in a clandestine manner, but rather with loyalty and frankness on such occasions. To maintain silence:

and wait until the last hour to justify acts the intention to execute which had not been announced, is not, and cannot be, permitted between nations, much less when such acts are at variance with the words of their authors.

Great Britain has never complained to Venezuela of the alleged violations of the Agreement of 1850 nor asked reparation therefor, nor given notice that in case of failure to obtain the same she would hold it as null. Nothing of this kind. It has already been seen that, in January of 1887, Lord Salisbury invoked the Agreement as valid, and still in force, in order to oppose the erection of a lighthouse at Point Barima without his acquiescence, and to assert that to attempt it would be a violation thereof, which he would have the right to resist as an aggressive act. This, long after the time when the violations attributed to Venezuela, had been consummated. It was only in 1885 that the British Legation in Caracas made known to the Government *that in certain districts the sovereignty over which was equally in dispute between the Government of H. M. and that of Venezuela* the Manoa Company was executing acts to which its attention was called, and requested moreover that steps be taken which should prevent the agents thereof (or of Mr. Gordon, who also had a concession for colonizing) from claiming or obstructing any part of the territory claimed by Great Britain. The Legation added that in the event of Venezuela refusing to take action, the Government of H. M. would feel called upon to adopt measures to prevent the usurpation of said Company, and that the Governor of Guayana would be authorized to employ police force for the purpose, and to maintain order, but that, nevertheless, the Governor would do nothing while this reference to the Government of Venezuela should be pending. So wrote the English Minister in Caracas under date of January 8, 1885. On the 25th of the same month and year, he gave notice that orders had been issued to the Governor of Guayana to send a Mr. Mac Turk, Stipendiary Magistrate, with a force of police to institute in the district on the eastern bank of the Amacuro River an inquiry as to the actions of the Manoa Company, and more especially as to the conduct

of Mr. Robert Wells and others, who were accused of having tortured some persons by hanging them for a long time by their ankles, etc. The Legation stated further that Mr. Mac Turk would act pursuant to the laws in force in other parts of British Guayana, remembering that the words of the contract with the Manoa Company are specifically *as far as British Guayana*.

Without awaiting, then, the result of the measures of the Government of Venezuela to elucidate the facts, and in contradiction to its spontaneous offers, the British Government hastened to send to those localities a police force to apprehend Mr. Robert Wells, Commissary of Venezuela, and to take him to Demerara for trial; to place a guard where the Commissary was; to visit the Amacuro, Barima, Morajuana, and Guaima Rivers; to place in the principal localities thereof notices in the English language stating that they were British property; to establish posts, and to exercise the other acts of jurisdiction which have given rise to the claims of Venezuela and which since that time have been followed by other and yet other acts. The British Government was informed of the astonishment caused by its failure to apprise Venezuela of any grounds of complaint it might have, before resorting to force, and because it had not employed the measures of conciliation and good understanding practiced by nations.

There is nothing more frequent in treaties than clauses like this, to be found in those that Colombia in 1824 and Venezuela in 1836 concluded with the United States of America, and which is also to be found, substantially, in those of this Republic with the Hanseatic Republics, of 1837, with New Grenada, of 1842, with France, of 1843, with Spain, in 1845, etc.:

“If (what, indeed, cannot be expected), unfortunately, any of the articles in the present treaty shall be violated or infringed in any other way whatever, it is expressly stipulated that neither of the contracting parties will order or authorize any act of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended shall have presented to the other a statement

of such injuries or damages verified by competent proofs, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.”

This accords with what Vattel says : “ If neither of the disagreeing nations finds it expedient to abandon its rights or its pretensions, natural law, which counsels peace, concord and charity, obligates them to try the most conciliatory means to terminate their controversies.”

And this accords with what G. F. de Martens lays down : “ The sovereign States themselves, when they complain of the infraction of their original or derivative rights, and the same is not apparent, must produce the evidence before the party of whom they demand satisfaction before resorting to force; that is to say, they should make the fact on which their complaint rests so clear (not only that on which their right is based, if an acquired one, but also that which constitutes the injury for which reparation is asked) that no reasonable cause for doubt may exist.”

But, suppose that Venezuela did violate the Agreement of 1850, would such an offense justify the appropriation of the territory which Great Britain herself had declared in dispute? Nowhere has it been found that such a violation constitutes a method of acquisition among nations. The violation of a treaty, it has already been said, may lead to war, if satisfaction for the offense be denied; or to the invalidation of the compact, if the party injured considers it more in keeping with the circumstances. In case war is adopted, the outcome thereof may be conquests occasioning the loss of territory, when confirmed in the treaty of peace; but during the progress of the war, occupancy gives no right to the territory taken by force. Much less when that is done against the will of the owner, and in spite of oft-repeated protests, as in the present case.

From the first time that this Government knew what was occurring, besides sending Commissioners to the localities occupied to ascertain the truth of the usurpation, it seriously complained of the offenses of the invader, through the British Representative in Caracas, taking a firm stand on that of the

imprisonment and carrying off of the Venezuelan Commissary at the mouth of the Amacuro, and claiming satisfaction therefor. Immediately thereafter the Minister of the Republic in London, after stating the facts, demanded: 1st, the removal of all the evidences of British sovereignty located on the territory in dispute; 2d, the withdrawal of the public officials and force stationed there; 3d, satisfactory explanations for the failure to carry out the Agreement of 1850, and the violation of the laws of the Republic with respect to ports not open to foreign vessels; 4th, a dismissal of the case brought against the Venezuelan Commissary, his liberation and indemnity for the injuries to him caused by his arrest and imprisonment, subjection to trial and punishment, charged with an offense on Venezuelan territory; and 5th, complete restoration of things to their status in 1850, date of the said Agreement, and written orders to the Governor of British Guayana to scrupulously observe the said treaty while the two Governments settled the question of their boundaries.

The English Government paid not the slightest attention to this demand—quite the reverse of what took place in 1842, when Dr. Fortique, with great reason, demanded the removal of posts and other signs of dominion located by the Engineer Schomburgk in Barima and Amacuro. Lord Aberdeen ordered these removed, being no doubt convinced by the arguments of the Plenipotentiary of Venezuela. The British Minister apologetically explained that the marks did not signify sovereignty, but only a presumption of what were considered the English boundaries. Like explanations were given by the Governor of Demerara to the Commissioners, Señores Juan José Romero and José Santiago Rodríguez, sent there for the purpose of requesting them, and to protest in case they were refused.

Towards the end of 1886, after the visit of the new Commissioners, Señores Dr. Jesus Muñoz Tébar and General Santiago Rodil, information was had of the acts of jurisdiction which British authorities were exercising in Amacuro, Barima, Aruca, Cuabana, and Guaramuri, and of the work-

ing of gold mines situated between the Cuyuni, Mazaruni and Puruni rivers. For this reason (and the Governor of Demerara having written to the Commissioners that the said localities were included within the boundaries established by resolution of the Government of H. M., dated on the 21st of October, 1886, which declares them to be British, because they are in dispute with Venezuela) explanations were requested of the English Minister in Caracas, who gave no satisfaction. Then the evacuation of the territory occupied from the Orinoco to the Pumarón, and the submission to arbitration of the whole boundary question was demanded. As the British Government refused this, the Venezuelan Government on the 20th of January, 1887, declared the diplomatic relations between the two countries suspended, and protested against the acts of spoliation, which, to the prejudice of the Republic, Great Britain had consummated; declaring before her and before the whole world that at no time and for no reason would it recognize such acts as capable of altering in the slightest degree the rights that it had inherited from Spain, and which it was ready to submit to the decision of a third power.

It again protested on the 15th of June, 1888, by reason of the Governor of Demerara having created the new District of the Northwest in which he included Barima, and of having sent there as Commissary Mr. Bartholomew A. Day.

It again protested on the 29th of October, 1888, when it learned that the English had established in Barima a Custom House, an inspector and corps of police, a barrack and a coast-guard, which would not permit the Venezuelan pilots to cut wood, or the guard-ship (*Ponton*) to anchor within a mile from shore, and who had also occupied Amacuro.

It again protested on the 16th of December, 1889, on seeing the decree of the Colonial Government of Demerara, dated the 4th of that month, declaring Barima an English port; and also against the pretension, by that Colony, to exercise dominion over Venezuelan territory by the proposed construction of a road through the federal domain of the Republic in Yuruary.

It again protested before the Government of Demerara on the 2d of May, 1890, through the Consul of Venezuela there, and through Señor Rafael F. Seijas, Special Commissioner, sent to examine the condition of things in the neighboring territory, against all the official acts authorized by the Government of the Colony to the prejudice of the rights of Venezuela, of which a long list was made as a result of that agent's trip of investigation.

It again protested on the 1st of September, 1890, against the ordinance of the Government of Demerara, published on the 19th of July previous, which, under pretext of establishing an additional District under the name of Pumaron, and of changing the delineation of the district of the northwest, provided limits showing the design of incorporating another portion of Venezuelan territory into that occupied by England.

It again protested on the 30th of September, 1890, declaring, through its Confidential Agent in London, Señor Dr. Lucio Pulido, to the Government of Great Britain, that Venezuela would never recognize the territories of Guayana, declared to be in dispute and neutral in 1850, nor any steps that might be taken by the Colonial authorities of the Government of H. B. M. looking towards their permanent occupancy, reserving for all time its right to repossess them.

It again protested on the 30th of December, 1891, against a speech read by the Governor of Demerara before the Joint Court of that Colony, in which he spoke of the advisability of establishing on the upper Cuyuni a Station and police government, and against the authorization of the said court to apply a sum of money to that end.

It again protested to Lord Rosebery, Secretary of State for Foreign Affairs of H. B. M. on the 6th of October, 1893, against the actions of the Colony of Demerara; and against the reply of the said official, in which he asserted that the acts denounced by Venezuela as offending the sovereignty thereof were only measures of an administrative character, in his judgment in no wise antagonistic to the rights of the Re-

public, as was replied to Señor Michelena, who had made the complaint.

It protested again on the 15th November, 1894, when information was received that a project was before the Legislature of Demerara looking to the construction of a road from the sources of the Barima to the upper Cuyuni or to the Yuruán. The Government of the Republic looked upon that act as a direct aggression upon its territorial rights, in that it contemplated jurisdiction over lands which, in virtue of indisputable historical titles and natural geographical position, Venezuela considered her own exclusive property. That protest, as also the renewal and reaffirmation of all former ones, was communicated to the Government of the Colony of Demerara through the Venezuelan Consul at Georgetown.

It protested, finally, on the 3d of January last, before the Government of Demerara, through the Consul of Venezuela there, against two bills authorizing several persons to construct, maintain, and operate two railway lines from the right bank of the Barima river to the interior; against the concession to Messrs. Garnett and Company, to gather *purguos* at certain points on the right bank of the Cuyuni; and against the concession of lands situated on the right bank of the Cuyuni, for the organizing of the so-called "British Guayana Chartered Company."

With respect to maps lately published in which there is attributed to the Colony of Demerara more territory than belongs thereto, the Executive has taken the necessary steps to object to them, and to prohibit their introduction, sale and circulation in the country, as containing false notions regarding the frontier of Venezuela, and as having been drawn without the slightest idea of the antecedents, which the authors should have studied. And he is untiring in his efforts.

It has likewise, since 1876, addressed itself to the Government of the United States of America, stating its complaint and requesting its aid, as the great Republic of this continent, thereby, and because of its antecedents, called upon to lend

support to its sisters against the extravagant demands of the powerful.

And the cause of all the Republics of the New World being one, Venezuela took care also to inform them of the situation in which she had been placed, and to ask their moral support for the purpose of inclining Great Britain to agree to submit to arbitration the boundary controversy. Its aspirations have been limited to this.

Finally, Venezuela has never failed to declare that she rejects the imposition of force, and will continue to consider as hers the territories of which she has been dispossessed thereby, no case having arisen in which there could be attributed to her an assent to the cession or abandonment of her territorial rights.

As complementary to the measures taken at all times to oppose the publication and introduction into Venezuela of maps antagonistic to the rights thereof, on December 27th, 1893, the Government urgently demanded the correction of certain data concerning British Guayana, published by the International Bureau of Washington, which an association of Republics of the Western Hemisphere created and maintains, and which was principally intended for the compilation, arrangement, and circulation of statistical data regarding the wealth and commerce thereof. It had published a series of notices relative to the so-called mines of British Guayana. Nevertheless it treated of mines situated in regions which, being Venezuelan, are unlawfully held by the authorities of Demerara. Therefore this government deemed such data not only erroneous, but also antagonistic to the rights of the Republic, which served as a basis for the instructions communicated to the Minister of this country in Washington to make the proper complaint and demand in the premises.

Finally the result aimed at was secured. In one of the subsequent bulletins it was explained that in the November number, 1893,—the cause of the complaint—it was not intended to express any judgment regarding the merits of the controversy existing between Venezuela and Great Britain, nor to

advance an opinion respecting the right of either Government, but to give out notices deemed important for commerce. So that from nothing written could there ever be drawn any conclusion or argument unfavorable to Venezuela.

Previously Mr. Secretary Blaine had been requested to order the correction of a map issued by the International American Company, the errors in which had given rise to just observations by the Government of this Republic.

All this series of acts, the result of a plan thoughtfully conceived and firmly and perseveringly carried out, prove the intention of the Government of the Republic to never recognize on any ground whatever the forcible possession which the British have taken of places over which Venezuela asserts dominion, and to the evacuation of which they have tenaciously objected.

These are precisely the resources to be employed by States to prevent the effects of force as an element of prescription in the judgment of publicists.

It must be borne in mind that several of them hold opinions against prescription as between States ; others admit, at the most, immemorial prescription ; and others assert that uninterrupted possession of territory or other property for a certain time excludes the claim of any one else. It seems that the last case identifies itself with the second.

Eugène Ortolan has treated the subject *ex professo* in his work "On the Methods of Acquiring International Dominion or State Property between Nations according to Public International Law, compared with the methods of acquiring property between individuals according to private law, followed by an examination of the principles of political equilibrium."

He was a Doctor of Laws and an attaché of the Ministry of Foreign Relations of France.

He says that such methods are:

1. The occupation of things belonging to no one through possession, and the intent to appropriate them and hold them as one's own.

2. Effects of the changes arising in bordering waters and the springing up of islands or islets.

3. Agreement to transfer international dominion and taking of possession ; for example : treaties of cession in general, treaties of sale, of compromise, of exchange, of settlement of limits, or partition.

4. Arbitration decisions, not in general ; for they would be only the recognition, the declaration, in favor of the winning party, of the pre-existing right of property ; but only in cases in which disputing nations may have wished to conclude a compromise and had consented to reciprocally exchange, cede, or abandon territorial property rights, and had left the arbitrators at liberty to establish the bases and sacrifices of the compromise, obligating themselves beforehand to submit to the result of the arbitration ; a case in which the arbitrator may, without overstepping the authority conferred on him, not only recognize this or that pre-existing right, but may even create a new right of international property, by deciding in the compromise that such a power abandons the sovereignty of such a Province to transfer the same to the other State ; and his decision becomes the source of the acquisition of the ceded territories.”

“It may also be supposed that the dispute has for object, a partition of land or a settlement of boundaries between the two States, and that they have referred the operation to arbitral decision, giving the arbitrators, in case of partition, authority to make the adjudications of the necessary parcels, or, in case of a settlement of boundaries, the power to effect reciprocal cessions between the two States, in order to establish the limits in a more convenient manner.”

“Nevertheless those cases will not be frequently met in practice with such amplitude of powers conferred on the arbitrators. It is rare that two nations consent to confer, without any limitations, upon a third power the authority to decide, and much less to definitely settle, their territorial property rights. Nearly always disputants reserve the right to change the agreements that may be proposed to them, and, conse-

quently, the compromise offered them is only a *promise* which begets no obligation or right except in so far as it is ratified. The right grows out of the acceptance of these conditions, and not of the decision of the arbitrators.”

Pradier-Fodere recognizes that the arbitrator determines disagreements *according to law*; he seeks out on what side it is to be found; examines in what way international law should be applied to the particular case forming the subject of the disagreement between the parties. To state the law; that is his trust. He is not charged with reconciling the parties—the office of the mediator—but with causing the disagreements to disappear through a friendly decision which he draws from the principles of law, and which is conventional, but morally binding upon the parties. This does not prevent them (it all depends on their will) from granting him the authority of a law arbitrator (*arbitrador amigable componedor*).

The most recent case of this kind occurred in the year 1890, between France and the Netherlands. Being engaged in determining the limits of their respective Guyanas, they decided on the 20th of November, 1888, to resort to arbitration in the premises. They entrusted it afterwards to the Czar of Russia with the understanding that he was to decide the question of law, that is, whose was the territory comprised between the Lava and Tapaná rivers.

The Czar did not consent to accept a trust so limited and asked for an extension of authority. Whence it resulted that the same parties signed in Paris on the 28th of April, 1890, a new convention in which it was stipulated “that in case the arbitrator, after examination, should not succeed in designating as a boundary one of the two rivers mentioned in the Convention of 1888, he was authorized, as a compromise solution, to adopt and determine another limit that should pass through the disputed territory.”

Some are of the opinion that this precedent should not be followed, because it distorts the nature of arbitration, which it confuses with mediation; since every one will wish to follow the example of the Czar of Russia, and because, if the parties

interested are disposed to compromise, they could do it directly without the necessity of calling in a third party.

5th. Conquests, but only when they have been confirmed in the treaty of peace which brings the war to a close: This is understood with reference to real estate, for personal property is acquired as booty in determinate cases, or as the result of a formal judgment when treating of maritime prizes.

The author maintains that the principles observed by ancient countries and in subsequent barbaric times, according to which war and conquest were the methods of acquiring property among nations, have been completely changed. That in civilized countries war ought not to be considered as a means of extending power or of enlarging dominions, but only as a fatal necessity, inevitable consequence of the right of independence; a necessity which would disappear were it possible to place over States a collective and common authority, and, consequently, taking from among the rights of nations the right of absolute independence which now exists. That it can only be undertaken when it is forced upon a State through the violation or serious questioning of an essential right, and when all the pacific means for preventing it have been vainly exhausted.

He attributes certain consequences to military occupation, which he does not consider forcible and contrary to law, but valid, and producing the same effects as possession in good faith, so that the possessor may collect imposts, exercise authority and jurisdiction. He also believes that military occupation may serve as a just ground, in international law, for the transfer of property effected in the convention which brings an end to the war; and, lastly, that, according to several publications, it may also serve as the foundation of prescription.

Although the author does not say it, it is to be admitted, with others, that not only does the treaty of peace confirm the conquests, but also the fact of complete subjection of one State to another as the result of war, because the former, becoming extinct, it is no longer admissible for it to retain territory.

6th. Finally, Ortolan includes prescriptive acquisition among the methods of acquiring international property.

After justifying the application thereof among individuals, he asserts that it should be equally extended to States, but with certain requirements.

The first is that it should be held in the capacity of owner and sovereign of the territory, and that therefore it would not suffice for some individuals belonging to the nation to have in their own name performed acts of private ownership of that territory, because the possession must be in the name of the State through acts of enjoyment, command, and jurisdiction, which constitute the exercise of international dominion.

The second is that the possession in the capacity of owner shall be public; would be manifested by open acts, visible to all, because in furtive and clandestine acts, which the true proprietor has been unable to see, there is wanting the fundamental fact of prescription, the rôle of proprietor assumed by one, and surrendered by another.

The third requisite is that the possession shall be continuous, as is always the essence, the character, of the rôle of proprietor which passing, transitory, intermittent acts cannot constitute.

So that if the possession be begun with the intention of continuity and it is abandoned and subsequently recovered, each interruption irrevocably destroys, as regards the unfinished course of prescription, the effect of the previous possession; the separate fragments of those several possessions not being unitable to form a whole. Each new entry into possession constituting a new starting point, the time being only reckoned from this new point. Ortolan lays down the rule that these three conditions of publicity, continuity, and absence of interruption, necessary in private law to prescriptive acquisition, are equally necessary in international law. Although he considers that between country and country clandestine territorial possession is barely possible, he finds cases of uninterrupted possession more feasible.

Passing on afterwards to examine the acts which give rise

to possession or the maintenance thereof, he finds that field full of difficulties. But he judges that force, during its continuance, cannot become legitimate and convert itself into a right; and that the longer it lasts the graver becomes the fault and the greater the offense against right. He adds that the possession which is only maintained through forcible means cannot be advantageously relied on, and that it is inadmissible to say that one who finds himself expelled and driven away therefrom by force abandons the rôle of proprietor.

Nevertheless, speaking of usurpations, of violent invasions, he says that they may serve as the origin of territorial occupation for the invading country which may retain the possession, and that even in this last case (and saving then the extension of the time required for prescription) it must be logically recognized that the force once terminated, and the dispossessed State being at liberty to claim, if it has not done so and has remained passive, prescription will have commenced to run in favor of the State possessing the territory, and by this means the possession will finally be changed into international dominion.

He also maintains that military occupation of a territory resulting from a formal war, although insufficient to convey the title to that territory, gives a possession thereof, which international usages liken to a possession in good faith.

He then passes on to study the question of the time necessary to prescription, and, recalling that the civil law distinguishes between cases of real and personal property, of presence or absence of good or bad faith, and that it establishes terms of 10, 20 or 30 years, proportionate to the life and the action of individuals, asserts that they are not applicable to cases of States; and that without determining the precise terms, and leaving the influence they should have to the circumstances of each case, it is thought that a long series of years is necessary to transfer the right of dominion and territorial sovereignty over a country, from one country to another.

What method there may be to arrest the course of the pre-

scription already begun, originating in the passiveness of the owner—the failure to exercise the rights and functions of ownership—Ortolan sets forth by suggesting that it is to emerge from the inertia to prosecute, or at least to claim, the exercise of his rôle of owner before the completion of the course thereof, and the realization of acquisition by the possessor. The civil law requires resorting to the judicial authority, extra-judicial claims, protests or even exhibiting of documents being insufficient, and only then is he considered as in fact replaced in possession; the delays in confirming the existence of his right depending only on the imperfections and slowness of human justice.

The same rule not being applicable in international law, owing to the absence of a common judge, States find themselves limited to claiming their rights one from the other through the channel of diplomatic negotiations, and, if necessary, do justice to themselves through their own strength. But he adds that in order to interrupt prescription war is not necessary; that a weak country or one placed temporarily in a difficult situation may find itself forced to await other resources or other times to take up arms, and until then to resort to diplomatic demands. That such demand interrupts prescription, because once made, the State in possession should satisfy, if it be just, and immediately restore the proprietor State to power.

He thinks that, as regards protests and exhibitions of documents, taking into account the difficult situation and the impossibility to act in an efficacious manner in which a power may find itself, it may be said in general that they will not produce the interruptive effect, save in so far as they may assume the character of a true diplomatic demand addressed to the adverse power; and that notifications to other States are only means of greater publicity, as though to make them witnesses to the violation of its rights for which the demand is made.

It appears to him that with greater reason attempts to recover in fact the possession of the disputed territory would be

cause for its interruption, even though they should have been unsuccessful; but provided they are made in the name of the State, as a public undertaking, and by it so recognized, and not by mere individuals who act without authority and in a private capacity.

Finally, that the recognition the State in possession may grant to the rights of the adverse power, or even the mere desire to submit the controversy to examination, to diplomatic discussion will likewise interrupt the course of the unfinished prescription.

The doctrines of the author named being once known (and they are the most favorable to the method of acquisition by prescription, since it is desired to place the matter in the furthest extreme), it is advisable to examine, whether in the light thereof the appropriation by great Britain, either from the year 1884, or from a previous date, more or less unknown, of territory in dispute with Venezuela, is justified.

It is unnecessary to dwell longer on the other means of acquisition before specified. Prescription will be spoken of principally for the reasons which will be set forth.

Not occupation, because the subject in hand is not things that were originally acquired, since the titles of Venezuela as well as of Great Britain are exclusively derivative.

Not the changes in bordering waters or the appearance of island—changes which can only occur between regions definitely delineated, which the Republic and the English Colony of Demerara are not.

Not agreements to transfer dominion, which in this case are the treaty of recognition of the independence of Venezuela by Spain on March 30, 1845, and that of 1814, in which Holland ceded to Great Britain its Colonies of Essequibo, Demerara, and Berbice. The question does not rest on the act of transfer itself, but on the extent of the territories therein included, which was absolutely not defined in either of the conventions.

Not the result of an arbitration decision where the arbitrator receives the authority of a friendly adjuster, and pursuant thereto adjudicates territories to one of the litigants or to

both. Venezuela has urged arbitration, but judicial, as the only one compatible with the constitutional provisions which prohibit the alienation of any part of her territory, and Great Britain has not accepted it, except under conditions evidently inadmissible.

Not conquests, which do not now constitute acquisition of international property, save when confirmed by the treaty of peace which puts an end to the war. Fortunately, there has been none between Venezuela and Great Britain, so it can have no bearing here, however much it may be endeavored to widen the sphere of conquests.

Therefore, there remains nothing but prescription, and in effect the English assert it. In an article in the London "*Times*," of January 18, of this year, a paper which follows the footsteps of the Foreign Office, appears the following:

"It should be borne in mind, in the first place, that neither this country nor Venezuela have an original title to the territory or can show the history of a very long possession. We derive ours from the Dutch, from whom we took the establishments of Demerara, Essequibo, and Berbice almost a century ago. Venezuela derives hers from the Spaniards, whose yoke she threw off at the beginning of this century. In 1796, as on another previous occasion in which the Dutch Colonies were occupied, this country claimed a boundary which began at Barima, on the banks of the Orinoco, and included practically all the basin of the Essequibo river. By the treaty of 1814 the results were finally sanctioned, *the Spanish Government having been a party to the negotiations and not having raised any objection against the boundary claimed by Great Britain.* At that time Venezuela was in rebellion against Spain, but had not obtained the recognition of her independence. Neither in 1814 or in 1819 when Venezuela was incorporated into the *United States of Colombia*, was any question raised by the former or latter with respect to the validity of the frontier that the Spanish tacitly accepted. On the contrary, the *United States of Colombia* frankly recognized what they owed to the friendly attitude of Great Britain, and when, in 1830, Vene-

zuela, on her own account, made herself an independent Republic, she also manifested her friendship with warm expressions, and likewise preserved silence on the boundary question.

At that time therefore we had a prescription of twenty-five years in favor of our claims, or of fifty years, if we reckon from the first British occupation of the Dutch establishments in 1781. In the Venezuelan Constitution, promulgated in 1830, it was not endeavored to attack the *frontier arrangements* which the British Government had laid down. The Constitution merely defined the territory of Venezuela as the extent of what the Spaniards had denominated the *Captaincy-General* of Venezuela. Naturally such a declaration has no binding force unless it be formally accepted by other interested nations. It is not an international instrument, but it is interesting because it gives the extreme measure of what Venezuela then claims."

Leaving aside the errors contained in that editorial of the "*Times*," such as that in the treaty of London of 1814, relating to the cession of the Dutch Colonies of Demerara, Essequibo and Berbice to Great Britain, the latter determined the boundaries she claimed therefor, and that no objection was made by Spain, a party to the negotiation of the treaty; that neither Venezuela nor Colombia said anything against those boundaries which Great Britain attributed to herself about 1830 when neither one nor the other ever knew them, and the former claimed the Essequibo in 1822; the only thing that will be refuted will be the allegation of prescription of twenty-five or fifty years, applying the rules laid down by Ortolan:

1st. Great Britain could not possess as owner territories not specified as belonging to the grantor, nor included expressly in the transfer made to her by Holland.

2d. Her possession has not been public, but clandestine, and therefore has not reached the knowledge of Venezuela; only since 1884, and with regard to places near her, has she given notice of her taking possession, against which there began then and there has been carried on uninterruptedly, a series of complaints, claims, protests and the establishment of posts and other measures of defense.

3d. Neither has there been continuity in the possession, because it must be considered as having been interrupted by the tenacious opposition of Venezuela.

4th. The English possession has been and is forcible, which renders it impossible of being converted into lawful origin, however long it may last; and it only serves to aggravate by its duration the offense against the proprietor.

England has herself maintained this doctrine. When her dispute with France touching the Island of Santa Lucia was referred, after the treaty of Aquisgran, to the decision of certain Commissioners, and gave rise to State Papers in 1751 and 1752, the French negotiators maintained that though the English had established themselves there in 1639 they had been driven out or massacred by the Caribs in 1640, and they had, *animo et facto* and *sine spe redeundi* (with the intention and in fact, and without hope of returning), abandoned the island. That Santa Lucia being vacant, the French had again seized it in 1650, when it became immediately and without the necessity of prescriptive aid, their property. The English negotiators contended that their dereliction had been the result of violence, that they had not *abandoned* the island, *sine spe redeundi*, and that it was not competent to France to profit by this act of violence and surreptitiously obtain the territory of another State; and that by such a proceeding no *dominium* could accrue to them. [See *Phillimore, International Law, "Prescription."*]

It is not stated there what the Commissioners decided, but as the English are seen ceding the island to France in 1763, it is to be inferred that the decision was in their favor.

If we go on to the requirement of time, which is to consist of a long series of years, saving the influence of special circumstances, illy could it be aspired to consider as sufficient the term of eleven years which elapsed since the beginning of the last invasions, which was in 1884. As regards the previous invasions they met with the obstacles that they were clandestine, as has been already observed. Aside from the fact that its course would have been arrested by the accumulation of

claims, protests and the creation of posts and other measures of forcible defense.

Consequently, even though twenty or fifty years may have elapsed since the occupation, it signifies nothing, because the requirements necessary to confirm it are wanting ; and it is pertinent to reiterate with Heffter "that a century of unjust possession does not suffice to take therefrom the defects of its origin."

The doctrine implied in the assertion of Lord Salisbury means that Venezuela cannot claim as hers places colonized by natives and others in the belief that they would enjoy the benefits of British rule during the thirty-five years which have elapsed from the date of the proposed concession offered by Lord Aberdeen in 1844.

The claim seems to be indefensible, not only because it is incompetent to apply thereto the cited rules of international prescription, but also for the following reasons :

1st. Because Venezuela has not been able to colonize the said regions by reason of her deference to the proposal of the British Government to not occupy them during the boundary controversy, in the understanding that the obligation was reciprocal, and very especially in view of the credit it ought to give the solemn protestations of Mr. Wilson, Chargé d'Affaires in Caracas, that Great Britain had no intention to usurp Venezuela Guayana, and would not authorize or sanction acts of occupation by her authorities whom it would order, reiteratedly if necessary, to abstain from acts which the Venezuelan authorities might justly consider as aggressions.

2nd. Because, as Calvo says : "if the right of States to incorporate into themselves a larger extent of still savage regions than those that they can civilize or administer is disputed, this can only be applied to recent acquisitions or occupations," and not to old possessions, sanctioned at once by time and by historical right, which form, properly speaking, a generally admitted exception to the preceding rule. When a State finds itself in possession of a country all that that country includes becomes its property, even when the occupation

shall be actual only in a portion of the country. If it should leave therein uncultivated or deserted places, no one has the right to take possession thereof without its consent. Even though the possessing State may not actually use them, those places belong to it; depend upon its sovereignty; it has interest in retaining them for ulterior uses, and to no one has it to give account of how it uses its property. Such is the special position of the United States of North America, of the States of South America, which possesses several unpopulated territories, or inhabited by savage tribes.”

3d. Because this same is the opinion of Vattel, from whom Calvo took it almost intact.

4th. Because the Colombian publicist, Doctor Madiedo, professes like principles, and maintains them thus: “There is no nation of the earth which possesses absolutely and materially and through actual and constant occupation all the territory that its geographical dimensions determine. The most populated nations of the earth have uncultivated wastes and deserts where not a single human habitation is to be found.”

If we were to lay it down as a principle that a nation has no territorial sovereignty save over the soil it corporally and actually occupies, which is the principle which prevails among the savage hordes, according to the original *Jus Gentium*, there would result the admissible absurdity that no nation would have the right to all the territory marked for it on the map as an entity of international law.

“And not only that, but by a logical deduction from such a doctrine, it would have to recognize in any other foreign power the right to occupy those vacant portions, even within the national territorial boundaries, with the obligatory addition of recognizing in that foreign occupant the still stranger right to establish himself there under the jurisdiction of laws foreign to the sovereign on whose soil such vacant territories should exist, which includes all the sovereigns of the world.”

“And what would then become of the sovereignty and independence of nations obliged to recognize such absurd solu-

tions of continuity in the exercise of their own power? Would not this be like sowing confusion to reap ceaseless discord and anarchy"?

5th. Because the English historian, Macaulay, on condemning the attempt by a Scotch expedition, headed by Patterson, to take possession, in 1699, of the Isthmus of Darien, which had been discovered and occupied by the Spaniards, but from which they withdrew afterwards to Panama, owing to the unhealthfulness of its climate, leaving the Indians there found to continue living after their own manner, says that regions of other countries are in like condition. He names as an example some mountainous districts situated not more than one hundred miles from Edinburgh where there lived clans who paid as little attention to the authority of the King, of Parliament, of the Privy Council, and of the Court of Sessions, as did the aboriginal population of Darien of the authority of the Spanish Viceroy and of Audiencias. The enlightened historian, statesman, minister, and Member of Parliament, concludes with these words: "It is safe to say that the taking possession of Appin and Lochaber by the King of Spain would not have been considered a less atrocious violation of the public law than that the Scotch should take possession of a Province situated in the very center of his possession under the pretext that it was in the same condition that Appin and Lochaber had been for centuries."—[*History of England.*]

6th. Because in recent cases the validity of the titles invoked by Venezuela has been admitted, as may be seen in the history of the question of the Caroline islands between Germany and Spain. Having been submitted to the mediation of the Pope, he made the following proposition to the parties: "The discovery by Spain in the XVIth century of the Caroline and Palen Islands, which formed part of the Archipelago, and a series of acts performed at different periods by the Spanish Government on the same Islands for the welfare of the natives, in the opinion of that Government and of that nation, have created for it title to the sovereignty, founded on the maxims of international law invoked and followed at that time in similar disputes. In

truth, when the history of the said acts is examined, the authenticity of which is confirmed by several documents in the Archives of the Propaganda, the beneficent work of Spain in those Islands cannot but be recognized. . . . On the other hand, Germany and England, in 1875, expressly informed the Spanish Government that they did not recognize the sovereignty of Spain over those Islands. On the contrary the Imperial Government thought that actual occupation of a territory is what creates sovereignty, an occupation which was never carried into effect on the part of Spain on the Caroline Islands. In accordance with this principle it acted on the Island of Yap and in that, as well as in what the Spanish Government has done on its part, the Mediator is pleased to recognize the complete *loyalty* of the Imperial Government."

In consequence, the Pope suggested the advisability of confirming the sovereignty of Spain over the Caroline and Palen Islands; of Spain making her sovereignty effective by establishing a regular administration, with force sufficient to guarantee order and the rights acquired; of offering Germany complete liberty of commerce, navigation and fishing, and the right to establish a naval and coaling station, and the liberty to found on the Islands agricultural establishments.

It was so agreed in a protocol signed in Rome on the 17th of December 1885, by the Ministers of Spain and Prussia before the Holy See,—a protocol which the respective governments approved. In 1886 the article V, regarding Germany's right to establish on the Islands a naval and coaling station was rescinded, whereby the sovereignty of Spain therein was restored.

7th. Because, according to the Monroe Doctrine, "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers."

Says Lord Salisbury:

"As regards the rest, that which lies within the so-called Schomburgk line, the Government of Great Britain do not

consider her rights open to question. Even within that line they have, on various occasions, offered to Venezuela considerable concessions as a matter of friendship and conciliation and for the purpose of securing an amicable settlement of the dispute. *If, as time has gone on, the concessions thus offered diminished in extent, and have now been withdrawn, this has been the necessary consequence of the gradual spread over the country of British settlements, which Her Majesty's Government cannot, in justice to the inhabitants, offer to surrender to foreign rule;*" and he considers such *withdrawal is amply borne out by the researches* in the national Archives of Holland and Spain, which have furnished further and more convincing evidence in support of the British claims.

Here it is seen repeatedly placed beyond doubt that the last settlements of Great Britain in the disputed territory are of recent date, and this explains the system of delay followed by her since 1841, in which year Venezuela urgently requested her to conclude the boundary treaty, of which the Agreement to her proposed, with an admixture of threats, by Mr. Wilson in 1850, appears to have been a part.

Strange, at least, seems the desire to insist on the Schomburgk line after it was abandoned by Lord Aberdeen in 1844, by Lord Granville in 1881, and by Lord Rosebery in 1886; it being particularly noticeable that the latter not only laid that line aside, but he furthermore proposed arbitration of a Joint Commission to divide equally what he denominated the territory in dispute, or be it that situated between the lines of Dr. I. M. Rojas and of Lord Granville, presented in 1881, and that Schomburgk himself characterized his map as incomplete, as many of its details were based on information obtained from the natives.

Lord Salisbury writes :

"The discrepancies in the frontiers assigned to the British Colony in various maps published in England and erroneously assumed to be founded on official information are easily accounted for by the circumstances which I have mentioned.

Her Majesty's Government cannot, of course, be responsible for such publications made without her authority."

Without doubt this paragraph is intended to meet the objection presented in the official communication of the Acting Secretary of State, of the U. S., who, as complimentary to the communication of Mr. Olney of July 20, wrote to Mr. Bayard on the 24th following regarding the sudden increase of the area of British Guayana from 1884 to 1886, and which was 33,000 square miles, thereafter asserting that such settlement was made on the authority of the British publication entitled the "Statesman's Year Book." He observes that it is corroborated by the British Colonial Office List, a Government publication, citing the proper passages, and he concludes by saying that the official maps in the two volumes mentioned (of 1885 and 1886) are identical; so that the increase claimed for British Guayana is not thereby explained; but that the latter map of the Colonial Office List show a varying sweep of the boundary westward into what previously figured as "Venezuelan Territory," while no change is noted on the Brazilian frontier.

If Lord Salisbury were referring to the "Statesman's Year Book," perhaps his explanation will have some weight, but it will not do to extend it to works issued from the Colonial Office. And there is no reason for denying a fact which agrees with the previous assertions of the Minister in which he says that the size of the concessions of his Government has diminished as a necessary consequence of the gradual spread of British settlements.

Attention has been called already to another point of his note in which he asserts that the progress of those settlements made a decision absolutely necessary, and that therefore the Government of H. M. resolved to make no more concessions and to assert its undoubted right to the territory comprised within the Schomburgk line.

As is notorious, such new settlements are due to the existence of gold mines in the regions where they have been founded, and it appears reasonable to suppose that they, and

not the alleged breaches by Venezuela of the Agreement of 1850, constitute the true motive of its disregard in 1893 by Great Britain; the fact being that even in 1887, that is, after the said breaches, she relied on it to oppose the erection of a light-house at Barima.

Lord Salisbury concludes with these words: "They (the Government of H. M.) have, on the contrary, repeatedly expressed their readiness to submit to arbitration the conflicting claims of Great Britain and Venezuela to large tracts of territory which from their auriferous nature are known to be of almost untold value. But they cannot consent to entertain, or to submit to the arbitration of another power or of foreign jurists, however eminent, claims based on the extravagant pretensions of Spanish officials in the last century, and involving the transfer of large numbers of British subjects, who have for many years enjoyed the settled rule of a British Colony, to a nation of different race and language, whose political system is subject to frequent disturbance, and whose institutions as yet too often afford very inadequate protection to life and property."

The arbitration to which Great Britain will lend herself relates to the territory situated to the West of the extended Schomburgk line, to pretensions which, owing to their novelty and unjustifiable nature, Venezuela ought to have rejected as often as they were advanced in 1890, 1891, and 1892.

The pretensions which the Republic upholds, it inherited, not from the Spanish officials, if by this it is desired to designate subordinates, but from the very Government itself of Her Catholic Majesty, as appears from several acts emanating from herself.

The argument of the injuries which will befall British subjects in being transferred from the settled rule of a British Colony to a nation of different race and language whose political system is subject to frequent disturbances, has no connection whatever with the matter under discussion. The purpose is to discuss the right of Venezuela and of Great Britain to certain portions of territory; not to put on trial the

institutions of the Republic ; neither in this nor in her other domestic matters is it proper for foreign nations to intervene, much less to characterize them offensively. In their infancy all have met obstacles more or less similar to those which have presented themselves to Venezuela in the path of her effort to consolidate herself, insuring the benefits of a permanent peace and order. But even States, the oldest, most populous, cultivated, and apt in the science of politics, do not succeed in overcoming the difficulties of the Government, and it can be asserted with the book of history in hand, that there is not in the universal world, even one capable of flattering itself as being unassailable and having carried out the ends of its establishment.

Very near the beginning of his reply to Mr. Olney, Lord Salisbury writes :

“ The definite cession of the Dutch settlements to England was placed on record by the treaty of 1814, and although the Spanish Government were parties to the negotiations which led to that treaty, they did not at any stage of them raise objection to the frontiers claimed by Great Britain, though those were perfectly well known to them.” At that time the Government of Venezuela had not been recognized even by the United States, though the province was already in revolt against the Spanish Government, and had declared its independence. No question of frontier was raised with Great Britain either by it or by the Government of the United States of Colombia in which it became merged in 1819. That Government, indeed, in repeated occasions, acknowledged its indebtedness to Great Britain for its friendly attitude. When in 1830 the Republic of Venezuela assumed a separate existence, its Government was equally warm in its expressions of gratitude and friendship, and there was not at the time any indication of an intention to raise such claims as have been urged by it during the latter part of this century.”

With respect to the participation of Spain in the treaty, or in the negotiations for the treaty, of 1814 regarding the trans-

fer of Essequibo, Berbice, and Demerara to Great Britain, it has already been noted that there is no document proving it.

Regarding Colombia, it has been recalled that in the instructions issued in 1822 to the agent appointed in London, Señor José Rafael Revenga, he was authorized to propose the delineations with British Guayana and to claim the Essequibo.

Dr. José Manuel Restrepo, Minister of the Interior of Colombia, in his history of the Revolution of that Republic, printed for the first time in 1827, established the same frontier.

As regards Venezuela, she had no opportunity to ventilate the subject till 1840, when she was informed of the appointment of the Engineer Schomburgk to survey British Guayana by himself, without the concurrence of this country. She at once urged a boundary treaty, and later on requested the removal of the posts and other signs of dominion, located at Barima and Amacuro. Thus advised of the danger which threatened the Republic in its essential part bathed by the Orinoco, except in some intervals, it has used its best efforts to seek the settlement of the question, and has claimed what it believes to be its rights; and it believes that the right of preservation and progress of sovereignty and independence, and that of property lay upon it the obligation to maintain them manfully. The English Government through its Ministers, Lord Aberdeen, Lord Granville, and Lord Rosebery, have recognized the importance to Venezuela of the free possession of the mouths of that, its principal, river. She understands that it will not be complete until the boundary shall be established according to law. Wherefore, Great Britain, which in every way seeks her own advantage, ought not to think it ill that Venezuela should in her turn work to secure the same object. By claiming the said boundaries she proposes to herself to perform a duty; not to be wanting in any duty of friendship or of gratitude with respect to Great Britain, towards whom during all the period of her existence she has endeavored to prove such sentiments.

She has not forgotten that she subserved the ends of justice

declining to enter into the Holy Alliance and in opposing the plans to aid Spain in reconquering her American colonies, acting in this in accord with the United States, whence was born the Monroe Doctrine ; and in recognizing, following their example in 1825, the independence of Colombia.

In the treaty referring thereto, British commerce was placed on the footing of the most favored nation unconditionally; the equality of the flag was stipulated; the English were placed on a par with the Colombians with respect to the acquiring of personal property of all kinds and classes, through sale, donation, exchange, or will; and with respect to the administration of justice they were granted several exemptions; and British and Colombian vessels were defined in like terms, demanding for the latter that they should have been actually constructed in Colombia, which was in the cradle. Finally her concurrence was promised for the abolition of the slave trade, which ever since 1810 the Supreme Junta of Caracas had spontaneously ordered suppressed. There was such a haste in the signing of the treaty that there was omitted therefrom the clause relating to its duration, which is so indispensable, and others which have not been added to it to complete it, as it was therein stipulated to do in a short time, for which reason it still exists without change, after seventy years, which have rendered it antiquated, as Lord Granville judged on negotiating its amendment, in 1884 and 1885.

Venezuela, adopting it in 1834, left it as it was.

Since that time, she has accepted other conventions which Great Britain has proposed relating to postal arrangements, the extradition of fugitive offenders with several English Antilles, pecuniary claims, and above all the convention of 1839, referring to the abolition of the slave trade. In it the Republic bound herself to preserve in force the Colombian law of 1825, which declares it to be piracy, and punishes it with the penalty of death ; and moreover, with a reciprocity notably illusory, she granted her the right of search in time of peace of merchant vessels, which in vain was requested of France and of the United States, and the arrogation of which even

in the absence of a convention she had to renounce. Neither was any term established therefor. But that accords with the Constitutions established by Venezuela since 1864, which have proscribed slavery forever, and assured liberty to slaves who tread her soil.

It also condescended to subscribe the Agreement of 1850, the origin of so many difficulties.

Venezuela has duly appreciated, as did Colombia in her turn, the personal co-operation which brave Britons, the friends of liberty, rendered them in the war of independence, generously shedding their blood for her cause, such as O'Leary, MacGregor, D'Everaux, Minchin, Chitty, Wilson, Fergusson, etc., and some of them occupy a place in the Pantheon of our national glories.

On decreeing thanks and honors to the victims in the battle of Carabobo, the Congress of Colombia in 1821 ordered them "to be especially extended to the valiant British battalion which could be even distinguished among so many brave men, and suffered the lamentable loss of many of its worthy officers, thereby contributing to the glory and existence of their adopted country."

Colombia and the Republics succeeding her carried their magnanimity to the extent of admitting without the inspection made necessary by the multifarious and enormous abuses committed by usury under the contemporaneous circumstances, the supplies of money, arms, munition, clothing, and other articles obtained in England to meet the necessities of the struggle with Spain. Venezuela is still paying to-day, with great punctuality, the balance of that debt, augmented, it is true, by subsequent loans; and the present government takes such great interest in the matter that it not only satisfies the current dividends, but moreover, at the same time, is paying off a large installment, the back payment growing out of the revolution of 1892. It also satisfies, month by month, the quota apportioned for the British credits growing out of diplomatic arrangements.

Behold numerous proofs of the gratitude of Venezuela and

of her earnest desire to preserve the friendly character which has always distinguished her relations with Great Britain, notwithstanding the inconsiderate attitude she has assumed in some of her claims.

In defending the integrity of the most valuable part of her territory, Venezuela carries out solemn obligations, without diminishing her sentiments of gratitude, without ceasing to preserve her desire to agree to the honorable and amicable settlement of the disputes which have divided the two countries, and for the settlement of which she has been perseveringly pressing.

Caracas, March 25, 1896.

Annex 65

United States 55th Congress, 1st Session, *Report from the Secretary of State regarding the Work of the Special Commission Appointed to Reexamine and Report upon the True Line between Venezuela and British Guiana*, Transmitted to the U.S. Senate Committee on Foreign Relations, Doc. No. 106 (25 May 1897)

55TH CONGRESS, }
 1st Session. }

SENATE.

{ DOCUMENT
 { No. 106.

VENEZUELAN BOUNDARY COMMISSION.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

IN RESPONSE TO RESOLUTION OF THE SENATE OF MAY 4, 1897,
 A REPORT FROM THE SECRETARY OF STATE REGARDING THE
 WORK OF THE SPECIAL COMMISSION APPOINTED TO REEX-
 AMINE AND REPORT UPON THE TRUE LINE BETWEEN VENE-
 ZUELA AND BRITISH GUIANA.

MAY 25, 1897.—Read, referred to the Committee on Foreign Relations, and ordered to
 be printed.

To the Senate of the United States:

I transmit herewith, in response to the resolution of the Senate of May 4, 1897, regarding the work of the special Commission appointed by the President on January 4, 1896, to examine and report upon the true boundary line between Venezuela and British Guiana, a report from the Secretary of State, with accompanying papers.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
 Washington, May 24, 1897.

The PRESIDENT:

The Secretary of State, to whom was referred a resolution adopted in the Senate of the United States May 4, 1897, reading as follows:

Resolved, That the President be, and he is hereby, requested, if not deemed incompatible with the public interests, to inform the Senate if the special Commission appointed by the President January 4, 1896, to examine and report on the true boundary line between Venezuela and British Guiana, have yet reported, and, if so, to transmit to the Senate a copy of such report; and if said commission have not yet reported, what progress, if any, has been made in their investigation,

has the honor to submit the following report to the end that the same may be transmitted to the Senate in answer to the foregoing resolution, should it be, in the President's judgment, compatible with the public interests so to do.

The special Commission appointed by the President January 4, 1896, to examine and report upon the true boundary line between Venezuela and British Guiana, made a report to the President under date of February 27 last, which states the character and the extent of the work performed by it. A copy of that report and of the correspondence therewith accompanying is hereto annexed.

Further, the Secretary of State is advised by the president of that Commission that of the four publications named in that report, the Atlas, comprising 76 maps, has been so far completed as to be ready for binding; the other three volumes are nearly all in print and will be completed and bound within two or three weeks from now.

Respectfully submitted.

JOHN SHERMAN.

DEPARTMENT OF STATE,
Washington May 10, 1897.

The PRESIDENT:

SIR: Pursuant to the act of Congress of date December 21, 1895 (29 Stat., 1), the undersigned were, on January 1, 1896, appointed "to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana." Immediately thereafter, and on January 4, we convened at the office of the Secretary of State and organized by the election of David J. Brewer as president and Severo Mallet-Prevost as secretary.

As we had "a name," it seemed necessary also that we have a "local habitation," not merely for the meetings of the Commission and the work of its employees, but also for the collection of maps, books, and papers, and for conferences with all who might be interested in the question. To that end we leased a suite of seven rooms in the fourth story of the Sun Building, No. 1317 F street, and furnished them moderately, yet sufficiently for the work of the Commission.

We were at the outset confronted with the fact that our work was both novel and difficult; that there were no precedents to guide as to the manner in which the inquiry should be prosecuted, the character or amount of testimony to be obtained, or the means by which it should be secured. While the boundary line, whose true location we were called upon to ascertain, was a matter of importance in its ultimate determination to both Venezuela and Great Britain, neither Government was consulted or took part in the creation of the Commission, or in the selection of Commissioners. Each of them might have ignored our Commission as the result of a merely voluntary movement on the part of a nation in no way personally interested in the territorial question. Yet we felt that while neither Government was bound by what we should ascertain and report, each might be willing to assist in our work and might be possessed of evidence of great value not easily, at least, obtainable from other sources. We, therefore, addressed a communication to the Secretary of State with the view of its presentation to the two Governments so directly interested. Copies of such communication, with the replies thereto, are attached to this report. (Appendix A.)

We take pleasure in adding that during the entire life of the Commission each of the two Governments has manifested in a most agreeable and satisfactory manner its desire to help us in our investigations. Every call made upon either has been promptly answered, and there

has been an effort to put us in possession of all the facts which either deemed of importance to a satisfactory solution of the question in dispute.

Beyond this, it is fitting also that we mention the fact that individual citizens of this country as well as of others have been alike kindly disposed, proffering and furnishing to us books, maps, pamphlets, and documents of various kinds in their possession which seemed to them likely to be of assistance in the determination of the boundary. It has certainly been gratifying to note the general disposition to assist in the work of the Commission as a means evidently believed by all likely to bring about a peaceful and honorable solution of a troublesome question. It would be impossible for us within the limits of this report to name all the individuals and all the offers of assistance; still we desire not only to record the facts of these offers, but also to express our thanks therefor. While for reasons hereafter indicated the final solution of this controversy has been transferred to another tribunal, it is none the less a source of extreme satisfaction that this general interest was manifested in the work, and it is therefore fitting that we should express in this way our gratitude to all who thus facilitated that work.

In making our report we find it not wholly convenient to pursue a strictly chronological order, but shall endeavor to indicate the lines of our investigations, the extent to which our inquiries have been prosecuted, and the limits which we had reached when our work was interrupted by notice from the State Department.

We were early impressed with the benefit to be derived from the assistance of gentlemen whose recognized eminence in historical and geographical studies justly entitles them to be called experts. We were furnished by Mr. P. Lee Phillips, of the Congressional Library, with a list of some three hundred or more maps, showing the territory in dispute, and some of them also showing lines of division between the territories of Holland and Spain.

We applied to Dr. Justin Winsor, librarian of Harvard College, one of the leading geographers of the country, for an examination of the various maps and such suggestions as he might make upon the evidence furnished thereby. He visited us at Washington, and after a few days' consultation and discussion it was deemed advisable that he should place in writing his views and suggestions. He accordingly did so, and his report is included among the papers presented herewith (Vol. III).

It was apparent, not merely from the information thus obtained, but also from an examination of the maps themselves, that there was great confusion in respect to the lines shown on the several maps. It was deemed important to make further investigation, to place the maps and charts in groups so far as possible, to trace any connection that there might be between them, and to develop at length the value of the evidence furnished by them as to the line of division. In pursuance of this, our secretary, Mr. Mallet-Prevost, conducted with great care an examination into this subject, and has prepared a report discussing exhaustively all the cartographical evidence. He has succeeded in arranging the maps in classes or groups, shown the historical connection between them, and pointed out the value of the evidence furnished by them. This report will be found in Volume III.

In like manner we secured the services of Prof. John Franklin Jameson, professor of history at Brown University, and Prof. George L. Burr, professor of history at Cornell University, recognized authorities in antiquarian researches, who carefully examined certain histor-

cal questions, and prepared papers which accompany this report. Professor Burr, especially, has been of great service, having given to the Commission a year's labor, part of which was in the examination of original documents in Holland and London. He has been of the utmost assistance in bringing before us the historical evidence bearing upon the fact, time, extent, and significance of the various settlements by the Spaniards and Dutch in and adjacent to the disputed territory. (See their reports, Vol. I.)

We were also assisted by Prof. James C. Hanson, of the Wisconsin State University, in the examination of a collection of maps and charts belonging to that institution, and by Dr. De Haan, of Johns Hopkins University, in the matter of translations of Dutch documents and the examination of the archives in Holland. While no formal paper was prepared by either of these gentlemen to be incorporated in our report, their services were none the less of great value and deserve especial mention.

The confusion apparent on the face of the maps, even of the later ones, suggested a general lack of geographical knowledge, and it was deemed that we should have a map promptly prepared expressing the latest results of all researches and examinations. Accordingly, we applied to the officials in charge of the Geological Survey and of the Hydrographic Office who promptly placed at our disposal all the material in their possession, and also personally rendered great assistance. Mr. Marcus Baker, of the former office, was specially detailed for the work. A preliminary map was soon prepared and has proved of great value, each of us having a copy thereof constantly by his side during all the reading and examination of books, documents, and other matters.

As this preliminary map had proved of so much value, we deemed it important to accompany our report with a series of maps, which should be as accurate as possible and represent not merely the geographical but the other natural features of the disputed territory. Accordingly, Mr. Baker, assisted by others, has given months of labor to the matter of maps and charts. Some of the maps Professor Burr has transformed into historical charts by noting thereon the various towns, settlements, and posts, with the time of their establishment and the duration of their existence. An inspection of these maps will be found to give both cartographic and historic information of great value.

Not only that. We have had reproduced some of the more important maps and charts of the last three centuries which had been made the objects of examination and criticism by our secretary, and have had them, together with some rare maps and charts collected by Professor Burr and some obtained from the archives at Rome, bound in an atlas, which is one of the volumes we submit as a part of our report. We can not speak too highly of the valuable services of Mr. Baker in this matter, and desire also to express our thanks to the officials of the Geological Survey and the Hydrographic Office for their kindness.

In the matter of historical investigation there were questions as to actual settlements, when and where made, by which nation, how long continued, and the acts of dominion exercised in connection with such settlements over contiguous territory. This opened a wide field for investigation. It became necessary to examine many books of travel, historical works supposed to contain more or less information in respect to settlements, other evidences of such settlements, and also all general histories of the two countries. This investigation included an examination into the Spanish settlements on the Orinoco from the time

of the first location of the city of Santo Thome, prior to 1600, the Dutch settlements on the Essequibo and the Pomeroon, the Spanish missions east of the Imataka Mountains in portions of the Cuyuni basin, and the temporary establishments of the two nations in various parts of the disputed territory; also, the several efforts of the two nations to exercise dominion and control over the Indians residing in these districts, to carry on trade and commerce with those Indians, and the long series of efforts on the part of each to check and destroy the aggressive and what was supposed to be the unwarranted efforts of the other nation to acquire a foothold in the territory.

This investigation imposed on us a large amount of labor. Many books were examined, some of which, although in advance supposed to contain information bearing upon the question, were found on perusal to be entirely barren thereof, while others were very instructive. Without attempting an enumeration of the various books examined, we may state in a general way that someone of our number, and sometimes all of us separately, read through every book which, either by its title or the suggestions of any person, seemed likely to throw any light upon the questions of settlement, occupation, and territorial dominion. The extent of this work no one not a member of this Commission and not participating in its labors can fully appreciate.

Beyond these historical works and works of travel it was deemed probable that in the diplomatic correspondence between the officials of the two countries, in the reports made by the officials of either colony to the home nation there might be found statements of fact, narrations of events, reports of conferences, which would at least help in reaching a satisfactory conclusion upon the question of occupation, or disclose admissions as to territorial right. In addition to the diplomatic correspondence which has been put into print we were furnished by the State Department, with its bound volumes of such correspondence, all of which bearing directly or indirectly, probably or possibly, upon the question, we had copied for the purposes of examination, and also thereafter carefully examined the same.

The treaty of Munster, while it contained a confirmation by each nation to the other of the places, etc., of which was in possession, did not name those places, and did not define the boundary between the possessions of the two nations, nor in terms indicate any rule by which such boundary could be defined; neither, on the other hand, did it provide for any future convention or treaty for the determination of such boundary. It seemed possible, if not probable, that there were existing certain international rules, generally understood and accepted of sufficient application to settle the true boundary between the possessions of the two nations. Impressed with the conviction that such might have been the thought of the two nations in this convention, we deemed it important to examine and discuss various treatises on international law. This treaty of Munster, it must be borne in mind, was signed a century and a half after the discovery of America, and at a time when, as a well known fact, European nations had established many settlements within the limits of this continent, and it is not unreasonable to suppose that by that time some rules for the delineation of boundary had become recognized, and not improbable that these two nations when confirming to each other their respective possessions had such rules in mind as sufficient to fix the boundaries thereof.

In pursuance of this we examined and discussed all the available treatises on international law from Vattel to the present time in their bearings upon the question before us. In the course of such examina-

tions our attention was directed to the fact that questions of this kind entered into the discussion between the United States and Spain in reference to the settlement of the boundaries between what is now Louisiana and Texas, and also between this country and Great Britain in respect to the boundaries between our northern possessions and British Columbia. We examined at length the correspondence between the representatives of these respective nations, concerning these matters, with a view of ascertaining if possible the opinions of those nations to some extent interested in this controversy as to the rules for determining questions of boundary.

It was developed by such examination that there are certain rules in respect to the delimitation of boundary which had been generally acquiesced in by all nations and may be said to have then become a part of international law; other rules whose validity was denied and of which therefore it could only be safely said that it is doubtful whether they entered into the thought of the two nations in making this treaty, and still others which were mere claims on the part of one nation or another, and which were so generally denied that it must be assumed that they were not regarded in this treaty.

Before we had proceeded far in our investigation it became obvious that we must extend our inquiry beyond matters that had hitherto passed into print. No treaty had ever been made between the nations which definitely determined the boundary line. While the treaty of Munster in 1648 confirmed to each the possessions it then had, there was no specification of those possessions and no indication of the territorial limits which attached to the actual settlements. In the diplomatic correspondence there was no attempt at an accurate description of any boundary line. Whatever there was in such correspondence by way of claim on the one side and concession on the other, or claim on the one side without denial on the other, which tended to show that certain places and districts were recognized as belonging to one or the other Government, there was nothing which could be said to approximate an agreement as to the true location of the line dividing the territories of the two nations. Neither did the multitude of maps published during the last three centuries disclose any consensus of opinion among cartographers in respect to the divisional line. Books of history and travel were not only lacking in definiteness, but also in many respects conflicting in their statements, many of them supporting such statements by references to unpublished papers and reports. These things combined to make it clear that no satisfactory answer would be given to the question submitted to us without some investigation of original documents; and the proposition was debated whether we should ourselves visit Spain and Holland or send special agents to make examinations of the archives of the two nations and obtain copies of the valuable documents to be found therein.

While debating this question we were advised by the Venezuelan Government that it had caused an examination to be made of the archives in Spain and copies taken of such documents found therein as were supposed to throw light upon the question before us. We were also advised that the British Government was collecting evidence and was preparing to submit to Parliament a book containing the information it had thus acquired. It seemed probable that the collections being made by the two Governments might relieve us from the necessary personal visit, or of sending special agents, or at least aid materially in determining the line and scope of our own examinations. Hence, we delayed action in this direction. The first two volumes of the British

Blue Book were placed in our hands the latter part of March, and the Venezuelan copies, as translated and printed, were received in June. The latter consisted wholly of Spanish documents. The two volumes of the British Blue Book contained little from the Dutch archives, and while there was some reference to documents found therein, the documents themselves were not quoted. Under these circumstances our pressing duty seemed to be a thorough examination of the archives at Holland. Accordingly, on May 9 Professor Burr left to engage in this work. He remained abroad until October 28, spending his time mainly in Holland, though visiting London for the examination of certain Dutch documents that had been surrendered by Holland to England. He was assisted in his work by Dr. De Haan, and the result of their researches is found in Volume II.

Mr. Coudert, of our Commission, spent several weeks abroad and also gave his personal attention to this work of examination. Through the kind assistance of Archbishop Corrigan, of New York City, we obtained access to the documents found in the Propaganda at Rome, which contain reports of the missionary establishments in a part of this disputed territory, and which proved of especial value in determining the extent and character of the Spanish occupation. The large collection of documents from the Spanish archives presented by the Venezuelan Government, as well as that found in the British Blue Book, led us to believe that there was no necessity for any further examination of such archives.

In the month of November, Professor Burr having returned from Holland, the material which he had collected, the British Blue Books, the Venezuelan documents, and the unprinted evidence which had been furnished by the Venezuelan Government, were all before us, together with such information as we had obtained from the Propaganda at Rome, and from our examination and perusal of the various books of history, travel, and international law, as well as of the diplomatic correspondence. At that time we received advices from the Secretary of State of the conclusion of negotiations looking to an arbitration of the matter in dispute. Our advices were conveyed in letters of date November 10 and December 28, copies of which are hereto attached.

Upon the receipt of these letters we stopped the work of examination and consultation, and since then we have been preparing an atlas and printing the testimony we have collected and the reports of experts. We had hoped to have everything in print and ready to submit before this, but owing to the time required for translation of documents and in securing accuracy in the maps we have been delayed and are unable to return these publications at the present time. We have thought it wiser to be accurate than swift, but hope within a few weeks to transmit to the State Department the completed work.

Our own publications will consist of four volumes, as follows:

Volume I, containing this report and several historical reports.

Volume II, documents from the Dutch archives, prepared by Professor Burr, together with certain miscellaneous documents furnished by the Venezuelan Government.

Volume III, cartographical reports.

Volume IV, an atlas comprising 76 maps.

We have also had bound a few copies of the following publications which have been presented to the Commission for its consideration:

British Blue Book, 5 volumes.

Venezuelan documents, 3 volumes.

Historical account, furnished by the Venezuelan Government, together with several briefs and arguments.

Before closing this report it is due to our secretary, Mr. Mallet-Prevost, that we record our appreciation of the great value of his services. He has been not only an admirable secretary in the ordinary sense of the term, but more than that, a wise counsellor and advisor. He has borne the burden of the detail work of the office, and has also assisted in the collection and collation of evidence and shared in our study and examination. His knowledge of the Spanish language and his experience in searching official records have enabled him to render constant assistance, while his untiring industry has largely lessened our own labors.

Of the employees in our office it is no more than justice to say that they have all proved competent and faithful.

In conclusion, may we not properly advert to the fact that while in consequence of the recent treaty between the two nations specially interested, which treaty was brought about by the active efforts of this Government, our own work has been terminated, the Commission has been a factor of no inconsiderable importance in the solution of the problem. It may be inappropriate for us to enter into any defense of the action of Congress in authorizing its creation, and yet it may not be amiss to notice that at that time there had been developed and was existing no little bitterness of feeling between the people of Great Britain and of the United States; talk of war was abundant, and the business interests of both nations were affected prejudicially by the possibilities of conflict.

The appointment of the Commission, though it had no absolute power of determining the question at issue, was accepted as affording a means for a full investigation of the question in dispute, and for an ascertainment by gentlemen impartial and disinterested, of the facts respecting the controverted boundary. The general belief that a full disclosure of the facts in respect to this troublesome question would open the way to some peaceful solution of the dispute promptly allayed the apprehensions of war, and all waited until this Commission should have completed its examination. Not only was this apprehension of conflict allayed, but each nation seemed to feel that the creation of the Commission was equivalent to an invitation to the two contesting nations to appear before the bar of public opinion and make each its showing as to the merits of its claim. It is not strange that under the influence of this, each nation proceeded not merely to state its contentions, but to examine the various depositories of evidence in Spain, Holland, Rome, London, Georgetown, and Caracas for proof of facts to sustain such contentions; and the many volumes of original matter taken from these depositories which, since the appointment of the Commission, have been printed, have thrown a flood of light upon the question.

More than that, as each nation has made thus independently its examination of historical and other facts, it would seem that each has become impressed with the conviction that the question is one of such nature as to justify reference to an arbitral tribunal; that there is no such absolute certainty of right on the part of either as to justify a mere forcible assertion thereof, and that the question is really one calling for judicial examination and determination. So, a wise and just view of the case is that the Commission has been a potent factor in bringing the two nations into a consent to submit the matter in dispute to an arbitral tribunal. We are not blind to the fact that the air to-day is full of arbitration as a just and proper way to settle international differences, and we can but hope that this Commission has

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helped to the consummation of such a happy result generally as well as in respect to this particular dispute. It is also believed that the mass of documents, maps, and reports, already referred to, which have been collected, sifted, and submitted to critical examination by the Commission, will prove to be of great use to the arbitral tribunal, materially abridging their labors, and therefore insuring a much more early solution and settlement of the question involved than would otherwise be possible, thus removing all the more speedily and completely a danger which has threatened normal international relations for many years past. All of which is respectfully submitted.

DAVID J. BREWER.
R. H. ALVEY.
F. R. COUDERT.
DANIEL C. GILMAN.
ANDREW D. WHITE.

FEBRUARY 27, 1897.

APPENDIX A.

OFFICE OF THE VENEZUELAN BOUNDARY COMMISSION,
Washington, D. C., January 15, 1896.

DEAR SIR: I have the honor to state that the Commission appointed by the President of the United States "to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana" has organized by the election of the Hon. David J. Brewer as its president, and is entering upon the immediate discharge of its duties.

In so doing it has, after careful consideration, concluded to address you on the question of securing, so far as possible, the friendly cooperation and aid of the two nations which are directly interested in the now-pending boundary differences.

It must have suggested itself to you, as it no doubt has to the President, that this Commission, thus authorized to ascertain and report upon the boundary line between two foreign nations, bears only a remote resemblance to those tribunals of an international character of which we have had several examples in the past. They were constituted by or with the consent of the disputants themselves, and were authorized by the parties immediately concerned to pronounce a final judgment. The questions at issue were presented by the advocates of the various interests, upon whose diligence and skill the tribunal might safely rely for all data and the arguments essential to the formation of an intelligent judgment. Their functions were, therefore, confined to the exercise of judicial powers, and they might fairly expect to reach a result satisfactory to their own consciences, while it commanded the respect of those whose interests were directly involved.

The present Commission neither by the mode of its appointment nor by the nature of its duties may be said to belong to tribunals of this character. Its duty will be discharged if it shall diligently and fairly seek to inform the Executive of certain facts touching a large extent of territory in which the United States has no direct interest. Whatever may be the conclusion reached, no territorial aggrandizement nor material gain in any form can accrue to the United States. The sole concern of our Government is the peaceful solution of a controversy between two friendly powers, the just and honorable settlement of the title to disputed territory, and the protection of the United States against any fresh acquisitions in our hemisphere on the part of any European State.

It has seemed proper to the Commission, under these circumstances, to suggest to you the expediency of calling the attention of the Governments of Great Britain and Venezuela to the appointment of the Commission, and explaining both its nature and object. It may be that they would see a way, entirely consistent with their own sense of international propriety, to give the Commission the aid that it is no doubt in their power to furnish in the way of documentary proof, historical narrative, unpublished archives, or the like. It is scarcely necessary to say that if either should deem it appropriate to designate an agent or attorney, whose duty it would be to see that no such proofs were omitted or overlooked, the Commission would be grateful for such evidence of good will and for the valuable results which would be likely to follow therefrom.

Any act of either Government in the direction here suggested might be accompanied by an express reservation as to her claims and should not be deemed to be

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an abandonment or impairment of any position heretofore expressed. In other words, and in lawyers' phrase, each might be willing to act the part of an *amicus curiæ*, and to throw light upon difficult and complex questions of fact, which should be examined as carefully as the magnitude of the subject demands. The purposes of the pending investigations are certainly hostile to none, nor can it be of advantage to any that the machinery devised by the Government of the United States to secure the desired information should fail of its purpose.

I have the honor to remain, your most obedient servant,

DAVID J. BREWER, *President.*

The SECRETARY OF STATE.

DEPARTMENT OF STATE,
Washington, January 18, 1896.

SIR: I have the honor to acknowledge yours of the 15th instant, and to say that I have communicated the views and suggestions therein contained to her Britannic Majesty's Government and to the Government of the Republic of Venezuela.

Respectfully, yours,

RICHARD OLNEY.

Hon. DAVID J. BREWER,
*President Venezuelan Boundary Commission,
1412 Massachusetts avenue NW., City.*

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, February 1, 1896.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 18th ultimo, relative to the organization of the Commission appointed by His Excellency the President of the United States, to examine the true boundary line between the Republic of Venezuela and British Guiana, and to report concerning the result of their examination.

Your excellency refers to various suggestions made in a letter from the Hon. David J. Brewer, the presiding officer of the Commission, concerning the propriety of the parties immediately interested in the matter intrusted to said Commission, assisting it by furnishing to it such documentary evidence, historical narratives, and unpublished archives as may be in their possession or at their disposal, and by appointing an agent or attorney to see that such evidence is furnished.

I transmitted a copy of your excellency's aforesaid note to the ministry of foreign relations on the 22d ultimo, and I did so with the more pleasure, since the contents of that note are in perfect accord with the voluntary offer which my Government had already made to the Department of State through this legation to furnish all the data collected by it relative to its boundary dispute with Great Britain, which offer is the best pledge of the good will with which it should be considered as being prepared to comply with this just desire of the Commission.

I avail myself of this opportunity to renew to your excellency the assurances of my highest consideration.

JOSÉ ANDRADE.

His Excellency RICHARD OLNEY,
Secretary of State, Washington, D. C.

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, January 9, 1896.

SIR: The ministry of foreign relations of Venezuela has for a long time been collecting ancient documents and maps, with a view of strengthening the title of the Republic to the absolute possession to the territory occupied by Great Britain north and west of the Essequibo, and as the Boundary Commission appointed by His Excellency the President may desire, on beginning its work, to have at its disposal the largest possible number of data relative to the case which it is to examine, I have the honor to bring the above circumstance to your excellency's notice, and to inform you that my Government is prepared to send all that long series of antecedents to Washington, if the Commission shall think it necessary.

Accept, your excellency, the assurances which I here renew of my highest consideration.

JOSÉ ANDRADE.

His Excellency RICHARD OLNEY,
Secretary of State.

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UNITED STATES OF VENEZUELA, MINISTRY OF FOREIGN AFFAIRS,
Caracas, January 10, 1896.

Resolved, In view of the fact that there are in the national library and in the archives of this office many valuable documents and maps of ancient date, some of them of British and Dutch origin, as also important historical and geographical works of analogous character and of remote origin, collected during the past years by the National Government and its agents abroad with a view to the elucidation of the boundary question in Guiana, and of establishing the rights of Venezuela in that contention; and in view of the fact that the present circumstances seem singularly opportune for an exposition in synoptical form of the titles in support of the claims of the Republic, the constitutional President of the Republic has deemed it proper to name a commission composed of four members, who will be charged with the duty of carefully examining, arranging, classifying, and indexing all documents and cartographical evidences referred to, and to prepare an official report containing a synopsis of said records, documents, maps, and histories, and thus giving to their work an authentic character in the grave matter treated of. The labors of the commission will be aided at the same time by the works, maps, and documents found in other libraries and archives, and even by the reports of a technical character made to the National Government since the beginning of the controversy by those agents charged with the study of the conditions of the usurped Venezuelan territory. The members of the commission will be named immediately by special resolution, to the end that they may commence their labors forthwith and complete them if possible before the close of the session of Congress of 1896. The locality of the commission and where it will hold its sessions will be in the upper saloon of the Yellow House, fronting the west avenue.

Let it be communicated and published.

P. EZEQUIEL ROJAS.

UNITED STATES OF VENEZUELA, MINISTRY OF FOREIGN AFFAIRS,
Caracas, January 10, 1896.

Resolved, In accordance with the resolution of this same date, relative to the examination and classification of the documents, works, and maps collected in this office with the view of elucidating the question of limits between Venezuela and British Guiana, that Dr. Rafael Seijas, as chairman, Dr. Laureano Villanueva, Dr. Julian Viso, and Señor Marco Antonio Saluzzo, be, and are hereby, constituted the commission charged with the duties aforesaid.

Notify the nominees and then publish.

By the national executive.

P. EZEQUIEL ROJAS.

[Translation.]

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, D. C., February 26, 1896.

SIR: I have had the honor to receive your excellency's note of the 24th instant and the letter of the Hon. David J. Brewer, president of the Commission on the boundary between Venezuela and British Guiana, which your excellency inclosed therewith; and in conformity with the desire stated in both those communications I transmitted them forthwith to my Government by cable.

I deem it pertinent to the matter of which this note treats to inform your excellency that Mr. William L. Scruggs has been appointed by the President of the Republic the agent charged with submitting information to the aforesaid Commission and presenting reports relative to the titles and rights of Venezuela.

I beg your excellency to accept, etc.

JOSÉ ANDRADE.

The SECRETARY OF STATE.

[Translation.]

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, February 22, 1896.

SIR: In response to the invitation of the Hon. David J. Brewer, president of the Commission upon the boundary between Venezuela and British Guiana, addressed to the parties interested in the good results of the labors of that Commission and

cited in your excellency's note of the 18th of January last, of which I send a copy to my Government, the minister of foreign relations charges me to inform your excellency as follows:

"Toward the end of December last this department began to perfect a plan to facilitate in favor of those who may take part in the settlement of the boundary question the examination of the innumerable documents, works, and maps collected by Venezuela with the object of reinforcing her rights in the controversy. That plan eventually resolved itself into the appointment of a commission of eminent men, composed of four members having a vote, and their operations with respect to the aforesaid maps, documents, and works are clearly defined in the order published in No. 6606 of the Official Gazette, where likewise appears the appointment of the persons chosen for that office.

"By this you will see that the labors of the classifying commission embrace making a synthetical report concerning the spirit or nature of the documents, with the aid of which these, together with the books and maps, may be examined much more rapidly and carefully, and therefore to greater advantage. The Government has deemed this more consonant with the necessities of the case than would be the dispatch of the documents themselves, forthwith, without any key thereto or summary or index to facilitate their examination. The time which the Venezuelan Commission will consume in this work will be made up later on in clearness and in method, as well as in rapidity and order, in so far as concerns the examination of the important collection."

I avail myself of this occasion, etc.

JOSÉ ANDRADE.

His Excellency RICHARD OLNEY,
Secretary of State.

DEPARTMENT OF STATE,
Washington, February 10, 1896.

SIR: I have just received from our ambassador at London cipher telegram, copy of which, translated, is as follows:

"British minister for foreign affairs readily places at the disposal of the Government of the United States any information in the hands of Her Majesty's Government relating to Venezuelan boundary. Engaged in collecting documents for presentation to Parliament. He will have great pleasure in forwarding advance copies as soon as completed."

Respectfully, yours,

RICHARD OLNEY.

HON. DAVID J. BREWER,
President Venezuelan Commission.

APPENDIX B.

DEPARTMENT OF STATE,
Washington, November 10, 1896.

MY DEAR JUDGE: You will see by the morning papers that that has happened which at our last interview I said was likely to happen within three or four days.

The United States and Great Britain are in entire accord as to the provisions of a proposed treaty between Great Britain and Venezuela. The treaty is so eminently just and fair as respects both parties—so thoroughly protects the rights and claims of Venezuela—that I can not conceive of its not being approved by the Venezuelan President and Congress. It is thoroughly approved by the counsel of Venezuela here and by the Venezuelan minister at this capital.

In view of this situation, it is extremely improbable that the Commission of which you are president will be called upon to make a report. In the view of the President and myself it is also desirable that the deliberations of the Commission should be suspended—for reasons which I stated to you at our last interview and which I need not repeat—until further notice. There need be no ostentation about the suspension nor any special publicity given to it. But I wish to be in a position to assure all parties concerned that such is the fact.

Please treat this as strictly confidential.

Very truly, yours,

RICHARD OLNEY.

HON. DAVID J. BREWER,
President Venezuelan Boundary Commission.

VENEZUELAN BOUNDARY COMMISSION.

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DEPARTMENT OF STATE,
Washington, December 28, 1896.

SIR: I had the honor to inform you about the 10th of November last that Great Britain and the United States had reached a complete understanding between themselves respecting the Venezuelan boundary question; that they had agreed upon the provisions of a treaty for the arbitration of the question as between Great Britain and Venezuela; that there was little, if any, doubt that the arrangement would be acceptable to Venezuela; that in these circumstances a report from the Commission would probably not be required, and accordingly, that suspension of the labors of the Commission until further notice would not be out of place.

I have now the honor to apprise you that the expectations entertained when my communication was made in November last have been realized. The substantial provisions of the treaty referred to have been approved by the Venezuelan Government, so that when matters of details and form are arranged, nothing will remain but the customary signatures to the treaty and the submission of the same to the Venezuelan Congress for its ratification. There would therefore seem to be no reason why the Commission should not at once proceed to close up its work, which would seem to involve nothing more than putting the material it has collected into such shape as to make it easily available for the purposes of the arbitral tribunal to be constituted under the proposed treaty.

In thus notifying the Commission that there has ceased to be any occasion for the further prosecution of its labors, I am directed by the President to express his high appreciation of the diligence, skill, and effectiveness with which those labors have been conducted. That they have been instrumental in bringing about results of great and permanent value to the peoples of the three countries concerned can not be questioned.

Respectfully, yours,

RICHARD OLNEY.

HON. DAVID J. BREWER,
President Venezuelan Commission.

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Annex 66

Report of Counsellor Dr Rafael Seijas (4 May 1900)

Translation

Report of Counsellor Dr. Rafael Seijas
with which the Counsellor and the Director
who sign with him also agree.

Caracas, May 4, 1900.

It is not to be assumed that disavowal of the award by Venezuela would be successful. It is clear that at the outset the United States undertook to defend her; but after the visit of the British Minister Chamberlain, married to an American, to Washington, that country underwent a change of front. Therefrom flowed the bases of the Arbitration Convention which Messrs. Cleveland and Olney caused this Republic to accept, though it had absolutely opposed the prescriptive clause, the only one which it consented to when the last-named of the said statesmen negotiated it with the British Ambassador, Sir Julian Pauncefote. The close relations which have lately been developed between Great Britain and the United States, above all because of her attitude in the other's war with Spain, and which they have now repaid by their indifference to the fate of the South African republics, threatened by total ruin, does not permit the hope that rejection of the judgment will find favour in Washington, still less when one considers that the two American arbitrators concurred in it. President McKinley affirmed in his Message to Congress of the 5th of December last that the award appeared to have been satisfactory to both parties, and an American newspaper has been seen according to which M. Mallet-Prevost, one of our defence counsel, who was undoubtedly questioned on this matter by the State Department, said that he had not the slightest (? "doubt" omitted) of its acceptance by Venezuela.

As the treaty which set up the arbitral tribunal did not stipulate any requirement to give reasons for its decision, omission of the grounds for it does not permit any complaint on this score.

But there is another, more serious consideration. Venezuela authorised the appointment of two American arbitrators and of the fifth, M. de Martens. That is to say, it participated in the selection of three of the members of the tribunal, who therefore represented it. Thus it may be asserted that, through them, the Republic approved the arbitral decision, the more so as it has up to date uttered no word in opposition.

Now as regards Great Britain, its contempt for the weak being notorious and its persistence in laying hands on the mouth of our great river, a plan on which it has been working since the end of the 18th century, it is considered not only that it would not agree to Venezuela's opinion that the case should be reopened, but that it would take advantage of it with a view to retaining what it still holds, and very probably to extend its encroachment.

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The most superficial study of the case will convince anyone that if the Amacura, the Barima and the Cuyuni have been partly recovered, albeit with certain limitations, this has been solely and exclusively through American intervention, without which everything would have been lost as, without dissembance, say the British newspapers which have busied themselves with this case, and as asserted by Mr. Gladstone's son in a public speech. That otherwise the British Government would have retained the territory taken by force, and regarding which it would admit no discussion as to title, there is not the least doubt, nor also that Venezuela could have continued to count on the aid of the Anglo-American federation in this. As in man's private life, so in national life there are opportunities which occur only once. Although Venezuela would have gained more had the United States Government been consistent and allowed the work of the Washington Committee of Investigation to proceed until it had formed an opinion about the true dividing line between Venezuela and British Guiana, powerful Albion discovered in its infinite resources means of frustrating the efforts devoted in that American country to clarify Venezuela's rights. It had, then, to abandon the hopes it had placed in Mr. Cleveland's celebrated Message of 1895 and submit to the bases of the agreement in which Mr. Olney for his part concurred, as any other channel would have deprived us thereafter of the protection of the United States. We must not now rely on this (protection) in this case. Some newspapers there have censured Mr. Cleveland's favourable attitude towards us, and observe that when unjust conduct towards Venezuela was imputed to England, the arbitrators, including the Americans themselves, conceded it (Venezuela) less than had been offered by British Ministers: Lord Aberdeen in 1844, Lord Granville in 1881 and Lord Rosebery in 1886.

It is a very difficult matter for a State to deny recognising the validity of an act which it undertook by solemn agreement to regard as a full, perfect and definitive settlement of all questions submitted to arbitrators, as specified in Article XIII of the convention concluded at Washington on the 2nd of February, 1897 between Venezuela and Great Britain. The difficulty increases when the contendents find themselves in the respective positions of those two States. It would require very substantial reasons for this. Such are judged to be the grant to one party of more than the award allows or than what has been claimed; overstepping the mandate; corruption; impairment of the sovereign rights and independence of the two opponents.

What has occurred between the United States and Great Britain is generally known. They had covenanted in September 1827 to submit to the King of the Netherlands the question whether the dividing line of their possessions in the North-West had to pass through this or that point. The arbitrator did not carry out his task, but proposed an intermediate (line) which had to follow the line 450W. from the Connecticut River to the San Lorenzo. This decision was rejected by the United States Senate, although Great Britain seemed prepared to accept it. In 1842 the same parties settled the dispute between themselves.

In Venezuela we have the example of the invalidation of the findings of the Mixed Commission set up by the convention of 1865 between it and the United States to adjudicate in and settle claims by its citizens against this Republic. It proved that certain of its findings were the result of the bribery of Mr. Talcaje, American Commissioner, in association with the Minister-Resident Mr. Stilwel, Murray, his secretary, and others, this Government claimed invalidation of the findings issued in 1867-1868, and did

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not achieve this until 1883, notwithstanding that they had been declared valid before the Executive and Congress, and the use of force to obtain their execution had been sanctioned. It even ascribed the blame to Venezuela and recommended it be side-tracked. But finally the legislative committees charged with examining them abundantly recognised the justice of our accusations.

In recent times the case has become known of the claim of the Italian Cerruti against Colombia which, after several mishaps, was submitted to President Cleveland for arbitration. He is shown to have overstepped the authority contained in the agreement, extending the defendant's obligation to the payment of all the debts of the Company of which the claimant was a party. Though the Colombian Legation in Washington denounced the flaw when seeking an appeal, this was ignored; this again happened in Rome, despite the favourable opinion of the Italian publicist Pierantoni. The Colombian Government did not dare to reject the award outright, and the Italian (Government) demanded its execution, with the support of its Navy.

From private reports the Ministry knows that when the time arrived for pronouncing sentence, the British arbitrators declared for the second and expanded line of Schomburgs, which the British Government had concealed until 1886. The fifth arbitrator, M. de Martens, a partisan, according to the press, of the English cause, associated himself with the opinion of these, thus making a majority. The two American arbitrators then expressed strong views and energetic protests, as a result of which the three in the majority compromised on the adjustment adopted as the final award. The article on free navigation on the Amacura and the Barima probably emanated from the British arbitrators as a way of diminishing the loss of a sector of these. The American arbitrators lent themselves to this because in their country the principles of free river navigation were upheld in the last century against Spain in respect of the Mississippi and in this (century) against England over the San Lorenzo, principles which have also been the motive for requesting the opening of the Amazon to all flags.

Through an interview which someone had with Mr. Brewer, one of the American arbitrators, we have come to learn that each of the judges had his own view, different from the others. In effect he said: "Until the last minute I believed a decision quite impossible and, if a compromise were reached it would be by means of maximum conciliation and mutual concessions. If any one of us had been appealed to for an award, each would have given it a different amplitude and character. The consequence of this was that we had to adjust different views and finally to draw a line which ran mean to that which each considered equitable."

He also stated that the European jurists did not view the matter of priority of rights born of the discovery of the territory in the same way as the Americans.

He stated furthermore that there had been no proper voting, but that each judge had conceded something in his turn.

Asked if, in his judgment, Venezuela had a title to more than adjudged to it, he hesitated, shrugged his shoulders and said it was better to say nothing on this point, and ended by observing that whoever (sic? "whatever") the two parties thought of the award, Venezuela would receive Punta Barima which gives her full control of the hinterland, while England is confirmed in the possession of a territory in the development of which it has disbursed much money and effort; but that the main advantage is that the two nations can at last

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cultivate peacefully, side by side, the extensive territories which, because of previous antagonisms, have remained unproductive. 192

The leading lawyer for Venezuela, ex-President Harrison, replied to a journalist in these terms: "The decision of the Tribunal gives Venezuela far from all the territory to which I believe she is entitled, but much has been saved which would otherwise have been appropriated by Great Britain, much of which it had in fact acquired by force, before it would be persuaded to agree to the Venezuelan demand for arbitration, which it (Great Britain) had refused. The award gives Venezuela both banks of the Orinoco River up to its mouth including Punta Barima and the coastline for fifty or sixty miles East of Punta Barima. It also gives Venezuela considerable territory inland, of which the British had taken possession. The mouth of the Amacura River and Punta Barima up to the banks of the Orinoco were both occupied as British military posts. Another land post had been established inland on the Yuruán River, which the award gives to Venezuela and from which Great Britain will have to withdraw."

To appreciate the importance of this, it suffices to record the attitude adopted by the British Government in 1880 and reasserted many times by Lord Salisbury. This asserted that Great Britain's claim to the whole of the valley of the Cuyuni and the Turuáry was well-founded by reason of the settlement for three centuries of the Dutch and their successors, the British, in the larger part of the region; that not one of Her Majesty's Governments had ever recognised Punta Barima as Venezuelan territory; that Her Majesty's Government had always asserted that it had title to all the territory as far as the highlands and to the shoulders (sic.) of the Upata if not as far as the Orinoco itself; that all Venezuelan settlements to the East of this line are encroachments on the rights of Great Britain, and that it could not admit any question whatever of its title to the territory embraced by the line surveyed by Schomburg in 1841.

For his part, the fifth arbitrator, Professor de Martens, speaking to Reuter's correspondence stressed the importance of the award for, among other reasons, its unanimity as no other award since 1873 had obtained more than a majority and this when large interests were involved and in which an area of 50,000 square miles was in dispute. And, he added, "the frontier line which the judges drew is a line based on equity and law. The judges were motivated by the desire to establish a compromise in a most complicated case, the origin of which has to be sought in the end of the fifteenth century".

It is difficult to comprehend the two last statements by E. de Martens because they contradict each other. The judges, and in this case these were the arbitrators, had to decide in conformity with law and equity without taking account of what was advantageous to the parties or the conciliation of their interests. In the bargaining to reach this agreement, the litigants themselves also contributed by abating their respective claims.

It is not the legal arbitrators, but the free arbitrators or amicable mediators, who are able, with the explicit sanction of the parties, to seek and agree to ways of composing their differences.

General Harrison and M. Mallet-Prevost believe that the line drawn was a diplomatic compromise and not a legal one; that had the British claim been equitable the line should have been drawn much more to the west and, if it was not equitable,

nothing more to the suit; that neither in the history of the dispute nor in the legal principle which it entailed was there anything to explain the line established; that in adopting this system arbitration cannot be regarded as an advantage.

All publications relating to the case which have reached the Ministry have been read.

Many American papers regard the award as a success for arbitration; many consider that it was a compromise and that for fear of a repetition of the failure, it is not suitable to use it in the case of the Alaska frontier.

Almost all the articles are condensed and not detailed. Only the "New York Sun" of October 5th last discusses the dispute thoroughly and concludes that the award has proved to be a fiasco for Venezuela because the arbitrators had exceeded their powers.

English newspapers endeavour to conceal their country's loss, though not a few admit it and take pains to minimise it; the majority agree in acknowledging that if Venezuela has gained in part this is due to United States intervention.

It follows therefore that the arbitrators mistook the purpose of the arbitration in fixing a compromise line and not an equitable one.

Moreover, the irregularity went even further. The award placed the parties under an obligation to open the Amacura and Barima Rivers, in peace-time, to merchant vessels of all nations, all being subject to equitable regulations and the payment of lighthouse (? beacon) and other analogous dues; not to fix these higher than for their own vessels or those of any other nation; and not to levy them on merchandise in transit through their respective sections of the rivers, but only on those off-loaded on their territory.

It fell to the arbitrators to determine the dividing line, not to legislate and still less to introduce into the Report principles contrary to those so far followed by it and which certain newspapers consider to be applicable to the Orinoco itself.

In a Paris newspaper, the Colombian, Sr. Filemon Buitrago, contends that this contradiction and overstepping of powers is real.

In fact, here, apart from one occasion and for a short interval, the principle of freedom of river navigation has not been accepted. Whenever the point has been raised with Colombia, Venezuela has denied the legality of the claim by that country to navigate down to the sea on those rivers whose upper reach is in its territory and the mouth in ours. The last discussion on this was in 1899 with the Minister, Doctor Rico.

Despite the foregoing exposition, I consider that it would not be expedient to reopen the case and appoint other arbitrators, or to extend the jurisdiction of those who have served as such, since their mandate ended with the pronouncement of the award.

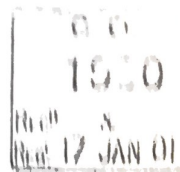
I have translated some of the documents cited by Mr. Harrison, Mallet-Prevost, Brewer, de Martens at meetings, such as the article in the "New York Sun".

Caracas, May 4, 1900.

(sd) RAFAEL SEIJAS. (sd) JOSE NUÑEZ DE CAJERES

Annex 67

British Guiana, Report of the British Commissioners appointed to Demarcate the boundary between the colony of British Guiana and the United States of Venezuela (8 Dec. 1900)



British Guiana.

REPORT

OF

THE BRITISH COMMISSIONERS

APPOINTED TO

DEMARCATÉ THE BOUNDARY

Between the Colony of British Guiana and
the United States of Venezuela;

TOGETHER WITH THE

DIARY OF THE SAID COMMISSIONERS.

PART I.

Printed by the Authority of His Excellency the Governor.

GEORGETOWN, DEMERARA:

G. K. JARDINE, PRINTER TO THE GOVERNMENT OF BRITISH GUIANA.

1900.

No. 10647.

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MURURUMA CREEK,

8th December, 1900.

SIR,—

I have the honour to forward for the information of His Excellency the Acting Governor the following resumé of the doings of the Commissioners since the arrival of the Venezuelan Commissioners, in the gunboat *General Crespo* at Georgetown on the 13th November, 1900.

2. The *General Crespo* arrived in the river Demerara at 4 p.m., on the 13th November, and the Venezuelan Commissioners were met shortly after by His Excellency's Aide-de-Camp and Private Secretary, Captain Feilden, Senior County Inspector Kerr, Captain Cecil May, and Mr. Commissioner Widdup, as also the Venezuelan Consul Señor Argia.

3. The gentlemen comprising the Venezuelan Commissioners, are :—

Señor Felipe Aguerrevere,	Engineer-in-Chief.
„ Santiago Aguerrevere,	1st Assistant Engineer.
„ Abraham Tirado,	2nd Assistant Engineer.
„ Trino Celis Rios,	Legal Adviser.
„ Dr. Elias Toro,	Medical Officer.
„ Lorenzo M Osio,	Draughtsman.
„ Gustave Michelena,	Interpreter.

4. The Venezuelan Commissioners were received by His Excellency the Acting Governor, at Government House, at 10.30 a.m., 14th ultimo, Señors Aguerrevere (2) and Abraham Tirado afterwards met the English Commissioners McTurk, Baker and Widdup at Eve Leary Barracks, their credentials were exhibited, and a general outline of after operations agreed on. In the evening, the Commissioners (English and Venezuelan) were entertained at dinner by His Excellency at Government House.

5. Commissioners Baker and Widdup left Georgetown in the Steamer *Penworthan* for Morawhanna on the 15th, and Mr. Commissioner McTurk left later in the day in the sloop *Baridie*, after assisting the Venezuelan Commissioners in rating Chronometers at the Lighthouse.

6. On the 17th November, the English Commissioners were all at Morawhanna awaiting the arrival of the Venezuelan Commissioners in the *General Crespo* off the mouth of the Waini.

7. On the 19th November, Commissioners McTurk, Widdup and Perkins left Morawhanna to meet the Venezuelan Commissioners off the mouth of the Waini as previously agreed on. Captain Baker went to the Mururuma to clear a place at the mouth of that Creek. At the mouth of the Waini Commissioner McTurk remained in the *Baridie* to await the arrival of the *General Crespo*, Messrs. Widdup and Perkins going on in the launch to Point Playa. The *General Crespo* arrived off the Waini at 3 p.m., and was met and piloted off Point Playa by Commissioner McTurk in the sloop *Baridie*. Both vessels anchored off Point Playa for the night. Commissioners Widdup and Perkins also remained in the launch.

8. The Commissioners met at Point Playa on 20th, after a perilous landing through the surf, and preparations were made by the Venezuelan Commissioners for taking astronomical observations during the coming night. Commissioners McTurk and Perkins returned on board of the *Baridie* and left for Morawhanna, leaving Commissioner Widdup to attend the Venezuelan Commissioners.

9. The Venezuelan Commissioners succeeded in taking observations during the night of the 20th and morning of 21st November, suffering very considerable inconvenience from the numerous sandflies and mosquitoes. After again passing through the surf, they and Commissioner Widdup arrived on board of the launch at 11 a.m., and left for Morawhanna. The *Baridie* was met in the Mora passage and towed up to the Barima, arriving there at 4 p.m. Simultaneously with their arrival the *General Crespo* was seen steaming up the Barima.

10. The Commissioners, English and Venezuelan, assumed possession of the Government Officers' Quarters for their accommodation while at Morawhanna. Commissioner Baker arrived at 8 a.m. on 22nd, having completed the clearing at the mouth of the Mururuma Creek and cleared a portion of the Creek.

11. The geographical position of Point Playa as agreed on by the Commissioners (English and Venezuelan) was Latitude $8^{\circ} 33' 22''$ North and Longitude $59^{\circ} 59' 48''$ West of Greenwich. The position as computed by Mr. Commissioner McTurk and Lieutenant Simms of H.M.S. *Tribune* previously, was Latitude $8^{\circ} 33' 25''$ North and Longitude $59^{\circ} 59' 48''.5$ West, thus differing $3''$ in Latitude and $5''$ in Longitude.

12. On 24th November, a formal document, in duplicate, was drawn up and signed, both in English and Spanish, by the English Commissioners and by Senor Felipe Aguerrevere and Trino Celis Rios, Venezuelan Commissioners, in which the geographical position of Point Playa was definitely recorded and agreed on, copies were sent to the Honourable the Acting Government Secretary.

13. On the 25th Commissioner McTurk left for Mururuma after rating chronometers. On the 26th the other English Commissioners arrived at Mururuma at 8.45 a.m. Commissioner Baker went on to Huiowa, Amacura River, to clear the canal at the mouth of the creek. The *General Crespo* with the Venezuelan Commissioners arrived at 12.30 p.m. The Commissioners were lodged in the house nearly opposite to the Mururuma Creek hired by Commissioner McTurk for the purpose. The *General Crespo* left at 5 p.m. Men sent to clear a passage up the creek.

14. Commissioners McTurk and Santiago Aguerrevere went up the Mururuma on the 27th November, as far as the depth of water would allow. 30 barrels of stone, 10 of sand and 6 of cement received ex sloop *Hypatia*.

15. The men were employed clearing the trees from the side of the Barima, clearing the view to the Mururuma creek.

16. Commissioner Baker returned from the Amacura, having made a clearing at the mouth of the Huiowa creek.

17. On 1st December, the men engaged in clearing a passage up the Mururuma returned reporting the upper part of the creek as very shallow. Other men were engaged in bringing the stone and sand across from the mouth of the Mururuma creek, as it was decided by members of both Commissioners to place the beacon on the left bank of the Barima in line with the centre of the creek and Point Playa. The Venezuelan labourers cutting the line in the direction of Point Playa.

18. On the 3rd the men were again sent to continue the clearing of the Mururuma creek, English and Venezuelan labourers were digging and laying foundation

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of the boundary beacon. Venezuelan Commissioner Senor Santiago Aguerrevere was surveying the Mururuma creek.

19. Commissioner McTurk and two Indians left at midday on 5th, for the head of the Mururuma creek. Men employed on boundary beacon. It is 3ft. 6in. above ground.

20. On 6th Commissioner McTurk arrived at head of the Mururuma creek, at 3 p.m., and found its source in a wet savannah. Labourers employed cutting line in direction of Point Playa under direction of Commissioners Baker and Perkins.

22. The boundary beacon completed 7th. It rests on a solid foundation and its position as agreed on by the Commissioners is latitude $8^{\circ} 18' 53'' \frac{1}{4}$ north, longitude $59^{\circ} 48' 28'' \frac{7}{8}$ west, the position of the mouth of the Mururuma, being latitude $8^{\circ} 18' 44''$ north, longitude $59^{\circ} 48' 10''$ west.

23. Men still clearing line in direction of Point Playa on 7th. Mr. Commissioner McTurk returned at 5 p.m., having left the head of the creek at 8.55 a.m. The boundary beacon bears the following inscription on its sides; on the east, British Guiana, and on the west, EE: UU de Venezuela. Its latitude and longitude are also inscribed on its ends. Mr. W. H. McTurk, who had left for Georgetown on the 19th invalided, returned well.

24. For further detail, please see copy of diary attached.

I have, &c.,

(Sgd.) MICHAEL McTURK,
Senior Commissioner.

The Honourable
The Acting GOVT. SECRETARY.

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COPY OF THE DIARY OF THE BOUNDARY COMMISSIONERS FROM 5TH TO 26TH
OCTOBER, 1900.

October 5th.—Mr. McTurk and Captain Baker left Georgetown in H. M. S. *Tribune*, Captain Rolleston, at 12.30 p.m. for Point Playa.

October 6th.—The *Tribune* anchored at 11 a.m. Waini Point bearing South, distant 7 miles. At 1.30 p.m. Mr. McTurk, Captain Rolleston and Lieutenant Simms, left the *Tribune* for the purpose of locating Point Playa—for lack of local knowledge they failed to find the Point and returned at 7 p.m.

October 7th.—At 5.30 a.m. Mr. McTurk and Lieutenant Simms left the *Tribune* in the steam launch for Morawhanna. Returned at 5.15 p.m. with Mr. Cox, the Acting Magistrate at Morawhanna, after having arranged with some fishermen resident in the locality to meet them at Point Playa to-morrow.

October 8th.—At 9.30 a.m., Messrs. McTurk, Simms and Cox left the *Tribune* in the Steam launch towing a batteau brought from Georgetown to land in at Point Playa. As agreed on, they met the fishermen, who with Mr. Cox, pointed out Point Playa. During the night Messrs. McTurk and Simms determined the Latitude ($8^{\circ} 33' 25''$ North) by stellar observations under very unfavourable circumstances of weather.

October 9th.—This morning Messrs McTurk and Simms determined the Longitude of Point Playa ($59^{\circ} 59' 48'' \cdot 5$ West.) The party in the batteau were afterwards towed off to the ship, arriving on board at noon. The *Tribune* left for Demerara at 3 p.m.

October 10th.—The *Tribune* anchored off the Demerara Light Ship at 4 p.m.

October 11th.—Commissioners in Georgetown. Messrs. McTurk & Simms took observations at Lighthouse to rate Chronometers.

October 12th.—Boundary Commissioners left Demerara in *Tribune* for Point Playa, having in tow a Public Works Punt containing materials, &c., for erecting the proposed mark at Point Playa, and also a batteau for landing the same.

October 13th.—At noon, the *Tribune* anchored off Point Playa—4 miles distant. The Punt was sent in shore. Later in the day the Punt was visited by the Commissioners and Captain Rolleston, and her safety assured of.

October 14th.—At 4 a.m., the Commissioners with Lieutenant Simms left the ship in the steam launch for Morawhanna and Mururuma Creek. On arrival at Morawhanna a number of men were engaged to unload the punt and assist in the erection of the mark on Point Playa. Mr. Commissioner Baker left with these men for this purpose in the *Tribune's* launch at mid-day. Taking the Government launch, Mr. Commissioner McTurk, Lieutenants Simms, Bigg-Wither, and Hyde, went down the Barima to Mururuma Creek to determine its position. This night was cloudy, with rain at intervals, and no observations could be taken.

October 15th.—On this night the latitude of Mururuma Creek was obtained. ($8^{\circ} 18' 55'' \cdot 1$ North.)

October 16th.—The local mean time at Mururuma was obtained. The latitude ($8^{\circ} 17' 00''$ North) and longitude ($59^{\circ} 43' 54''$ West) of Morawhanna was determined. At 12.30 p.m. the party left Morawhanna in the Government launch for Waini Point, arriving there at 2.30 p.m. Its position (latitude $8^{\circ} 23' 39''$ North, longitude $59^{\circ} 46' 56'' \cdot 5$ West) was determined by solar and stellar observations. At 9.15 p.m. the party left for the *Tribune*.

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October 17th.—The observers arrived on board the *Tribune* at 1.30 a.m. At 6.30 a.m. the *Tribune's* steam launch left to bring off Mr. Commissioner Baker and the party erecting the mark on Point Playa. Mr. Commissioner McTurk went in the launch and found the mark completed and returned with the shore party at 11.15 a.m. The men from Morawhanna were then transferred to the Government launch, and with the batteau in tow left for their homes. At noon the *Tribune* left for Georgetown.

October 18th.—The *Tribune* arrived off the Demerara Lightship at 5.38 a.m.

October 19th.—Commissioners in Georgetown, Mr. Commissioner McTurk took sights at Lighthouse to rate chronometers.

October 20th.—Commissioners in Georgetown, Mr. Commissioner McTurk made out Report.

October 21st.—Commissioners in Georgetown.

October 22nd.—Commissioners in Georgetown. Report sent in to the Hon'ble the Acting Government Secretary.

October 23rd.—Mr. Commissioner Baker in Georgetown; Mr. Commissioner McTurk left Georgetown for Kalacoon.

October 24th.—Mr. Commissioner Baker in Georgetown. Mr. Commissioner McTurk arrived at Kalacoon.

October 25th.—Mr. Commissioner Baker in Georgetown. Mr. Commissioner McTurk at Kalacoon.

October 26th.—Mr. Commissioner Baker in Georgetown. Mr. Commissioner McTurk at Kalacoon.

Certified a true copy,

(Sgd.) MICHAEL McTURK,
Senior Commissioner.

A. W. BAKER,
Commissioner.

CONTINUATION OF THE OFFICIAL DIARY OF THE VENEZUELAN BOUNDARY
COMMISSIONERS.

October 27th.—Mr. Commissioner Baker in Georgetown. Mr. Commissioner McTurk at Kalacoon.

October 28th.—Mr. Commissioner Baker in Georgetown. Mr. Commissioner McTurk left Kalacoon at 10.40 a.m. for Georgetown.

October 29th.—Mr. Commissioner McTurk arrived in Georgetown. On this day a telegram was sent to Mr. Commissioner McTurk calling him to Georgetown.

October 30th.—Commissioners in Georgetown. Mr. Commissioner McTurk took sights at the Lighthouse to rate chronometers.

October 31st.—Meeting of Commissioners, Guiana Public Buildings.

Reference:—

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November 1st—To-day Dr. Widdup and Mr. Perkins were added to the Commission. The Commissioners met at 11 a.m. Present: Mr. Commissioner McTurk, Mr. Commissioner Baker, Mr. Commissioner Widdup, and Mr. Commissioner Perkins.

November 2nd—Meeting of Commissioners 11.30 a.m. Present: Mr. Commissioner McTurk, Mr. Commissioner Baker, Mr. Commissioner Widdup and Mr. Commissioner Perkins. Copy of Diary and expenses up to 26th October sent in to the Hon. the Acting Government Secretary. Letter containing instructions for the Commissioners and forwarding a copy of the Commission sent to Dr. Widdup and Mr. Perkins, received and acknowledged.

November 3rd—Commissioners in Georgetown. Mr. Commissioner McTurk and Mr. Commissioner Perkins attended at the office of the Public Buildings.

November 4th—Commissioners in Georgetown.

November 5th—Mr. Commissioner McTurk took sights at the Lighthouse to rate chronometers.

November 6th—Commissioners in Georgetown.

November 7th— Do.

November 8th—Mr. Commissioner Perkins left Georgetown for Morawhanna, taking stores for the Commissioners and two batteaux.

November 9th—Commissioners in Georgetown.

November 10th— Do.

November 11th— Do.

November 12th—Mr. Commissioner McTurk took sights to rate chronometers. Commissioners Baker and Widdup attended at the office at the Public Buildings.

November 13th—Venezuelan Commissioners arrived off Fort in Gunboat *General Crespo* at 4 p.m. They were met on arrival by Capt. Feilden, A.D.C., Private Secretary to the Governor; Mr. Commissioner Widdup, Inspector Kerr (Senior County Inspector), Capt. Cecil May and Capt. Fenton, also the Venezuelan Consul, Senr. Arga. The Venezuelan Commission consists of the following:—

- Senr. Felipe Aguerrevere—Engineer-in-Chief.
- ” Santiago Aguerrevere—1st Asst. Engineer.
- ” Abraham Tirado—2nd Asst. Engineer.
- ” Trino Celis Rios—Legal Adviser.
- ” Elias Toro—Medical Officer.
- ” Lorenzo M. Osio, Draughtsman.
- ” Gustave M. Michelena—Interpreter.

November 14th—Venezuelan Commissioners were received by the Governor at Government House at 10.30 a.m. Subsequently, at 1.30 p.m., three of their number—Senrs. Felipe and Santiago Aguerrevere and Abraham Tirado, met and consulted with the English Commissioners, McTurk, Baker and Widdup, at Eve Leary. Credentials were exchanged and a general outline of the line of operations was agreed upon. In the evening the Commissioners (Venezuelan and English) were entertained at Government House to dinner.

November 15th—Commissioners Baker and Widdup left Georgetown in s. s. *Penworthan* for Morawhanna. Commissioner McTurk started later in the *Baridie* sloop. During the morning the latter was detained, assisting the Venezuelan Commissioners to arrange their chronometers. Chronometers rated at lighthouse before leaving. The Venezuelan Commissioners will start on Saturday to meet English Commissioners in front of Point Playa.

November 16th—Commissioners Baker and Widdup arrived at Morawhanna at 11 a.m., and were met by Commissioner Perkins. They proceeded to the Public Officers' Quarters.

November 17th—Commissioner McTurk arrives in the *Baridie*, between 1 and 2 p.m. Arrangements were made to meet the Venezuelan Commissioners at Point Playa on Monday, the 19th instant. Meanwhile Commissioner Baker was to proceed to Mururuma to clear certain portions of land.

November 18th—Commissioners employed labourers for the 19th instant.

November 19th—Commissioner McTurk left in the *Baridie* at 6 a.m., Commissioner Baker at 6.30 a.m. and Commissioners Widdup and Perkins started in the steam launch at 6.45 a.m., to overtake Commissioner McTurk and, if necessary, tow the *Baridie* through the Mora passage. The *Baridie* was overtaken close to the entrance of the Mora and towed as far as the Waini point. The Venezuelan gun boat was not in sight. Commissioners Widdup and Perkins proceeded in the steam launch, taking with them the surf boat, as far as Point Playa. Having landed there, they remained there until 3.30 p.m., and as the other Commissioners had not yet arrived, they returned to the steam launch and went to find a safer anchorage at a place nearer to the Waini mouth. At 4 p.m., they perceived in the distance the masts of the *General Crespo* and the *Baridie* in company. Steaming in the direction they spoke to Commissioner McTurk, who instructed them to anchor outside and facing Point Playa. They remained there for some time and perceiving that the *General Crespo* and *Baridie* had both anchored for the night, the men were sent on shore in the surf boat to remain until morning, and the steam launch went to its former position and there anchored.

November, 20th—The *Baridie* lay in deep water about 2 miles off Point Playa. Commissioners Widdup and Perkins went in the steam launch close to the point and waited the return of the men in the surf boat. They returned about 6.20 a.m. and the two Commissioners went on shore in the boat to await the arrival of the other Commissioners, meanwhile the steam launch proceeded to the *General Crespo* and *Baridie*, and took off Commissioner McTurk and Venezuelan Commissioners Señors Felipe and Santiago Aguerrevere, and Tirado. These, after experiencing considerable difficulty with the surf, succeeded in landing at 9 a.m. The concrete slab placed in position by Commissioners McTurk and Baker on a former visit was viewed. Preparations were made by the Venezuelan Commissioners to remain the night at Point Playa to take observations. As accommodation on land was limited, Commissioners McTurk and Perkins went on board the *Baridie*, leaving Commissioner Widdup to attend the Venezuelans.

November 21st.—The night was a cloudy one up to a late hour. The annoyance suffered from sandflies and mosquitoes was intense. It was 3 o'clock a.m. before satisfactory observations could be taken. At 8.30 sun observations were taken. At 11 a.m., the Commissioners went on board the Steam Launch, having again experienced great difficulty in getting through the surf. The result of twelve observations was the following:—

English Commissioners determination of latitude—	8° 33' 25" N.
Venezuelan do.	8° 33' 20" N.
Mean latitude decided upon	8° 33' 22" N.

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The *Baridie* was met at the mouth of the Mora passage, and the Commissioners proceeded in a body to Morawhanna; simultaneously with their arrival was seen the *General Crespo* steaming up the Barima.

November 22nd.—Commissioner Baker arrived at 8 a.m. with the following memorandum—“19th Nov.—Left for Mururuma at 6.45 a.m. with ten men to clear the land at the mouth of the creek for sight-taking, and raising the Beacon. Engaged three extra men to clear the creek. 20th Nov.—Clearing land, three men clearing creek.” “21st Nov.—Went up the Mururuma creek in Corial at 5.30 a.m., returned at 2 p.m.—all the men (except 2 with me) clearing the creek. Venezuelan gunboat “passed at 3.16 p.m. 22nd Nov.—Left for Morawhanna at 6 a.m.”

Venezuelan and English Commissioners engaged in comparing observations with the following result:—

Longitude determined	...	...	59° 59' 48" W. in Arc.
"	...	...	3' 59. 59.2 in time.

November 23rd.—Commissioners (British and Venezuelan) engaged in rating Chronometers. A severe thunderstorm during the morning, followed by heavy rain.

November 24th.—A document was drawn up fixing the latitude and longitude of Point Playa as being the boundary limit on the Coast line between Venezuela and British Guiana, a translation was made in English, the Original in Spanish. These documents were signed in duplicate by the English Commissioners and by Señors F. Aguerrevere and Rios on the part of the Venezuelan Commissioners, after which they were exchanged, the English document and the Spanish duplicate being sent to the Governor. Commissioner Baker with a boat's crew went to the Mururuma creek at 5.45 a.m., returning at 4.45 p.m., and reported himself to the 1st Commissioner on board, the *Baridie* having proceeded up the Creek as far as possible.

November 25th.—Commissioner McTurk proceeded to Mururuma in the *Baridie* at 11.30 a.m. The morning was passed rating chronometers.

November 26th.—Commissioners Baker, Widdup and Perkins proceeded to Mururuma at 7.30 a.m. with steam launch and three boats. They arrived at Mururuma at 8.45 a.m. and crossed the river to where the *Baridie* was anchored. They were met by Commissioner McTurk and lodged in the house of one Jose, an Indian holding a grant in front of the Mururuma Creek, on the right bank of the Barima River. Half an hour afterwards Commissioner Baker proceeded with a boat's crew to the Hiawa Creek, going by the Barima and Amacura route. A boat and six men were despatched at 10 a.m. to clear a passage up the Mururuma Creek. At 12.30 p.m. the *General Crespo* arrived and anchored. The Venezuelan Commissioners were put on shore, tents were put up and their stores landed. At 5 p.m. the *General Crespo* started for Trinidad. During the night both English and Venezuelan Commissioners were engaged taking observations from the stars.

November 27th.—English Commissioner McTurk and Venezuelan Commissioner Santiago Aguerrevere went up the Mururuma Creek as far as could be reached. When the tide changed they were obliged to return as there was not water to float the canoe. They were unable to overtake the men already sent up. Cement (6 barrels) was landed and stores put under the house. Stone and sand received per sloop *Iypatia*.

November 28th.—Chronometers were rated. The Venezuelan Commissioners had their men engaged on this side of the Barima clearing a line to take the bearings of the mouth of the Mururuma Creek.

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November 29th.—The latitude and longitude decided at Jose's Grant were as follows:—

Latitude—	8	18	56	north ; result of 25 observations.
Longitude—	59	48	30	west.
		h.	m.	s.
=	3	59	14	in time.

November 30th.—Commissioner Baker returned from Hiawa at 8 p.m.

December 1st.—All Commissioners at Jose's house. The gang sent up the Mururuma Creek on the 26th ult. returned at 4 p.m. They went up the Creek as far as the water would allow them, but did not arrive at its head. Towards the west they saw two hills of moderate elevation. They observed certain plants growing on the banks which usually indicate the proximity of savannah. A second gang was engaged in bringing stone from the mouth of the Mururuma Creek for the purpose of building a beacon on this side of the river at a place agreed upon. The Venezuelan gang were engaged in clearing a line on the north western side of Jose's farm, in the direction of Point Playa. Commissioner Perkins went to Morawhanna to post letters.

December 2nd.—Commissioner Perkins arrived from Morawhanna. All the Commissioners at Jose's farm.—A few of the men complain of intestinal disorders.

December 3rd.—Eight of the men refused to turn out to work this morning complaining that their wages had not yet been paid them, and that the quantity of food served them was insufficient. Four hands were sent up the Mururuma Creek to continue clearing—to its head, if possible. Five men together with the Venezuelans are making preparations for the erection of the beacon. Commissioner Widdup went to Morawhanna.

December 4th.—Hands engaged in making foundations for beacon. Others in clearing away the brushwood in front. Commissioner Widdup returned from Morawhanna with money for paying the hands. Those who struck work were not re-engaged.

December 5th.—Venezuelan Commissioner Santiago Aguerrevere engaged surveying the Mururuma Creek. Commissioner McTurk started in a light corial to reach the creek head, all efforts to do this hitherto have failed on account of the shallow water far up the creek. The beacon constructed of concrete is nearly complete. It has a foundation of three feet below the surface resting on piles driven into the earth. Its elevation is 3 ft. 6 ins. over the level of the ground. Its top is in the shape of an angular roof, the medium line pointing in the direction (though not quite accurately) of the Mururuma mouth. There is a straight line drawn on the upper surface whose terminations point in the directions of Point Playa and Mururuma mouth respectively.

December 6th.—The line on the north-western side of Jose's farm is being cleared. It is decided to extend it so far in the direction of Point Playa as to be beyond the limit of all possible grants. Another beacon is to be erected three hundred metres from the first one in the same straight line towards Point Playa in order completely to facilitate the determining of the boundary limits for all future time. Four men were engaged to supply the place of some of those who struck work.

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December 7th.—The beacon is now finished. On the end facing the Moruruma mouth is the longitude, on that facing Point Playa the latitude. On the North-Eastern and South-Western sides respectively "British Guiana" and "E.E.U.U. de Venezuela." A gang is still occupied clearing the line on the North-Western side of Jose's farm. Commissioner McTurk returned from the Mururuma Creek at 4.30 p.m. At 3 p.m. on the previous day the head of the creek was reached. The four men sent up for clearing purposes on the 3rd instant were encountered. As was supposed, there is an open savannah inland from whence the creek originates. Commissioner McTurk started to return at 9 a.m. to-day.

Mr. W. H. McTurk, who had left for Georgetown invalided on the 19th ultimo, returned, having quite recovered his health.

A barrel of biscuits has arrived in to-day's steamer.

(Sgd.) MICHAEL McTURK,

Senior Boundary Commissioner,

December 8th, 1900.

Annex 68


Ministry of Foreign Relations of Venezuela, [*Resolución de 8 de junio de 1903, por la cual se reconstituye la Comisión Venezolana de límites con la Guayana Británica*] *Resolution of 8 June 1903, creating the Venezuela Boundary Commission* (8 June 1903)



STATE OF NEW YORK)
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 COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached Resolution 8972, dated June 8, 1903.



 Laura Musich, Managing Editor
 Lionbridge

Sworn to and subscribed before me

this 15 day of FEBRUARY, 20 22.



JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU8169789
Qualified in New York County
My Commission Expires 09-23-2023

8972

Resolution of June 8, 1903, reconstituting the Venezuelan Commission on Boundaries with British Guiana.

United States of Venezuela. Ministry of Foreign Affairs. Directorate of Foreign Public Law. Caracas: June 8, 1903. 92 and 45.

Resolved:

By order of the Constitutional President of the Republic, the Venezuelan Commission responsible for representing the Government in the demarcation of the border with British Guiana pursuant to the Arbitral Award of June 3, 1899, is hereby reconstituted. This Commission shall be composed of the Chief Engineer, with the authorities set forth in Article 2 of the Executive Decree of September 22, 1900, an Assistant Engineer, and a Doctor, each of whom shall begin to perform their respective duties and shall be transferred without delay to the relevant border location which requires, subject to agreement with the British Commissioners, immediate activity in the demarcation work until such work has been completed.

The respective appointments shall be made in a separate Resolution.

To be notified and published.

On behalf of the Federal Executive Branch,

ALEJANDRO URBANEJA

8973

8972

Resolución de 8 de junio de 1903, por la cual se reconstituye la Comisión Venezolana de límites con la Guayana Británica.

A. Estados Unidos de Venezuela.—Ministerio de Relaciones Exteriores.—Dirección de Derecho Público Exterior.—Caracas: 8 de junio de 1903.
—92° y 45°

Resuello:

Por disposición del Presidente Constitucional de la República se reconstituye la Comisión Venezolana encargada de representar al Gobierno en el deslinde de la frontera con la Guayana Británica conforme al Laudo Arbitral de 3 de junio de 1899. Dicha Comisión se compondrá del Ingeniero en Jefe, con las atribuciones á que se refiere el artículo 2° del Decreto Ejecutivo de 22 de setiembre de 1900, de un Ingeniero Auxiliar y de un Médico, los cuales entrarán desde luego en el ejercicio de sus respectivos cargos y se trasladarán sin demora al lugar de la frontera que exija, previo acuerdo con los Comisionados Británicos, inmediata actividad en los trabajos de deslinde hasta su completa terminación.

Por Resolución separada se harán los correspondientes nombramientos.

Comuníquese y publíquese.

Por el Ejecutivo Federal,

ALEJANDRO URBANEJA.

8973

Annex 69

British Guiana, Recommendations of the Boundary Commissioners for the Adoption of the Line of the Watershed between the Caroni, Cuyuni and Mazaruni River Systems as the Boundary between the Source of the Wenamu River and Mount Roraima in place of the Direct Line Mentioned in the Award of the Arbitral Tribunal of Paris, Dated 3rd October 1899, British Guiana Combined Court, Annual Session (10 Jan. 1905)

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British Guiana.

COMBINED COURT.

ANNUAL SESSION, 1905.

(SESSIONAL PAPER.)

(IN CONTINUATION OF SESSIONAL PAPER No. 266.)

RECOMMENDATIONS

OF THE

BOUNDARY COMMISSIONERS

FOR THE

ADOPTION OF THE LINE OF THE WATERSHED BETWEEN THE CARONI, CUYUNI AND MAZARUNI RIVER SYSTEMS,

AS THE

BOUNDARY BETWEEN THE SOURCE OF THE WENAMU RIVER AND MOUNT RORAIMA,

IN PLACE OF THE

DIRECT LINE MENTIONED IN THE AWARD OF THE ARBITRAL TRIBUNAL OF PARIS, DATED 3RD OCTOBER, 1899.

Printed by the Authority of His Excellency the Governor.

GEORGETOWN, DEMERARA:

ESTATE OF C. K. JARDINE, DEED. PRINTERS TO THE GOVERNMENT OF BRITISH GUIANA. 1905.

COMBINED COURT No. 267.

No. 12865.

GEORGETOWN, DEMERARA,

10th January, 1905.

We the undersigned Commissioners, appointed by our respective Governments to delimit the Boundary between the United States of Venezuela and British Guiana, have the honour to submit herewith our recommendation for the adoption of the line of the watershed between the Caroni, Cuyuni and Mazaruni River systems, as the Boundary of the aforesaid territories, from the most western source of the Wenamu River to Mount Roraima, in place of the direct line mentioned in the Award of the Arbitral Tribunal of Paris, dated 3rd October, 1899.

2. Our reasons in agreeing to make this recommendation, are:—

- (i.) On account of the more natural division between the two territories which the watershed line would make, dealing with the matter from a strictly geographical point of view, whereby the various streams, tributary to the large rivers of each country, would be included entirely within the territory of the country to which such rivers pertain.
- (ii.) That a boundary following the watershed can be more easily traced at any future time because it is permanently marked out by the natural features of the region, whereas a straight line would intersect many special natural characteristics of the country, and would require where it passes through forest country—and the greater part of it in this case would be through forest—to be constantly kept open and defined.
- (iii.) That many of the streams would be divided by a straight line, and if they were utilised in the future for mining or other purposes, complications might arise as to the use of the water in them.
- (iv.) That the Indians resident in the region would be better able to appreciate the fact that certain streams belonged to one country or the other if the streams were entirely included on one side or the other, and they would then be able to restrict their occupation to any one system of streams, and claim the protection of the Government to which the territory belonged. This would not be the case if a direct line were adopted, and this applies more especially to the Kamarang river and its tributaries where there is a considerable population of Indians.
- (v.) The cost of defining on the land and keeping clear a direct line from point to point, passing over mountains densely covered with forest which prevails for three-quarters of its entire length, and in places traverses inaccessible mountains which rise 8,600 feet above sea level with precipitous sides of from 1,500 to 2,000 feet, would be practically prohibitive in such a remote region, and would be in our opinion a work of almost insuperable difficulty.

3. The course of the line following the watershed may be described as follows:— Starting in dense forest from the Westernmost source of the Wenamu river, it passes close to the head of the Paruima river and thence over the mountains at the sources of the Gramapapa and Utsi rivers, thence along a range of hills dividing the Kamarang and Apongwong waters to the source of the Kelepomapa river where the Savannah commences, and thence it goes on in savannah to a swamp, the common source of the Wenawai and the Iwaipai rivers, the former of which flows into the Kawarang and the latter into the Kelepomapa, itself a tributary of the Apongwong. Continuing in savannah, it passes the head of the Maura (also a Kamarang tributary) in proximity to which the savannah gives way to forest, and thence to an

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isolated pinnacle at the northern part of Mount Ilutipu at the sources of the Warupa river; thence along the top of the precipitous Mountain Ilutipu passing the sources of the Kama and Karowlieng rivers to the summit of Mount Muwarima; thence to the top of Waiakapiapu and thence to a source of the Yurununi river on Iwalkarima Mountain, and thence to the most northern point of Kukenam Mountain, and along its flat top passing several sources of the Yuruani river to the head of the Waruma, and thence to the Boundary mark on Mount Roraima at the head of a tributary of the Waruma, and thence along the top of Mount Roraima to the head of the Cotinga river, passing the sources of the Kamaiwa and Arobopo rivers.

4. A boundary line following the watershed from Wenamu head to Roraima if adopted in place of a direct line between the same points would result in a gain to British Guiana of an area of 222.6 square miles or 576.506 square kilometres.

The adoption of the watershed line as the boundary, we would suggest, may be arranged by our respective Governments with a view to compensating the United States of Venezuela for the extra territory (222.6 square miles) acquired by Great Britain.

ABRAHAM TIRADO.

H. I. PERKINS.

C. WILGRESS ANDERSON.

[Faint, mostly illegible text, likely bleed-through from the reverse side of the page. Some words like "WATER" and "boundary" are visible.]

[03.1 - 1]

Annex 70

Department of Foreign Affairs of Venezuela, [*El Libro Amarillo: Presentado al congreso Nacional en sus sesiones de 1911*] *The Yellow Book: Presented to the National Congress in its 1907 Sessions* (1911) (excerpt)

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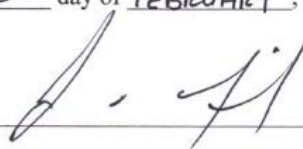
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CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached excerpts from El Libro Amarillo de los Estados Unidos de Venezuela.



 Lynda Green, Senior Managing Editor
 Lionbridge

Sworn to and subscribed before me
 this 20th day of FEBRUARY, 2022.


LAURA E MUSICH
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01MU6386791
 Qualified in Queens County
 My Commission Expires 01-28-2023

EL LIBRO AMARILLO

DE LOS

ESTADOS UNIDOS DE VENEZUELA

PRESENTED TO THE

NATIONAL CONGRESS

AT ITS 1911 SESSIONS

BY THE

MINISTER OF FOREIGN RELATIONS

OFFICIAL EDITION

CARACAS
AMERICAN TYPOGRAPHY
1911

XXVIII

STATEMENT

Legation of England in
Caracas.

His Excellency F. D. Harford has been appointed Resident Minister of Great Britain in Caracas and was received by the President of the Republic with all the honors befitting his high position.

Posts in Punta Playa

The sea having destroyed the post placed as a marker for the boundary between Venezuela and British Guyana on the seashore in Punta Playa, and part of the land where said post was erected having flooded, it has been agreed with the British Government that commissioners from the two Governments shall proceed to erect a post on dry land at the place marking the dividing line between Venezuela and British Guyana. The performance of this work has been delayed until next October because of the rains.

Claims paid by Venezuela,
whose owners have not
appeared.

The owners of certain claims filed with the Mixed Commission created by the protocols of 1903 to decide on the claims of British subjects against the Venezuelan government that were acknowledged by said Commission have not appeared, and as such, there was no one to claim the amount awarded for said claims. In view of this, the government requested that any amounts overpaid in this regard be returned, and the British Legation made 2,850 pounds, 8 shillings available to this Ministry, the total amount of the unclaimed awards, which was delivered to the Ministry of the Treasury to be returned to national coffers.

Gold discoveries on the
Guyanese border.

Recent gold discoveries on the Wenamu River in Venezuelan territory bordering British Guyana have given rise to the arrival on our soil of certain prospectors in search of gold, who smuggle [it] into British territory. When the government learned of this, it took necessary steps to end this abuse and the authorities of British Guyana issued the measures [...]

XXXIV

STATEMENT

[...] Compañía Orinoco matter, its return to Venezuela was ordered following submission of a detailed memorandum to the Dutch Ministry of Foreign Affairs, in which it was made aware of the Venezuelan government's goodwill; though, not to the point of being given to passing over reasons of great weight and universal rules that cannot be ignored in dignified international relations between peoples.

The only point preventing a permanent agreement with the Netherlands stems from the fact that, in the Protocol it proposes, it includes the award of a large sum of Bs. 400,000 to Mr. Thielen for damages to his interests in Caracas in 1910. The reason behind the attack on the homes of H. Thielen and Ca. [Company] was not Mr. Thielen's Dutch nationality, rather many other issues leading to the Caracas population's aversion to said firm, whose members considered General Tello Mendoza, Thielen's father-in-law, Minister of the Treasury and Public Credit, who was later Governor of the Federal District, to be protecting and defending said firm; it was also believed that inventory had been smuggled in; it must be pointed out that there was no attack against Dutch subjects, which is amply proven by the evidence that what happened to Thielen was not due to nationality; moreover, the government cannot be held liable for events of this nature, even less so when they immediately suppressed them, and it is widely known that the President of the Republic led national forces to quell the riot. Pursuant to Article 21 of our Constitution, Mr. Thielen cannot seek compensation from the Nation for damages, losses, or expropriations that have not been carried out by any legitimate authority; however, [...]

EL LIBRO AMARILLO

DE LOS

ESTADOS UNIDOS DE VENEZUELA

PRESENTADO AL

CONGRESO NACIONAL

EN SUS SESIONES DE 1911

POR EL

MINISTRO DE RELACIONES EXTERIORES

EDICION OFICIAL

CARACAS
TIPOGRAFIA AMERICANA
1911

- Legación de Inglaterra en Caracas. El Exceelentísimo Señor F. D. Harford ha sido nombrado Ministro Residente de la Gran Bretaña en Caracaas, y fue recibido por el Presidente de la República con todos los honores correspondientes á su elevado carácter.
- Postes en Punta de Playa. Habiendo destruido, el mar, el poste colocado como marea del lindero entre Venezuela y la Guayana Inglesa en la orilla del mar en Punta de Playa, é inundado parte del terreno donde se levantó aquel poste, se ha convenido con el Gobierno Inglés en que comisionados de los dos Gobiernos procedan á levantar un poste en tierra firme en el punto que marque la línea divisoria entre Venezuela y la Guayana Inglesa. La ejecución de este trabajo ha sido retardado por causa de las lluvias hasta octubre próximo.
- Reclamaciones pagadas por Venezuela cuyos dueños no han aparecido. No aparecieron los dueños de algunas reclamaciones hechas ante la Comisión Mixta creada por los protocolos de 1903, para decidir acerca de las reclamaciones de los súbditos ingleses contra el Gobierno de Venezuela, y que fueron reconocidas por aquella Comisión, y no hubo por tanto, quien reclamara la suma acordada á tales reclamaciones. El Gobierno, en vista de éello, pidió la devolución de la suma que se había pagado de más, por este respecto, y la Legación Británica puso á disposición de este Ministerio la cantidad de Libras 2.850, 8 ch. á que montaban las adjudicaciones no reclamadas, cuya cantidad fue entregada al Ministerio de Hacienda para su reintegro en las Arcas Nacionales.
- Descubrimientos auríferos en la frontera de Guayana. Los recientes descubrimientos auríferos en el Río Venamo, en territorio venezolano, linítrofe con la Guayana Inglesa, ha dado lugar á la entrada á nuestro suelo de algunos exploradores en busca de oro, que llevan clandestinamente al territorio inglés. Al saberlo el Gobierno, dió los pasos necesarios para cortar el abuso y las Autoridades de la Guayana Inglesa dictaron las medidas

asunto de la Compañía Orinoco, se dispuso su regreso á Venezuela, después de presentar á la Cancillería holandesa un memorandum circunstanciado, en que se le hace saber toda la buena disposición que anima al Gobierno de Venezuela; más, nh hasta el punto de serle dado pasar por sobre razones de gran peso y reglas universales que son impretermitibles en las decorosas relaciones internacionales de los pueblos.

El único punto que impide llegar á un arreglo definitivo con Holanda proviene de que ella incluye en el Protocolo que propone, la adjudicación de una suma elevada que asciende á B. 400.000 al Señor Thielen por perjuicios sufridos en sus intereses en Caracas en 1910. El ataque á las casas de H. Thielen y C^a, no reconocía por causa la nacionalidad holandesa del Señor Thielen, sino que otras muchas causas motivaron la inquina del pueblo de Caracas contra aquella firma, entre cuyos miembros consideraba al Señor General Tello Mendoza, suegro de Thielen, Ministro de Hacienda y Crédito Público que había sido, después Gobernador del Distrito Federal, y, á quien consideraba que amparaba y protegía dicha firma y estimaba además, que las existencias habían sido introducidas de contrabando; hay que advertir que no hubo ningún ataque á súbdito holandés, lo que demuestra hasta la evidencia que, lo ocurrido á Thielen, no fue por motivo de nacionalidad; por otra parte, el Gobierno no puede considerarse responsable de hechos de esa naturaleza, menos, cuando los reprimió inmediatamente, y es público y notorio que el Presidente de la República se puso á la cabeza de fuerzas nacionales para reprimir el motín. El Señor Thielen no puede pretender, conforme al artículo 21 de nuestra Constitución, que la Nación le indemnice daños, perjuicios ó expropiaciones que no han sido ejecutados por ninguna autoridad legítima; sinembargo, tiene

Annex 71

Memorandum from the Venezuelan Ministry of Foreign Affairs, No. 1638 (16 Dec. 1931) *in* Caracas *despatch* No. 51 (25 Dec. 1931)

Ministerio de Relaciones Exteriores

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Caracas: 16 de diciembre
de 1931

De conformidad con el Laudo de Paris, de 3 de octubre de 1899, la línea divisoria entre Venezuela y la Guayana británica termina con una recta que une las fuentes del río Venamo con la cumbre del Roraima. Este último punto es, además, el final de la frontera entre la misma Guayana y el Brasil.

En el año de 1904, fijaron los Comisionados encargados de replantear la línea del Laudo entre Venezuela y la Guayana británica un poste en el sitio donde juzgaron, muy a la ligera, que debía ser un punto terminal; pero según lo han comprado posteriores estudios, dicho poste no está situado en la cumbre del Roraima sino en uno de los bordes de la gran meseta en que remata el referido monte.

El deseo que abriga Venezuela es precisamente el que se indica en la segunda parte del telegrama del Foreign Office al ministro inglés en Caracas y que éste se ha servido comunicar en copia a la Cancillería, esto es, ajustar el poste de 1904 a la posición que debe ocupar en el Roraima, o sea en el punto en que coinciden los tres linderos, el de Venezuela, el de la Guayana británica y el de Brasil. Esta solución es la única que permite dar a la línea divisoria la condición de ser una recta entre las fuentes del Venamo y el Roraima, como lo exigen las voces del mencionado Laudo. Si se conservara el poste de 1904, para unirlo después con el punto

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punto donde concurren los tres linderos, resultaría dos rectas en vez de una sola.

Los inconvenientes que podrían existir para llegar a la solución de que se trata, serían, en todo caso, mínimos, puesto que el punto de concurrencia quedará necesariamente determinado al trazarse la frontera entre la Guayana británica y el Brasil, ya que forma parte de esta última frontera, y que para esgogerlo ha invitado la Gran Bbetaña a Venezuela para que envíe un Comisionado especial. Además, en el telegrama a que antes se alude, da por sentado que el referido punto va a ser determinado, al señalar la ventaja de que se prolongue hasta él la frontera anglo-venezolana.

Bastará, por tanto, para realizar el deseo de Venezuela, que al fijarse ese punto de concurrencia, se le caracterice como punto final de nuestra frontera con la Guayana británica, y se le enlace con el de las fuentes del Venamo, prescindiendo en absoluto del poste de 1904.

Esta operación no aumentaría en nada el trabajo de los Comisionados, ni tampoco los que han de emprenderse con posterioridad, para trazar la recta Venamo-Roraima.

En cambio, para la solución que se propone en el Telegrama del Foreign Office, es decir, conservar el poste de 1904 y unirlo con el punto de concurrencia de los tres linderos, se presenta para Venezuela el grave inconveniente de que para esto se necesitaría la expresa autorización del Congreso Nacional, por razón del cambio de frontera que dicha solución implica.

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Enclosure II in Caracas despatch No 51, of 25 December, 1931.

Translation.

Directorate of Foreign Affairs, 272
 International Political Affairs: No 1683.
 Memorandum.

In accordance with the Paris Award of the 3rd of October, 1899, the Anglo-Venezuelan boundary ends with a straight line drawn from the sources of the Venamo to the summit of Roraima. The latter is also the terminal point of the Anglo-Brazilian boundary.

In 1904 the Commissioners entrusted with the marking of the line of the Award between Venezuela and British Guiana placed a mark at the spot which they judged, on very hasty consideration, should be the terminal point; but further investigation has shown that this mark is not on the summit of Roraima but on one of the edges of the great plateau which forms the top of the mountain.

The desires of the Venezuelan Government are precisely those indicated in the second part of the Foreign Office telegram to the British Minister, of which he was good enough to communicate a i.e. to adjust the 1904 mark to its proper position on Roraima, is to the point where the three boundaries meet. This solution is the only one which allows of making the boundary one straight line between the sources of the Venamo and Roraima, as required by the terms of the Award. If the 1904 mark were retained and connected with the point of trijunction the result would be two straight lines instead of one.

The difficulty of carrying out the solution in question would in any case be very slight, since the trijunction point must necessarily be determined in drawing the boundary between British Guiana and

Brazil

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Brazil, since it forms part of that boundary and since Great Britain has invited Venezuela to send a special commissioner to select it. Moreover the telegram above mentioned assumes that the point in question is to be determined, in pointing out the advantage of prolonging it to the Anglo-Venezuelan frontier.

In order to carry out the wishes of the Venezuelan Government, it will be sufficient that when this junction point is fixed it should be made the terminal point of the Anglo-Venezuelan frontier and connected with the point at the sources of the Venamo, absolutely discarding the 1904 mark.

This procedure would in no way add to the work of the Commissioners nor to the subsequent work of laying down the Venamo-Roraima line.

On the other hand the solution proposed in the Foreign Office telegram, i.e. that the 1904 mark should be retained and connected with the trijunction point, presents the serious difficulty for Venezuela that it would require the express authorisation of the National Congress, on account of the alteration of the frontier which it implies.

Caracas, 16 December, 1931.

Annex 72

Memorandum on British Guiana from Secretary of State Dean Rusk for President John F. Kennedy *enclosing* Action Program for British Guiana (12 July 1962)
(excerpt)

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ACTION PROGRAM FOR BRITISH GUIANA

IV. The CongressA. Discussion

The Senate Foreign Relations and the House Foreign Affairs Committees appear reluctant to discuss British Guiana. They sense difficulties comparable to those experienced in Cuba. They seem to wish to avoid being implicated in a possible failure to stop communism in British Guiana. There is particular concern about "aid to Jagan" which may get involved with the current debate on aid to Poland and Yugoslavia. It is important that as many Congressmen as possible are informed about our approach to the British Guiana situation and that they support our policy. For reasons of security only certain Congressmen can be informed of the general nature of our entire program. We should persist in our efforts to brief the Congress along the following lines.

B. Action by State and AID

Brief selected Congressmen taking the following approach:

- 1) Our objective is an independent British Guiana under a non-Communist government prepared to take its place in the inter-American system.
- 2) Such a new government should have a multi-racial complexion. It should have a realistic economic and social development program. It should favor private investment.
- 3) There is political ferment in the Colony and increasing dissatisfaction with Jagan. This dissatisfaction stems from his incompetence and to a lesser extent from his ideology. The bulk of the population is pro-American. There are persistent reports of communist connections on the part of the leaders of the P.P.
- 4) New elections are likely prior to independence. While opposition groups are strong they are divided among themselves. The results of the election are hard to predict. (A full briefing of the racial and political alignments would be given together with an analysis of the previous election results.)

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5) The British bear primary responsibility for the colony. They are anxious to decolonize quickly but they wish to do so decently. They are under pressure in the US to abandon colonialism. Latin American opinion is hostile to European colonialism in the Western Hemisphere. Latin American opinion would in general share our objective in British Guiana. The British have already postponed the independence conference originally projected for May.

6) We plan to continue for the moment our modest technical assistance program. This keeps our feet in the door and our technicians in contact with grass roots public opinion which is pro-American. We will conduct various surveys in connection with the evaluation of a possible development program. Should the political situation become favorable, we would then consider extending modest economic assistance.

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ACTION PROGRAM FOR BRITISH GUIANA

V. Public Opinion and PropagandaA. Discussion

There is a steady flow of mail and expressions of press interest in the British Guiana situation. This is stimulated partly by Americans of Guianese descent and partly by the activities of opposition groups in the Colony seeking financial support in the U.S. Jagan's appointment with the President, his speech at the National Press Club, and his appearance on television in October 1961 developed public interest. The riots and the burning of Georgetown in February has kept this interest alive. Among right-wing groups in the U.S., the Christian Anti-Communist Crusade has been the most active. Both Dr. Schwartz and his colleague Dr. Sluis have been gazetted as prohibited immigrants into the Colony due to the Crusade's activities there. Public comment generally views developments in the Colony with alarm and urges that action (unspecified) be taken. All oppose the giving of "aid to Jagan".

B. U.S. Public Line

1. Avoid comment in the immediate future as far as possible. If forced to give opinions we should view the situation with concern and indicate our sympathy for the people of British Guiana. We would point out that primary responsibility rests with the U.K. which has postponed the date of the independence conference originally scheduled for May.

2. Later, when developments warrant, we should step up U.S. public statements emphasizing: (a) the mismanagement of the Jagan government; (b) the communist ideologies of certain PIP leaders and their significance.

C. Propaganda

1. We should stimulate now in Latin America, especially the Caribbean, and if possible in the U.K., public statements on the line of two above.

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ACTION PROGRAM FOR BRITISH GUIANA

VI. Contingency Plans

A. Discussion

Should the program described above fail completely there are other actions which could be taken to hamper or prevent a communist takeover in British Guiana. Each has severe drawbacks and is less desirable than the action proposed. The Venezuelan and Brazilian claims are considered to be weak and neither country desires to take over the narrow coastal strip on which British Guiana's population and its problems are located. The deliberate promotion of racial strife or character assassination is repugnant to most Americans. Race riots in British Guiana could have serious repercussions in Surinam and Trinidad which also have mixed African and Indian populations.

B. Diplomatic

1. Encourage Venezuela and possibly Brazil to pursue their territorial claims. This could result in an indefinite delay in independence.

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Annex 73

[Aide-Memoire presentado por el Dr. Marcos Falcón Briceño al Hon. R. A. Butler] Aide-Memoire presented by Marcos Falcón Briceño to the Hon. R.A. Butler (5 Nov. 1963)

LIONBRIDGE

STATE OF NEW YORK)
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 COUNTY OF NEW YORK)

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CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached excerpts.



Lynda Green, Senior Managing Editor
Lionbridge

Sworn to and subscribed before me

this 23rd day of February, 2022.



ETHAN WIN LY
NOTARY PUBLIC-STATE OF NEW YORK
 No. 01LY623702
 Qualified in New York County
 My Commission Expires 04-27-2023

AIDE-MEMOIRE PRESENTED BY DR. MARCOS FALCON BRICENO, MINISTER OF FOREIGN RELATIONS OF VENEZUELA, TO THE HONORABLE R.A. BUTLER, MINISTER OF FOREIGN RELATIONS OF GREAT BRITAIN, ON NOVEMBER 5, 1963, AT THE CONFERENCE THEY HELD IN LONDON.

The history of the border between Venezuela and British Guyana can only be fully known and understood by researching the papers of the men who intervened in it.

These papers have only been made available to scholars and expert researchers during the last decade: the papers of Benjamin Harrison, Richard Olney, Lord Salisbury, Joseph Chamberlain, David Brewer, Daniel Gilman, Severo Mallet-Prevost, and others.

In light of this recently discovered and compiled evidence, Venezuela has conclusive proof that it sustained a non-pecuniary and legal loss when it was deceived and deprived of its legitimate territory by the 1899 Award.

This new evidence fully confirms Venezuela's argument that the territory located west of the Essequibo is legitimately its own and continues to be part of its national sovereignty.

Under these circumstances, on November 16, 1962, Venezuela secured an official agreement at the United Nations to the effect that "the three governments shall examine the documentation in the possession of all parties related to this matter" (Document A/5313. Program Topic 88).

Venezuela notes with regret that Great Britain has only offered the archives of the Foreign Office for its examination.

Since it did not have full access to British archives, Venezuela, gained access by private means to the official and private papers of the men who participated in the history of its eastern border.

Based on available evidence, the government of Venezuela has clarified the following facts:

1) The line of the Award follows Schomburgk's "extended line" very closely. British archives show that the maps on which this line was based were falsified. Furthermore, the British evidence showing how Schomburgk's original line followed the Essequibo River and that Schomburgk's restricted line was of an official nature was concealed from the Tribunal.

2) The injustice of the Award is such that it gave British Guiana some six thousand eight hundred square miles (approximately 17,604 km²) of the territory that Great Britain had officially recognized as Venezuelan, without dispute, until the appearance of the spurious "Expanded Schomburgk Line" in 1886, and this territory was only a portion of the area legitimately claimed by Venezuela.

3) The line of the Award was effectively fixed by Britain in July 1899 and extrajudicially imposed by British lawyers on the British judges, who acted as biased lawyers for their country rather than as Judges.

4) The acceptance of the Award line was imposed on the Judges through undue pressure from the President of the Tribunal, Professor Frederick de Martens.

5) The line of the Award was not a line of law but one of political compromise, described as a "shady deal" and "farce" even by British officials.

6) The Tribunal exceeded its powers. It even went so far as to decree the free navigation of the Amacuro and Barima Rivers, a decision evidently designed to exclusively ensure the interests of Great Britain.

7) By signing the 1897 Arbitration Treaty under moral duress, Venezuela was also misled as to the meaning of the statute of limitations clause.

8) Until 1899, Venezuela had no knowledge of the official and secret correspondence that led to the 1897 Treaty. Moreover, it is only now that Venezuela has learned that British lawyers exerted undue pressure on the American lawyers in order to force them to accept the British interpretation of the statute of limitations clause.

9) Despite the fact that Venezuela was coerced into acceding to the Treaty, it was nevertheless confident that the Treaty guaranteed a judicial process with exclusion of power to carry out any political or diplomatic transaction. However, the decision issued on October 3, 1899, was one of compromise, not of law.

HISTORICAL TRUTH AND JUSTICE DEMAND THAT VENEZUELA SEEK THE FULL RETURN OF THE TERRITORY OF WHICH IT HAS BEEN DISPOSSESSED, and in this regard it confidently relies upon the goodwill and cooperation of Her Majesty's Government.

London, November 5, 1963.

AIDE - MEMOIRE PRESENTADO POR EL DR. MARCOS FALCON BRICEÑO, MINISTRO DE RELACIONES EXTERIORES DE VENEZUELA, AL HON. R. A. BUTLER, MINISTRO DE RELACIONES EXTERIORES DE GRAN BRETAÑA, EL 5 DE NOVIEMBRE DE 1963, EN LA CONFERENCIA QUE CELEBRARON EN LONDRES.

La historia de la frontera entre Venezuela y Guayana Británica solamente puede conocerse y entenderse plenamente a través de la investigación en los papeles de los hombres que en ella intervinieron.

Estos papeles han quedado abiertos a los estudiosos y expertos investigadores solamente durante la última década: los papeles de Benjamín Harrison, Richard Olney, Lord Salisbury, Joseph Chamberlain, David Brewer, Daniel Gilman, Severo Mallet-Prevost y otros.

A la luz de esta evidencia recientemente descubierta y recopilada, Venezuela tiene pruebas concluyentes de que sufrió un perjuicio moral y legal en cuanto que fue engañada y privada de su legítimo territorio por el Laudo de 1899.

Esta nueva evidencia confirma plenamente el argumento de Venezuela de que el territorio situado al oeste del Esequibo es legítimamente suyo, y sigue siendo parte de su soberanía nacional.

Bajo estas circunstancias el 16 de noviembre de 1962, Venezuela obtuvo en las Naciones Unidas un acuerdo oficial al efecto de que "los tres Gobiernos examinarán la documentación en poder de todas las partes y relativas a este asunto" (Documento A/5313. Tema 88 del Programa).

Venezuela observa con pesar que la Gran Bretaña ha ofrecido para su examen solamente los archivos del Foreign Office.

En vista de que no tuvo acceso pleno a los Archivos británicos, Venezuela, por vía privada se procuró el acceso a papeles oficiales y privados de los hombres que hicieron la historia de su frontera oriental.

De la evidencia disponible el Gobierno de Venezuela ha precisado los siguientes hechos:

1) La línea del Laudo sigue muy de cerca la "Línea Expandida" de Schomburgk. Los archivos británicos demuestran que los mapas sobre los cuales se basó esta línea eran adulterados. Más aún, la evidencia británica que mostraba cómo la Línea original de Schomburgk seguía a lo largo del río Esequibo y que la línea restringida de "Schomburgk" tuvo carácter oficial, fue ocultada al Tribunal.

2) La injusticia del Laudo es de tal naturaleza que dio a la Guayana Británica unas seis mil ochocientas millas cuadradas (17.604 kms.² aproximadamente) del territorio oficialmente reconocido por Gran Bretaña como venezolano sin discusión, hasta la aparición de la espúrea "Línea Schomburgk Expandida" en 1886, y este territorio era sólo una parte del área legítimamente reclamada por Venezuela.

3) La línea del Laudo fue virtualmente fijada por Gran Bretaña en julio de 1899 y extrajudicialmente impuesta por los abogados británicos a los Jueces británicos quienes actuaron como abogados parcializados de su país más bien que como Jueces.

4) La aceptación de la línea del Laudo fue impuesta a los Jueces mediante presión indebida por parte del Presidente del Tribunal Profesor Frederick de Martens.

5) La línea del Laudo no fue una línea de derecho sino una de compromiso político, calificada de "componenda" y "farsa" aun por funcionarios británicos.

6) El Tribunal excedió sus poderes. Llegó aun hasta el extremo de decretar la libre navegación de los Ríos Amacuro y Barima, decisión evidentemente concebida para asegurar exclusivamente los intereses de la Gran Bretaña.

7) Al firmar el Tratado de Arbitraje de 1897 bajo coacción moral, Venezuela fue también engañada en cuanto al significado de la cláusula de prescripción.

8) Hasta 1899 no tuvo Venezuela conocimiento de la correspondencia oficial y secreta que condujo al Tratado de 1897. Además, es ahora cuando Venezuela viene a saber que los abogados británicos ejercieron presión indebida sobre los abogados americanos a fin de forzarlos a aceptar la interpretación británica de la cláusula de prescripción.

9) A pesar del hecho de que Venezuela fue coaccionada para que adhiriera al Tratado, confiaba no obstante que el Tratado garantizaba un proceso judicial con exclusión de poder para efectuar cualquiera transacción política o diplomática. Sin embargo, la decisión dictada el 3 de octubre de 1899 fue de transacción, no de derecho.

LA VERDAD HISTORICA Y LA JUSTICIA EXIGEN QUE VENEZUELA RECLAME LA TOTAL DEVOLUCION DEL TERRITORIO DEL CUAL SE HA VISTO DESPOSEIDA, y a este respecto cuenta confiadamente con la buena voluntad y la cooperación del Gobierno de su Majestad.

Londres, 5 de noviembre de 1963.

Annex 74

Hermann González Oropeza, S.J. & Pablo Ojer, *[Informe que los expertos venezolanos para la cuestión de límites con Guayana Británica presentan al Gobierno Nacional]* Report submitted by the Venezuelan Experts to the National Government on the Issue of the Boundaries with British Guiana (18 Mar. 1965)



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CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached excerpt from Reclamation of Guayana Esequiba.



 Lynda Green, Senior Managing Editor
 Lionbridge

Sworn to and subscribed before me
 this 16 day of FEBRUARY, 20 22.



JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU6169789
Qualified in New York County
My Commission Expires 09-23-2023

[stamp:] August 2, 2012
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REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS

[logo]

RECLAMATION
OF
GUAYANA ESEQUIBA

DOCUMENTS
1962 - 1967

CARACAS, 1967

**REPORT SUBMITTED BY THE VENEZUELAN EXPERTS TO
THE NATIONAL GOVERNMENT ON THE ISSUE OF THE
BOUNDARIES WITH BRITISH GUIANA**

“Nothing is settled until it is settled right.”

ABRAHAM LINCOLN

Each of the statements contained in this Report are supported by their respective documents, which were presented to Great Britain at the talks between experts during the 15 sessions that took place in London between February and May 1964.

VENEZUELAN TERRITORIAL RIGHTS IN GUAYANA

1. From the discovery of Guiana in 1499 until the end of the 16th century, Spain, as discoverer, first occupier and settler, possessed the Guianese territory with the recognition of the other powers.

2. When the Peace of Münster was signed in 1648, there was still no Dutch establishment west of the Essequibo River.

Under the same Peace of Münster, Spain only recognized to Holland the posts it had in Guyana as of that date, but it did not authorize Holland to establish itself beyond what it occupied as of that time. The insignificant and short-lived Dutch posts that appeared later to the west of the Essequibo were regarded as transgressions of the Peace of Münster.

3. When Great Britain definitively obtained British Guiana in 1814, it bordered with Venezuela along the Essequibo River. This is the border that appears in several maps printed in London and in particular in the map of Cruz Cano, published in 1799 by General Francisco de Miranda with the sponsorship of the British Government.

4. Gran Colombia, which included Venezuela until 1830, made it known to Great Britain through the declarations of its diplomats: Zea (1821), Revenga (1823), Hurtado (1824) and Gual (1825), that its border with British Guiana was the Essequibo line. Great Britain did not protest the declarations of Great Colombia.

The declaration of Minister Hurtado in 1824 is of singular importance, because it was made when he negotiated and obtained from the United Kingdom the recognition of Gran Colombia as an independent nation.

When Spain signed the Treaty recognizing the sovereignty of our country over the territory “known under the old name of the Captaincy General of Venezuela” in Madrid on March 30, 1845, it included the Province of Guayana, which was bordered to the east by the Essequibo River.

THE ANGLO - VENEZUELAN CONTROVERSY

5. The Essequibo line, as the boundary between Venezuela and British Guiana, would go on to essentially form the *original 1835 Schomburgk line* shown in the map made that year by the Prussian naturalist before it became biased in favor of British interests. Neither the Royal Geographical Society of London, nor the Colonial Office, which also sponsored Schomburgk’s first exploration, objected to this map.

6. The first time that Great Britain aspired to the territory to the west of the Essequibo was when it published the *pseudo-Schomburgk line of 1840* in the well-known “Sketch Map” of “Parliamentary Papers” of that year. This line was disputed by Venezuela. This is the origin of the border controversy between Venezuela and Great Britain. New evidence from the British archives themselves clarifies the following facts:

a) Both the Foreign Office and the Colonial Office rejected Schomburgk’s arguments in favor of his pseudo-line of 1840. Those two Ministers concluded that the Prussian naturalist had misinterpreted the historical documents and used them with bias and sectarianism.

b) In spite of this, the British Government commissioned this same naturalist for a new exploration (1840–1843) and to construct a new map of British Guiana according to that *pseudo-Line*. The naturalist, exceeding his instructions, erected posts, marked trees and made acts of possession that gave rise to formal protests by Venezuela.

c) Lord Aberdeen's notes in 1841 describe Schomburgk's actions as "premature" and state that because his commission was a "survey" (exploration), he had no business taking possession.

d) It is a known fact that the British Government disavowed Schomburgk by ordering the removal of the posts and border marks at the demand of Venezuela, as reported to the Venezuelan Minister in London, in a note dated January 31, 1842.

7. The internal documentation of the Foreign Office, the Colonial Office, and the Demerara Government reveals that the publication of the maps containing the *pseudo-Schomburgk line of 1840* were official maps and served as the largest British claim against Venezuela. Thus, we know today that following maps were prepared under the direction of the British Government and the Demerara Government:

- a) The 1857 Foreign Office Memorandum map of the Guiana controversy.
- b) The Memorandum map by C. Chalmers, "Crown Surveyor of the Colony" (1867).
- c) The Schomburgk-Walker map of 1872.
- d) The Brown map of 1875.
- e) The Stanford map of 1875.

Through these official maps, Great Britain recognized as undisputed Venezuelan territories, from the outset of the controversy until 1886, all of the upper Barima and all of the Cuyuní from their sources to the mouth of the Otomong.

8. In 1850, Great Britain and Venezuela agreed not to occupy the disputed territory, which naturally lied between the *pseudo-Schomburgk line of 1840*, the largest claim of the United Kingdom, and the Essequibo, the border claimed by Venezuela. This is what came to be called the 1850 Agreement, which remained in force until the Arbitration.

9. Pressure from British Guiana's mining interests led the Metropolitan and Colonial governments to push the so-called "Schomburgk line" over Venezuelan territory which was not in dispute. In 1887, the British Government published a map made in 1842 by a man named Hebert, which contained a new "Schomburgk line," and went on to declare that this line had always been the point of reference in its diplomatic correspondence, and thus the British Foreign Office first came to know of this line in June 1886.

10. The British Guiana mining companies continued to exert pressure, and the British Government, a few months after publishing the Hebert line

as its maximum territorial claim to Venezuela, declared it a border of strict law and advanced its colonialist ambitions even further to near Upata, a few kilometers from the Orinoco, with the so-called “line of the maximum British claim.”

11. Venezuela’s efforts to obtain a peaceful resolution to the border dispute prematurely created by the Prussian naturalist are also well known facts. New evidence reveals that Great Britain rejected Venezuela’s constant proposals to submit the matter to arbitration because its government believed it lacked arguments and that a wholly judicial decision would be unfavorable to it.

Because Great Britain had no confidence in its land titles, it successively changed its position with respect to the border with Venezuela. The Aberdeen (1844), Granville (1881), Rosebery (1886), etc., lines reflect the interests of British Guiana colonists in each period.

By contrast, Venezuela, because it was sure of the validity of its land titles, was always willing to submit the dispute to the judicial decision of impartial arbitrators and maintained its claim to the Essequibo line.

THE ARBITRATION TREATY OF 1897

12. Despite successive requests to the British Government by numerous entities and States asking it to agree to submit the matter to arbitration, Great Britain resisted until, once again, and decisively, the United States intervened in 1895.

In 1896, the British Government and U.S. Secretary of State Richard Olney opened the negotiations that would lead to the Arbitration Treaty.

When Venezuela asked the United States to intercede with Great Britain, it made it clear that the Caracas Foreign Ministry must be consulted on any developments in the region. Furthermore, it explicitly required that any arbitration agreement reached should be based on the following two premises: 1) that the entire disputed territory was subject to arbitration; 2) that the matter would be decided by a court of law.

Current research shows that over the course of the negotiations, particularly in the final and most important phase, Venezuela was kept in the dark. Consulted on the statute of limitations clause, negotiations continued in spite of and against the objections of the Venezuelan Foreign Ministry. Moreover, Richard Olney made an agreement with Great Britain

to exclude Venezuela from the Arbitral Tribunal.

13. Venezuela signed the Arbitration Treaty on February 2, 1897, coerced by Secretary of State Richard Olney and his threats of abandoning it to the mercy of Great Britain. Only “the dangerous consequences of the abandonment in which the refusal would place Venezuela”—as the Venezuelan Foreign Minister stated in 1896—could force him to accept the terms of that Treaty.

14. Venezuela was made to understand the scope of several clauses of the Arbitration Treaty, in particular the statute of limitations clause, with a meaning different from what was agreed confidentially between Olney and the English Government.

THE DEFECTS OF THE “ARBITRATION AWARD”

15. Even with the substantial objections to the Arbitration Treaty of 1897, Venezuela was confident that the Tribunal would decide the matter in strict accordance with the law. On May 5, 1899, Plenipotentiary José Andrade asked the Ministry of Foreign Affairs in Caracas for instructions in case Great Britain were to propose an amicable solution to the border dispute.

“It may also be,” he wrote, “that it prefers to propose to us an amicable compromise with respect to the line to be determined by the Tribunal. Our lawyers would not be surprised if Great Britain were to make such a proposal to Venezuela, and they believe it advisable for me be authorized to decide it in case it does so.”

The Venezuelan Foreign Ministry responded on May 17, 1899 that it could not in any way grant such authorization “because the Government lacks powers concerning negotiations on territory.” And it added:

“Aside from Arbitration, enshrined for all matters under Article 142 of our Constitution, the Branches of Venezuelan Government do not have any recourse for arrangements involving cessions or modifications with respect to territorial domain.”

Therefore, the Venezuelan Government could not delegate to the arbitrators and attorneys before the Tribunal the authorities that it itself lacked for the settlement of the dispute, outside of a decision in strict accordance with the law.

Historical research has proven the existence of serious defects, both substantive and procedural, in the Tribunal’s procedures and decision.

16. The first defect in the 1899 Award is that it purported to ascribe legal value to a line altered by Great Britain: the so-called “expanded line” of the 1842 Hebert map.

Venezuela has evidence to show that the British Foreign Office was not aware of this line until June 1886, which alone strongly indicates that it was a recent distortion of the original map that had been kept at the Colonial Office since 1842. Venezuela now has the evidence to show that the lines on the following maps submitted by Great Britain to the Tribunal had been altered at the Colonial Office:

1. Schomburgk’s map on six sheets, titled “Map of the limits of British Guiana” (1841).
2. Schomburgk’s map titled “Map of the limits of British Guiana ... General Map No. 1” (1841).
3. Hebert’s map of 1842.

Great Britain also misled the arbitrators by presenting them with Schomburgk’s so-called “Physical Map” of 36 square feet, without boundary lines, as if it were the 90-square-foot map with boundary lines that the explorer had submitted to the Colonial Office in 1844.

17. *Lack of grounds.* There is no doubt that, with the exception of certain rulings of the sovereigns of the nineteenth century and various decisions by the Joint Commissions of earlier times, the decision of a jurisdictional authority must be well-reasoned and objective, that is to say, it must sufficiently substantiate the solution given to the conflict.

This, the statement of the grounds for a decision has long been indispensable in ordinary arbitration proceedings. The statement of grounds is the part of the award that allows us to know whether the award was rendered in accordance with international law. This is especially the case of the arbitration treaty between Venezuela and Great Britain, which required a legal decision in accordance with the principle of *uti possidetis juris*. The statement of grounds is therefore an integral part of the judgment. According to the prevailing opinion in the doctrine, a lack of a statement of grounds, unless otherwise agreed by the parties, vitiates the award.

We can state that the Arbitral Tribunal that rendered the decision in the British-Venezuelan border dispute did not fulfill its duty and, therefore, by issuing a decision without the corresponding legal basis, it failed to act in accordance with the rules of international law. Accordingly, the decision of

the Arbitral Tribunal is invalid under international law, at least as of the date on which such invalidity is invoked.

18. *Ultra vires*. However, in addition to the lack of grounds for the arbitral award, there is another no less important defect that can be adduced against the 1899 arbitration decision. The arbitration compromise, as established in 1897, had established that the decision would be based on the principles of law and, in particular, on the principle of *uti possidetis juris* of 1810.

In addition, rule a) of Art. IV of the Treaty of Arbitration is contained in the following stipulation: “(a) Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.”

Therefore, the decision of the Arbitral Tribunal did not take into account the principle of *uti possidetis juris* or the stipulation contained in rule a) of Art. IV, and, even under the interpretation most favorable for Great Britain, the Tribunal overstepped its powers, because it did not state the reasons why it conferred possession of such territory to that country during the fifty years prior to the award, with the only certainty being that those territories, before 1810, belonged to the Captaincy General of Venezuela, a future independent State.

Moreover, the Arbitral Tribunal went far beyond its powers by deciding and regulating a matter whose examination was not provided for in the arbitration agreement; specifically, it decided and regulated the free navigation of the Barima and Amacuro rivers.

The non-application of the rules provided for in the Arbitration Treaty, and the fact that the Arbitral Tribunal decided matters over which it had no jurisdiction, constitute in and of themselves new grounds for nullity of the award.

This view is in accordance with the best doctrine of international law. In the absence of precedents for awards that suffer from a lack of grounds, the authors and the practice of international law generally allow the nullity of awards in two cases: lack of jurisdiction of the judge (absence of a valid arbitration agreement or treaty), or *ultra vires* (extension of the decision to matters that were not included in the arbitration or judicial agreement, or application of rules such as the rules of equity, for example, which had been explicitly or implicitly excluded by the parties). It is especially in the famous Orinoco Steamship Company case between the United States and

Venezuela that this definition of ultra vires has been enshrined by the Permanent Court of Arbitration (1910). In this regard, see also the judgment issued by the King of Spain on December 23, 1906. Judgment of November 13, 1960, ICJ 1960, p. 215 et seq.

Both cases—the unlawful extension of jurisdiction and the application of rules not established in the agreement—involve the arbitrator’s exercise of his power, which *cannot be confirmed until after the award has been issued*.

19. Another defect of the award is that it was not a decision of law, as was agreed, but rather a compromise. This is how it is interpreted by:

- a) the American and European press,
- b) members of the Tribunal,
- c) lawyers before the Court.

The strength of this evidence is such that Mr. C. T. Crowe, delegate of Great Britain, had to acknowledge before the Special Political Committee of the United Nations in 1962 that the award was the result of a compromise.

20. The award was a *compromise obtained by extortion*, according to converging testimonies from American, English, Venezuelan and French sources, such as:

- a) Mallet-Prevost,
- b) Buchanan (English representative before the Tribunal),
- c) Perry Allen (secretary of Mallet-Prevost),
- d) Sir Richard Webster (Lead British Counsel),
- e) Lord Russell (Chief British Arbitrator),
- f) J. F. de Rojas and José Andrade,
- g) L. de la Chanonie,
- h) Georges A. Pariset.

21. The award was also the result of a political deal.

- a) This is explained by Mallet-Prevost in his Memorandum, according to which the award was a “farce” and “a deal... concluded between Russia and Great Britain”⁽¹⁾

⁽¹⁾ “A deal... concluded between Russia and Great Britain.”

⁽²⁾ “Russia was the fifth in the Tribunal, and it is her diplomacy to be on England’s side balance of power,” etc.

- b) The diary of Harrison's wife expresses a similar view: "Russia was the fifth in the Tribunal, and it is her diplomacy to be on England's side balance of power," etc.⁽²⁾
- c) This is confirmed by Colonial Office official Charles Alexander Harris, when he affirms that the decision of the Paris Tribunal was a "farce." The same qualifier of Judge Brewer, according to the Mallet-Prevost Memorandum and of General Harrison, according to Perry Allen): "The thing is a farce."⁽³⁾
- d) The A. L. Mason Memorandum, which contains the testimony of General and former President Harrison: "...settled as a political expedient."⁽⁴⁾
- e) R. J. Block, Lord Russell's own secretary, the day before the award was issued, wrote in his diary that Martens' deal that gave victory to Great Britain: "*Venezuela. Martens' Deal Given Us Victory.*"⁽⁵⁾

22. Lord Russel of Killowen, the principal English arbitrator, in a private letter in 1896, expressed the opinion that the Guiana case should be settled by allowing the arbitrators to define the boundary by diplomatic arrangement.

That same year, he expressed the same opinion in a speech delivered at Saratoga Springs, which earned harsh commentary from the Times of London, which, with singular frankness, expressed what was implicit in Lord Russell's opinion of international arbitration. The London newspaper's commentary proved prophetic for the "Anglo-Venezuelan Tribunal" case of 1899:

"The secret history of congresses and conferences is generally unedifying and little to the credit of human nature. The diarist of the times who is behind the scenes never fails to note down evidence of intrigues, of lofty professions of disinterestedness being contradicted by private actions, and of the courteous language of diplomacy being compatible with the presence and dominance of very ugly passion..."

"But when the diaries of some of those who took part in those proceeding (arbitrations) are published it will probably be found that the same passions which never failed to appear at congresses are not un-

⁽³⁾ "The thing is a farce."

⁽⁴⁾ "Settled as a political expedient."

⁽⁵⁾ "*Venezuela. Martens' Deal Given Us Victory.*"

known in international arbitrations, and that if the discussion is protracted there is a temptation to make use of extra-judicial means of influencing the Tribunal".(6)

Again, as the Mallet-Prevost Memorandum reveals, Lord Russell put forth, in January 1899, his theory that international arbitration should not be based exclusively on law, but instead should take into account "questions of international policy."

23. The accuracy of the Mallet-Prevost Memorandum is supported by numerous documents contemporary to the so-called award of October 3, 1899. The objections raised against it by Great Britain are irrelevant and contrary to all documentary evidence, as when denying the historical possibility of the Anglo-Russian arrangement concerning the Guyanese border, arguing that in 1899 relations between those two powers were strained.

This objection, aside from implying a hardly acceptable principle, i.e., that arrangements between countries are not possible when relations between them are strained, is not consistent with the fact that precisely in 1899 several Anglo-Russian agreements were formalized in response to vital needs of those two powers at that time.

VENEZUELA'S POSITIONS ON THE "AWARD"

24. The Venezuelan Government had some knowledge of the irregularity of the "award" and wasted no opportunity to protest against it. Its Counsel before the Tribunal, J. M. de Rojas, described the award as "derisory and a manifest injustice." Venezuelan President Ignacio Andrade affirmed that the award had only returned to Venezuela part of its usurped territory.

25. When the British Minister in Caracas, in a note dated December 4, 1899, stated his opinion on the justice of the so-called award, a few days

(6) "The secret history of congresses and conferences is generally unedifying and little to the credit of human nature. *The diarist of the times who is behind the scenes never fails to note down evidence of intrigues, of lofty professions of disinterestedness being contradicted by private actions, and of the courteous language of diplomacy being compatible with the presence and dominance of very ugly passion...*"

"But when the diaries of some of those who took part in those proceeding (arbitrations) are published it will probably be found that the same passions which never failed to appear at congresses are not unknown in international arbitrations, and that if the discussion is protracted there is a temptation to make use of extra-judicial means of influencing the Tribunal".(6)

later, the Venezuelan Foreign Minister replied that he could refute his arguments.

The Venezuelan Foreign Ministry came to the conclusion that the arbitration decision contained defects of such a degree that it was authorized to invoke its invalidity. It decided not to denounce it because it could not face the formidable power of its adversary, given that it no longer had the support of the United States, which had entered into an *entente* with the United Kingdom. The day after the “award,” the English press published, by way of a threat, the following:

“We have no doubt that the United States will force Venezuela to accept the verdict and that it will act appropriately if there are problems with the enforcement of the decision.”

26. Venezuelan public opinion immediately criticized the award, as did, among others, the influential newspaper “*El Tiempo*” of October 17, 1899.

27. A note from the British Minister in Caracas to his Government, dated December 5, 1899, states that Venezuela wished to delay the border demarcation. In July 1900, the British Minister notified the Venezuelan Government that, if the Commission was not sent before October 3, Great Britain alone would proceed to start the demarcation. On October 8, the same Minister notified the Venezuelan Ministry of Foreign Affairs that the Governor of British Guiana had been instructed to begin the demarcation work. On the 19th, the British Commissioners had already erected the Punta Playa boundary marker. Venezuela, faced with this clear pressure, had no choice but to send the Demarcation Commission.

28. In the “Confidential Instructions” issued to the head of the Venezuelan Demarcation Commission, Mr. Felipe Aguerrevere, on October 22, 1900, the Ministry of Foreign Affairs, after analyzing the nature of the “award,” described it as “more the result of a compromise than of an fundamentally juridical examination,” and stated with respect to the border imposed by the arbitrators: “It is a *de facto* line established without any historical, geographical or political support or foundation.” Thus, and because the “award” had been plainly unfair to Venezuela, he instructed the Venezuelan commissioners to refer everything “to the most severe procedure.”

29. If Venezuela concurred with Great Britain on the demarcation of the so-called border of the “award,” it was because of the immense pressure of the circumstances, in order to prevent further troubles. The work of its Commission, evidently of a purely technical nature, did not constitute assent to the supposed judgment of the Arbitral Tribunal.

30. In the 1903 Venezuelan arbitration before the International Court at The Hague, the Venezuelan lawyers did not hesitate to state that the Arbitration of 1899 “left a feeling of bitterness in the mind of Venezuela,” and added, among other things, that the award was such that “the memory of it would be embittered with a sense of injustice.”⁽⁷⁾

31. The internal and international situation of Venezuela in the first half of the 20th century forced it to postpone the denunciation of the award. But the press, Venezuelan authors and teachers uninterruptedly taught successive generations that the border of the “award” did not reflect Venezuela’s legitimate rights.

32. When from 1915 to 1917 Venezuela insisted in vain to Great Britain to redo the demarcation of some sections of the border, the British Government refused due to the painful war its country was going through.

33. Venezuela, which like other Latin American countries had not wanted to raise the boundary issue while the United Kingdom was involved in the recent world conflicts, waited for a new era of international justice to succeed the colonialist era. Before the San Francisco Conference (1945), the Venezuelan Ambassador in Washington, Dr. Diógenes Escalante, invoking the new spirit of equity among nations, demanded in 1944 “amicable reparation” for the injustice committed by the award.

34. On June 30, 1944, the Chamber of Deputies, through the voice of Deputy Dr. José A. Marturet, ratified Venezuela’s traditional position on the award, demanding “the revision of its borders with British Guiana.”

At the same time, in the closing session of July 17, 1944, Dr. Manuel Egaña, President of the Congress, stated in support of the position of the Executive Branch:

“...And here I wish to reiterate and confirm the wish for revision, announced to the world and in the presence of the President of the Republic by Ambassador Escalante and before this Congress, categorically, by Deputy Marturet; I wish to reiterate and confirm, I repeat, the wish for revision of the award whereby British imperialism stripped us of a large part of our Guyana.”

In statements to the press on July 18, 1944, the members of the Permanent Foreign Relations Committees of the Legislative Chambers, representing different political parties, also spoke of the need to revise the 1899 award.

⁽⁷⁾ “Left a feeling of bitterness in the mind of Venezuela,” and added, among other things, that the award was such that “the memory of it would be embittered with a sense of injustice.”

35. The Charter of the United Nations, which established the principles of international equity invoked the previous year by the Venezuelan ambassador, was promulgated in 1945. At the 1948 Inter-American Conference in Bogota, Venezuela rushed to place on record the opinion that its Government had maintained on the arbitration decision of 1899. The Head of the Venezuelan Delegation, Mr. Rómulo Betancourt, declared:

“...we do not in any way deny the right of certain nations of America to obtain certain portions of hemispheric territory that may justly correspond to them, nor do we renounce what Venezuelans, in the event of a placid and cordial historical and geographical reassessment of America, may assert in favor of their territorial aspirations over areas presently under colonial tutelage and which were previously within our own boundaries.”

36. In 1949, Venezuela learned of the famous Mallet-Prevost Memorandum, which revealed the private details of the Paris farce. Venezuelan historians, under the direction of their Foreign Ministry, immediately rushed to search the British archives for new documents that would further clarify the details of that farce. Fifty years had passed and for the first time, it was possible to study those documents in the public archives of Great Britain. This research was carried out between 1950 and 1955.

37. The publication of the Mallet-Prevost Memorandum coincides with the opening of the British archives and the private American archives. These circumstances help to explain the fact that Venezuela has waited until now to formalize its denunciation of the award.

38. In 1951, the Venezuelan Foreign Minister, Dr. Luis Emilio Gómez Ruiz, once again presented to the Fourth Meeting of Consultation of American Foreign Ministers the Government's opinion on the line of the award, demanding the “equitable rectification” of the injustice committed by the Arbitral Tribunal. Meanwhile, the Acting Minister of Foreign Affairs, Mr. Rafael Gallegos Medina, declared to the press in Caracas: “The Ministry of Foreign Affairs has never renounced this aspiration of the Venezuelans.”

39. The same opinion was expressed by the Government of Venezuela at the Tenth Inter-American Conference held in Caracas in March 1954, in a statement read by the Legal Advisor of the Ministry of Foreign Affairs, Dr. Ramón Carmona, which concluded: In accordance with the foregoing,

no decision on the subject of colonies adopted at this Conference may impair the rights of Venezuela in this regard, nor be interpreted, in any case, as a waiver thereof.”

40. Following the formation of the British Caribbean Federation, although it did not include British Guiana, in February 1956 the Venezuelan Foreign Minister, Dr. José Loreto Arismendi, ratified the traditional Venezuelan position regarding the boundaries with that colony, in the sense that it would not be affected by any change of status that might occur in that bordering territory.

41. In March 1960, Dr. Rigoberto Henríquez Vera presented the position of the Venezuelan Chamber of Deputies to a parliamentary delegation from the United Kingdom:

“A change of status in British Guiana cannot invalidate the just aspirations of our people for an equitable reparation, and through a cordial understanding, of the grave damages suffered by the nation by virtue of the unjust decision of 1899, in which peculiar circumstances caused our country to lose more than sixty thousand square miles of its territory.”

42. When Venezuela finally had in its possession copious documentation substantiating its traditional opinion on the nullity of the award, it once again placed it on record before the Commission on Trusteeship and Non-Self-Governing Territories at the United Nations (February 1962) through its Ambassador, Dr. Carlos Sosa Rodriguez.

43. The Chamber of Deputies, in sessions held on March 28 and April 4, 1962, after hearing the presentations of the representatives of all political parties in support of the Venezuelan Foreign Ministry’s position on the award, approved the following agreement: “To endorse Venezuela’s policy on the boundary dispute between the British possession and our country insofar as it refers to the territory of which we were dispossessed by colonialism; and, on the other hand, to support without reservation the total independence of British Guiana and its incorporation into the democratic way of life.”

44. On November 12, 1962, then Venezuelan Foreign Minister, Dr. Marcos Falcón Briceño, in his speech before the Special Political Committee of the XVII Assembly of the United Nations, broadly stated Venezuela’s traditional position with respect to the border matter of Guyana, and invoked the nullity of the award of October 3, 1899.

As a result of conversations held by representatives of the Governments of the United Kingdom and Venezuela, an agreement was reached between the two countries, with the concurrence of the Government of British Guiana, to the effect that the three Governments

would examine the documents relating to this matter, and would report the results of the conversations to the United Nations. This was stated, with the authorization of the concerned parties, by the Chairman of the Special Political Committee, Mr. Leopoldo Benitez (representative of Ecuador) on November 16, 1962.

Following the arrangements made through diplomatic channels, in accordance with the above agreement, in November 1963 the Foreign Ministers of Venezuela and the United Kingdom, Dr. Marcos Falcón Briceño and the Honorable R. A. Butler, respectively. On this occasion, the Venezuelan Foreign Minister, on the 5th of the same month and year, presented to Her British Majesty's Foreign Secretary an Aide-Memoire with Venezuela's views on the dispute, the conclusion of which was as follows:

“Historical truth and justice demand that Venezuela claim the full return of the territory of which it has been dispossessed.”

SUMMARY OF CONCLUSIONS

In sum, as a result of the tripartite examination of the documentation that has just been succinctly set forth, which supports each of the assertions contained herein and was presented to Great Britain, Venezuela has reached the following conclusions:

1. Venezuela had to accept the Arbitration Treaty of 1897 under undue pressure from the United States and Great Britain, which negotiated the basis of the compromise while excluding the Venezuelan Government, which was given misleading explanations.
2. Venezuela was so excluded that the United States and Great Britain agreed from the beginning of the negotiation that no Venezuelan jurist would be part of the Arbitration Tribunal.
3. Although Venezuela's substantial objections to the Treaty were not taken into account by its most direct negotiators, Venezuela interpreted the arbitration commitment to mean that the Tribunal's decision would be strictly in accordance with the law.
4. The so-called award of October 3, 1899 is null and void. This nullity is based on the following:
 - a) The lack of a statement of grounds for the decision.
 - b) The fact that the arbitrators did not take into account, in reaching their decision, the applicable rules of law and, in particular, the principle of *uti possidetis juris*; nor did they make any effort to

investigate the territories that belonged to the Netherlands or to the Kingdom of Spain at the time of the so-called acquisition (Art. III of the Arbitration Treaty).

- c) The fact that the arbitrators did not decide how the 50-year limitation period would be computed, nor did they apply it as agreed in the Arbitration Treaty.
- d) Without being empowered to do so under the arbitration agreement, the arbitrators established rules in their verdict for the free navigation of two border rivers, which were clearly against Venezuela.
- e) The fact that the so-called award was the result of a diplomatic compromise explains why the arbitrators did not take into account the rules of law set forth in the Arbitration Treaty. The contemporaneous documents, while revealing that the arbitrators were aware of this, also confirm this fact, which they describe as a “compromise” and a “farce.”

5. The representatives of Great Britain submitted to the Arbitral Tribunal maps which were considered to be of decisive importance, but which had been altered at the Colonial Office.

6. The line of the so-called award had been prepared at the Colonial Office in July 1899, that is, several months in advance of the award. This boundary line was imposed on the American arbitrators by the President of the Tribunal, Russian Professor de Martens, by means of coercion.

7. Venezuela has never assented to the so-called award of October 3, 1899. Venezuela's participation in the demarcation of the border was of a purely technical nature. The country was forced to do so by insurmountable circumstances. Both the Government and the Venezuelan people, whenever and to the extent possible, protested the so-called award of 1899.

Caracas, March 18, 1965.

Hermann González Oropeza, S. J.

Pablo Ojer, S. J.

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REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



RECLAMACION
DE LA
GUAYANA ESEQUIBA

DOCUMENTOS
1962-1967

CARACAS, 1967

INFORME QUE LOS EXPERTOS VENEZOLANOS PARA LA CUESTION DE LIMITES CON GUAYANA BRITANICA PRESENTAN AL GOBIERNO NACIONAL

"Nothing is settled until it is settled right".
"Nada queda arreglado si no es conforme a derecho".

ABRAHAM LINCOLN

Cada una de las afirmaciones contenidas en este Informe están respaldadas por sus respectivos documentos, los cuales fueron presentados a Gran Bretaña en las conversaciones entre expertos, durante las 15 sesiones que tuvieron lugar en Londres entre los meses de febrero y mayo del año 1964.

TITULOS VENEZOLANOS EN GUAYANA

1.—Desde el descubrimiento de Guayana en 1499 hasta el fin del siglo XVI, España, como descubridora, primera ocupante y pobladora, poseyó el territorio guayanés con el reconocimiento de las otras potencias.

2.—Cuando en 1648 se firmó el Tratado de Munster, no había aún ningún establecimiento holandés al Occidente del río Esequibo.

Por el mismo Tratado de Munster, España sólo reconoció a Holanda los puestos que para esa fecha tenía en Guayana, pero no le autorizó a establecerse más allá de lo que para entonces ocupaba. Los insignificantes y efímeros puestos holandeses aparecidos posteriormente al Occidente del Esequibo, fueron considerados como transgresiones del Tratado de Munster.

3.—Cuando en 1814 Gran Bretaña obtuvo definitivamente la Guayana Británica, ésta limitaba con Venezuela por la frontera del río Esequibo. Esta es la frontera que aparece en diversos mapas impresos en Londres y en particular en el de Cruz Cano, que en 1799 publicó el general Francisco de Miranda con el patrocinio del Gobierno Británico.

4.—Gran Colombia, de la que formó parte Venezuela hasta 1830, por las declaraciones de sus diplomáticos: Zea (1821), Revenga (1823), Hurtado (1824) y Gual (1825), dio a conocer a Gran Bretaña que su frontera con Guayana Británica era la línea del Esequibo. Gran Bretaña no protestó las declaraciones de la Gran Colombia.

Reviste singular importancia la declaración del Ministro Hurtado en 1824, por haber sido formulada cuando gestionó y obtuvo del Reino Unido el reconocimiento de la Gran Colombia como nación independiente.

España, al firmar en Madrid el 30 de marzo de 1845 el Tratado de reconocimiento de la soberanía de nuestro país sobre el territorio "conocido bajo el antiguo nombre de la Capitanía General de Venezuela", incluyó en ella la Provincia de Guayana, que limitaba al Este por el río Esequibo.

LA CONTROVERSIA ANGLO - VENEZOLANA

5.—La línea del Esequibo, como frontera entre Venezuela y Guayana Británica, pasa a ser substancialmente la *línea Schomburgk original de 1835* que lleva el mapa compuesto ese año por el naturalista prusiano antes de parcializarse por los intereses de Gran Bretaña. Ni la Royal Geographical Society de Londres, ni el Colonial Office, que patrocinó también la primera exploración de Schomburgk, objetaron este mapa.

6.—La primera vez que Gran Bretaña aspiró al territorio al occidente del Esequibo fue al publicar la *pseudo-línea Schomburgk de 1840* en el conocido "Sketch Map" de "Parliamentary Papers" de ese año. Esta línea fue protestada por Venezuela. Ahí tiene su origen la controversia fronteriza entre Venezuela y Gran Bretaña. La nueva evidencia de los propios archivos británicos aclara los siguientes hechos:

a) Tanto el Foreign Office como el Colonial Office rechazaron los argumentos de Schomburgk en favor de su pseudo-línea de 1840. Aquellos dos Ministros llegaron a la conclusión de que el naturalista prusiano había mal interpretado los documentos históricos y los había utilizado con parcialidad y sectarismo.

b) A pesar de ello comisionó el Gobierno Británico al mismo naturalista para una nueva exploración (1840-1843) y para construir un nuevo mapa de Guayana Británica de acuerdo con aquella *pseudo-Línea*. El naturalista, excediendo sus instrucciones, levantó postes, marcó árboles e hizo actos de posesión que dieron origen a formales protestas por parte de Venezuela.

c) Las minutas de lord Aberdeen en 1841 califican las acciones de Schomburgk de "prematuras" y afirman que siendo su comisión de "survey" (exploración) no tenía por qué tomar posesión.

d) Es un hecho conocido que el Gobierno Británico desautorizó a Schomburgk al ordenar el retiro de los postes y marcas de frontera por exigencia de Venezuela, como lo expresó al Ministro venezolano en Londres, en nota del 31 de enero de 1842.

7.—La documentación interna del Foreign Office, del Colonial Office y del Gobierno de Demerara revela que la publicación de los mapas que llevaban aquella *pseudo-línea Schomburgk de 1840* tenía un carácter oficial y representaba la máxima reclamación británica frente a Venezuela. Así conocemos hoy que fue bajo la dirección del Gobierno Británico y del Gobierno de Demerara como se prepararon los siguientes mapas:

- a) El mapa del Memorándum del Foreign Office de 1857 acerca de la controversia de Guayana.
- b) El mapa del Memorándum, de C. Chalmers, "Crown Surveyor of the Colony" (1867).
- c) El mapa Schomburgk-Walker de 1872.
- d) El mapa de Brown de 1875.
- e) El mapa de Stanford de 1875.

Por estos mapas oficiales Gran Bretaña reconoció, desde los orígenes de la controversia hasta 1886, como territorios venezolanos sin disputa todo el alto Barima y todo el Cuyuní desde sus fuentes hasta la desembocadura del Otomong.

8.—En 1850 Gran Bretaña y Venezuela se comprometieron a no ocupar el territorio disputado, el cual estaba comprendido, naturalmente, entre la *pseudo-línea Schomburgk de 1840* máxima reclamación del Reino Unido, y el Esequibo, frontera reclamada por Venezuela. Esto es lo que vino a llamarse el Acuerdo de 1850 que tuvo vigencia hasta el Arbitraje.

9.—La presión de los intereses mineros de Guayana Británica llevó a los gobiernos Metropolitanos y Colonial a avanzar la llamada "línea Schomburgk" sobre territorio venezolano que se hallaba fuera de la controversia. En 1887 el Gobierno Británico publicó el mapa de un tal Hebert, compuesto en 1842, con una nueva "línea Schomburgk" y llegó a declarar que ella había sido siempre el término de referencia en su correspondencia diplomática, siendo así que el Foreign Office británico vino a conocer por primera vez esa línea en junio de 1886.

10.—Las compañías mineras de Guayana Británica siguieron presionando, y el Gobierno Británico, a los pocos meses de publicada la línea

Hebert como su máxima aspiración territorial frente a Venezuela, la declaró frontera de estricto derecho y avanzó aún más sus ambiciones colonialistas hasta cerca de Upata, a pocos kilómetros del Orinoco, con la llamada "línea de la máxima reclamación británica".

11.—Son también hechos perfectamente conocidos los esfuerzos de Venezuela por obtener una solución pacífica del litigio fronterizo creado prematuramente por el naturalista prusiano. La nueva evidencia revela que Gran Bretaña rechazó las constantes propuestas venezolanas para someter la cuestión a arbitraje porque su gobierno consideraba que carecía de argumentos y que una decisión plenamente judicial había de serle desfavorable.

Porque Gran Bretaña no tenía confianza en sus títulos, cambió sucesivamente de posición respecto de la frontera con Venezuela. Las líneas Aberdeen (1844), Granville (1881), Rosebery (1886), etc., responden a los intereses que en cada época tenían los colonos de Guayana Británica.

En cambio, Venezuela, porque estaba segura de la validez de sus títulos, estuvo siempre dispuesta a someter la controversia a la decisión judicial de árbitros imparciales y mantuvo su reclamación a la línea del Esequibo.

EL TRATADO ARBITRAL DE 1897

12.—A pesar de las sucesivas peticiones elevadas al Gobierno Británico por numerosas entidades y Estados para que aceptara someter la cuestión a arbitraje, Gran Bretaña se resistió hasta que, una vez más, y en forma decisiva, intervino Estados Unidos en 1895.

En 1896 el Gobierno Británico y el Secretario de Estado Norteamericano, Richard Olney, abrieron las negociaciones que habían de conducir al Tratado de Arbitraje.

Cuando solicitó Venezuela la interposición de los Estados Unidos ante Gran Bretaña, dejó claramente manifestado que se debía consultar a la Cancillería de Caracas de cuanto fuere ocurriendo en la región. Además, explícitamente exigió que cualquier compromiso arbitral al que se llegare debía basarse en estos dos presupuestos: 1) que se sometía a arbitraje todo el territorio controvertido; 2) que la cuestión había de resolverse por decisión judicial de estricto derecho.

La actual investigación comprueba que durante el curso de las negociaciones se le mantuvo marginada, particularmente en la fase final y más importante. Consultada sobre la cláusula de la prescripción, se prosiguieron las negociaciones a pesar y en contra de las objeciones de la

Cancillería venezolana. Más aún, Richard Olney acordó con Gran Bretaña la exclusión de Venezuela del Tribunal Arbitral.

13.—Venezuela firmó el Tratado Arbitral el 2 de febrero de 1897 coaccionada por el Secretario de Estado Richard Olney y ante su amenaza de dejarla sola a merced de Gran Bretaña. Sólo “las peligrosas consecuencias del desamparo en que la negativa colocaría a Venezuela” —como se expresó el Canciller venezolano en 1896— pudieron forzarle a aceptar los términos de aquel Tratado.

14.—A Venezuela se le hizo entender el alcance de varias cláusulas del Tratado Arbitral, particularmente la de la prescripción, en un sentido diferente del acordado confidencialmente entre Olney y el Gobierno inglés.

LOS VICIOS DEL “LAUDO ARBITRAL”

15.—Aun con los reparos substanciales presentados al Tratado Arbitral de 1897, Venezuela confiaba en que el Tribunal decidiría la cuestión en estricto derecho. El 5 de mayo de 1899 el plenipotenciario José Andrade pidió a la Cancillería de Caracas instrucciones para el caso de que Gran Bretaña propusiera una solución amigable del litigio fronterizo.

“Puede ser también —escribió— que prefiera proponernos un avenimiento amigable respecto de la línea que el Tribunal haya de determinar. Nuestros abogados no se sorprenderían de que la Gran Bretaña hiciese esa proposición a Venezuela, y creen conveniente que yo vaya autorizado a decidirla en el caso de que la haga”.

La Cancillería venezolana respondió el 17 de mayo de 1899 que no podía en manera alguna conceder esa autorización “por carecer el Gobierno de facultades concernientes a negociaciones sobre territorio”. Y agregó:

“Fuera del Arbitraje, consagrado para todo asunto por el Artículo 142 de nuestra Constitución, ningún recurso poseen los Poderes de Venezuela para arreglos que se refieran a cesión o modificaciones en lo relativo a dominio territorial”.

Por consiguiente, el Gobierno de Venezuela no podía delegar en los árbitros y abogados ante el Tribunal las facultades de las que él mismo carecía para el arreglo de la controversia, fuera de una decisión de estricto derecho.

Las investigaciones históricas comprueban la existencia de graves vicios, tanto de fondo como de forma, en los procedimientos y decisión del Tribunal.

16.—El primer vicio del Laudo de 1899 consiste en que pretendió atribuir valor jurídico a una línea adulterada por Gran Bretaña: la llamada “línea expandida” del mapa Hebert de 1842.

Venezuela tiene pruebas de que el Foreign Office británico no conoció esa línea hasta junio de 1886. Ya esto es más que un grave indicio de que se trataba de una reciente corrupción del mapa original que reposaba desde 1842 en el Colonial Office. Ahora Venezuela dispone de las pruebas de que las líneas que llevaban los siguientes mapas presentados por Gran Bretaña ante el Tribunal habían sido adulterados en el Colonial Office:

- 1º El mapa de Schomburgk en seis hojas, titulado “Map of the limits of British Guiana” (1841).
- 2º El mapa de Schomburgk titulado “Map of the limits of British Guiana... General Map N° 1” (1841).
- 3º El mapa de Hebert de 1842.

Gran Bretaña también condujo a error a los árbitros presentándoles el llamado “Physical Map”, de Schomburgk, de 36 pies cuadrados, sin líneas de frontera, como si fuera el mapa de 90 pies cuadrados que con líneas de frontera elevó aquel explorador al Colonial Office en 1844.

17.—*Falta de motivación.* No hay ningún género de duda que, excepción hecha de ciertas sentencias de los soberanos del siglo XIX y de varias decisiones de las Comisiones Mixtas de épocas anteriores, la decisión de una autoridad jurisdiccional debe ser razonada y objetiva, es decir, que fundamente con suficiencia la solución dada al conflicto.

La exposición de motivos parece, pues, indispensable en los arbitrajes ordinarios, y ello desde hace ya largo tiempo. Es la exposición de motivos la parte de la sentencia que permite saber si ésta fue dictada conforme al derecho internacional. Tal es, sobre todo, el caso del tratado de arbitraje entre Venezuela y Gran Bretaña, que exigía decisión jurídica conforme al principio del *uti possidetis juris*. La exposición de motivos forma, pues, parte integrante de la sentencia. De acuerdo con la opinión dominante en la doctrina, la falta de motivación, salvo acuerdo contrario de las partes, vicia de nulidad la sentencia.

Estamos en capacidad de afirmar que el Tribunal arbitral que dictó la sentencia en el conflicto fronterizo británico-venezolano no cumplió su deber y por lo tanto, al presentar una decisión sin la parte motiva correspondiente, no procedió de acuerdo con las normas del derecho internacional. La decisión del Tribunal Arbitral carece, en consecuencia

de validez en el derecho internacional, al menos a partir de la fecha en la cual la invalidez es invocada.

18.—*Exceso de poder.* Sin embargo, al lado de la ausencia de motivación de la sentencia arbitraria, existe otro vicio no menos importante que puede aducirse en contra de la decisión arbitral de 1899. El compromiso arbitral, tal y como fue establecido en 1897, había previsto que la decisión debería basarse sobre los principios de derecho y en particular sobre el principio del *uti possidetis juris* de 1810.

Además, la regla a) del Art. IV del Tratado de Arbitraje está contenida en la siguiente estipulación. “Una posición adversa o prescripción por el término de cincuenta años constituirá un buen título. Los árbitros podrán estimar que la dominación política exclusiva de un distrito, así como la efectiva colonización de él, son suficientes para constituir una posesión adversa o crear título de prescripción”.

Luego, la decisión del Tribunal arbitral no tuvo en cuenta ni el principio del *uti possidetis juris* ni la estipulación contenida en la regla a) del Art. IV, y, aun en la interpretación más favorable para la Gran Bretaña, el Tribunal se excedió en sus poderes, ya que no expuso las razones por las cuales atribuyó a ese país el dominio sobre ese territorio durante los cincuenta años anteriores a la sentencia, siendo lo único cierto que esos territorios, antes de 1810, pertenecían a la Capitanía General de Venezuela, futuro Estado independiente.

Por otra parte, el Tribunal arbitral fue mucho más allá de sus facultades al decidir y regular una cuestión cuyo examen no había sido previsto en el compromiso arbitral; es decir, decidió y reglamentó la libre navegación de los ríos Barima y Amacuro.

La no aplicación de las reglas previstas en el Tratado de arbitraje, y el hecho de que el Tribunal arbitral haya decidido cuestiones sobre las cuales no tenían ninguna jurisdicción, constituyen en sí mismos nuevas causas de nulidad de la sentencia.

Esta manera de ver se halla de acuerdo con la mejor doctrina del derecho internacional. No existiendo antecedentes de sentencias de esta naturaleza que adolezcan de falta de motivación, los autores y la práctica del derecho internacional admiten en general la nulidad de las sentencias en dos casos: en el de la incompetencia del juez (ausencia de un compromiso o de un tratado de arbitraje válido), o en el caso del exceso de poder (extensión de la decisión sobre materias que no estaban incluidas en la convención arbitral o judicial, o aplicación de reglas como las de la equidad, por ejemplo, que habían sido explícita o implícitamente excluidas por las partes). Es sobre todo en el célebre asunto de la Orinoco Steamship Company entre los Estados Unidos y Venezuela,

cuando esta definición del exceso de poder ha sido consagrada por la Corte Permanente de Arbitraje (1910). Sobre el particular se puede ver también la sentencia dictada por el Rey de España el 23 de diciembre de 1906. Sentencia de 13 de noviembre de 1960 CIJ 1960, p. 215 y ss.

En los dos casos, tanto en el de la extensión ilícita de la competencia como en el de la aplicación de reglas no establecidas en el compromiso, se trata del ejercicio del poder del árbitro, que *no puede comprobarse sino después de que la sentencia ha sido dictada*.

19.—Otro vicio del laudo consiste en no haber sido una decisión de derecho, conforme a lo pactado, sino un compromiso. Así lo interpretan:

- a) la prensa americana y europea,
- b) miembros del Tribunal,
- c) abogados ante el Tribunal.

Tal es la fuerza de esta evidencia que el Delegado de Gran Bretaña, Mr. C. T. Crowe, tuvo que reconocer ante el Comité Político Especial de las Naciones Unidas, en 1962, que el laudo fue resultado de un compromiso.

20.—El laudo fue un *compromiso obtenido por extorsión*, según testimonios convergentes de fuentes americanas, inglesas, venezolanas y francesas, como:

- a) Mallet-Prevost,
- b) Buchanan (agente inglés ante el Tribunal),
- c) Perry Allen (secretario de Mallet-Prevost),
- d) Sir Richard Webster (principal abogado británico),
- e) Lord Russell (principal árbitro británico),
- f) J. F. de Rojas y José Andrade,
- g) L. de la Chanonie,
- h) Georges A. Pariset.

21.—El laudo fue además el resultado de un negocio político.

- a) Así lo explica Mallet-Prevost en su Memorándum, según el cual el laudo fue una "farsa" y "a deal... concluded between Russia and Great Britain" (1).

(1) "Un trato... hecho entre Rusia y Gran Bretaña".

- b) En semejantes términos se expresa el diario de la esposa de Harrison: "Russia was the fifth in the Tribunal, and it is her diplomacy to be on England's side balance of power", etc. (2).
- c) Lo confirma el funcionario del Colonial Office, Charles Alexander Harris al afirmar que la decisión del Tribunal de París fue una "farsa". (El mismo calificativo del juez Brewer, según el Memorándum de Mallet-Prevost y del general Harrison, según Perry Allen): "The thing is a farce" (3).
- d) El Memorándum de A. L. Mason, que recoge el testimonio del general y ex-Presidente Harrison: "...settled as a political expedient" (4).
- e) R. J. Block, secretario del propio Lord Russel, la víspera de dictarse la sentencia registró en su diario la componenda de Martens que dio la victoria a Gran Bretaña: "Venezuela. Martens' Deal Given Us Victory" (5).

22.—Lord Russel of Killowen, el principal árbitro inglés, en carta privada en 1896, expresó la opinión de que el caso de Guayana debía resolverse permitiendo a los árbitros fijar la frontera por un arreglo diplomático.

En ese mismo año manifestó igual criterio en un discurso pronunciado en Saratoga Springs, el cual mereció del *Times* de Londres un agudo comentario que con singular franqueza manifestó lo que se hallaba implícito en la opinión de Lord Russell sobre el arbitraje internacional. El comentario del diario londinense vino a resultar profético para el caso del "Tribunal anglo-venezolano" de 1899:

"The secret history of congresses and conferences is generally unedifying and little to the credit of human nature. *The diarist of the times who is behind the scenes never fails to note down evidence of intrigues, of lofty professions of disinterestedness being contradicted by private actions, and of the courteous language of diplomacy being compatible with the presence and dominance of very ugly passion...*"

"But when the diaries of some of those who took part in those proceeding (arbitrations) are published it will probably be found that the same passions which never failed to appear at congresses *are not un-*

(2) "Rusia era el quinto en el tribunal; y su diplomacia era ponerse del lado inglés en la balanza del poder", etc.

(3) "Lo que pasó fue una farsa".

(4) "Arreglado como un expediente político".

(5) "Venezuela. El trato hecho con Martens nos ha dado la victoria".

known in international arbitrations, and that if the discussion is protracted there is a temptation to make use of extra-judicial means of influencing the Tribunal".(6)

De nuevo —como revela el Memorándum de Mallet-Prevost— expuso Lord Russell, en enero de 1899, su teoría de que los arbitrajes internacionales no se debían basar exclusivamente en el derecho, sino que debía tomar en cuenta "cuestiones de política internacional".

23.—La exactitud del Memorándum de Mallet-Prevost está respaldada por numerosos documentos contemporáneos al llamado laudo del 3 de octubre de 1899. Las objeciones presentadas contra él por Gran Bretaña son irrelevantes y contrarias a toda la evidencia documental, como al negar la posibilidad histórica del arreglo anglo-ruso sobre la frontera guayanesa, arguyendo que en 1899 las relaciones entre aquellas dos potencias eran tirantes.

Esta objeción, aparte de implicar un principio difícilmente aceptable, a saber, que no se pueden producir arreglos entre los países cuando las relaciones entre ellos son tensas, no se conforman con el hecho de que precisamente en el año de 1899 se formalizaron varios acuerdos anglo-rusos que respondían a necesidades vitales sentidas entonces por esas dos potencias.

POSICIONES DE VENEZUELA ANTE EL "LAUDO"

24.—El Gobierno venezolano tuvo algún conocimiento de la forma irregular del "laudo", y no perdió oportunidad de protestar contra él. Su Agente ante el Tribunal, J. M. de Rojas, calificó el fallo como "derisory and a manifest injustice". El Presidente de Venezuela, Ignacio Andrade, afirmó que el laudo sólo había restituido a Venezuela una parte de su territorio usurpado.

25.—Cuando el Ministro británico en Caracas, en nota del 4 de diciembre de 1899, expuso su criterio acerca de la justicia del llamado

(6) "La historia secreta de los congresos y conferencias es generalmente deseducativa y acredita muy poco a la naturaleza humana. El autor de un diario de los sucesos que está detrás de la escena nunca falla en anotar la evidencia de las intrigas, de las elevadas declaraciones de desinterés contradichas por las acciones privadas y del cortés lenguaje diplomático unido a la presencia e imperio de las más horribles pasiones..."

"Cuando se publiquen los diarios de algunos de aquellos que tomaron parte en esos procesos arbitrales se encontrará probablemente que las mismas pasiones que nunca dejan de aparecer en los congresos no son desconocidas en los arbitrajes internacionales, y que si la discusión se prolonga se presenta la tentación de usar medios extrajudiciales para influenciar al tribunal".

laudo, el Canciller venezolano respondió a los pocos días que podía refutar sus argumentos.

La Cancillería de Venezuela llegó a la conclusión de que la decisión arbitral contenía tales vicios que le autorizaban a invocar su invalidez. Decidió no denunciarla por no poder enfrentarse a la formidable potencia de su adversario, pues ya no contaba con el apoyo de los Estados Unidos, que habían venido a una *entente* con el Reino Unido. La prensa inglesa, al día siguiente del "laudo", hizo público, a manera de amenaza, lo siguiente:

"No dudamos que los Estados Unidos obliguen a Venezuela a aceptar el veredicto y que actuarán adecuadamente en caso de que se presenten problemas con respecto al cumplimiento de la decisión".

26.—La opinión pública venezolana de inmediato criticó el laudo, como lo hizo entre otros el influyente diario "El Tiempo", del 17 de octubre de 1899.

27.—Una nota del Ministro inglés en Caracas a su Gobierno, del 5 de diciembre de 1899, registra que Venezuela deseaba retardar la demarcación fronteriza. En julio de 1900 el Ministro británico notificó al Gobierno de Venezuela que si antes del 3 de octubre no enviaba la Comisión, procedería Gran Bretaña sola a iniciar la demarcación. El 8 de octubre el mismo Ministro notificaba a la Cancillería venezolana que el Gobernador de Guayana Británica había sido instruido para que comenzara los trabajos de demarcación. El día 19 ya habían levantado los Comisarios británicos el hito de Punta Playa. Venezuela, ante esta presión manifiesta, no tuvo otra alternativa que la de proceder al envío de la Comisión demarcadora.

28.—En las "Instrucciones reservadas" al jefe de la Comisión venezolana de demarcación, señor Felipe Aguerrevere, el 22 de octubre de 1900, la Cancillería, después de hacer un análisis de la naturaleza del "laudo", lo califica de "más bien fruto de un propósito de transacción que de examen esencialmente jurídico", y se expresó respecto de la frontera impuesta por los árbitros: "Se trata de una línea establecida de hecho, sin ningún apoyo ni fundamento histórico, geográfico ni político". En consecuencia, y porque el "laudo" había sido abiertamente injusto con Venezuela, instruyó a los comisionados venezolanos que refirieran todo "al más severo procedimiento".

29.—Si Venezuela concurrió con Gran Bretaña en la demarcación de la llamada frontera del "laudo", fue por la tremenda presión de las circunstancias, por evitarse mayores males. Los trabajos de su Comisión, evidentemente de carácter puramente técnico, no implicaban el asentimiento a la supuesta sentencia del Tribunal de Arbitraje.

30.—En el arbitraje venezolano de 1903, ante la Corte Internacional de La Haya, los abogados venezolanos no vacilaron en afirmar que el Arbitraje de 1899 “left a feeling of bitterness in the mind of Venezuela”, y añadieron, entre otras cosas, que ese laudo era tal que “the memory of it would be embittered with a sense of injustice”.(7)

31.—La situación interna e internacional de Venezuela en la primera mitad del siglo XX la forzaron a posponer la denuncia del laudo. Pero la prensa, los autores venezolanos, los maestros venezolanos, ininterrumpidamente enseñaron a las sucesivas generaciones que la frontera del “laudo” no correspondía a los legítimos derechos de Venezuela.

32.—Cuando desde 1915 hasta 1917 Venezuela insistió en vano ante la Gran Bretaña para rehacer la demarcación de algunos sectores de la frontera, el Gobierno Británico se resistió a ello apoyándose en las dolorosas circunstancias bélicas por las que atravesaba su país.

33.—Venezuela, que al igual de otros países latinoamericanos no había querido plantear la cuestión limítrofe cuando el Reino Unido atravesaba por la dura prueba de las últimas conflagraciones mundiales, esperó a que una nueva era de justicia internacional sucediera a la época colonialista. Antes de la Conferencia de San Francisco (1945), el Embajador de Venezuela en Washington, Dr. Diógenes Escalante, invocando el nuevo espíritu de equidad entre las naciones, exigió en 1944 “la reparación amistosa” de la injusticia cometida por el laudo.

34.—La Cámara de Diputados, en sesión del 30 de junio de 1944, por voz del Diputado Dr. José A. Marturet, ratificó la tradicional posición de Venezuela ante el laudo, exigiendo “la revisión de sus fronteras con la Guayana Inglesa”.

Por ese mismo tiempo el Presidente del Congreso, Dr. Manuel Egaña, en la sesión de clausura del día 17 de julio de 1944, dijo en respaldo de la posición del Ejecutivo:

“...Y aquí quiero recoger y confirmar el anhelo de revisión, planteado ante el mundo y en presencia del ciudadano Presidente de la República por el Embajador Escalante y ante este Congreso, categóricamente, por el Diputado Marturet; quiero recoger y confirmar, repito, el anhelo de revisión de la sentencia por la cual el imperialismo inglés nos despojó de una gran parte de nuestra Guayana”.

En declaraciones a la prensa el día 18 de julio de 1944 los miembros de las Comisiones Permanentes de Relaciones Exteriores de las Cámaras

(7) “Dejó un sentimiento de amargura en el corazón de Venezuela”, y añadieron, entre otras cosas, que ese laudo era tal que “su memoria estaría amargada con un sentimiento de injusticia”.

Legislativas, quienes respresentaban a diferentes partidos políticos, se manifestaron también sobre la necesidad de revisar el laudo de 1899.

35.—Promulgada la Carta de las Naciones Unidas (1945), que establecía los principios de equidad internacional invocados el año anterior por el embajador venezolano, se apresuró Venezuela, en la Conferencia Interamericana de Bogotá de 1948, a dejar constancia del criterio que había mantenido su Gobierno sobre la decisión arbitral de 1899. El Jefe de la Delegación venezolana, señor Rómulo Betancourt, declaró:

“...no negamos en forma alguna el derecho de ciertas naciones de América a obtener determinadas porciones de territorio hemisférico que en justicia les pueda corresponder, ni renunciamos a lo que los venezolanos, llegado el caso de una serena y cordial revalorización histórica y geográfica de lo americano, pudieran hacer valer en pro de sus aspiraciones territoriales sobre zonas hoy en tutelaje colonial y que antes estuvieron dentro de nuestro propio ámbito”.

36.—En 1949 Venezuela vino a conocer el famoso Memorándum de Mallet-Prevost, que reveló las intimidades de la farsa de París. Inmediatamente historiadores venezolanos, bajo la dirección de su Cancillería, se apresuraron a buscar en los archivos británicos nuevos documentos que irían aclarando aún más los detalles de aquella farsa. Se habían cumplido 50 años y por primera vez se podían estudiar esos documentos en los archivos públicos de Gran Bretaña. Estas investigaciones se realizaron entre los años 1950 y 1955.

37.—La publicación del Memorándum de Mallet-Prevost coincide con la apertura de los archivos británicos y los archivos privados americanos. Estas circunstancias contribuyen a explicar el hecho de que Venezuela haya esperado hasta este momento para formalizar su denuncia del laudo.

38.—En 1951 el Canciller venezolano, Dr. Luis Emilio Gómez Ruiz, volvió a exponer ante la IV Reunión de Consulta de Cancilleres Americanos el criterio del Gobierno sobre la línea del laudo, exigiendo la “rectificación equitativa” de la injusticia cometida por el Tribunal de Arbitraje. Mientras tanto, el Encargado de la Cancillería, señor Rafael Gallegos Medina, declaraba a la prensa de Caracas: “La Cancillería nunca ha renunciado a esa aspiración de los venezolanos”.

39.—El mismo criterio manifestó el Gobierno de Venezuela en la X Conferencia Interamericana reunida en Caracas en marzo de 1954, en declaración leída por el Consultor Jurídico de la Cancillería, Dr. Ramón Carmona, la cual concluyó: “De conformidad con lo que antecede, ninguna decisión que en materia de colonias se adopte en la presente Conferencia podrá menoscabar los derechos que a Venezuela corresponden

por este respecto ni ser interpretada, en ningún caso, como una renuncia de los mismos”.

40.—A raíz de la formación de la Federación Británica del Caribe, aunque en ella no se incluía la Guayana Británica, en febrero de 1956 el Canciller venezolano, Dr. José Loreto Arismendi, ratificó la tradicional posición venezolana acerca de los límites con aquella colonia, en el sentido de que no sería afectada por ningún cambio de *status* que en ese territorio limítrofe se produjera.

41.—En marzo de 1960 el Dr. Rigoberto Henríquez Vera expuso ante una delegación parlamentaria del Reino Unido el criterio de la Cámara de Diputados de Venezuela:

“Un cambio de *status* en la Guayana Inglesa no podrá invalidar las justas aspiraciones de nuestro pueblo de que se reparen de manera equitativa, y mediante cordial entendimiento, los grandes perjuicios que sufrió la nación en virtud del injusto fallo de 1899, en el cual privaron peculiares circunstancias ocasionando a nuestro país la pérdida de más de sesenta mil millas cuadradas de su territorio”.

42.—Cuando ya Venezuela estaba en posesión de la copiosa documentación que substancia su tradicional criterio sobre la nulidad del laudo, volvió a dejar constancia de ello ante la Comisión de Administración Fiduciaria y Territorios no Autónomos, en las Naciones Unidas (febrero de 1962) por medio de su Embajador, Dr. Carlos Sosa Rodríguez.

43.—La Cámara de Diputados, en sesiones de los días 28 de marzo y 4 de abril de 1962, después de oír las intervenciones de los representantes de todos los partidos políticos en apoyo de la posición de la Cancillería venezolana sobre el laudo, aprobó el siguiente acuerdo: “Respaldar la política de Venezuela sobre el diferendo limítrofe entre la posesión inglesa y nuestro país en cuanto se refiere al territorio del cual fuimos despojados por el colonialismo; y, por otra parte, apoyar sin reservas la total independencia de la Guayana Inglesa y su incorporación al sistema democrático de vida”.

44.—El 12 de noviembre de 1962, el entonces Canciller de Venezuela, Dr. Marcos Falcón Briceño, en su intervención ante el Comité Político Especial de la XVII Asamblea de las Naciones Unidas, expuso ampliamente la tradicional posición de Venezuela respecto de la cuestión limítrofe de Guayana, e invocó la nulidad del laudo del 3 de octubre de 1899.

Como resultado de conversaciones que sostuvieron los representantes de los Gobiernos del Reino Unido y Venezuela, se produjo un acuerdo entre aquellos dos países, con la concurrencia del Gobierno de Guayana Británica, en el sentido de que los tres Gobiernos examinarían los docu-

mentos relativos a esta cuestión, y que informarían a las Naciones Unidas sobre los resultados de las conversaciones. Así lo declaró, con autorización de las partes interesadas, el Presidente del Comité Político Especial, señor Leopoldo Benítez (representante del Ecuador) el 16 de noviembre de 1962.

Después de los arreglos hechos por la vía diplomática, de conformidad con el anterior acuerdo, en noviembre de 1963 se reunieron en Londres los Ministros de Relaciones Exteriores de Venezuela y del Reino Unido, Dr. Marcos Falcón Briceño y el honorable R. A. Butler, respectivamente. En esta oportunidad el Canciller venezolano, el día 5 del mismo mes y año, presentó al Secretario de Asuntos Exteriores de Su Majestad Británica una Aide-Memoire con los puntos de vista de Venezuela sobre el litigio, cuya conclusión era la siguiente:

"La verdad histórica y la justicia exigen que Venezuela reclame la total devolución del territorio del cual se ha visto desposeída".

RESUMEN DE CONCLUSIONES

En suma, como resultado del examen tripartito de la documentación que se acaba de exponer sucintamente, la cual respalda cada una de las afirmaciones aquí contenidas y fue presentada a Gran Bretaña, Venezuela ha llegado a las siguientes conclusiones:

1.—Venezuela tuvo que aceptar el Tratado de Arbitraje de 1897 bajo presión indebida por parte de los Estados Unidos y Gran Bretaña, los cuales negociaron las bases del compromiso con exclusión del Gobierno venezolano, al cual se le dieron explicaciones que lo indujeron a error.

2.—Venezuela fue de tal manera preterida que Estados Unidos y Gran Bretaña acordaron desde el comienzo de la negociación que ningún jurista venezolano habría de formar parte del Tribunal de Arbitraje.

3.—Aun cuando sustanciales reservas venezolanas al Tratado no fueron tomadas en cuenta por los más directos negociadores del mismo, Venezuela interpretó el compromiso arbitral en el sentido de que la decisión del Tribunal debía ser de estricto derecho.

4.—El llamado laudo del 3 de octubre de 1899 es nulo. Esta nulidad se fundamenta:

- a) En la falta de motivación de la decisión.
- b) En que los árbitros no tuvieron en cuenta, para dictar su fallo, las reglas de derecho aplicables y, en particular, el principio del *uti possidetis juris*; y tampoco hicieron esfuerzo alguno de investigación en lo que concierne a los territorios que pertenecían, sea

- a los Países Bajos, sea al Reino de España, para la época de la llamada adquisición (Art. III del Tratado de Arbitraje).
- c) En que los árbitros no decidieron como debía computarse el plazo de 50 años de prescripción, ni lo aplicaron según lo acordado en el Tratado de Arbitraje.
 - d) Sin que estuvieran facultados para ello por el compromiso arbitral, los árbitros establecen y reglamentan en su sentencia la libre navegación de dos ríos fronterizos, y por cierto en contra de Venezuela.
 - e) El hecho de que el llamado laudo fue efecto de un compromiso diplomático explica que los árbitros no tomaron en cuenta las reglas de derecho contenidas en el Tratado Arbitral. Los documentos contemporáneos, mientras revelan que los árbitros eran conscientes de ello, confirman el hecho al que califican de "componenda" y "farsa".

5.—Los representantes de Gran Bretaña presentaron al Tribunal de Arbitraje mapas a los que se atribuía decisiva importancia, los cuales habían sido adulterados en el Colonial Office.

6.—La línea del llamado laudo había sido preparada en el Colonial Office en el mes de julio de 1899, o sea con varios meses de antelación respecto a la sentencia. Esta línea de frontera fue impuesta a los árbitros americanos por el Presidente del Tribunal, el profesor ruso de Martens, por medio de la coacción.

7.—Venezuela nunca ha dado asentimiento al llamado laudo del 3 de octubre de 1899. La participación de Venezuela en la demarcación de la frontera revistió un carácter puramente técnico. A ello fue forzado el país por circunstancias para él insuperables. Tanto el Gobierno como el pueblo venezolanos, en cuanto y como les fue posible, protestaron el llamado laudo de 1899.

Caracas, 18 de marzo de 1965.

Hermann González Oropeza, S. J.

Pablo Ojer, S. J.

Annex 75

Sir Geoffrey Meade, *Report on the Exposition presented by the Venezuelan Experts* (3 Aug. 1965)

Geoffrey MEADE

Ruins

Report on the exposition presented
by the Venezuelan experts.

Mead's
 REPORT ON THE EXPOSITION
 PRESENTED BY THE VENEZUELAN EXPERTS

NOTE

Throughout this examination of the Venezuelan Exposition, it will be noted that a number of paragraphs have not been specifically dealt with. This is because it is considered that their content has been adequately covered in general terms and that no essential or relevant point has been overlooked.

1. The present complaint by Venezuela being primarily directed against the manner of the award by the Arbitral Tribunal, a detailed study of the historical background is not considered necessary. Nevertheless the following brief comments are submitted in connexion with Section I.

2. "5. There was as yet no Dutch settlement West of the Essequibo river when the Treaty of Munster was signed in 1648."

This statement is contradicted by the Venezuelan Agent, Dr. Rojas when he reported from Paris on August 24, 1899, after hearing the main evidence on both sides, that "it is evident that that part of the territory (Moroco triangle, west of the Essequibo) was occupied by the Dutch both before and after the Treaty of Munster". According to the Venezuelan experts documents discovered since 1899 prove that Dr. Rojas was mistaken, but none of these have been produced. Furthermore, Mr. Storrow, Assistant Agent for Venezuela on the United States Boundary Commission set up by President Cleveland, wrote on November 2, 1896" at the date of that Treaty (Munster) the Dutch held fort Kykoveral, five or eight miles west of the western side of the Essequibo".

3. "6. Under the Treaty of Munster, Spain merely recognised Holland's right to the posts which she held in Guiana at that time, but she did not allow her to settle beyond what she then occupied."

This statement is inaccurate as the relevant article of the Treaty of Munster not only provided that Spain and Holland should retain what they held but also what they "shall chance to acquire after this without infraction to the present Treaty".

4. "7. When the first Dutch posts appeared West of the Essequibo, in the second half of the 17th century, Spain regarded them as violations of the Treaty of Munster."

This assertion is contradicted by the statement of the Spanish Ambassador to the Netherlands who wrote on January 16, 1688, that "the Treaty is observed religiously on both sides". It was well known that the Dutch were then in occupation of the Pomeroun (West of the Essequibo) and the fact that no protest was made by Spain was pointed out in the reports of the U.S. Boundary Commission (Vol II p. 183 note). This indicates that either the Dutch were already in possession of this area at the

/date....

2.

date of the Treaty (1648) or that its subsequent occupation was not considered by Spain as a violation of that Treaty.

5. "11. When Great Britain acquired British Guiana in 1814 its frontier with Venezuela was bounded by the Essequibo river."

The assertion that the Essequibo formed the boundary of British Guiana in 1814 is contradicted by Sr. Rojas, Venezuelan Minister for Foreign Affairs, in his Memorandum to Mr. Olney of March 28, 1896, where he states that the articles of cessation "speak only of the establishments of Demerara, Essequibo and Berbice without in any way establishing their boundaries", and again

"there is no arrangement through which Spain established the dividing line between her possessions and those of the Dutch in Guiana. Did one exist there would be no grounds for this dispute". (U.S. Boundary Commission Vol ix part 3 p.6).

II

6. The question of the Schomburgk lines will be referred to later but the statement at 3 that Lord Aberdeen disavowed Schomburgk is not correct. It is true that Lord Aberdeen agreed to the removal of the posts set up near the Orinoco but it was expressly stated that this was done without any prejudice to British rights.

7. "5. In 1850, Great Britain and Venezuela each undertook not to occupy disputed territory, which naturally included that lying between the pseudo Schomburgk Line of 1840 and the Essequibo, the maximum claimed by those two countries. This is what came to be called the 1850 Agreement, which remained in force until the Arbitration."

The wording of this paragraph suggests that Britain agreed in 1850 not to occupy any territory between the Schomburgk line and the Essequibo. If this had been the intention numerous British settlements would have had to be evacuated. That this was not the case is proved by General Guzman Blanco writing to Lord Salisbury:-

"The specification of which (disputed territory) ought to have been made and was not...But the rational meaning of the Agreement is that it was intended to the maintenance of the status quo. It has thus been understood by the Venezuelan Republic." (Venezuelan Print p. 251).

8. "6. The fresh evidence reveals that Great Britain rejected the proposals continually made by Venezuela for submitting the question to arbitration".

Dr. Rojas, Venezuelan Minister for Foreign Affairs, stated in 1896 that Lord Aberdeen had proposed arbitration. (U.S. Commission on Boundary between Venezuela and British Guiana Vol IX part 3 p. 33). This is also indicated by Sr. Enrique, B. Nunez (Tres momentos en la Controversia de Limites de Guyana pp. 17, 18, 37). Sr. Nunez also makes it clear that Dr. Fortique,

/Venezuelan...

Venezuelan Minister to Britain, who negotiated with Lord Aberdeen considered that his Government should not exasperate the British Government (p.23) and that they were letting slip an opportunity of reaching a settlement (p.24). Criticism of the attitude adopted by the Venezuelan Government at the very outset of the dispute was expressed by the eminent Venezuelan historian José Gil Fortoul who wrote a century later, in 1942, that "unfortunately the Venezuelan Government thought it prudent to place obstacles through useless delays and superfluous admonitions to the negotiations which its clever and wise Minister was carrying out in London. (Historia Constitucional de Venezuela Vol II p.115).

III

9. "1. (a) Though José Andrade was very briefly informed of the negotiations between January and July 1896, neither he nor any of the Americans who acted as counsel for Venezuela were able, until 1899, to acquaint themselves with the most important part of the negotiations which took place between September and November 1896."

From 1876 onward Venezuela had sought to enlist the active support of the U.S.A. and in May 1895, Mr. Gresham, U.S. Secretary of State, informed Venezuela that if she would reopen diplomatic relations with Britain the U.S.

"would exert pressure on the British to submit the entire dispute to an arbitration arranged, not as subsequently occurred between England and the United States, but by direct negotiation between England and Venezuela....The Venezuelan Government in great chagrin first opposed the plan and later accepted it reluctantly and too late".

(G.B. Young. The Olney Corollary. Pol. Science Qly LVII 1942 p. 249).

In any case as stated by Mr. Adee, Assistant Secretary of State, Venezuela had only accepted "provided the settlement be virtually settled in advance". (A.L.P. Dennis, Adventures in American Diplomacy, p. 25). As regards Britain's attitude, far from seeking to exclude Venezuela Lord Salisbury desired her participation. As Mr. Bayard reported in January 1896 the British "consider that Venezuela must be represented in Arbitration - but if the United States stipulate for Venezuelan concurrence, I believe that would suffice". (Olney M.S. quoted by Young op. cit. p. 273). Furthermore the first instructions sent to Sir. J. Pauncefote were "to discuss the question either with the representative of Venezuela or with the U.S. acting as friend of Venezuela". (Ven. Print p. 72). Soon afterwards, on March 21 (Ven. Print p. 109) and again in July (Sr. Andrade to M.F.A. of July 9, 1896 and Caracas reply of July 28) Sir J. Pauncefote asked Sr. Andrade if he could discuss the boundary dispute directly with him. On the first occasion an evasive reply was given, and on the second the Venezuelan Government instructed Sr. Andrade to seek and follow Mr. Olney's advice. Mr. Olney, although not wishing to put any

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obstacle in the way, considered that he could exert greater pressure on Britain than Venezuela could, and so he continued negotiating on her behalf. All the above indicates clearly Venezuelan reluctance to negotiate herself even with U.S. support, and Sr. Andrade's reports during 1896 contain no suggestion, still less complaint, that Venezuela was being pushed aside. On the contrary he commends Mr. Olney for the

"decision, firmness and cleverness with which he is defending the rights of Venezuela. I do not believe that she could have her cause in more apt, resolute and disinterested hands."
(Sr. Andrade to M.F.A. July 20, 1896).

In October, when Britain submitted her final proposals, Sir J. Pauncefote reported that Mr. Olney would show them to "Venezuelan Minister and Counsel" (Ven. Print Part II p. 81). In fact there is no indication that Venezuela objected at any time to the role assumed by Mr. Olney on her behalf:-
"Venezuela never questioning the right of the U.S.A. to intervene" (Young op. cit. p. 266) or to quote the Frenchman Pariset referred to in the Exposition as an impartial witness:-

"Le Venezuela s'etait volontairement efface derriere les Etats Unis:- avec une entiere confiance les Sud Americains avaient remis leur cause aux mains des Nord Americains". (Georges Pariset - L'Arbitrage Anglo - Venezuelien de Guyane p. 6).

10. "1. (b) At a crucial moment in the negotiation of the Treaty, when the Venezuelan Government was asked if it would accept prescription its reply was absolutely and firmly negative; nevertheless, Olney pursued the matter, not only ignoring Venezuelan objections but also consenting to essential points which England herself did not expect to be included and keeping Andrade in ignorance of the terms of the negotiations."

The prescription clause was referred by Sr. Andrade to Caracas on August 21, 1896, and although in their replies (October 1 and November 6) the Venezuelan Government put forward strong objections there is nothing in them which could be termed "an absolute and firmly negative reply". Nor are there any serious grounds for the allegation that Mr. Olney agreed to "essential points which England herself did not expect to be included". This refers to a letter from Sir J. Pauncefote to Lord Salisbury of October 30, 1896 in which he says that Mr. Olney's "counter proposal, however, is very much like the settlement suggested by the Attorney General and a little better as it reduces the prescription limit to fifty years, though it does not help us much". (Salisbury Papers Christ Church A/139. 130). The point at issue was a few years more or less in the length of the prescription period, hardly an essential point, and one moreover where Lord Salisbury did not agree with the Attorney General. (Lord Salisbury to Mr. Chamberlain August 18, 1896. Salisbury Papers A/92).

/11....

11. "1. (c) Venezuela was excluded from the Court of Arbitration by England right from June, 1896. When Venezuela demanded that at least one of the judges be a Venezuelan, Pauncefote and Olney jointly prevented it."

It is true that in the first part of Caracas despatch of December 9, 1896, Sr. Andrade was requested to press for a modification of Article II so that "citizens of this Republic or at least one" should be appointed in order to satisfy/opinion. But an important postscript to this same despatch has been ignored which cancels that stipulation and conveys this final instruction: "it would be better to enable the President of Venezuela or the High Federal Court to select one of the two arbiters of any nationality whatsoever". It is therefore clear that the Venezuelan Government did not wish to insist on the appointment of a Venezuelan. There is indeed considerable evidence that they preferred to be represented by members of the U.S. Supreme Court. Thus on January 1, 1897, Sr. Andrade wrote to Caracas "while the more I think of it, the more convinced I am that Venezuela, far from wishing to restrict the participation of the U.S.A. in the composition of the Tribunal should seek to augment it in order that its responsibility should be greater", and again on January 21 the stresses "the importance...of having in our Arbitration Tribunal the two most eminent jurists of the Supreme Court of this country". Furthermore Mr. Storrow writing on January 26, 1897, to the Venezuelan M.F.A. states:- "Thus, I think you have got what you desired - a clear and formal recognition of the appointing power on the face of the treaty, precisely the same two jurists whom, at Caracas, you told me you preferred". It is true that on the British side doubts were expressed as to whether there was a Venezuelan jurist considered to have the qualifications necessary to act as arbiter, but as with complete freedom of choice the Venezuelan Government did not appoint a single Venezuelan among the four lawyers who were to act as her counsel, but chose all U.S. nationals, it would seem that they agreed with Sr. Andrade regarding the maximum possible participation of the U.S.A. on Venezuela's behalf. As a further sign that no grievance was felt at the time, there is the authority of Dr. Seijas in his report on the Award of May 4, 1900, who stated that Venezuela "participated in the selection of three of the members of the Tribunal".

12. "2. (a) In March 1896, Pauncefote proposed a direct settlement between Great Britain and Venezuela to Andrade, but Olney expressed his disagreement. As Great Britain had only consented to arbitration restricted to the territory situated outside the spurious "Schomburgk Line" of 1887, Venezuela could not but agree to the United States continuing to negotiate. It was the only way to prevent England from forcibly establishing the expanded spurious Schomburgk Line as the frontier."

As stated above (paragraph 9), Britain twice suggested direct negotiations but Venezuela preferred to leave these in the "resolute and disinterested hands" of Mr. Olney. It is suggested that this was due to the uncompromising attitude of Lord Salisbury which amounted to coercion. But, as indicated

/in.....

in the same paragraph (9), Venezuela had been equally stubborn by only agreeing to negotiate "provided the settlement be virtually settled in advance". In fact Venezuela was following the course which she considered in her best interests and this cannot be called coercion. Indeed it was rather Britain who was acting under coercion, since it was virtually a threat of war by President Cleveland which forced her to negotiate, and the threat of the Boundary Commission set up by him remained until after the signing of the Olney-Pauncefote Protocol in November, 1896.

13. "2. (b) When, on November 12, 1896, Olney and Pauncefote signed the "Bases of the Treaty of Arbitration", Venezuela had expressed her disagreement with a treaty which invested prescription with the force of international law, and had even begged Olney not to take a step which would make the United States an "unexpected factor in the triumph of injustice" and which would be humiliating for Venezuela."

The prescription clause has already been mentioned above (paragraph 10) but the words quoted "unexpected factor in the triumph of injustice" are contained in Caracas despatch of November 6, 1896, of which Sr. Andrade is allowed to make discreet use in conversation with Mr. Olney should a suitable opportunity present itself. There is no reason to suppose that these precise words were ever repeated to Mr. Olney.

14. "2. (c) In view of the doubt whether Venezuela would accept the Treaty, Olney sent Andrade and James Storrow (as his Agent) to Caracas to obtain approval of the Treaty, together with a letter from President Cleveland demanding that it be approved.

Sir J. Pauncefote reported on November 11, 1896, that Sr. Andrade was leaving for Caracas on November 13, and Mr. Olney was anxious that he should take the draft with him. (Ven. Print Part II p. 90). Sr. Andrade was therefore going to Caracas in any case, whether the draft was signed or not, and contemporary documents do not indicate that Mr. Olney had any doubts regarding its acceptance by Venezuela. James Storrow, was the paid agent of the Venezuelan Government and acted as go-between with Mr. Olney. The letter from President Cleveland to President Crespo was couched in the most courteous terms and in no way justifies the use of the term "exigiendo" (demanding).

15. "2. (d) Venezuelan public opinion was so manifestly opposed to the Treaty that the British Consul in Caracas informed the Foreign Office that it would be impossible for Congress to ratify it. The United States press stated that the Treaty posed the dilemma "President or People"."

The reaction of public opinion in Venezuela was mixed, according to Caracas despatch of December 30, 1896, to Sr. Andrade "Here articles have been published on the question, some in favour and others against", while the report of the British Consul has been distorted. He wrote:- "The Editors of "El Tiempo" the

/"Pregonero"...

"Pregonero" and many private individuals trust that Congress will not sanction an arrangement wherein Venezuela has no voice", (Ven. Print 1897 p.4). This is very different from saying that it was "impossible for Congress to ratify it". As regards the press heading "President or People", the actual article quoted, after stating that the President approved but the press and public were generally hostile, mainly because Venezuela was not directly represented, adds "Congress sure to ratify". It will be noted that the opposition referred to was in connexion with Venezuelan representation and the clause concerned was subsequently modified in order to satisfy public opinion.

16. "2. (e) At this juncture Olney cabled to Storrow demanding that he silence public opinion and peremptorily demand that the Executive accept the Treaty and appoint a Minister to England immediately, in order thus to force the Venezuelan Congress to ratify the Treaty. Failing this, Venezuela would have to face England alone: "delay on the part of Venezuela might be fatal." "Olney overawe and bulldoze Venezuela" [sic. Quoted in English] an American diplomat commented in his diary.

The following is the text of Mr. Olney's telegram to Mr. Storrow:-

December 12, 1896.

"Says "Matter closed as between Great Britain and United States. Changes in treaty must be made between Great Britain and Venezuela. Earliest practicable restoration diplomatic relations most desirable. Present Venezuelan attitude tends to block all negotiations".

17. The page in the Venezuelan State archives which contains this telegram has beneath it the following note by Mr. Storrow.

(~~to the success of any negotiations for a change~~);

"I feel authorised to say that any changes which Venezuela and Great Britain may agree upon will be entirely agreeable to Mr. Olney; but that delay on the part of Venezuela might be fatal /that the attitude of the Venezuelan public as reported in the papers is not well received and tends to block all negotiations; and that an early appointment of a Minister to England, or that the official announcement that one would be appointed on the signing of the treaty would assure the United States, Great Britain, and the public, of the firm position taken by the executive of Venezuela in favour of the treaty with such changes as may be agreed upon.

J.J.S."

It will be seen that there is no request to silence public opinion nor any reference to forcing Congress to ratify the treaty, and the words quoted "delay on the part of Venezuela might be fatal" have been completely misrepresented in the Exposition. As quoted they appear as a dire threat. This is not only a fanciful presentation but in the original document the words in brackets "to the success of any negotiations for a change" are crossed out in pencil as has been done above. When and why they were crossed out is not known; but as the previous sentence mentions modifications in the treaty it is obvious that fatal

/delay....

delay refers to the success of negotiations for a change. If further proof be needed, there is the explanation given by Sr. Andrade himself who points out "that the moment is particularly propitious to ask for modifications as Britain is about to sign a General Arbitration Treaty with the U.S.A. and is therefore especially likely to prove receptive. (Sr. Andrade to M.F.A. December 28, 1896). It will thus be seen that correctly presented the words are no longer a threat regarding the treaty as a whole but only good advice concerning negotiations for modifications. The American diplomat referred to is W.L. Scruggs, Agent for Venezuela and a most partial witness.

18. "2. (f) The Venezuelan Executive only accepted the Treaty "because of dangerous consequences of the exposed position in which Venezuela would be placed by refusal", but "with certain amendments to the proposed articles in the drafting of which she had, unfortunately, not been given a share"."

This refers to Caracas despatch of December 6, 1896, and although Sr. Andrade was asked to seek certain modifications failing acceptance of which he was to refer back for instructions, this stipulation was cancelled in a postscript which authorized him to sign, even if he found it impossible to obtain the desired alterations. Reference has already been made above (paragraph 11) to the fact that this important postscript has been ignored in the Exposition.

19. "2. (g) Great Britain collaborated in, if she did not instigate, the pressure brought to bear on Venezuela to approve the Treaty."

There is no evidence that Britain collaborated in, let alone instigated the pressure alleged to have been exerted on Venezuela. Sr. Andrade reported on January 7, 1897, that he was worried at the absence of news from London and Mr. Olney feared that Lord Salisbury was finding it difficult to secure acceptance. On February 20, 1897, Sir. J. Pauncefote telegraphed that President Crespo greatly desired ratification before March 4, while Sr. Andrade was writing to his government in terms which he certainly would not have used if he felt he had been forced to sign a treaty which was humiliating for his country. - "Never has any Venezuelan Government done a greater good to the Republic than that which is offered in this Treaty by the Administration of General Crespo". But the final words in reply to the accusation of coercion may be left to Crespo himself when he declared in his message to the Venezuelan Congress:- "The plan of arrangement (Arbitration Treaty) was presented to the consideration of Venezuela without any proposal of coercion.."

20. "3. (a) In the report on prescription made in July equivocal language was used and Venezuela was led to believe that the said article could at most apply to the territorial triangle between the mouths of the Cuyuni, Essequibo and Moruca rivers."

This refers to Sr. Andrade's report of August 28 (not July) 1896. It is short and perfectly clear and gives Mr. Olney's view that a sixty year prescription period would safeguard

/Venezuela...

Venezuela against British occupation subsequent to 1836, at which date Britain only occupied the Moroco triangle to the west of the Essequibo. But the Venezuelan Government far from accepting this interpretation expressed very serious doubts - hence their objections to this clause.

21. "3. (b) In the report made on November 2 for Andrade by Storrow, his go-between with Olney, on the scope of prescription, the latter explains it as being the same as that applicable to that same territory during the period prior to 1814."

Mr. Storrow favours fixing the duration of prescription at fifty years, but he nowhere restricts this to any specific period and he does not once mention the date 1814.

22. "3. (c) When the Venezuelan Government refused to accept prescription on the ground that the Constitution forbade alienation of national territory, they understood that the 50 years should have been counted backwards from 1814 and that at the most prescription should apply to the triangle of territory referred to above. Venezuela would have been even more justified in opposing the prescription clause if this right had had to apply to the territories occupied by Great Britain after 1814."

This paragraph is in complete contradiction to the relevant despatches from Caracas. When Sr. Andrade first transmitted Mr. Olney's proposal for sixty years prescription (August 28, 1896) he stated clearly that this would give protection against British occupation "subsequent to 1836". Obviously he could only be referring to the sixty year period immediately prior to 1896. Caracas replied on October 1, 1896 pointing out that such a clause might entail anticipated alienation of territory which, being contrary to the Constitution, sufficed to explain the scruples of the Government against agreeing, since it would cover what the British had taken from 1814 to 1836. The Venezuelan Government also objected that such a vague clause might affect not only the Moroco triangle but extend to territory remote from the Essequibo Line. Again it is repeated on November 6, 1896, that this clause would mean ipso facto recognition by Venezuela of British titles to occupation up to 1836. They further state that "the period fixed for this effect is sixty years counting from 1836" (Contaderos desde 1836). It also adds that although Mr. Storrow thought that this would only affect territory within the Moroco triangle no one could guarantee that the Arbitrator would not think differently and grant to England the district North West of the Moroco. These despatches therefore make it perfectly clear both that the Venezuelan Government thought that considerably more territory might be affected than the Moroco triangle and that prescription covered the period immediately prior to the Arbitration Treaty. That this was generally so understood at the time is proved by an article in "El Liberal" of December 19, 1896 when it referred to the prescriptive clause as follows -

"This is to say that for the determination of boundaries no English invasion subsequent to 1846 will be taken into account". (Es decir, para la fijacion de fronteras no sera tomado en cuenta ninguna invasion inglesa del 46 para aca).

23. "3. (d) The maximum protection which the Treaty left to Venezuela in face of the mere fact of occupation by Great Britain was the agreement of 1850 by which both parties undertook not to move into the disputed territory; but Olney had agreed, behind Venezuela's back, in a confidential letter to Pauncefote, that his interpretation must remain in the hands of the Court."

This paragraph is obscure. If prescription only applied to the years prior to 1814 as claimed in the previous paragraph (c) it would seem that an Agreement concluded in 1850 would be of little or no importance. It is true that Mr. Olney considered that any attempt to define the scope and meaning of the Agreement would involve protracted debate and as it would come before the Tribunal in the natural course of things its interpretation should be left to that body. As already mentioned above (paragraph 7) Venezuela herself had recognised that the disputed territory had not been defined in 1850 but as the Caracas despatches which suggest modifications to the Treaty nowhere request such an amendment the grounds of the present Venezuelan complaint are not understood. Mr. Olney, far from wishing to dismiss the 1850 agreement, resolutely refused to reduce the prescription period beyond fifty years since "if a shorter term be stipulated it is certain to be urged, and with great force, that the Agreement of 1850 is thereby waived..." (Mr. Olney to Sir J. Pauncefote October 29, 1896 Ven. Print Part II p. 89). In any case Britain suggested a draft which referred to this Agreement but it was not acceptable to Mr. Olney. Thus the word "agree" (acordar) is not correct, while the allegation that the question was dealt with behind Venezuela's back does not accord with Sir J. Pauncefote's telegram to Lord Salisbury that Mr. Olney would show the proposal to the Venezuela Minister and Counsel and consider it with them (October 27, 1896 Ven. Print Part II p. 81). Also on October 28 Mr. Storrow wrote to Mr. Olney "Mr. Andrade and I will come to your house at 8.15 to-night unless we hear to the contrary". (Olney MSS. 11465).

24. "3. (e) The Venezuelan lawyers consulted Olney about the matter of the Treaty and the latter denied the existence of correspondence subsequent to July 1896. Only when England submitted it to the Venezuelan advocates in 1899, in order to compel them to accept her interpretation of the Treaty, was Venezuela able to acquaint herself with its contents."

It is true that Mr. Olney told the Venezuelan counsel that there was no correspondence subsequent to July 1896, but as he stated later this was because he was referring to the files of the State Department which did not include this particular letter of October 29, 1896. The question of a deliberate intent to deceive is not only unproved but there was no reason whatever for his seeking to deceive. Indeed according to General Harrison himself the misunderstanding concerning the prescription period appears to have been due to an interpretation inserted at a later stage in the Venezuelan Agreement by one of the Venezuelan Counsel, General Tracy, but it was not so understood by Sr. Andrade and the other Venezuelan counsel who "were

/inclined....

inclined to accept the fifty year period as dating from the Treaty". Nevertheless the Venezuelan Government supported General Tracy in spite of General Harrison's view that "it would be an utterly insincere thing to do". (General Harrison to Mr. Mallet-Prevost March 9, 1899). That the period of prescription was understood to include the period immediately prior to the treaty even by the Venezuelan Government has already been shown in quotations from Caracas despatches (paragraph 22) and yet further proof is provided by the text of the Venezuelan case itself:-

"In view of the fifty year rule (Art IV Rule a) adopted by the present Treaty, the expansion of British occupation subsequent to 1847 can have no effect upon the determination of the boundary line". (Case for Venezuela XIV p. 179).

It is clear that the only possible meaning of the above is that the fifty year period was understood as including the years immediately preceding the date of the signature of the Treaty i.e. 1897.

25. "3. (f) Olney's reluctance to agree to the correspondence being submitted in full provides the finishing touch to the intent to deceive."

As indicated in the previous paragraph the accusation that Mr. Olney was deliberate in his intent to deceive has no serious basis. To call this the "climax of his intention to deceive" when there has never been a suggestion of any other deception is meaningless. Even when the Venezuelan Government wrote on April 23, 1899 that if Mr. Storow had known of Mr. Olney's letter of October 29, 1899 he had not communicated it to them there is no hint that this was considered by them as an attempt to deceive.

26. "3. (g) In any case, Venezuela always understood that the prescription article as well as the agreement of 1850 had to be interpreted in accordance with the principles of International Law by a Court which would act judicially and would not use that article as the basis for a compromise of any kind.

This paragraph has already been partly answered (see paragraph 22). The Caracas despatches previously quoted indicate clearly the Venezuelan view that the prescription clause would open the way for the Arbiter to grant to Britain territories far distant from the Essequibo. However in view of Mr. Olney's expressed reluctance to prolong discussions Sr. Andrade did not even mention to Sir J. Pauncefote his Government's wish to insert a reference to international law into the prescription clause. This addition was obviously desired because the Venezuelan government did not consider that it was so "understood". This clause was therefore considered as opening the way to compromise by giving the Arbiter considerable freedom. As Pariset wrote at the time "Autant dire que les Arbiters auront à peu près toute liberté d'action." (G. Pariset. Historique Sommaire du Conflit Anglo-Venezuelien en Guyane 1898.

/See...

See also paragraph 12).

As it turned out, however, the question of prescription which was inserted to safeguard long settled districts did not play an important part in the actual proceedings. This was referred to in a very recent study of the matter by Joseph J. Matthews writing in the "Mississippi Valley Historical Review (1963)" where he writes:-

"Ironically, settled districts, the issue that prolonged the controversy had little bearing on the final boundary lines, which were determined largely on legal and historical grounds". (p. 211).

IV

28. The relevance of this section is not apparent. The assertion that the award was basically the vindication of the falsified Schomburgk line is a contradiction in terms and the claim that the first defect of the award was the conferring of legal status on a spurious line is frivolous. The Tribunal was not called upon to determine the validity of the Schomburgk line or the accuracy of any specific maps. The answer to these allegations is best given by Venezuela herself who in 1896 saw this matter in its proper perspective - "The question (of the different lines) is not of prime importance for no title directly turns on it", and again "let us not mistake the value or want of value of the Schomburgk line. It was originally nothing but a speculative attempt or proposal to form a subject of discussion or negotiation. It has not in itself the slightest probative or presumptive value." (U.S. Boundary Commission Vol ix Venezuelan Briefs pp 29, 31 40). As regards the accuracy of maps this was dealt with by Mr. Mallet-Prevost who stated:- "All maps of the region in dispute between British Guiana and Venezuela have been made with an imperfect and generally very defective knowledge of the country and are therefore replete with errors". (U.S. Boundary Commission Vol III p. 6). There is no doubt that considerable confusion existed in connexion with the Schomburgk line and in the view of the Foreign Office the so called first line was not only erroneous in itself but was further misrepresented in consequence of the faultiness of the maps on which it was drawn. But this question was dealt with exhaustively first by the U.S. Venezuelan Boundary Commission and later during the proceedings of the Tribunal. The main basis of the accusation of falsification appears to rest on an engraver's error which was brought officially to the notice of the Venezuelan Agent by the British Agent. (Mr. Buchanan to Sr. Rojas May 17, 1899 Ven. Print p. 51).

29. It is therefore submitted that the allegations in this section are utterly irrelevant and the fact that to a considerable extent the award followed the Schomburgk line, far from providing grounds for vitiating the award, was seen in its proper perspective as reported in the "New York Herald" of October 4, 1899 when it stated:- "It so nearly corresponds with his (Schomburgk's) line as to completely vindicate his honesty or purpose and his reputation as a surveyor".

/V....

30. "1. The 1897 Treaty empowered the Arbitrators to act only as impartial judges, not as advocates for the contracting parties; they were not empowered to negotiate on their behalf, still less to effect a compromise."

There is of course nothing in the treaty which stipulated that the judges should not act as advocates but this was obviously understood. "They should proceed impartially and carefully". As regards the powers of the Arbiters the opinion of the French jurist Pariset that they had full liberty of action has already been quoted (paragraph 26). President Crespo himself in his message to the Venezuelan Congress submitting the Arbitration Treaty for approval called it a "Tribunal dirimente". When the Acting British Consul in Caracas sent home a translation of the relevant extract he wrote "Tribunal of accommodation" and it seems clear that it was understood in this sense." (Mr. Andral to Lord Salisbury March 6, 1897 Ven. Print p. 97).

31. "2. Venezuela understood that the dispute was to be settled by an impartial decision of the Arbitrators and by the judicial determination of a legal frontier."

If this was indeed Venezuela's interpretation of the Treaty she had every reason to be satisfied as it gave her all that she could possibly expect. Therefore to claim now, although she did not do so at the time, that she only signed under coercion does not make sense. It is evident from the Exposition (II 6 last paragraph) that Venezuela now considers that the only line which she could recognise as "line of right" is the Essequibo line. But in 1896 she did not adopt such a rigid attitude when, in connexion with the Uruan incident, which took place some 200 miles west of the Essequibo, she admitted that the tribunal might decide that it had occurred in territory deemed to be British. (Sr. Rojas to Lord Salisbury February 5, 1896. Ven. Print p. 70).

32. Britain was aware of the clause in the Venezuelan Constitution regarding the "inalienability of the national territory" but it had been explained that this objection did not apply in the case of an arbitral award. "A Tribunal... is able to pass sentence that one of the two parties or both of them have been mistaken in their opinions concerning the extent of their territory. Thus the case would not be in opposition to the constitution of the Republic, there being no alienation of that which shall have been determined not to be her property." (Sr. Seijas to Colonel Mansfield. April 9, 1884 Ven. Print p. 235). It may also be noted that despite this clause Dr. Rojas informed Lord Salisbury on April 12, 1880 that he was authorised to "abandon the ground to strict right in the adoption of a frontier where each party would have to make concessions" (Ven. Print p. 214). And again on June 6, 1890 Sr. Pulido proposed a compromise arrangement but if the governments could not agree on a "friendly boundary" the matter was to be referred to arbitration. (Ven. Print p. 323).

/Again...

Again as late as January 1898 Mr. Haggard reported that Sr. Rojas the Venezuelan Agent, has "suggested the advisability of England and Venezuela coming to an independent friendly arrangement" and the Venezuelan Foreign Minister had told him "that it was his wish (deseo) that such an arrangement should be come to. I repeated Sr. José Maria Rojas' suggestion - the Orinoco and its water-shed for Venezuela, the Essequibo and its water-shed for England and asked him if this was what he wished. He replied in the affirmative". The Foreign Minister considered that the proposal would have to come from the Arbitration Commission i.e. the five arbiters, but this course would have rendered its labours unnecessary - in fact it would merely have expressed its approval of a compromise negotiated directly between Britain and Venezuela. (Mr. Haggard to Lord Salisbury. January 19, 20, 25 1899 Ven. Print pp. 11, 17, 18).

33. "3. During the negotiation of the 1897 Treaty, Venezuela maintained the same position, opposing any interpretation of the prescription clause which might impede the Arbitrator in "the exercise of his natural capacity as a judge of law". Venezuela agreed that the National Constitution did not empower the Government, still less the Arbitrators, to accept any form of settlement involving the principle of "do ut des" and it maintained that the solution could not be subject to "voluntary concessions on the part of a judge".

Again, when in February 1899 Sir Richard Webster raised the question of the interpretation of the prescription clause, the Venezuelan Chancellery insisted on the constitutional objection to any settlement of the dispute which was not a judicial decision of strict law."

It is correct that Venezuela opposed the prescription clause because in her view it might "impede the arbitrator". But she failed to obtain any modification of this article.

34. The Venezuelan Government modified the terms of Mr. Mallet-Provost's draft reply to Sir. R. Webster in a sense which had previously been termed by General Harrison as "insincere". With regard to the constitutional objection this was indeed mentioned in Caracas despatch of May 17, 1899, not as indicated in connexion with the prescription clause but with reference to Sr. Andrade's suggestion that Britain might propose an amicable settlement.

35. "4. Britain adopted the interpretation that the 1897 Treaty did not empower the Arbitrators even to vary or adjust the frontier in strict law. When, therefore, Britain came to deal with the question of the Alaskan frontier and sought for this purpose to make use of the so-called Venezuelan Treaty of 1897, it tried to secure the adoption of various forms of words designed to confer upon the Arbitrators "the fullest powers to vary and adjust the boundary unconditionally", according to the text proposed

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by Pauncefote, or, as the Colonial Office put it, that the question of Alaska "should be submitted unreservedly to an impartial tribunal without any such restrictions as were contained in the Venezuelan Treaty."

On the contrary Britain considered that the Treaty of 1897 included powers of compromise. This is definitely stated by Sir J. Pauncefote in his telegram of February 2, 1899 to Lord Salisbury in connexion with the Alaska Boundary Treaty:- "with powers of compromise or adjustment similar to those of Article IV of the Venezuelan Treaty". (Salisbury Papers Christ Church A/140 10).

36. "I. The Arbitrators did not act as judges

The new documents fully confirm Mallet-Prevost's version whereby the British Arbitrators, and especially Lord Russell, acted as advocates for Great Britain.

As soon as Lord Russell was appointed in place of Lord Hershell, Harrison feared that the former would act as an advocate for his country: "I think Russell is likely to be aggressively partisan."

Mallet-Prevost replied to Harrison expressing the same fears. Recording his conversation with Lord Russell at the reception given for them in London by the United States Minister Henry White, he wrote: "He struck me as decidedly partisan, and I am afraid that we are going to have his influence against us."

Mr. Mallet-Prevost has nowhere stated that the British arbiters acted as advocates: he only agreed with General Harrison that Lord Russell might be partisan but hoped his fears would be groundless. He makes no such accusation in his memorandum, where indeed he remarks on Judge Collins' friendly attitude at first and taciturnity later. Curiously enough General Harrison's only specific remark about one of the British judges: "Day before yesterday Lord Justice Collins picked him up upon a matter very seriously and Sir Richard (Webster) was very badly rattled" shows the contrary of a partisan attitude, and his only reason for fearing that Lord Russell might be partisan was because he had "only recently gone upon the Bench and I doubt whether he has acquired the judicial habit".

37. "Harrison wrote: "The British judges were as always aggressive advocates - rather than judges. Law is nothing to a British judge, it seems, when it is a matter of extending British dominion.""

/In....

In considering the views expressed by General Harrison it must be remembered that he was intensely anti-British. He had been elected President with the return to power of "the Republican party whose capital had been hostility to England". (C.C. Tansill -- Foreign Policy of T.F. Bayard p.346). His biography by Father Sievers contains an index heading "Anglophobia, symptoms of, evidenced by Harrison" and after President Cleveland's bellicose message to Congress in December, 1895 he declared that he was ready to step into line "against mine ancient enemy". (Mathilde Gresham, Life of W. Gresham P. 796). It is interesting to note however that in the memorandum by A.L. Mason he not only pays tribute to the traditional sense of honour of British Judges but the only words definitely ascribed to General Harrison are:- "I would rather have tried the case before a court composed exclusively by British judges", which indicated that his opinion of British Judges may have depended to some extent on his moods.

38. The letter referred to was written on October 7, three days after the award, to W. Miller and although General Harrison states that the British judges were "aggressive advocates" the tone of the letter is one of exultation over British humiliation but ends with a tribute to the Tribunal. He writes:-

"Judged from the standpoint of British claims before the U.S. intervened it is a very good result - but judged from the viewpoint of strict right it is far from good.The British judges were as always aggressive advocates rather than judges. Law is nothing to a British judge it seems when it is a matter of extending British dominion. However we got all of the country that Great Britain would allow to be open to arbitration, until Mr. Olney brought Lord Salisbury to another mind, and besides the mouth of the Orinoco and a good slice in the interior. It is a satisfaction to know that the British flag must come down in three (3) stations. The revolution in Venezuela was a hard blow to us - as to turn prosperous British settlements over to a Government always in revolution was only possible to a strictly judicial tribunal."

Therefore General Harrison although he said that the British judges were "aggressive advocates" considered that the tribunal acted in a strictly judicial manner.

39. "Harrison had returned from Europe with a profound sense of frustration after realising that the European Arbitrators (Russell, Collins and de Martens) had acted not as judges but as advocates for the colonial interests of their respective countries".

If General Harrison returned from Europe with a profound sense of frustration, he did not make this apparent to Mr. A.D. White, U.S. Minister in Berlin to whom as a former member of the U.S. Boundary Commission it would have been only natural to give vent to his feelings. However Mr. White records in his autobiography: "One interesting event of that period (October 6) was the appearance of Ex-President Harrison and Mrs. Harrison. The President had recently finished his long and wearisome work before the Venezuelan Arbitration Tribunal at Paris, and was very happy in the consciousness of duty accomplished and liberty obtained". This would indicate that the

/ mortification

mortification ascribed to General Harrison by Mr. Perry Allen (letter of March 19, 1951) was either greatly exaggerated or of very short duration.

40. "Mrs. Harrison both in her diary and in a letter to her sister Elizabeth wrote in the same tone about the attitude of the British Arbitrators, and added: "When England will give up anything that she has, the world will end."

It is surprising that Mrs. Harrison's faint echo of her husband's anti-British feelings should have been considered worth quoting especially as the fuller text is self-contradictory. Her exact words were:- "when England will give up something that she holds, even questionably, the world will end. She has conceded something that she took...". And yet the world did not end!

41. "Anyone who can read between the lines will discern in Lord Collins' postmortem eulogy on his colleague Lord Russell for his influence on the Arbitral Tribunal, the nature of his behaviour as advocate for Great Britain. Collins extols the influence he exercised in bringing about the happy result of the Award" and praises his "weight", "gravity", "indisputable supremacy in discussion and in argument." Lord Collins considered that the British public did not know how much it owed to Russell for the "happy result of the Award."

It is absurd to seek to read into Judge Collins' eulogy an implication of improper behaviour on the part of Lord Russell. He was a man of the highest principles, an ardent Catholic, and was renowned for his impartiality and stern and fearless sense of justice as was shown by his handling of the jury in the Jamieson raid trial (see Barry O'Brien's biography). The idea of representation was currently accepted, "The idea of representation has prevailed in these Arbitral Tribunals". (General Harrison to Mr. Miller September 28, 1899) and Mr. Storrow, in his report to Sr. Andrade of November 2, 1896 frankly admits that the British judges are "likely to be against one upon every point on which serious doubt can be raised". With regard to the American judges the "Venezuelan Herald" wrote in December 1896 "The judges so named are not the agents of the United States, they represent Venezuela; the two persons appointed do not represent the United States, they represent Venezuela". Nevertheless, Mr. Buchanan reported on July 24, 1899 that Judge Brewer had "expressed great admiration for the impartial and strict sense of justice shown by the British arbitrators during the proceedings" and a perusal of the records does not show any different attitude in the later sessions.

42. "Even Askwith, the British advocate for the Tribunal, observed that the drafting of the latter's decision concerning free navigation of the Barima and the Amacuro bore Lord Russell's personal imprint."

The verdict was prepared by the five Arbiters and once they were agreed on a point one of them had to put it in writing.

43. "The diary of Russell's secretary, R.J. Block, reveals that as soon as he was appointed arbitrator he began to establish contacts not only with Lord Collins but also with all the advocates who were to represent Great Britain before the Tribunal and with the British agent, Buchanan. These are contacts as between a lawyer and his client."

/ The diary

The diary of Block, Clerk to the Lord Chief Justice, indicates that Lord Russell had seven meetings in all, jointly or individually, with the persons concerned, all but two of which occurred during the fortnight immediately following his appointment as Arbitrator, which took place over two years later than the other jurists on account of the death of Lord Herschell. Indeed the possibility of postponing the start of the proceedings was considered. Under these circumstances it would seem only natural that Lord Russell should wish to acquire some rapid information on the subject. There is no record of these conversations and the allegation that these were contacts of advocate and client has no basis whatsoever. It is known that Mr. Mallet-Prevost made the travelling arrangements for the American judges and when they requested a change of sailing he also altered his own. Nevertheless it is not suggested that these contacts were necessarily those of advocate and client.

44. "Lord Russell's letter to Lord Salisbury of October 7, 1899 has the character of a report from a lawyer to his client concerning the result achieved by the Tribunal. It speaks of the "British view", the "British contention" to which he and Collins had both adhered. In justifying the fact that Britain had not obtained Punta Barima and the territory between the Venamo and the Upper Cuyuni, he points out, as a lawyer to his client, that these territories are valueless since Britain has secured the Guiana and the Morajuna Channel together with free navigation of the Barima and the Amacuro."

It seems perfectly natural that the Lord Chief Justice should write to the Prime Minister who was also Minister for Foreign Affairs to give his account of the verdict. Lord Salisbury had refused to submit settled districts to arbitration until forced to do so by President Cleveland, and he had been insistent on the retention of Point Barima which he now had to surrender.

45. "The confidential letter contrasts with the public speech to the Royal Societies Club, in which Lord Russell boasted that as a judge he would not speak in terms of a British victory but rather of a triumph of justice."

A public speech would obviously differ from a private letter but there is nothing in his letter which suggests that Britain had obtained anything to which she had no right.

46. "It appears also from Sir Richard Webster's correspondence with Lord Salisbury, Chamberlain and Balfour that the British arbitrators acted as advocates for their country and that he (Webster) served as a link between them and his Government. Webster consulted Salisbury on the position of the British Government in order to communicate it to the British arbitrators:

"If I have any reason to believe the Tribunal is against me on this part of the case I shall endeavour to let the British Arbitrators know our view of the position."

Similarly, he wrote to Chamberlain, Minister for the Colonies: "If I find necessary to take any independent action I shall do so privately through our own Arbitrators and only when I am satisfied that having regard to expression of opinions of the part of some member of the Tribunal IT IS DESIRABLE THAT OUR ARBITRATORS SHOULD APPRECIATE OUR VIEWS."

/ The

The correspondence of the Attorney General with Lord Salisbury, Mr. Chamberlain and Mr. Balfour indicates that he might endeavour to bring the British view discreetly to the notice of the British Arbiters. We have no information that he did so nor that such contacts did not exist between the American judges and Counsel.

47. "The attitude of the Super-Arbitrator, Professor de Martens, was improper, according to Mallet-Prevost's memorandum. This version coincides exactly with the oral report that Mallet-Prevost made to the American judge Cullen Dennis in about 1910, and it was confirmed by Buchanan in a conversation with Dennis at The Hague. It is the same version given by the Venezuelan agent, J.M. de Rohas, in a letter to the Venezuelan Minister of Foreign Affairs dated October 4, 1899; and it is confirmed by impartial witnesses such as the French writer L. de La Chanonie and the jurist G.A. Pariset."

It is agreed that M. de Martens strove hard to obtain a unanimous verdict and Professor Cullen Dennis bears testimony to the fact that Mr. Mallet-Prevost told him a similar story in 1910. But whereas the Exposition claims this as supporting evidence of disgraceful conduct Professor Cullen Dennis concludes by saying that his methods were "in principle, typical of much of the international procedure of the past". Even that most indefatigable lobbyist for the Venezuelan cause W.L. Scruggs wrote of this compromise that he was "willing to believe that it was prompted by the purest of motives". (W.I. Scruggs. The Columbian and Venezuelan Republics p. 329). Also Sir George Buchanan did not confirm; but what he said did not give Professor Dennis any reason "to doubt the inside story of the way the decision was reached as told me by Mr. Mallet-Prevost". With regard to the two Frenchmen mentioned their articles have a decided anti-British bias, as was only natural after the Fashoda incident as a result of which the British were even more hated in France than the Germans. (M. de Staal Correspondance Diplomatique Vol. II p.459)

48. "Venezuela finds definite confirmation in the confidential letter from Lord Russell to Lord Salisbury. This shown de Martens, as in the reports previously quoted, exceeding his powers as a fifth Arbitrator, exerting pressure on the Tribunal and still more upon the American Arbitrators: instead of applying legal principles, he "seemed to cast about for lines of compromise". It is not surprising that, as his behaviour was improper, he should have given external signs of an uneasy conscience: as Russell, says, "... the revelation of Mr. de Martens' state of mind was most disquieting."

Lord Russell states that "after long debate, the 5th Arbitrator (Mr. de Martens) endorsed the British view" with regard to the right by discovery but nevertheless "he seemed to cast about for lines of compromise". Hence the remark that his "state of mind was disquieting". It was most obviously not an uneasy conscience because of "improper" behaviour.

49. II. No statement of grounds is attached to the Award which shows that there was neither impartial ascertainment of the facts nor application of principles to them. Consequently the Award is not a judicial decision. The author of a diplomatic compromise is not obliged to give reasons for his decision: on the contrary, there are reasons why he should not do so publicly. Contrariwise, a

/ statement

statement of grounds is essential to a judicial verdict, as the celebrated international lawyer Descamps stated at The Hague Conference:

"L'obligation de motiver la sentence constitue une garantie fondamentale. Il y a des questions qu'on ne peut résoudre par oui et par non, et ce sont les considérants qui justifient la sentence. Il n'y a pas d'exemple qu'une sentence ait été rendue sans être accompagnée des motifs qui l'ont dictée."

It is correct that there was no statement of grounds but a resolution at The Hague Conference of July 1899 could obviously not apply to a treaty signed two years earlier. Nor was this considered as justifying a complaint by Venezuela. Dr. Seijas wrote in his report of May 4, 1900:-

"As the treaty which set up the arbitral tribunal did not stipulate any requirement to give reasons for its decision, omission of grounds for it does not permit any complaint on this score".

50. "The evidence shows that the Arbitrators did not determine the respective territorial extension of Spanish and Dutch Guiana in 1814 - "the fundamental question", as Lord Russell called it. According to Lord Russell's letter to Lord Salisbury, there was no decision on that issue because each Arbitrator adopted a different view. The two British Arbitrators adopted "the British view", "the British contention"; Fuller and Brewer, retreating from the principles which they had adopted, arrived at positions different from each other and from the British one, while de Martens "cast about for lines of compromise". Consequently there was no majority decision as required by the Treaty, in regard to the fundamental question."

The assertion that "there was no majority decision" because during the discussions the judges expressed differing views is frankly not understood but seems utterly preposterous. The "decision" is obviously the final and not the initial or intermediate stage of the discussions. It might as well be claimed that it was not a majority decision because it was unanimous - which would be the height of absurdity.

51. "Nor did the Arbitrators determine the frontier between Venezuela and British Guiana but drew a fresh line."

This statement is not understood. The implication is that the Arbitrators should have fixed either the line claimed by Britain or that claimed by Venezuela. This however presupposes that, as was often the case in boundary disputes, the Arbitrators were called upon to decide which of two lines was correct. In the present case as stated by Venezuela herself, despite her claim to the Essequibo line, "there was no arrangement through which Spain established the dividing line between her possessions and those of the Dutch in Guyana". (Sr. Rojas to Mr. Olney March 28, 1896) and in the words of Judge Brewer himself at the session of June 29, 1899 and although he had been President of the U.S. Boundary Commission "Perhaps he (a Governor of Dutch Guyana in 1750) did not know any more about the boundary line than we do now". It is obvious therefore that if neither Britain nor Venezuela could establish their claim a fresh line had to be drawn.

52. "Britain had obtained a line even more favourable than those proposed by Lord Aberdeen, Lord Granville and Lord Rosebery. According to Lord Russell it was also a vindication of the "Schomburgk line", which, as we know, had been falsified in the Colonial Office. A Colonial Office minute written immediately after the Award admits that Britain obtained even more than she had claimed, since the Arbitrators had drawn the frontier along the left bank of the Cuyuni, whereas Britain had only hoped to obtain the midstream line; between the mouths of the Acarabisi and the Venamo."

The suggestion that the award was improper because it was more favourable to Britain than those offered by her on previous occasions or that it followed a line similar to one discussed in 1886 appears irrelevant, as the Tribunal was not called upon to consider them.

53. The question of the Schomburgk line has already been dealt with (paragraph 5) and the point regarding the left bank of the Cuyuni is based on the following Minute by a Colonial Office clerk on October 3, 1899. "The award appears to make the north bank of the Cuyuni, where the boundary follows that river, the boundary thereby giving us the river, whereas we have I think never claimed more than a share of the river as far as mid-stream." (C.O. 111/515 B. Guyana 26717). The writer only 'thinks' and the British claim extended to territory on both banks of the Cuyuni. Also a claim to the north bank boundary had previously been made (Lord Granville to Sr. Rojas September 15, 1881 Ven. Print p. 220 and repeated by Lord Rosebery, June 7, 1886 Ven. Print 245.)

54. "III. The Arbitrators were not empowered to impose on Venezuela obligations involving diminution of its sovereignty over its own territory. Still less could they impose upon it obligations contrary to the doctrine of its Chancellery. Now Venezuela had all along, and particularly in 1899, maintained a doctrine contrary to the principle of free navigation upon its rivers. The Arbitral Tribunal had no power to impose on Venezuela free navigation of the Barima and the Amacuro, which, since these two rivers flow into the mouths of the Orinoco, implies free navigation of these also."

The question as to whether the Tribunal exceeded its powers in declaring free navigation of the Barima and Amacuro is a purely legal one. In this connexion Sr. Andrade wrote as follows in his despatch of October 7, 1899.

"I will not say anything regarding the final clause which declares open to the free navigation by the merchant ships of all countries the rivers Barima and Amacuro both in the British and Venezuelan portions. This is an application of a theory of international law which wherever it has been applied has contributed powerfully to the prosperity of states. Venezuela herself has applied it to the navigation of the Orinoco."

55. It is true that in his report of May 4, 1900 Dr. Seijas states that the tribunal had exceeded its powers but he only cites an article written in a Paris newspaper by a Colombian in support of this view. It seems strange that five of the most eminent jurists of the day should have committed an irregularity or that, if it was ultra vires, it should not have been challenged by Venezuela during the past sixty years.

22.

VI.

56. "A) It is a fact that the decision was considered to be the result of a compromise.

Since, as previously mentioned (paragraph 51), Venezuela herself admitted that no dividing line was established between Spanish and Dutch possessions, it is obvious that the only possible solution must be a compromise. There was no other alternative save to grant the British or Venezuelan claim. In the former case Venezuela would have had an even stronger grievance and as regards the latter it should be noted that the Essequibo line claim was not supported by the American judges or even by the Venezuelan agent Dr. Rojas (see paragraph 1) nor by W.L. Scruggs who considered that the Dutch and British had an undoubted right to that (Morocco triangle) territory. (op. cit. p. 303). President Cleveland himself, despite his militant pro-Venezuelan stand described there claim as "a proposition of such extreme pretensions" (Presidential Problems p. 184) while other more impartial American witnesses wrote "Venezuela made the more extravagant and less justifiable claim" (J.H. Rhodes' History of the U.S. 1918 Vol. VIII p.444) and "from the beginning of the dispute the Government of Venezuela advanced the most absurd pretensions as to the extent of her territory (C.C. Tansill op. cit p. 630) while the U.S. Venezuelan Boundary Commission reported that there was "no absolute certainty of right on the part of either". Thus the situation was summed up by Pariset in 1898, who has been quoted in the Exposition as an impartial witness "L'histoire donne à la fois raison et tort aux deux adversaires... Il faudra bien qu'on se résigne à un compromis". To sum up, the result was a compromise for the simple reason that no other solution was possible under the circumstances. That arbitration was expected by Venezuela to result in her not obtaining what she claimed is clear from Sr. Seijas' letter to Colonel Mansfield previously quoted (paragraph 52) and according to the Venezuelan sponsored publication Tres Momentos de la Controversia de Limites, referring to Sr. Fortique's negotiations with Lord Aberdeen "The line of the Essequibo was not therefore put forward save as a means to open the discussion and in order to reach a means of conciliation". (p. 21)

57. "B) But it was a compromise obtained by extortion"

The action taken by the President to obtain a unanimous verdict is reported from various sources but the use of the word extortion is not justified by the reports of even the Venezuelan representatives Sr. de Rojas and Sr. Andrade. (Despatches to Caracas of October 4 and October 7, 1899). Lord Russell indicates that strong pressure was exerted on both sides (To Lord Salisbury October 7, 1899) while Judge Brewer who is now portrayed as a miserable victim of 'extortion' speaks only of "the greatest conciliation and mutual concession". As indicated above (paragraph 47) Professor Cullen-Dennis considers M. de Martens' action only typical of procedure at international arbitrations.

58. "C) The extortion was in two stages:-

1. The Venezuelan counsel were forced to leave interpretation of the Treaty and the Agreement of 1850 to the Tribunal. At the beginning of the hearings, Webster sought to get the chief Venezuelan counsel, Benjamin Harrison, to sign a document which committed him not to oppose the British contention as to the interpretation of the Treaty. When this was not obtained, the British judges,

/ by means ...

by means of questions which had obviously been agreed with the British defence, gradually forced the Venezuelan counsel into a corner until an explicit declaration was obtained that interpretation of the Agreement of 1850 and its value as precluding all legitimate occupation after that date, was left in the hands of the Tribunal."

The allegation that to leave the interpretation of the Treaty to the Tribunal constituted extortion is indeed remarkable. Not only was this the obvious course to adopt in connexion with any disputed point but this view was held at the time both by the Venezuelan Government (Caracas despatch to Sr. Andrade March 23, 1899) and by the counsel for Venezuela. "He (General Harrison) then stated that he and his brother counsel considered that the meaning of the Treaty...was for the Tribunal". (Sir R. Webster to Foreign Office June 13, 1899 Ven Print p.59). The paper which Sir R. Webster asked General Harrison to sign dealt with the period of prescription because a letter he had received from Mr. Mallet-Prevost (April 22, 1899) was unsatisfactory. It may be noted that the letter was unsatisfactory because the original draft submitted by Mr. Mallet-Prevost in agreement with General Harrison and General Tracy (February 27, 1899) had been modified in a sense previously termed by General Harrison as "utterly insincere". (General Harrison to Mr. Mallet-Prevost March 9, 1899 copy of which was forwarded by Sr. Andrade to Caracas). Consequently the counsel for Venezuela were placed in a false position and although General Harrison refused to sign explaining that "his client Venezuela would not let him make a public withdrawal" he nevertheless assured Sir R. Webster that "he should not present any argument which would tend to discredit him before the Tribunal" thus indicating that to follow the line insisted on by Venezuela was likely to discredit him. Indeed in a letter to Mr. Mallet-Prevost previously quoted, General Harrison had said very categorically, "I for one would not feel like arguing to the Tribunal that the Treaty was, as to this matter, understood in the sense of our brief". Sir R. Webster expressed himself as satisfied, and when the matter was raised at the first full meeting General Harrison stated, "I did not intend to contest the construction Sir Richard put upon it at all" and Sir R. Webster said "We are quite at one". (Proceedings of the Tribunal Session June 15, 1899 p. 19). It will thus be seen that the statement about "questions which had obviously been agreed" is pure fantasy. No attempt has been made to indicate where in the verbatim record of the proceedings these questions and answers are to be found and this is probably no more than a mere echoing and intensifying of a phrase found in Chanonie's article "Une Application du Principe de l'Arbitrage" when he refers to an "entente vraisemblablement combinée avec les avocats de l'Angleterre au moyen de questions insidieuses, vraisemblablement convenues d'avance". But even Chanonie himself although he is accused of exaggeration by his fellow Frenchman Pariset only says "vraisemblablement" whereas the 'Exposition' produces this as an established fact not even requiring any proof.

59. "2. By getting the British judges to advocate a line which amended the British claims and whereby the mouths of the Orinoco were conceded to Venezuela in order to force upon her free navigation of the Barima and Amacuro. Unanimity was obtained by means of the extortion which de Martens brought to bear on the American arbitrators. This is established by coincident evidence from all sources: American, Venezuelan, British and French."

The argument contained in the first sentence is so involved that it is difficult to understand its meaning. No reference to the freedom of navigation is made by Lord Russell or Mr. Mallet-Prevost nor even in one of General Harrison's many letters. Indeed Sr. Rojas himself did not consider the point worth mentioning in his report of October 4, 1899, while Sr. Andrade in his much more comprehensive despatch of October 7, 1899 speaks of it with approval (see paragraph 54). Also Dr. Seijas Memorandum of May 4, 1900 makes it absolutely clear not only that the Venezuelan Government did not consider that this article had been forced on Judge Fuller and Judge Brewer against their will but on the contrary indicates the reasons why they would not have disapproved. "The American arbitrators lent themselves to this because in their country the principles of free river navigation were upheld..." The question of M. de Martens' action has already been dealt with (paragraph 57).

60. "D) The Treaty did not grant powers for a compromise; but required a legal verdict:

a) only in these conditions could Venezuela accept arbitration, since under her Constitution she could not make deals about the Territory.

b) In fact it is clear that Venezuela only accepted it [arbitration] under that assumption. Moreover, when the Government was asked by Minister Andrade whether he could initiate conversations on the Award line the reply was incisive; constitutionally it was only possible to accept a line juridically established by the Tribunal."

Sections a) and b) seem to imply that Venezuela only accepted arbitration on the understanding that she would receive the Essequibo line. The inaccuracy of this claim has already been indicated (see paragraph 31). The reply to Sr. Andrade of May 17, 1899 raises the constitutional objection but makes no reference to "a line juridically established."

61. "c) England was convinced that the Treaty allowed no compromise."

On the contrary Britain considered that the Treaty allowed for compromise and adjustment (see paragraph 35).

62. "E). The Award was the result of a political deal.

a) Mallet-Prevost describes it thus in his memorandum."

Mr. Mallet-Prevost has expressed as a personal opinion that a Russo-British deal took place and that he came to this conclusion in October 1899.

63. If this was the case it is difficult to understand why he apparently never mentioned his suspicions to his fellow counsel, to Sr. Rojas or to any member of the Venezuelan or U.S. governments, or even to his Secretary Mr. Perry Allen who makes no direct mention of this in his letter of March 19, 1951. It may also be asked why this most important point was not included in the questions referred to Mr. Perry Allen by the Venezuelan Ambassador in Mexico.

64. In connexion with the journey to London when the British judges are said to have taken M. de Martens with them Mr. Perry Allen admits that he does not remember its taking place or Mr. Mallet-Prevost having mentioned it to him. This is a

/ strange

strange omission in view of the importance attributed to it in the memorandum. Nor is there any other corroboration of Judge Collins' change of attitude which is said to have been noticed by "all". But General Harrison's remarks about the British judges nowhere bears this out - nor do the actual verbatim records of the proceedings. It is known that Judge Collins in fact spent at any rate part of the recess in Switzerland as reported in the "Morning Post" and there is no indication that he went to England. It has been suggested by the Venezuelan experts that the British press might have deliberately refrained from giving publicity to such a journey for reasons of policy as it would have aroused suspicions. This is a plausible explanation but one that makes it obvious that if the British Government had been planning such an improper deal it would have avoided attracting attention by such a journey. It therefore seems highly improbable that such a journey ever did take place.

65. It also seems very curious that Mr. Mallet-Prevost should have made no mention of his view regarding a political deal to the Venezuelan authorities when they gave him the Order of the Liberator - only a few days before his conversation with Judge Schoenrich and before writing his memorandum. It was by far the most important point raised by him. The Venezuelan experts have brought a very doubtful accusation of deception against the great champion of Venezuela, Mr. Olney (paragraphs 24 and 25), they could with far greater reason have brought such an accusation against Mr. Mallet-Prevost. It should also be mentioned that Professor Cullen-Dennis in his criticisms of Mr. Child's article of October 1950 is ready to set aside Mr. Mallet-Prevost's opinion concerning a Russo-British deal "as not supported by evidence". If it should be objected that Professor Dennis expressed this view in ignorance of the documents mentioned in section E of the Exposition, the answer, as set out in the following paragraphs, would be that these documents prove nothing of the sort. Even the most casual reading of Lord Russell's letter to Lord Salisbury of October 7, 1899 should make it abundantly clear that the account of the discussions would be utter nonsense if both knew that the decision was already agreed upon by means of a political deal. Furthermore in such an event a letter would have been completely superfluous.

66. "b) Harrison's wife's diary refers to it in similar terms."

The entry in Mrs. Harrison's diary referred to which contains the words:- "Russia was the fifth in the Tribunal, and it is her diplomacy to be on England's side - balance of power etc..." is but another example of rather irresponsible utterance (see paragraph 40). It is a historical fact that at the time Russia's diplomacy was not to be on England's side and as regards balance of power Russia was firmly attached to France. In any case even her wild and inaccurate statement cannot with any shred of reason be construed as supporting evidence for a Russo-British political deal.

67. "c) Charles Alexander Harris, an official of the Colonial Office, confirmed it in affirming that the decision of the Paris Tribunal was a "farce" (Mallet-Prevost's memorandum contained the same epithet)."

C.A. Harris, a Colonial Office official, who for many years had been dealing with this dispute wrote the following minute on a Washington despatch (C.O. 30511 of November 4, 1899):-

/....."you

... "you cannot at present by any means get an arbitral Tribunal to act like a Court of law. The thing is a farce".

What exactly Harris meant by this only he could tell us but the most likely explanation is that it expressed his disappointment that Britain did not obtain Pt. Barima. In any case only complete ignorance of the English language could explain this attempt to make the word "farce" synonymous with "political deal".

68. The word "farce" is used in Mr. Mallet-Prevost's memorandum but in a completely different context. It appears in the conversation alleged to have taken place with Judge Brewer when the latter said: "It is useless any longer to keep up this farce pretending that we are judges and you are Counsel". To claim that the word "farce" used in connexion with the relations of Judge and Counsel is a confirmation of a political deal is fantastic.

69. "d) Block, Lord Russell's secretary, records it in his diary."

Block, Chief Clerk to the Lord Chief Justice, Lord Russell, does not record that the award was the result of a political deal. His entry on October 2, 1899 reads "Venezuela - Martens deal given us victory". Block does not say Anglo-Russian deal or even political deal. It seems clear that he is referring to M. de Martens' efforts to secure a unanimous verdict and it is agreed that the compromise reached was substantially in favour of Britain. But Lord Russell in his letter of October 7 to Lord Salisbury explained that "the fundamental question was - had Spain acquired the right to Guyana by discovery..." The Tribunal finally decided against this view. Pariset, who has been quoted as an impartial witness in the Exposition wrote in this connexion in 1898:-

"Suivant qu'on nie ou qu'on admet le principe de démarcation posé en 1493, on donne aujourd'hui tort ou raison au Venezuela contre l'Angleterre, et le conflit se résoud ainsi en un commentaire contradictoire sur la valeur juridique d'un arrêt rendu à Rome par le dernier des Papes du Moyen-âge".

70. There is also another reason against the Venezuelan interpretation of Block's entry. Even in those days such a political deal would have been considered a thoroughly dishonest transaction and if Block had known of such an arrangement, which is highly doubtful, he would certainly not have noted it in his office diary the main function of which was to keep a note of Lord Russell's engagements. (It may here be noted that the original diary has not been seen by either of the experts for British Guyana or Britain and the Venezuelan experts have refused not only to produce it but to give any indication of its whereabouts. The pages covering the period mid-July to October 1 were missing from the photostat produced).

71. "e) A.L. Mason's memorandum in 1928."

There is nothing whatever in Mr. Mason's memorandum to justify the allegation that General Harrison considered that a Russo-British deal had taken place. The relevant extract reads as follows:-

"It can hardly be supposed that he (Martens) was entirely free from a sense of Russian interest. A decision in favour of the British could not be expected to fail of encouraging a feeling of friendship for Russia by the English, whose navy was the most powerful in the world".

72. Thus M. de Martens is only impugned because of his nationality which according to General Harrison would make him consider it politically expedient to favour Britain merely for the sake of her friendship. There is not the slightest hint that "Great Britain probably gave Russia advantages in some other part of the globe" as suggested to Judge Schoenrich by Mr. Mallet-Prevost. - Indeed it makes such a deal appear even more unlikely as there was apparently no need for it. If General Harrison's views on Russians had been shared by Venezuela they would certainly not have included two in their list of six names for appointment as President in which M. de Martens is third, whereas he was fifth and last in the British list (Ven. Print 1896 Part II pp. 14 and 16). And General Harrison himself appeared to have forgotten that, writing on June 23, 1899 about the inconvenience caused by the President's frequent journeys to the Hague, he nevertheless adds, "we cannot quarrel with the one we have". Lastly with regard to the supposed Russian desire for English friendship not only was Count Mouravieff intriguing against Britain at that very time (J.A.S. Grenville. Lord Salisbury and Foreign Policy p. 271) but less than two months later Russia appointed a military attaché to Boer Headquarters which was considered contrary to international custom and an unfriendly act towards Britain. (M. de Staal. Correspondence Diplomatique Vol. II p.437).

73. "f) Lord Russell was of the same opinion:
 "THE ACTUAL BOUNDARY LINE IS A MATTER OF RELATIVELY SMALL IMPORTANCE: what is important is that A LINE SHALL BE FIXED. There may be some difficulty arising from English settlements having been established here and there in territory not admittedly British at the time of the enunciation of the Monroe Doctrine; BUT THESE ARE MATTERS WHICH OUGHT TO BE CAPABLE OF ADJUSTMENT ON A GIVE-AND-TAKE PRINCIPLE, AND I WOULD GIVE TO THE ARBITRATORS THE POWER TO SAY WHAT OUGHT TO BE DONE IN SUCH CASES."

The letter quoted was written by Lord Russell to, an eminent American lawyer Mr. Carter on January 13, 1896 soon after President Cleveland's bellicose message to Congress. It indicates that Lord Russell, as a liberal, was taking a less rigid line than Lord Salisbury and at a period when there was talk of war between Britain and the U.S.A. it is hardly surprising that "the actual boundary line" which was expected to run largely through uninhabited territories was considered in those circumstances to be of "relatively small importance". It is clear that Lord Russell considers that the objections raised by Lord Salisbury as regards the "English settlements" could be overcome, but to twist the words "give and take principle" to indicate support for a political deal behind the back of one of the parties interested is absurd.

74. "Lord Russell's opinion was commented on in the London "Times", which was a prophet when it wrote:-

"The secret history of congresses and conferences is generally unedifying and little to the credit of human nature. THE DIARIST OF THE TIME WHO IS BEHIND THE SCENES NEVER FAILS TO

/NOTE DOWN....

NOTE DOWN EVIDENCE OF INTRIGUES, OF LOFTY PROFESSIONS OF DISINTERESTEDNESS BEING CONTRADICTED BY PRIVATE ACTIONS, AND OF THE COURTEOUS LANGUAGE OF DIPLOMACY BEING INCOMPATIBLE WITH THE PRESENCE AND DOMINANCE OF VERY UGLY PASSIONS."

"But when the diaries of some of those who took part in those proceedings (arbitrations) are published it will probably be found that the same passions which never failed to appear in congresses ARE NOT UNKNOWN IN INTERNATIONAL ARBITRATIONS, and if the discussion is protracted there is the TEMPTATION to make use of EXTRA JUDICIAL MEANS OF INFLUENCING THE TRIBUNAL."

The article quoted from "The Times" is dated August 21, 1896 and was not referring to Lord Russell's letter but to the lecture delivered by him to the Law Congress at Saratoga / Springs on August 20, 1896 where he had spoken on International Law and Arbitration, in the course of which he said:-

"It is hardly too much to say that arbitration may fitly be applied in the case of by far the largest number of questions which lead to international differences. Broadly stated (1) whenever the right in dispute will be determined by the ascertainment of true facts of the case; (2) where, the facts being ascertained, the right depends on the application of the proper principles of international law to the given facts; and (3) where the dispute is one which may properly be adjusted on a give-and-take principle, as in the cases of delimitation of territory and the like; in all such cases the matter is one which ought to be arbitrated, and can be satisfactorily dealt with by arbitration".

75. Lord Russell however went on to express misgivings with regard to the setting up of a permanent court of arbitration and the "Times" comment quoted above is directed to that part of his lecture. It may also be mentioned that Sr. Andrade reporting to Caracas on September 9, 1896 refers to the lecture with approval as indicating that Lord Russell is more liberal minded than Lord Salisbury.

76. In any case the "Times" was not in any way seeking to prophesy. It was merely stating an opinion about international arbitrations of the past and if it is now claimed that it was being prophetic about the Arbitral Tribunal of 1899 the worst that can be said of it is that it was following a pattern which according to this "Times" commentator "was not unknown in international arbitrations".

77. "g) the accuracy of Mallet-Prevost's memorandum is supported by numerous contemporaneous documents."

The question of the accuracy of Mallet-Prevost's memorandum has been partially dealt with (paragraphs 62-65), and it is not considered that there is any documentary evidence contemporaneous or subsequent to support his personal opinion that a Russo-British deal had taken place. In fact the most plausible explanation seems to be that he only thought of this very many years later. The circumstantial evidence, the alleged journey to London and the change in Judge Collins, appears to be of a very doubtful nature. But quite apart from this there are many inaccuracies. The first one where he refers to Lord Russell as if he had already been appointed an arbitrator in January 1899 has been quite rightly minimized by

/Professor.....

Professor Cullen-Dennis, but the accuracy of the reported conversation is suspect. That the dinner took place is not disputed; but if words were spoken on that occasion which so engraved themselves on Mr. Mallet-Prevost's memory that he did not hesitate to reproduce them as a verbatim quotation forty-five years later it would need to be explained why he made no mention of them in his letter to General Harrison written only two months after the dinner where he only expresses fears lest Lord Russell should be partisan. Failing any satisfactory explanation it is permissible to suppose that a faulty memory or mere imagination was seeking support for the allegation of a political deal.

78. Mr. Mallet-Prevost's memory was also at fault when he stated that the recess took place when Sir R. Webster and he had concluded their speeches. In fact Mr. Soley was half way through his. Also the recess was not "a short two weeks" but exactly eight days, nor were all the speeches concluded in August or early September but on September 27. A more serious error is the statement that M. de Martens' proposal would give "to Venezuela the control of the Orinoco mouth and some 5000 square miles of territory around that mouth". In fact the area was very considerably less in that district but there was a second portion east of the Schomburgk line far away in the interior which Mr. Mallet-Prevost seems to have completely forgotten. Its area was several times larger than the section near the mouth of the Orinoco.

79. What may be claimed as the main factual part of Mr. Mallet-Prevost's memorandum is his account of his conversation with Judge Brewer and General Harrison. That M. de Martens strove to obtain unanimous acceptance of a compromise and that he exerted pressure to that end on both British and U.S. judges is vouched for by Lord Russell. But as regards the actual conversation the evidence differs. Mr. Perry Allen has stated that he was told of this conversation although he begins his letter by asking that the fact that fifty years have elapsed should be taken into consideration and it contains in fact a number of errors. Professor Cullen Dennis also has stated that Mr. Mallet-Prevost told him the same story and similar accounts are also given by Sr. Rojas and Chanonie (Parisot only quotes Chanonie). But this is all second hand testimony and the first hand accounts given by Lord Russell and Judge Brewer do not agree with Mr. Mallet-Prevost's version.

80. According to Lord Russell "the Venezuelan Arbitrators claimed the control of the waterways of the Amakura and the Barima down to the Waini and including the Morawheri, in the first instance". This line being farther west than the Moruca and the natural implication of "in the first instance" being that they subsequently claimed less, this contradicts the statement attributed to Judge Brewer by Mr. Mallet-Prevost obviously at the final stage of the discussions that "The Chief and I are of the opinion that the boundary on the coast should start at the Moruca river". (Incidentally, it should be noted that even according to Mr. Mallet-Prevost's version the arbitrators representing Venezuela did not support the claim to the Essequibo line.) As regards Judge Brewer, far from saying that both he and Judge Fuller considered that the line should start at the Moruca, he stated that they favoured differing lines and his remarks about "the greatest concession and mutual conciliation" hardly fit in with the 'excitement' attributed to him by Mr. Mallet-Prevost. Nor did Judge Fuller support Mr. Mallet-Prevost's views, for Mr. Olney writing to ex-President Cleveland on March 6, 1900 says: "I found, however, in talking with Chief Justice Fuller last Fall that he did not fully concur with Mr. Mallet-Prevost's views".

81. But apart from the testimony of two partakers in the actual discussions General Harrison himself makes Mr. Mallet-Prevost's account appear of doubtful accuracy. In the first place in a letter of January 15, 1900 he writes:-

"perhaps the explanation of the fact that the American Judges united in the finding in the Venezuelan case may possibly have been because they accepted as addressed to themselves the warning that was given to a certain Scriptural character, "lest a worse thing happen to thee!" I cannot of course -- for they are not known fully to me, nor can our Judges to whom they are known -- open the secrets of the consultation room."

It may of course be objected that General Harrison was merely being discreet although a perusal of even a few of his letters indicates that he was very forthright and outspoken. He could, however, easily have ended his comment with the Scriptural quotation without adding the further sentence which, if Mr. Mallet-Prevost's account was correct, constitutes a deliberate falsehood since he would have known not only exactly why the American Judges acted as they did but would have been partly responsible for their decision. But even graver doubt on the accuracy of Mr. Mallet-Prevost is cast by Mr. A.L. Mason's memorandum according to which far from M. de Martens having to exert pressure on the British judges he favoured a line even more favourable to Britain than they themselves advocated but they agreed since "they could hardly be expected to reject such a benefit on behalf of their own country." In fact Lord Russell's letter of October 7 to Lord Salisbury shows that this was not correct but this is not the point at issue. The point is that if the conversation with General Harrison had taken place in the manner described by Mr. Mallet-Prevost, General Harrison could not have spoken to Mr. Mason on the above lines.

82 There is also another purely circumstantial reason for doubting the accuracy of Mr. Mallet-Prevost's account. It is difficult to believe that two very senior judges should have been willing to be guided by the sole advice of a counsel very much their junior both in position and years in taking a decision which was their sole responsibility. This appears all the more unlikely as there existed a special link between General Harrison and Judge Brewer who owed his appointment as Judge of the High Court to the General during his term as President. It seems incredible that, if the judges did in fact wish to consult the counsel, rather than the Venezuelan Agent, they did not also approach General Harrison, the Senior Counsel, instead of leaving it to Mr. Mallet-Prevost, the third junior counsel to give them a lesson in propriety by making the obvious request that he should consult him. There is also another point: Professor Cullen Dennis rebukes Mr. Child for implying "that the fact that Mr. Mallet-Prevost and General Harrison did not break faith and violate the confidence of the two American judges in 1899 is a reason to believe that Mr. Mallet-Prevost was not telling the truth in 1944 when it could properly be told". The essential point is that he did not tell it even in 1944 when as Professor Cullen Dennis admits he could have done so with perfect propriety. What he did was to tell Judge Schoenrich and when the latter pressed him to put it down in writing Mr. Mallet-Prevost did so with the stipulation that it was:- "Not to be Made Public Except at His Discretion after My Death." This refusal to make his story public when the only obvious reason would appear to be his reluctance to deal with any questions which might arise therefore must cast very grave doubts on his accuracy.

83. "British objections to it are irrelevant and opposed to all documentary evidence."

The allegation that the British, i.e. Mr. Crowe's objections are irrelevant and contrary to all documentary evidence is considered as both discourteous and inaccurate and may best be left unanswered until a more explicit statement is produced.

84. "h) This "political deal" is explicable - in view of de Martens' anglophilia and his view that "colonial civilisation" should be a joint Anglo-Russian venture."

In 1877, twenty years before the Award, when there seemed to be a risk of war between Britain and Russia, especially as the latter power had been weakened by her war against Turkey, M. de Martens wrote a pamphlet entitled "Russia and England in Central Asia." In it, although he often criticizes British policy, the writer explains Russian policy and actions to the British public and seeks to show that there is room for expansion in Asia for both countries. The pamphlet could be described in present day terms as a Public Relations document and to a British reader it does not convey an impression of being Anglophile, and if this publication had been interpreted in this sense at the time its author would certainly not have been included in the Venezuelan list of acceptable fifth arbitrators. Even the anti-British General Harrison wrote that he could not quarrel with the choice (see above paragraph 72), and Pariset writes in 1898:- "son nom, récemment publié, est un des plus illustres du droit des gens et suffirait seul à garantir d'avance, s'il en était besoin, la science et l'impartialité des arbitres".

85. "By the position regarding international arbitration adopted by him at the Hague Peace Conference in 1899."

The reference to M. de Martens' attitude at the Hague court is not clear unless it refers to his opposition to the proposal regarding the statement of grounds (see above paragraph 49). But if the implication is that he thereby sought to facilitate secret agreements this is a complete distortion of the facts. M. de Martens made it clear that on the contrary he was only thinking of guaranteeing greater impartiality. His actual words were:-

"Si les arbitres dans un grand tribunal d'arbitrage sont d'accord pour reconnaître les torts de leur propre Gouvernement, ils pourront, suivant leur conscience, se rallier à la sentence de la majorité, mais, si on les oblige à motiver cette sentence, et ainsi à critiquer la politique et les mesures de leur Gouvernement, ils se trouveront dans l'impossibilité de la signer, et on aura ainsi entravé le fonctionnement de l'arbitrage". (Records of Hague Conference Proceedings of July 17, 1899 p. 357).

86. "By de Martens' tendency to enter into secret arrangements, as shown by his later actions in other arbitrations."

The allegation that M. de Martens tended to enter into secret engagements is a misrepresentation of the terms of a letter from Professor C.C. Tansill to Father Gonzalez where he writes:-

"He had....

"He had served as a judge on an international commission dealing in 1908 with some Austrian problems. The feeling of the German professors was that de Martens had not served with due impartiality and had secretly inclined towards the side of England. This was in 1936..."

It will be seen that there is no reference whatsoever to secret arrangements and with regard to the "feeling" that he secretly inclined towards England it is suggested that the "feelings" of German professors in 1936 when the Hitler regime was flourishing need not themselves be considered as impartial

87. Sections F), G), H).

It is not proposed to attempt a detailed answer to these three since every student of history knows that Anglo-Russian relations at the close of the century were based on rivalry in the Far East and suspicion of Russian approach to India. The various moves and agreements cited indicate rivalry rather than cordiality and similar evidence could be produced covering that period with regard to the relations of Britain with any major European power. It is considered sufficient to comment on the following paragraph:-

"As regards newspaper commentaries about an alleged Mouravieff plan, in October 1899, to reach an Alliance against England both British and French Governments ascertained that these lacked foundation."

88. The British Charge d'Affaires wrote on November 16, 1899 in connexion with Count Mouravieff's reported anti-British activities abroad:- "the important thing is that Mouravieff's hostility now stands unmasked." It is true that the following month the British Ambassador reported that Count Mouravieff had denied any hostile intent and this is the basis of the naive statement that the British and French Governments were satisfied that these press commentaries lacked foundation. The Venezuelan experts have obviously overlooked a private letter from the same Ambassador to Lord Salisbury which says:-

"His (Mouravieff's) positive denial was clearly to be anticipated under all circumstances, but what trust is to be placed in it entirely is a question which I cannot undertake to answer with any confidence." (Salisbury Papers Christ Church A/129 - 68).

In other words Lord Salisbury is warned not to believe the denials conveyed in the official despatch.

89. In one of the most recent historical works on this period Dr. J.A.S. Grenville writes:-

"One thing is quite clear and that is that Mouravieff was primarily responsible for initiating negotiations in October 1899 for a continental league against England. Perhaps he never seriously meant to pursue them but he was a vain man and hoped to commemorate his name by a spectacular stroke of diplomacy. He hated England as virulently as his predecessor Lobanov had done..."

(Lord Salisbury and Foreign Policy p. 27) and again "Moravieff's second attempt to form a continental alignment against England". (op.cit. p: 285).

*/Also...

Also the German Ambassador at St. Petersburg refers on March 14, 1900 to Count Mouravieff's "unfortunate blind animosity against England". (Die Grosse Politik. Vol. 15 p. 533) and Kaiser William II refers to a request by the French and Russian Governments to Germany to join them in bidding England to end the war thus saving the Boer republics "et humilier l'Angleterre jusque dans la poussière". (Bourgeois et Pages Origines de la Grande Guerre p. 287). Also the American historian A.L.P. Dennis writes:- "during the autumn of 1899 Count Mouravieff, the Russian Foreign Secretary was intent on his plan for stirring up European states to intervene in the Boer war. (A.L.P. Dennis, Adventures in American Diplomacy. p. 190). Even the "Nota Preliminar" of the Venezuelan pamphlet published in 1962 "Tres Momentos en la Controversia de Limites de Guayana" mentions the conditions of international tension at that period and specifically refers to the "rivalry of Russia and Great Britain in the Orient", as this is a fact well known to the most superficial student of history.

90. It could no doubt be argued that cordial relations between two governments are not essential to bring about a political deal and that Russia and Britain could afford to pay little heed to possible reactions in Venezuela then in the throes of civil strife. But in this case it was not only Venezuela but also the U.S.A. who were involved and the very fact that Lord Salisbury had been forced to arbitration by President Cleveland is sufficient indication that Britain attached the greatest importance to her relations with that country. In Europe France felt bitterly hostile to Britain even a year after the Fashoda incident while suspicion marked her dealings with St. Petersburg and Berlin. But with the U.S.A. following Britain's strictly neutral attitude in the Spanish war her relations were cordial. It is inconceivable that Lord Salisbury would have provided Russia with such a golden opportunity for balckmail not only by the hostile Count Mouravieff but also by the Tsar himself, who, in the words of the grand duke Michael, considered that the Boer war coming so soon after the Hague Peace Conference, called together by him was "un coup de pied donné a la Russie". (Grosse Politik Vol. 15 p. 409). That Russia would have exploited this opportunity if Lord Salisbury had been guilty of such folly seems open to little doubt, for in the words of Mr. White, U.S. Chargé d' Affaires in London - "I have long since arrived at the conclusion that the chief aim and diplomacy of these countries (Germany and Russia) since the Spanish war is to break up the good understanding between this country and ours". (A. Nevins. Henry White. Thirty years of American Diplomacy p. 174). Besides what did the alleged secret deal give to Britain? Lord Salisbury had very tersely told Sir R. Webster that he wanted Point Barima - but it was awarded to Venezuela. It cannot be seriously suggested that a Russo-British deal was concluded merely to obtain the free navigation of the Barima and Amakura rivers. As indicated in paragraph 65 the terms of Lord Russell's letter to Lord Salisbury cannot possibly be reconciled with such a secret agreement and thus Mr. Mallet-Prevost's accusation is not only entirely unsupported but runs counter to all documentary, historical and circumstantial evidence.

VII

91. "1. The Venezuelan Government took immediate note of the irregular manner in which the Award of October 3, 1899 was procured, and was thus able to protest against it. Its Agent at the Tribunal qualified the decision as "derisory and a manifest injustice", President Andrade affirmed that the Award had only restored part of the usurped territory."

/Sr. Rojas....

34.

(Sr. Rojas, Venezuelan Agent), at once reported on the award (October 4, 1899) and stated that he had reliable information regarding the action taken by M. de Martens to obtain a unanimous decision. His actual words were that it "fixed a line of demarcation completely partial to England". But the allegation that the Venezuelan Government protested against it is categorically denied in the report of Dr. Seijas and his advisers written seven months later where it is stated that the Republic "has up to date uttered no word against it". (Sr. Seijas May 4, 1900 paragraph 3).

92. President Andrade's statement is presented in an incomplete and most misleading manner. He was quoted by the Paris newspaper "Le Temps" as follows:- "Le President Andrade a dit "que l'arrêt était un motif de satisfaction pour le pays, car la justice internationale lui avait restitué une partie de son territoire usurpé et donnait raison à son bon droit." Also the British Chargé d'Affaires reported from Washington:- "The news published from Caracas state that the Award has been acclaimed in Venezuela, and that President Andrade himself regards it as a cause of rejoicing for his country;" (Mr. Tower to Lord Salisbury October 14, 1899 Ven. Print p. 197).

93. It seems appropriate also to quote the view of Sr. Andrade Venezuelan Minister to London and brother of the President who had followed all the proceedings in Paris and reported to his Government on October 7, 1899. Although he states that "the Award did not appear based on reason and justice as claimed by M. de Martens" he nevertheless adds that "Venezuela did well to compel England to submit the matter to arbitration in 1897", and that "if for us the sentence is far from granting that to which we were obviously entitled for them (Britain) it has been to a certain extent a costly defeat". Sr. Andrade also pays tribute to the Tribunal and stresses that Venezuela obtained her main objective.

"Greatly indeed did justice shine forth when, in spite of all, (this refers to the chaotic conditions in Venezuela) in the determining of the frontier the exclusive dominion of the Orino was granted to us, which is the principal aim which we set ourselves to obtain through arbitration. I consider well spent the humble efforts which I devoted personally to this end during the last six years of my public life."

94. Yet another official opinion recorded at the time is that of Sr. Pulido, Venezuelan Chargé d'Affaires in Washington who is quoted by the New York Herald of October 4 as saying:- "Venezuela having submitted the question to arbitration would undoubtedly be satisfied with the result".

95. It may also be noted that public opinion in the United States as expressed in the same copy of the New York Herald considered that "The Award of the Paris Tribunal is regarded here as being a very satisfactory settlement" and "It is considered fortunate that the commission was able to reach a conclusion by unanimous vote, and that the boundary fixed does not coincide with the extreme claim of either side. It shows that the question was one about which there could be reasonable differences, and had either extreme been adopted, injustice would have been done to the other nation. Advocates of international arbitration will have another example to point to where a troublesome question has been peaceably adjusted and substantial justice done".

96. French opinion on similar lines is expressed in the "Journal des Débats" of October 4, 1899:- "Dès à present la sentence des arbitres est acceptée avec contentement;... cette sentence parait d'ailleurs de nature à satisfaire autant que possible Anglais et Vénézuéliens...C'est donc une solution satisfaisante."

97. "2. Venezuela knew that she had the right to disregard it because it was not a judicial decision, but a diplomatic compromise and because the Arbitrators had exceeded their powers. Moreover, it decreed free navigation of the two Venezuelan rivers. But at the same time she felt constrained, not to disavow the Award. In doing so she would have stood alone, without the support of the U.S.A. to oppose British expansion. The Venezuelan Government was convinced that an understanding had been reached between the United States and Britain to afford mutual support in actions taken in respect of Cuba, the Philippines and South Africa."

X In his report of May 4, 1900 already quoted (paragraph 91) Dr. Seijas does not say that Venezuela had the right to disregard the award although he states that "the arbitrators mistook the purpose of the arbitration in fixing a compromise line and not an equitable one" and that "the irregularity went even further" in "the obligation to open the Amacura and Barima Rivers", but despite this he considers "that it would not be expedient to reopen the case". The report also states that Venezuela could not hope that the rejection of the judgement would find favour in Washington because of the close relations between Great Britain and the United States, because Britain's attitude during the Spanish war had now been repaid by United States indifference to the fate of the South African republics. There is however no mention of an "understanding" which in any case was hardly possible as some eighteen months elapsed between the outbreak of the two wars.

98. "3. The press spoke of a secret Anglo-American alliance about which the American Congressman Bailey made statements in July 1899."

Whatever the press or American Congressmen may have said the Venezuelan Government can hardly have believed it, for when she had to appoint a representative for the Arbitration on claims in 1902 the Venezuelan Minister for Foreign Affairs wrote to Mr. Bowen, U.S. Minister at Caracas that the President "has instructed me to request Your Excellency to serve as Arbitrator for the Republic in this question". (F.O. 1648) Mr. Bowen after obtaining the permission of his government agreed and Venezuela chose another U.S. citizen, Mr. MacVeagh, to be her senior counsel. (A.L.P. Dennis. Adventures in American Diplomacy p. 297).

99. "5. The Venezuelan Government, headed by General Castro who, in the Chamber of Deputies in 1890 and in a letter to the President and Cabinet dated November 17, 1895, had spoken energetically on the Guiana question, on finding himself force majeure prevented from rejecting the Award, had to be content with adopting a frigid attitude towards it. In reply to the British

/Minister....

Minister on December 9, 1899, the Minister for Foreign Affairs hinted that he could refute his arguments as to the justice of the Award. Venezuela examined the possibility of rejecting it. Her advisers though having no doubts as to the invalidity of the Award, considered that for the time being it was preferable not to denounce it (March 4, 1900)."

The silence of General Castro hardly denotes energetic opposition, and merely saying that arguments can be refuted and not doing so is not a very forceful procedure. A perusal of the Report of May - not March - 4, 1900 already quoted (paragraphs 91 and 97) would, it is submitted, be much more correctly described by an impartial reader not as expressing "no doubts as to the invalidity of the award" but rather as expressing doubts as to its validity. There is also no justification for the expression 'for the time being' which suggests that they had in mind the possibility of the question being re-opened later. As already quoted (paragraph 97) Dr. Seijas merely states "it would not be expedient to reopen the case".

100. "6. Venezuelan public opinion criticised the Award sarcastically, as did, inter alia, the influential newspaper "El Tiempo" of October 17, 1899."

As no expression of Venezuelan public opinion has been produced other than the article here referred to the use of the words "inter alia" is not justified. The British Minister at Caracas in his despatch enclosing an extract of the article in question reports that England had first been represented "as having been completely worsted" but that the attitude of the public was one of "indifference and apathy". (Mr. Haggard to Lord Salisbury October 19, 1899 Ven. Print p. 199). The article quoted is of course sarcastic but the sarcasm is certainly not at the expense of Britain. It is attached as an Appendix.

101. "7. The attitude of reserve taken up by the Venezuelan Government explains the slowness and delay with which it proceeded to the appointment and despatch of the Boundary Commission. A Note from the British Minister to his Government records that the Venezuelan Government wished to delay the demarcation of the frontier. In July 1900, the British Minister notified the Venezuelan Government that if it did not despatch this Commission before October 3 the British Government would begin the demarcation alone. On October 8, that Minister notified the Venezuelan Chancellery that the Governor of British Guiana had finally been given instructions to commence demarcation. On October 9, the British Commissioners had already set up the Punta Playa boundary post. Under such pressure as this Venezuela had to consent to commence demarcation."

No evidence has been produced that the slowness and delay was a form of protest against the award, and since Britain was called upon to evacuate certain posts it was only

/natural....

natural that she should wish to effect the handing over without undue delay. As demarcation only began a year after the Award it can hardly be said that Britain was unduly pressing and she was aware that it had taken Venezuela seven years to appoint commissioners to demarcate her frontier with Columbia. It seems much more probable that the delay was due to internal strife and lack of funds.

102. "10. But the press, Venezuelan writers, Venezuelan scholars, taught successive generations uninterruptedly that the Award frontier did not meet Venezuela's legitimate rights."

Articles and pamphlets on the subject are so inaccurate in fact and exaggerated in sentiment that they cannot be taken seriously. Thus Domingo Sifontes wrote in 1899 that all the judges on the Tribunal were English and in 1909 he says "the unjust pretensions of the English which eventually triumphed owing to the partiality of the Counsel for Venezuela". Of the five judges two were American and one Russian and as regards the partiality of the Counsel General Harrison's Anglophobia is well known and Mr. Mallet-Prevost received the Order of the Liberator in January 1944. Another writer Ramon Isturde claims that through the Award Venezuela lost 112000 square miles - a truly remarkable statement as this greatly exceeds the present total area of British Guiana. Nor is he content with claiming the Essequibo line but considers that Venezuela had rights to Demara and Berbice also and he refers nostalgically to "our dear Trinidad". It is indeed astonishing that such material should have been produced by the Venezuelan experts.

103. Finally it should be noted that when certain articles claiming that the award was unfair and should be upset were mentioned by the British Ambassador to the Venezuelan Foreign Minister in 1941 the latter replied that the matter was "chose jugee" and that the "writer had obviously not had access to the archives of his Ministry or he would not have written such nonsense". (Sir D. Gainer to F.O. January 22, 1941).

104. The conclusion submitted with the above comments is that there is no important fact connected with the Award which was not known by the Venezuelan Government at the time. The only new factor is the personal opinion of Mr. Mallet-Prevost expressed apparently for the first time in 1944 and made public in 1949 that the award had been influenced by a Russo-British political deal. As Mr. Crowe stated at the United Nations on November 13, 1962 "it is on this point that the demand for re-opening the whole case rests" and this opinion remains not only wholly uncorroborated but runs counter to all evidence.

105. Even if the Government of Venezuela now believe that the Award was manifestly unfair to their country, at the time President Andrade expressed satisfaction, the general public remained indifferent and in 1941 the Minister for Foreign Affairs qualified hostile articles as "nonsense". And the last words may be left to Mr. A.D. White, who had been a member of the U.S. Venezuelan Boundary Commission appointed by President Cleveland in 1896. Although it carried out its investigations during 1896 and its reports are contained in many volumes it was dissolved after the signing of the Arbitration Treaty and before it stated its view as to the boundary line. The following quotation is therefore the only

/indication...

indication of any conclusions reached by the Commission of which it will be remembered Judge Brewer was president and Mr. Mallet-Prevost secretary. After stating that he believes the award to be "thoroughly just" Mr. White adds:-

"It is with pride and satisfaction that I find their award agreeing, substantially, with the line which, after so much trouble, our own Commission had worked out."

(A.D. White Autobiography p. 124).

[Faint, illegible text, possibly bleed-through from the reverse side of the page]

May it please the Court: Can we in all good conscience the lot of some thousands of industrious men and some hundreds of leagues of land of incalculable richness to Venezuela in preference to Great Britain, which already has established a dominion over that territory? We have sought to preserve for civilization that vast empire, we have sought to create a condition in which it has been since the days of Columbus, thus extending the frontiers of civilization, and owing to the number of men who have been civilized...

...is what you may call, a ...

ANNEXExtracts from the "Tiempo"

(Translation)

Let each one of my compatriots ask himself if, in case he were not a Venezuelan, he would decide for or against that unfortunate land on hearing the following arguments:-

May it please the Court: The territories with the delimitation of which we are charged cannot be adjudicated according to indisputable titles of proprietorship, because those which both parties present are doubtful and indefinite, neither discovery nor conquest having been ratified by the occupation of the very rich dominion which extends from the Essequibo to the Amacuro, unless this has been done by England. The Orinoco still traverses that wilderness of forests closed to the commerce of the world by the nation which possesses it.

In view of these conflicting and obscure rights, we have got to decide to whom we should adjudge this region destined to be a great emporium of industry and commerce. The Republic which claims it has had on an average one armed revolution a year from its foundation to the present date. Constitutional guarantees have been and are in suspense; the administration of justice may be said not to exist in this series of military dictatorships, which have assumed and usurped judicial and legislative functions; there is no record during the last fifty years of the people having freely exercised the right of suffrage; there is no habeas corpus; the last time that the capital was sacked was in 1892; to-day three factions, arms in hand, are disputing power, and the high officials of the actual Government are placing their movable property in safety in view of another sacking. No municipality exists in this Republic. The miserable revenue cannot even pay the service of the public debt. The Governors sent by the Federal Government to the disputed territory have, with rare exceptions, behaved like Turkish Pashas in Armenia or in Crete. The Indians constantly emigrate for refuge into the territory occupied by Great Britain.

May it please the Court: Can we in cold blood confide the lot of some thousands of industrious men and some hundreds of leagues of land of incalculable richness to Venezuela in preference to Great Britain, which already has established a dominion over that territory? We have either to preserve for civilization this new Empire, or to let it go back to the condition in which it has been since the discovery of America, thus extending the frontiers of semi-civilization, and adding to the number of men who can be pressed (for civil warfare).

This is what you have to decide, my honourable colleagues. I vote for Great Britain.

THE DOCUMENTS AND REFERENCES PRODUCED BY THE
 VENEZUELANAS RELATING TO THE BRITISH ARBITRATOR,
 LORD RUSSELL

The Venezuelans have produced a number of documents relating to the British arbitrator, Lord Russell, which they claim show:

- (i) that Lord Russell was partisan;
 - (ii) that he was of the view that arbitrations should be settled by compromises, instead of on a basis of strict rights;
 - (iii) that he was of the view that arbitrations should take into consideration questions of international policy;
 - (iv) that Lord Russell and indeed both British arbitrators could not be expected to be impartial in a question in which the extension of the domain of Britain was concerned;
 - (v) that Lord Russell was responsible for the clause which gave Britain the right of free navigation of the Amakura and Barima rivers;
- and (vi) that the award was a compromise and the result of a political deal between Britain and Russia in which Lord Russell played a part.

2. In support of the allegation that Lord Russell was partisan, the Venezuelans quote from a letter from Mr. Harrison to Mr. Mallet-Prevost dated 20th March, 1899, in which Harrison stated:

"The substitution of Baron Russell for Baron Herschell I do not regard favourably. I think Russell is likely to be aggressively partisan. He has only recently gone upon the Bench and I doubt he has acquired the judicial habit."

In his reply dated 22nd March, 1899, Mr. Mallet-Prevost wrote:

"I agree with you in regretting the appointment of Lord Russell in Lord Herschell's place. I met Lord Russell at a dinner, and as I sat next to him, I had an opportunity of conversing extensively with him. He struck me as decidedly partisan, and I am afraid that we are going to have his influence against us. I hope that our fears may be groundless. In an article which I read the other day in one of the papers, it spoke of Lord Russell as having made an excellent judge and stated that this had somewhat surprised the English Bar owing to the fact that he had formerly been such a bitter advocate."

Now if we look at these statements carefully, we see that they are of little value. Mr. Harrison says "he thinks" that Lord Russell is "likely to be" aggressively partisan. The only reason that he gives for this is that Lord Russell had only recently gone upon the bench and he doubted whether he had acquired the judicial habit. Mr. Mallet-Prevost in his reply mentions that

/Lord Russell.....

Lord Russell had struck him as being partisan, but contradicts Harrison's view that Lord Russell had not acquired the judicial habit by saying that it had been reported that the Chief Justice had made an excellent judge. These statements are, therefore, quite worthless, quite apart from the fact that the ex-parte statement of counsel for the Venezuelans can hardly seriously be urged as evidence as regards the alleged "partisanship" of a British judge in a dispute between Britain and Venezuela.

3. The Venezuelan delegation quote at length from the letters of both Mr and Mrs Harrison to their friends to show that the award was biased and that this was in fact due to the influence of the British arbitrators who would not give a decision against their country. In a letter to her sister, Elizabeth Parker, dated 3rd October, 1899, Mrs Harrison wrote:

"When England will give up anything that she had, the world will end. She has conceded something that she grabbed, but which was (proved in argument?) that she did not lawfully possess, and yet.....We are all furious."

Mrs Harrison's references to the award, of which the above is an example may be dismissed as expressions of the disappointment and bitterness of a fond wife.

4. There are also a number of extracts from the correspondence between Mr Harrison and his friends after the award. They all claim that the British Arbitrators were aggressive advocates rather than judges, and that no British judge would adhere to the law if it meant surrendering territory. No attempt is made in the correspondence to prove the charge of partisanship. Indeed much of what is in some of these letters contradict this charge. This can be illustrated from two letters, one from Mr Harrison to Mr W.H.H. Miller dated 7th October, 1899, and the other from Mr William Dodge to Mr Harrison dated 12th January, 1900.

5. Let us examine the first letter.

(i) The first point Mr Harrison makes is that judged from the standpoint of British claims before the U.S. intervened, it was "a very good result". But judged from the standpoint of strict right, it was far from good. He adds that Venezuela got all the territory that Britain would allow to be open to arbitration "until Mr Olney brought Lord Salisbury to another mind", and the mouth of the Oronoco and a good slice of the interior. He concedes that a considerable amount of the territory claimed by Britain was awarded to Venezuela.

(ii) The second point he makes is that the case turned upon the question, whether Spain had acquired by discovery and her early settlement a prior title to the disputed territory. It should be noted that Lord Russell makes precisely this point in his letter of 7th October, 1899, to Lord Salisbury. Lord Russell stated, "The fundamental question was - had Spain acquired the right to Guiana by discovery followed by possession of such a kind or extent as to give her a complete title." Lord Russell and Justice Collins thought this view untenable. This view "after long debate" was also endorsed by Mr. de Martens. Justice Brewer also rejected the Spanish view. Lord Russell points out that this important position having been determined, the Schomburgk line ought to have followed as a matter of course.

/This....

3.

This admission by Harrison that the case "turned upon" this legal principle contradicts his allegation that the British arbitrators were partisan, paid no attention to the law and did not act judicially.

(III) Mr. Harrison states also that the American judges agreed to the award "lest a worse thing befall you". All that needs to be said here is that the Treaty of Arbitration did not require a unanimous decision and the acquiescence of the Counsel for Venezuela to a majority decision was not necessary.

(iv) One other feature of this letter should be noted. Harrison wrote, "It is a satisfaction to know that the British flag must come down from three stations". Further on he said, "We shall have a week in London, and as I want to escape toasting Great Britain and her Transvaal policy, that will be long enough." Harrison cannot suppress his anti-British feeling, and this feeling should be borne in mind in considering his charge of partisanship against the British arbitrators.

6. The second letter referred to is that of Mr William E. Dodge to Harrison, dated 12th January, 1900. It is in reply to one by Harrison dated 12th December, 1899, in which the latter had made the charge of partisanship against the British arbitrators. Dodge's letter is a mild reproof of Harrison, particularly it seems, because of the attack on the British arbitrators. Dodge wrote:

"I regret that your experience at Paris should have been disappointing. The Venezuela question, to those of us who have known something of its history for so many years, has always been a perplexing one and I had hoped that as the American members of Court joined, as I understand, in the decision, both parties, would on the whole feel that it was fair.

The speech of Lord Russell of Killowen, on his return from Paris, before the Royal Societies Club, took very strong ground as to the absolute necessity of approaching all these questions in a purely judicial spirit."

Dodge thus attributes Harrison's feeling to disappointment, hints that the Venezuelan question was perplexing (and thus perhaps likely to lend itself to a variety of views) and that since the arbitrators for Venezuela had joined in the decision, they would regard it as fair, and points out finally that Harrison's suspicions would seem to be answered by Lord Russell himself who, in a speech on his return from Paris before the Royal Societies Club, took "very strong ground" as to the absolute necessity of approaching all these questions in a purely judicial spirit.

7. The evidence produced to show that Lord Russell was of the view that international arbitrations should be settled by compromise instead of on a basis of strict rights are a letter from Lord Russell to the eminent American lawyer, Mr. Carter, dated 13th January, 1896, and a lecture delivered by the Chief Justice on 20th August, 1896, to the Law Congress at Saratoga Springs in the U.S.A. In the letter to Mr. Carter Lord Russell said:

"The actual boundary line is a matter relatively of small importance; what is important is that a line shall be fixed. There may be some difficulty arising from English settlements having been established here

/and there....

and there in territory not admittedly British at the time of the enunciation of the Monroe doctrine; but there are matters which ought to be capable of adjustment on a give-and-take principle, and I would give to the arbitrators the power to say what ought to be done in such cases."

In his Saratoga Springs address, the Chief Justice said:

"It is hardly too much to say that arbitration may fitly be applied in the case of by far the largest number of questions which lead to international differences. Broadly stated (1) wherever the right in dispute will be determined by the ascertainment of true facts of the case; (2) where, the facts being ascertained, the right depends on the application of the proper principles of international law to the given facts; and (3) where the dispute is one which may properly be adjusted on a give-and-take principle, as in cases of delimitation of territory and the like; in all such cases the matter is one which ought to be arbitrated, and can be satisfactorily dealt with by arbitration."

The quotation from the letter to Mr. Carter is quite erroneously presented as a statement in favour of settling boundary disputes on a give-and-take basis, that is, by compromise. Lord Russell is dealing with cases where settlements of one country have been established in territory belonging to the other. He says that such cases should be settled on a give-and-take principle and the arbitrators ought to be given power to say what ought to be done in such cases. At Saratoga Springs (where, be it noted, he was speaking on International Law) all he says is that boundary disputes may properly be adjusted on a give-and-take principle. It is clear from his letter to Mr Carter that his view seems to be that in a frontier dispute, the line of right having been established, if it is found that the citizens of one country have occupied territory belonging to another such questions may be settled on a give-and-take basis. This idea, it may be mentioned, was not a new one. It was, indeed, incorporated in the Treaty of Arbitration and was one of the rules by which the arbitration was to be decided. The rule reads:

"In determining the boundary line, if territory of one Party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given, to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the Tribunal, require." (Article IV, Rule (c).)

8. Venezuela submits the Mallet-Prevost memorandum as evidence that Lord Russell was of the view that international arbitrations should take into consideration questions of international policy. The relevant extract is as follows:

"Before going to Paris Justice Brewer and I stopped in London. While there Mr. Henry White, Charge d'Affaires for the United States, gave us a small dinner to which Lord Chief Justice Russell was invited. I sat next to Lord Russell and, in the course of our conversation, ventured to express the opinion that international arbitrations should base their decisions exclusively

/on legal.....

on legal grounds. Lord Russell immediately responded saying: "I entirely disagree with you. I think that international arbitrations should be conducted on broader lines and that they should take into consideration questions of international policy." From that moment I knew that we could not count upon Lord Russell to decide the boundary question on the basis of strict rights."

As regards the statement that "from that moment" he (Mallet-Prevost) knew that he could not count upon Lord Russell to decide the boundary question on the basis of strict rights, it is relevant to mention here that Mr. C.J. Child has already pointed out that in January 1899 the Lord Chief Justice was in no way connected with the boundary dispute and had no prospect of being involved in the arbitration. Lord Russell was appointed arbitrator only after the death of Lord Herschell on 1st March, 1899. It is revealing to compare the description of the conversation given in the Mallet-Prevost's memorandum with that given in a contemporary record. This record is a letter written by Mr. Mallet-Prevost to Mr Harrison dated 22nd March, 1899, from which a quotation is given in paragraph 2 above. The relevant sentences are repeated here:

"I agree with you in regretting the appointment of Lord Russell in Lord Herschell's place. I met Lord Russell in London at a dinner, and as I sat next to him, I had an opportunity of conversing extensively with him. He struck me as decidedly partisan, and I am afraid that we are going to have his influence against us. I hope that our fears may be groundless."

The above was written two months after the meeting at which the conversation is alleged to have taken place. The Mallet-Prevost memorandum was written in 1944, forty-five years after the event. In the early version, the Chief Justice is merely accused of being partisan. In the later version written after forty-five years, the Chief Justice is accused of being of the view that an arbitrator must take into consideration questions of international policy. It is clear that the new version of the conversation has been tailored to support the new allegation of a political deal.

9. Venezuela alleges that the British arbitrators and Lord Russell in particular were responsible for giving to Britain the right of free navigation of the Amakura and Barima rivers. She claims that the diplomatic correspondence of the years before the arbitration shows that Britain was willing to give up her claim to the two rivers if she got the right of free navigation in them. The Venezuelan delegation also quoted the following passage from an article by Mr. G.R. Askwith, entitled "Sidelights on the Venezuelan Arbitration", published in "The Speaker" of 7th October, 1899:

"The drafting of the protective clause (i.e. the clause dealing with the free navigation of the Amakura and the Barima) is not unlike the clear language invariably used by the Lord Chief Justice of England....."

All that needs to be said here is that the British Government at the time insisted on pressing its claim to both rivers, and that Mr. Askwith did not say that the clause was drafted by Lord Russell.

10. Finally, Venezuela used the tribute paid to Lord Russell after his death by Sir Richard Henn Collins in support of the allegations made against him. Sir Richard had said:

/"I do not....."

6.

"I do not believe that the public has ever sufficiently realised the great debt that they owe to Lord Russell of Killowen for the influence which he exercised in bringing about the happy result of the award."

The Venezuelans apparently interpret this to mean some improper influence but Sir Richard goes on to explain what he meant:

"I do not believe that there was any other man who was capable of bringing a weight, a gravity, an indisputable supremacy in discussion and in argument such as he brought to bear upon the solution of that question."

11. The Venezuelan allegations against Lord Russell and the British arbitrators of partisanship, of participating in a political deal and of procuring an award inconsistent with facts of the case and the law have all been refuted. Indeed Lord Russell has himself given the lie to these in his letter to Lord Salisbury dated 7th October, 1899, and in his speech to the Royal Societies Club in December, 1899, two months after the award. In his letter he stated:

"I think the award gives Her Majesty no territory or advantage to which she is not justly entitled and I think it does give to her substantially all to which she is entitled."

His speech is a complete and unequivocal answer to Venezuela allegations and charges. The relevant parts are given below:

"We all strove to do justice; I think we succeeded. I think the result of the arbitration is to give to Venezuela all that Venezuela is fairly and honestly entitled to, and to give to Great Britain no more than Great Britain is honestly entitled to have."

X X X

"Before the arbitration had proceeded for any considerable time, one leading English paper - I believe it is called the leading paper - had an article in which it, in very strong and emphatic language, told the arbitrators to hurry up, that they were wasting a great deal of time, that the question was simply to draw a line, and that it did not very much matter to anyone where the line was drawn. I hope it will not be considered too strong language to use if I say that I consider that article a gross impertinence."

X X X

"But I again repeat - and it is the concluding note which I desire to sound - that if arbitrations of this kind are to be successful they must be arbitrations in which the arbitrators are not partisans; they must be arbitrators who will have the sense of individual judicial responsibility upon each of them. And although, as I have already said, it would not be possible to remove all impressions, yet it is possible, as I believe pursuing those lines, to constitute an arbitration in which, judicially conducted, it is certain substantial justice will be done."

It is clear that Lord Russell strove to ensure that the Venezuelan Arbitration was judicially conducted and that justice was done, and that he was of the view that this was accomplished.

THE VENEZUELAN STATEMENT THAT MR. C.A. HARRIS
OF THE COLONIAL OFFICE AFFIRMED THAT THE AWARD
OF THE PARIS TRIBUNAL WAS THE RESULT OF A
"POLITICAL DEAL".

The Venezuelans say that Mr. C.A. Harris of the Colonial Office "affirmed" that the award of the Paris Tribunal of 1899 was the result of a political deal, when he described it as "a farce". (See Preliminary Exposition VI (E)).

2. The first point to be made in answer to this is that it is not correct to say that Mr. Harris said that the award of 1899 was the result of a political deal. Mr. Harris neither said nor implied this.

3. Let us see what Mr. Harris did in fact say and the context in which it was said. After the announcement of the award, Mr. Tower, the British Ambassador in Washington, in a despatch to Lord Salisbury dated 14th October, 1899, mentioned that there was intense satisfaction in the United States on the unanimity of the verdict and that the award had, among other things, furthered the principles of international arbitration. A copy of this despatch was sent to the Colonial Office, and on its receipt, Mr. C.A. Harris minuted as follows, on the 7th November, 1899:

"The award has certainly not "furthered the principles of international arbitration". If one thing was forced upon us all at Paris it was that you cannot at present by any means get an arbitral Tribunal to act like a Court of Law. The thing is a farce."
(C.O. 111/516)

4. Mr. Harris' meaning is clear. He was expressing the view that at that period it was not possible to get arbitral tribunals to decide issues strictly in accordance with the law and that arbitration was a farce. It should be noted that Mr. Harris was speaking of arbitral tribunals generally. He was refuting the statement that the Paris Arbitral Tribunal had furthered the principles of international arbitration. This was, of course, Harris' own private view. This view seems to be the result of his dissatisfaction with the award, and the records give some indication of the reasons for his dissatisfaction.

5. The Colonial Office records show that at the time of the arbitration, Mr. Harris had been dealing with the British Guiana - Venezuela boundary question for some twenty years, and knew more than anyone else at the Colonial Office about it. He had indeed played a major part in the preparation of the British case. His minutes show that he was strongly of the view that Britain was entitled to all the territory within the Schomburgk Line and that this claim was clearly established by the records. On 6th August, 1887, when a draft despatch to the Foreign Office was being prepared on the subject of re-opening negotiations with Venezuela on the frontier question, Mr. Harris suggested the inclusion in the draft of the following:

"Sir Henry Holland would not discourage the idea of re-opening negotiations provided that the Venezuelan Govt. will admit that no question can now be raised as to the right of Great Britain to all territory within the Schomburgk Line."

Mr. Harris regards the territory within the Schomburgk line as the irreducible minimum of the British claim and could not countenance the loss of any part of this. On 18th July, 1898, he minuted as follows:

"On the 5th of September, 1887, the Governor was told that H. M. Govt. had decided that mining concessions

/etc.

etc. should be made within the Schomburgk line without any reservations and on the understanding that should negotiations with Venezuela again take place, no territory within that line would be conceded to that Republic. It is clear therefore that as regards grants etc. made prior to the Treaty of Arbitration, H.M. Govt. is responsible to holders, if by any extraordinary misfortune any part within the Schomburgk line is given away from us."

6. Mr. Harris regarded the British case against Venezuela as "overwhelmingly strong". (Mentioned while dealing with the British Guiana-Brazil boundary: see C.C. 111/508). In a letter drafted by him to the Law Officers, dated 26th February, 1897 it is stated:

"For the most part they (i.e. the Colonial Office records) disclose evidence of extensive jurisdiction from the earliest times of British occupation which would doubtless be brought forward with great effect before the arbitral tribunal."

7. While Mr. Harris regarded the territory within the Schomburgk line as the irreducible minimum of the British claim, he was of the view that Britain also had a claim outside the line proposed by Schomburgk, and stated that British hesitation to press her extreme claim and to assert her rights generally had reacted to her disadvantage. In a long memorandum dated 21st February, 1887, dealing with the British Guiana-Venezuela boundary, he wrote:

"It is now well to compare our claims and positions with those of Venezuela. On English maps for some years past the British boundary has been marked as a line about halfway between Upata and the Essequibo, the extreme British and extreme Venezuelan claims. It is a natural line on either side of which the opposing Govts. claim a large area of territory. But throughout its negotiations, Great Britain has never pressed its extreme claim. We have referred to it as a set-off against Venezuelan pretensions; but we have never sought to import it into serious negotiation. The Venezuelan Govt. on the other hand have not ceased to proclaim in Congress and in negotiation that they are entitled to the Essequibo, which has long been settled by the British."

The hesitation in asserting her rights has prejudiced the British claim. On the 2nd September, 1899, (while the Arbitration Tribunal was sitting) Mr. Harris suggested that firm action should be taken in the territory in dispute with Brazil. He added:

"...if there is any hesitation on general grounds, I would urge that the present arbitration shows how any hesitation on our part is always turned against us by our unscrupulous critics abroad."
(C.C.111/513)

8. It should be mentioned, finally, in explanation of Mr. Harris' comment, that for many years he had strongly opposed the submission of the boundary question to arbitration. On 21st February, 1887, he set out his views on the matter in a memorandum, from which a passage has been quoted in paragraph 7 above. Other extracts indicating Mr. Harris' attitude to the question of arbitration on the boundary question are given below:

/"The

"The reason given by the Venezuelans for preferring arbitration was that an article of their constitution forbade any cession of territory assumed to constitute a part of the dominions of the Republic: and we very properly pointed out in reply that this would no doubt be used as an argument for declining to abide by an award in favour of England; but our Minister was told not to explain reasons to the Ven. Govt."

* * * *

"Then came a variation of the proposal in the shape of a proposition that the settlement should be entrusted to a commission of jurists, nominated by the two Govts., respectively, whose decision should be final. I was myself inclined to meet this proposition half-way, but was over-ruled on the ground that it was only a veiled proposition for arbitration.

* * * *

"Next comes the consideration of the alleged variations of the British claim: which has in reality been a variation of concession. The concession now offered is less favourable than that offered in 1844. True: but there has been a constant slow growth of population westwards from the Essequibo.

* * * *

"When the Venezuelans have withdrawn from their present hostile position, and negotiation can be resumed, I see no great objection to adopting Lord Rosebery's proposal of July last - to agree on a zone, on neither side of which should any claim be admitted, and within that zone decide the line by an arbiter or (better) a joint commission, stipulating for natural boundaries only.....

There is therefore an opening for arbitration, but not yet, and not as to the whole territory.

* * * *

"The propriety of accepting the United States as the arbitrator is the remaining important question; it requires consideration because, as shown above, since 1850, they have been imported into this question. There are many objections which I, though a 'Yankeophil', must point out:-

- (1) The universal jealousy of England is accentuated by adherence in U.S. circles to the Monroe doctrine.
- (2) Guzman Blanco is a Yankee adventurer, and would put forward on his side that he has conceded land to American citizens - Manoa Co. and others.
- (3) The United States have themselves claims at the present moment against the Venezuelan Govt. and our case might easily be sold to them in consideration of withdrawal of their claims. Indeed, as Sir R. Herbert has

/remarked

remarked in a recent minute, the award may already have been determined ex parte, and the apparent arbitrator would sit only to register the foregone conclusion."

* * * *

9. The evidence then clearly shows that Mr. Harris was of the view that not only did Britain have an indisputable claim to the territory within the Schomburgk line, but also a claim to territory outside the line. He obviously felt that the Tribunal's decision in the circumstances to dismiss the extreme British claim and to give Venezuela in addition two areas within the Schomburg line - the lower Esarima and the upper Cuyuni - could not be based on law. He had been opposed to submitting the question to arbitration. Now his fears seem justified. He could not therefore agree that the award had furthered the cause of international arbitration; for (so he felt) it was not possible at the time to get arbitral tribunals to act like courts of law. Arbitration was therefore a farce.

10. In the light of the above, the statement that Harris affirmed that the award of the Paris Tribunal was the result of a political deal between Russia and Britain is not correct: Harris' comment, on the contrary, is an expression of his dissatisfaction with an award which failed to give Britain the territory he felt she was legally entitled to.

APPENDIX V

COMMENTS ON THE REPORT ON THE VENEZUELAN
EXPOSITION ON THE BRITISH GUIANA-VENEZUELAN
BOUNDARY

I. VENEZUELA'S RIGHTS TO BRITISH GUIANA TERRITORY

This section purports to give the historical background, and all the matters dealt with herein were exhaustively dealt with before the Arbitral Tribunal in 1899. As the Report (on the Exposition) offers brief comments on some of the statements in this section, it ought perhaps to mention in general terms that the whole picture of Spanish power which this section paints, particularly sections 8, 9, and 10, is completely belied by the facts which were revealed before the Tribunal in 1899 which prove conclusively that Spanish power had dwindled to so miserable a condition as not to have been in any position to stop the expansion of the rapidly developing Dutch nation.

II. THE ANGLO-VENEZUELAN DISPUTE

2. To paragraph 6 of the Report might be added that when Lord Aberdeen proposed a boundary beginning at the mouth of the Moruka River, the offer was distinctly stated to be the cession of British territory to Venezuela and was accompanied by a proviso that "no portion of the territory should at any time be alienated to any foreign power, and that the Indian tribes residing therein should be protected against all injury and oppression." (British case, Appendix 7, Page 90).

III. THE ARBITRATION TREATY OF 1897

3. In regard to paragraph 12 of the Report, the following quotation from McElroy's 'Grover Cleveland: the Man and Statesman' is of interest:

"Shortly after Ambassador Bayard took up his post in London, he wrote to Secretary Gresham that the time was ripe for a settlement of the Venezuela boundary dispute: 'Great Britain has just now her hands very full in other quarters of the globe. The United States is the last state on the earth with whom the British and their rulers desire to quarrel, and of this I have new proofs every day in my intercourse with them....' To the diplomatic mind of our Ambassador, England's necessity was America's opportunity and the determination to force arbitration upon a hard-pressed friendly nation at a moment when she was considered not free to refuse, was both ungenerous and unfair...."

4. With reference to paragraph 14 of the Report, quotation from the letters between the two Presidents might be useful. President Cleveland's letter is dated 12th November, 1896 and the reply 28th November, 1896. Both letters begin "My good Friend". The following is an extract from the first:

"If the Treaty proposed for that end should merit the approbation of your Government, you will have the satisfaction of looking upon it in the future as a most felicitous incident of your sagacious administration."

The following is an extract from the reply:

"The active and important efforts made by you in this noble labour, whatever may be their final result, will make your name worthy of everlasting praise...."

IV. FALSIFICATIONS WHICH VITIATE THE AWARD

5. As is stated in the Report this section is not relevant. The various Schomburgk maps were very thoroughly dealt with before the Arbitral Tribunal of 1899. The facts about the Schomburgk maps are set out briefly here.

6. On 1st July, 1939, after his investigations in Guiana on behalf of the Royal Geographical Society, Sir Robert Schomburgk wrote Governor Light of British Guiana urging the importance of defining the frontier and enclosed a map which was afterwards presented to Parliament with the correspondence (May 1840). The boundary in this map was the Arrowsmith Line, as shown in Arrowsmith's maps of 1832 and 1834. But this was previous to Schomburgk's own survey and report on the subject; and as he had not then clearly investigated the extent of Dutch occupation, his adoption of the Arrowsmith Line has no significance.

7. In 1841 Schomburgk sent home six reports and two large scale maps with the frontier delineated. Schomburgk's actual surveys extended from the mouth of the Amakura to the junction of the Acarabisi with the Cuyuni on the north side, and from the Upper Essequibo to Mount Irutipu on the south side, the course of the Cuyuni intervening and remaining unsurveyed by him. Schomburgk recommended that the frontier should follow the line of his surveys and be connected with the line of the Cuyuni. This was the true Schomburgk Line. The Schomburgk Line was based on a definite principle. It was the line, to the westward of which the Spaniards and subsequently the Venezuelans had formed missions and settlements, and beyond which, neither Spaniards nor Venezuelans had any just claim on the ground either of effective occupation or on recognised treaties. It was also a natural frontier.

8. Negotiations on the boundary were carried on in London with Dr. Fortique between 1842 to 1844. But the latter died in 1844 and so the question was dropped and not raised again for more than thirty years until Dr. Rojas came to England in 1877. The Schomburgk maps showing the frontier line remained in manuscript, so that the Arrowsmith Line continued to be the sole authority and was often erroneously assumed by map-makers and others to be the Schomburgk Line.

9. Schomburgk had sent home reports and maps in 1841 but he remained in Georgetown with his brother two years longer making other surveys. In 1844 he compiled a map showing the topographical result of all his surveys, but he did not delineate any frontier line. This was Schomburgk's physical map.

10. In 1875 Stanford published a large map of British Guiana. This was prepared under the superintendence of Mr. W. Walker from the physical map of Schomburgk to which additions were made by Messrs. Chalmers and Sawkins. Mr. Walker had made no application to the Colonial Office for information and was consequently unaware of the existence of the Schomburgk Line in the official maps. This map showed the erroneous Arrowsmith Line.

11. In 1886 Hebert's map was published. This had been compiled in 1842 from Schomburgk's large scale maps and reports and showed the true Schomburgk Line.

12. In 1887 Stanford's corrected map was issued. When attention was turned to the frontier question in 1885, it was found that the boundary line was erroneously shown in Stanford's map published in 1875. The

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Colonial Office requested the publisher to call in the maps of 1875 and have the Schomburgk Line correctly shown. This was done. Stanford's corrected map, with the date 1875 retained, and the note about the boundaries omitted, was presented to the map-room of the Royal Geographical Society by the Crown Agents in 1887.

13. The true Schomburgk Line is shown on the explorers' manuscript maps at the Colonial Office, on Hebert's map and on Stanford's corrected map.

14. All of this information was presented to the Arbitration Tribunal in 1899. The Venezuelan Expedition now refers to the line shown on the 1839 or 1840 map as the pseudo Schomburgk Line. It refers also to another map at the Royal Geographical Society on which Schomburgk in 1835 marked the route of his proposed journey on behalf of the Royal Geographical Society. This map shows the Essequibo Line and is referred to by the Venezuelans as the original Schomburgk Line. This line was however made before Schomburgk had undertaken his journey on behalf of the Royal Geographical Society (1835-39).

V - AWARD VIOLATED BY EXCESS OF POWERS

15. In connection with paragraph 46 of the Report, the "part of the case" to which the quotation refers is the question of Point Barima, which was awarded to Venezuela.

16. As regards paragraph 48 of the Report, there seems to be some misunderstanding of the sentence quoted "...the relaxation of M. de Martens' state of mind was most disquieting." It appears that the last sentence of the paragraph should be amended.

17. The paragraph quoted from the Venezuelan Exposition at the beginning of paragraph 50 of the Report states that the respective territorial extension of Spanish and Dutch Guiana in 1814 is what Lord Russell called the "fundamental question". The quotation also states that there was no majority decision as required by the Treaty in regard to the "fundamental question". Both of these statements are incorrect. What Lord Russell called the fundamental question was "had Spain acquired the right to Guiana by discovery followed by possession of such a kind and extent as to give her a complete title." Lord Russell stated in his letter that "Lord Justice Collins and myself thought this view untenable," and after long debate Mr. de Martens endorsed the British view.

18. It might also be pointed out, in regard to the comment on the quotation at paragraph 52 of the Report, that the various proposals made by Lord Aberdeen, Lord Granville and Lord Rosebery were by no means indication of what these statesmen regarded as being Britain's rightful territory. These were merely proposals made in an effort to settle the question. During the proceedings of 1899 British Counsel commented on the use of the diplomatic correspondence for such purposes.

19. In connection with paragraph 54 of the Report, it would seem reasonable that the question of the navigation of rivers affected by the boundary line should come within the competence of a Tribunal established to decide on this boundary line.

VI - THE AWARD, THE RESULT OF A COMPROMISE
AND A POLITICAL DEAL

20. With reference to paragraph 56 of the Report, Venezuela claims that the decision was the result of a compromise. The Report agrees that it was a compromise in the sense that the extreme claims were not, and indeed, could not be granted. But the evidence shows that the Award was the result of the examination and ascertainment of the facts, and the application of the law to these facts; and since the Award was the result of the judicial process, it cannot properly be regarded as a compromise. This view is supported by M. de Martens and Lord Russell. In a letter to Lord Salisbury dated 7th October, 1899, Lord Russell wrote:

"I think the Award gives Her Majesty no territory of advantage to which she is not justly entitled and I think it does give to her substantially all to which she is entitled."

In a speech to the Royal Societies Club in December, 1899, he said:

"We all strive to do justice; I think we succeeded. I think the result of the arbitration is to give to Venezuela all that Venezuela is fairly and honestly entitled to, and to give Great Britain no more than Great Britain is honestly entitled to have."

/to

Before

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"Before the arbitration had proceeded for any considerable time, one leading English paper - I believe it is called the leading paper - had an article in which it, in very strong and emphatic language, told the arbitrators to hurry up, that they were wasting a great deal of time, that the question was simply to draw a line, and that it did not very much matter to anyone where the line was drawn. I hope it will not be considered too strong language to use if I say that I consider that article a gross impertinence."

"But I again repeat - and it is the concluding note which I desire to sound - that if arbitrations of this kind are to be successful they must be arbitrations in which the arbitrators are not partisans; they must be arbitrators who will have the sense of individual judicial responsibility upon each of them. And although, as I have already said, it would not be possible to remove all impressions, yet it is possible, as I believe, pursuing those lines, to constitute an arbitration in which, judicially conducted, it is certain substantial justice will be done."

It is clear that Lord Russell strove to ensure that the Venezuelan Arbitration was judicially conducted and that justice was done and that he was of the view that this was accomplished.

21. In regard to the comment in paragraph 72 of the Report that M. de Martens is only impugned because of his nationality, it is interesting to observe the following extract from the New York Herald of 22nd December, 1895, which was appended to a despatch from Sir Julian Pauncefote to the Marquess of Salisbury dated 2nd January, 1896:

"All Europe is against the President's contention and policy (Cleveland's message of December 1895). The fact is a very significant one. Mr. Carter said the other day that a policy which had against it the sympathies of the world was doomed from the start.... Russia alone seems thus far neutral....."

VII - VENEZUELAN ATTITUDE TO THE AWARD

22. In regard to paragraph 104, it might be repeated after the reference to Mallet Prevost that it would be dangerous to rely on the posthumous utterances, who deliberately waited long enough to ensure not only that all other interested parties were silent and that he was speaking without fear of contradiction but that he himself was not available for questioning. In any case, it would be a very one-sided justice which would rely upon the belated and insidious whispers of counsel on one side to impugn the integrity of five judges and of counsel for the other side.

Annex 76

Dr Ignacio Iribarren Borges, [Declaración del Dr Ignacio Iribarren Borges, Ministro de Relaciones Exteriores de Venezuela, la Conferencia Ministerial de Londres] Statement Made by Dr Ignacio Iribarren Borges, Venezuelan Foreign Minister, to the Ministerial Conference Held in London (9 Dec. 1965)

LIONBRIDGE

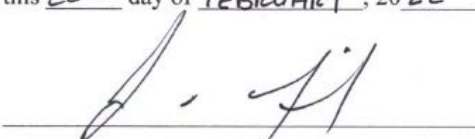
STATE OF NEW YORK)
)
) ss
 COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached Statement made by Dr. Ignacio Iribarren Borges, dated December 9, 1965.



 Lynda Green, Senior Managing Editor
 Lionbridge

Sworn to and subscribed before me
 this 20th day of FEBRUARY, 2022.


LAURA E MUSICH
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01MU6386791
 Qualified in Queens County
 My Commission Expires 01-28-2023

**STATEMENT MADE BY DR. IGNACIO IRIBARREN BORGES,
VENEZUELAN FOREIGN MINISTER, TO THE MINISTERIAL
CONFERENCE HELD IN LONDON ON DECEMBER 9, 1965**

The Venezuelan Government has carefully examined the British expert report, and has reached the firm conclusion that its conclusions are wholly unacceptable.

Great Britain declared in 1962 that the matter had been studied exhaustively by its experts and that it would make available to Venezuela documents and studies which would persuade it that there were no grounds for “re-opening” the issue of borders between that country and British Guiana.

Instead of that, the British experts have merely made certain observations on a “Preliminary View” prepared by their Venezuelan colleagues “on which to base the submission of documents.”

The Venezuelan Government has been surprised by the substantive and formal defects of the British expert report. These are such that they amply justify the expression used by Your Excellency in memorandum AV 1081/75, of August 3, 1965, that the said report “does not necessarily represent the considered view of Her Majesty’s Government with regard to any of the points at issue.”

A thorough, detailed analysis of the British expert report at this time would take us too far and is outside the scope of this Meeting. We must restrict ourselves to mentioning a number of examples which explain why my Government does not accept the conclusions of said report.

1) It fails to address the issues raised by Venezuela in regard to the adulteration of important original maps which were submitted by Great Britain to the Tribunal in 1899, on the incomprehensible grounds that such a serious matter is not relevant to the matter at hand. In addition, the British experts continue to confuse two completely different things, which are the adulteration of the original maps, of which Venezuela has proof, and a simple matter of the inaccuracy of their editions.

2) The report is silent regarding the correspondence exchanged between Sir Richard Webster, Lord Salisbury and Mr Joseph Chamberlain between July and October 1899 and other documents which prove that the British Government was giving instructions to be conveyed to the arbitrators, and that the so-called “Award line” had already been largely prepared by the Colonial Office three months before the award.

3) No response is made to the Venezuelan contention that before, during and after the negotiation in which Great Britain recognized Gran Colombia as an independent state, the latter officially declared that its border with British Guiana was the Essequibo River.

4) Instead of dealing with the facts asserted by Venezuela in relation to the 1897 Treaty, an attempt is made to obtain support by introducing the opinions of various people. Thus, the following facts are not refuted:

a) That the correspondence exchanged between United States and Great Britain during the decisive period of the negotiation (September to November 1896) was concealed from Venezuela until 1899, in other words, two years after the signature of the Treaty.

b) That whilst assuring Venezuela that the 1850 Agreement remained in effect and protected it from any British usurpation after that date, Secretary of State Richard Olney agreed with Great Britain that both matters would be left to the discretion of the Tribunal.

c) That the same Secretary of State guaranteed Venezuela that the title by adverse possession accepted in the Treaty was to be understood in accordance with international law, i.e. that the possession on which such title was based must be public, in good faith, tacitly consented to, etc. At the same time he reached agreement with Great Britain that it could grant title by adverse possession subsequent to 1850, by settlers not authorized by the British Government and against constant public protests by Venezuela.

d) That Secretary of State Richard Olney and Sir Julian Pauncefote agreed that no Venezuelan would sit on the Tribunal, despite the fact, as stated by Pauncefote, that this step “seemed unfair,” and in disregard of what he himself referred to as Venezuelan “shrieks.”

e) That British historians recognize that Venezuela was coerced (Allen), threatened on two occasions that it would alone face the power of the United Kingdom (Campbell) and accepted the Treaty under heavy pressure from the United States (Granville).

The British experts have failed to understand the seriousness of the fact that a republic, such as Venezuela, whose independence had been recognized by

Great Britain for over seventy years, should receive treatment which would not today be given to a colony.

5) Venezuela cannot accept such a flippant response to its serious arguments in relation to such an important point of its contention, that the Tribunal, contrary to the provisions laid down by the Arbitration Treaty, did not give a judgment in law.

In his diary of October 2, the day before the award, R. J. Block recorded the fact of the settlement with this sentence: "Venezuela. De Martens' settlement handed us victory." In the face of this evidence, the British experts merely argue that there is no reference to an "Anglo-Russian settlement" or a "political settlement," as if the settlement were not modified. But Block did modify it when he referred to it as "De Martens' settlement," i.e. "the settlement of the super-arbitrator," and that it was a settlement which handed victory to England. It is the case that not every settlement or deal runs contrary to law. For example, a deal made by a businessman may be an honest one; but the settlement or deal of a super-arbitrator who was required to give judgment in law is defined in the Oxford English Dictionary as follows: "A transaction carried out under the table or of a questionable nature; a private or secret commercial or political arrangement into which the parties have entered for their mutual benefit." This is the sense of the well-known phrase by H. A. Overstreet: "Law... has a way of beginning with ideals and ending with deals."

Also, and with similar flippancy, the British experts seek to respond to the evidence represented by the memorandum of Charles A. Harris of November 4, 1899, discovered by the Venezuelan experts among the Colonial Office files. In this we find the evidence that the Paris Tribunal did not act as a court of law, rather, that it was all a farce. It seems inconceivable that faced with such a clear text the British experts can say, "Only Harris can tell us what he meant by that." And they add that "farce" is not a synonym of "political settlement." Indeed it is not; however, saying that the action of the Tribunal was a farce is even more serious than stating that its judgment was the result of a political settlement.

With no justification, the British officials and experts persist in detracting from the well-known Mallet-Prevost memorandum due to alleged insignificant errors, due to being written 45 years after the so-called "Award" and due to being posthumous. But the importance of this document has been recognized by legal scholars and public figures such as George A. Finch, George Eder, Spruille Braden, Carlos M. Mayer,

José Thomás Nabuco, Cullen-Denis, A. T. Volweiller, Norman Armour and others. Moreover, I wish to place on record at this time, in support of the truth of the evidence of Maller-Prevost in his Memorandum, that on October 26, 1899, i.e. twenty days after the so-called “award,” he himself wrote to historian George Lincoln Burr in these terms:

“The decision was imposed on our Arbitrators, and in strictest confidence I have no hesitation in saying to you that the British arbitrators did not conduct themselves in accordance with any legal or lawful consideration and that the Russian arbitrator was likely prompted to take the position he took by completely external considerations. I am aware that with these words I am only whetting your appetite, but I cannot write any more at the present time. In my opinion, the result was a slap in the face of Arbitration.”

6) The undue pressure which, according to the evidence submitted by Venezuela, De Martens exercised over the arbitrators to reach the so-called “unanimous judgment” cannot be dissimulated by the euphemism “strove hard” (No 40). Venezuela would not object to the actions of the super-arbitrator if he had *made an effort* by legitimate means to obtain the unanimity of the judges. “Making an effort” is certainly not a synonym of obtaining such unanimity at all costs, and having recourse to inappropriate pressure, as revealed by the letter from Lord Russell to Lord Salisbury of October 7, 1899, supported by other French, Venezuelan and US documents produced by the Venezuelan experts. It pains me to say that we are not persuaded by the argument that, being typical of international proceedings of the time, the coercion brought to bear by De Martens on the arbitrators is beyond censure. It is specifically in order to rectify the serious harm suffered by Venezuela from those “typical” proceedings in the past that we are having these conversations now.

Due to shortage of time I have merely highlighted a number of the reasons why the conclusions of the British expert report are wholly unacceptable to Venezuela. Far from persuading my Government that its claim is without merit, the British expert report has convinced it of the unshakeable strength of its position.

The Venezuelan Government is convinced that a satisfactory solution to the border problem with British Guiana is the return of the territory which belongs to it by law. Consequently, it considers that it must be agreed to determine the legitimate border between Venezuela and British Guiana.

DECLARACION DEL DR. IGNACIO IRIBARREN BORGES, MINISTRO DE RELACIONES EXTERIORES DE VENEZUELA, EN LA CONFERENCIA MINISTERIAL DE LONDRES EL 9 DE DICIEMBRE DE 1965.

El Gobierno de Venezuela ha examinado cuidadosamente el informe de los expertos británicos, y ha llegado al firme convencimiento de que sus conclusiones son totalmente inaceptables.

Gran Bretaña había declarado en 1962 que la materia había sido estudiada exhaustivamente por sus expertos y que pondría a disposición de Venezuela la documentación y estudios que la persuadirían de que no había justificación para "reabrir" el problema de límites entre ese país y Guayana Británica.

En lugar de esto, los expertos británicos se han limitado a formular algunas observaciones a una "Exposición Preliminar", preparada por sus colegas venezolanos "para servir de base a la presentación de los documentos".

Los vicios de fondo y forma del informe de los expertos británicos han sorprendido al Gobierno venezolano. Aquellos son tales que bien justifican la expresión de Vuestra Excelencia en su nota AV 1081/75, del 3 de agosto de 1965, de que dicho informe "no representa necesariamente la reflexiva opinión del Gobierno de Su Majestad Británica acerca de ninguno de los puntos en discusión".

Un análisis detenido y minucioso del Informe de los expertos británicos en este momento nos llevaría demasiado lejos y no corresponde a la naturaleza de esta Reunión. Tenemos que limitarnos a enumerar algunos ejemplos que explican por qué mi Gobierno no acepta las conclusiones de dicho informe.

1) No se responde a los planteamientos venezolanos sobre la adulteración de importantes mapas originales que fueron presentados por Gran Bretaña al Tribunal de 1899, con el pretexto incomprensible de que tan grave asunto no viene al caso que nos ocupa. Por otra parte, los expertos británicos persisten en confundir dos cosas totalmente distintas cuales son la adulteración de los originales de los mapas, comprobada por Venezuela, con una simple cuestión de la inexactitud de sus ediciones.

2) Se silencia la correspondencia cruzada entre Sir Richard Webster, Lord Salisbury y Mr. Joseph Chamberlain de julio a octubre de 1899 y otros documentos que prueban que el Gobierno británico le impartía instrucciones para ser transmitidas a sus árbitros, y que la llamada "línea del Laudo" estaba ya sustancialmente preparada por el Colonial Office tres meses antes de la sentencia.

3) Se omite toda réplica al argumento venezolano de que antes, durante y después de la negociación por la cual Gran Bretaña reconoció a la Gran Colombia como Estado independiente, éste declaró oficialmente que su frontera con Guayana Británica era el río Esequibo.

4) En vez de afrontar los hechos aducidos por Venezuela en relación con el Tratado de 1897, se pretende encontrar apoyo en infundar opiniones de algunos personajes. Así quedan sin refutación los siguientes hechos:

a) Que a Venezuela se le ocultó hasta 1899 —ó sea dos años después de la firma del Tratado— la correspondencia cruzada entre los Estados Unidos y Gran Bretaña en el período decisivo de la negociación (septiembre a noviembre de 1896).

b) Que el Secretario de Estado Richard Olney, mientras aseguró a Venezuela que el Acuerdo de 1850 estaba vigente y la protegía de toda usurpación británica posterior a esa fecha, acordó con Gran Bretaña que ambas cuestiones quedaran a discreción del Tribunal.

c) Que el mismo Secretario de Estado garantizó a Venezuela que el título de prescripción aceptado en el Tratado debía entenderse según el derecho internacional, es decir, que la ocupación, base de aquel título, debía ser pública, de buena fe, tacitamente consentida, etc. Al mismo tiempo vino a acordar con Gran Bretaña que podía dar título, por prescripción una ocupación posterior a 1850, realizada por colonos desautorizados por el propio Gobierno británico y en contra de públicas e ininterrumpidas protestas venezolanas.

d) Que el Secretario de Estado, Richard Olney y Sir Julian Pauncefote, acordaron que ningún venezolano formara parte del Tribunal a pesar —como se expresaba Pauncefote— de que esta medida "pareciera injusta", y a despecho de los que él mismo calificaba de "alaridos" venezolanos.

e) Que historiadores británicos reconocen que Venezuela fue coaccionada (Allen), dos veces amenazada de quedar sola frente a la potencia del Reino Unido (Campbell) y después de gran presión por parte de los Estados Unidos, aceptó el Tratado (Granville).

Los expertos británicos no han captado la gravedad del hecho de que a una república, como Venezuela, cuya independencia había sido

reconocida por Gran Bretaña hacía más de setenta años, se le diera un trato que hoy no se da a una colonia.

5) Venezuela no acepta que se responda con tanta ligereza a sus graves argumentos sobre un punto tan importante de su contención como es que el Tribunal, contra lo estipulado por el Tratado de Arbitraje, no dictó una sentencia de derecho.

El diario de R. J. Block, el día 2 de octubre, víspera de la sentencia, deja consignado el hecho de la componenda con la frase: "Venezuela. La componenda de Martens nos dió la victoria". Frente a esta evidencia los expertos británicos se contentan con argüir que ahí no se afirma que sea una "componenda anglo-rusa" o "componenda política", como si la componenda no estuviera calificada. Pero Block sí la calificó al afirmar que era "la componenda de Martens", es decir, "la componenda del superárbitro", y que se trataba de una componenda que dio la victoria a Inglaterra. Es cierto que no toda componenda o trato ("deal") va contra el derecho. Por ejemplo, el trato hecho por un comerciante puede ser honesto; pero la componenda o trato de un superárbitro que estaba obligado a sentenciar en derecho, es la que define el Oxford English Dictionary como: "Una transacción hecha por debajo de la mesa o de naturaleza discutible; un arreglo privado o secreto, comercial o político, en el que las partes han entrado para beneficio mutuo". Este es el sentido de la conocida frase de H. A. Overstreet: "El derecho...tiene caminos para comenzar con ideales y terminar con componendas". ("Law...has a way of beginning with ideals and ending with deals").

También, y con análoga ligereza, los expertos británicos tratan de responder a la evidencia representada por la minuta de Charles A. Harris del día 4 de noviembre de 1899, localizada por los expertos venezolanos en los archivos del Colonial Office. En ella hallamos el testimonio de que el Tribunal de París no actuó como una corte de justicia sino que todo fue una farsa. Parece inconcebible que ante un texto tan claro, afirmen los expertos británicos: "Lo que Harris haya querido decir con esto, sólo él podía decirnoslo". Y agregan que "farsa" no es sinónimo de "componenda política". No lo es; pero decir que la actuación del Tribunal fue una farsa es aún todavía más grave que afirmar que su sentencia fue el resultado de una componenda política.

Persisten injustificadamente los funcionarios y expertos británicos en restarle valor al conocido memorándum de Mallet-Prevost por unas supuestas e insignificantes inexactitudes, por haber sido dictado a los 45 años del llamado "Laudo" y por su carácter póstumo. Pero la importancia de este documento ha sido reconocida por juristas y hombres públicos como George A. Finch, George Eder, Spruille Braden, Carlos M. Mayer,

José Tomás Nabuco, Cullen-Denis, A. T. Volweiller, Norman Armour y otros. Aún más, deseo aquí dejar asentado, en respaldo de la veracidad del testimonio de Maller-Prevost en su Memorándum, que él mismo ya el 26 de octubre de 1899, o sea veinte días después del llamado "laudo", escribió al historiador George Lincoln Burr:

"La decisión fue impuesta a nuestros Arbitros, y en forma absolutamente confidencial no tengo duda en decirle que los Arbitros británicos no se condujeron por consideración alguna legal o de derecho y que el árbitro ruso probablemente fue instigado a tomar la posición que tomó por consideraciones totalmente ajenas al asunto. Yo se que con esto solo le estoy abriendo el apetito, pero no puedo escribir más al presente. El resultado fue en mi opinión una bofetada contra el Arbitraje".

6) La presión indebida que según la evidencia presentada por Venezuela ejerció de Martens sobre los árbitros para lograr la llamada "unanidad de la sentencia" no puede ser disimulada con el eufemismo "strove hard" (Nº 40). Venezuela no objetaría la actuación del super-árbitro si éste se hubiera *esforzado* en obtener por vía legítima la unanimidad de los jueces. "Esforzarse" no es ciertamente sinónimo de obtener aquella unanimidad a toda costa, y echando mano de presiones indebidas, como revela la propia carta de Lord Russell a Lord Salisbury del 7 de octubre de 1899, coincidiendo con otros documentos franceses, venezolanos y norteamericanos producidos por los expertos venezolanos. El argumento de que, por ser típica de los procedimientos internacionales de aquella época, la coacción ejercida por de Martens sobre los árbitros no es censurable, deploro tener que decir, no nos convence. Precisamente, para rectificar los graves perjuicios que ha sufrido Venezuela de aquellos procedimientos "típicos" del pasado, nos hallamos aquí en las presentes conversaciones.

Por la brevedad del tiempo me he limitado a señalar sólo algunas de las razones por las cuales resultan para Venezuela totalmente inaceptables las conclusiones del informe de los expertos británicos. Lejos de haber persuadido a mi Gobierno de que su reclamación carece de fundamento, el informe de los expertos británicos le ha convencido de la firmeza incommovible de su posición.

El Gobierno de Venezuela está convencido que la solución satisfactoria del problema fronterizo con Guayana Británica consiste en la devolución del Territorio que en derecho le pertenece. En consecuencia, considera que debe acordarse la fijación de la frontera legítima entre Venezuela y Guayana Británica.

Annex 77

Charter Granted by their High Mightiness the Lords the States-General to the
West India Company (3 June 1621)

- A basallos todo el daño posible y que de su asistencia allí podrian adelante resultar otros mayores males siendo ayudados de los Yndios Caribes como aora lo hazen, y estar a barlovento de todas las Yndias por lo qual con una muy moderada armada harian muy grandes daños demas de que el consentir que naciones estrangeras tan poco afectas a esta Corona tengan poblaciones en lo que es propio de vuestra Magestad toca tambien en rreputacion y obliga a tratar del remedio y assimismo la gran nezesidad que tiene la Ysla de la Trynidad de quien la defienda por no aver en ella mas de una poblacion de Espanoles y esto tan pequena que no pasan de sesenta hombres los que pueden tomar armas, de manera que se puede ganar facilmente.
- and your vassals all the injury possible; moreover, when they are present there, further and greater evils might result if they are aided by the Carib Indians, as they now are, and they would be to windward of all the Indies, so that with quite a small fleet they could do very great damage, besides the fact that by allowing foreign nations so ill-affected to Spain to have settlements in territory which belongs to your Majesty, we suffer in reputation, and we are obliged to consider the remedy and the great need of some one to defend the Island of Trinidad, as there is only one Spanish settlement there, and that so small that there are not more than sixty men who can bear arms, so that it can easily be taken.

No. 18.

Charter granted by their High Mightinesses the Lords the States-General to the West India Company, dated June 3, 1621.

C

(Extract.)

- De Staten - Generael der Vereenichde Nederlanden, allen den geenen die dese jegenwoordige sullen sien ofte hooren lesen, Saluijt:
- The States-General of the United Netherlands to all who shall see or hear these presents read. Greeting:
- DOEN te Weten, dat Wij bemerckende den wels-tanen van dien, principelijck te bestaen by de Scheepvaert en de Koop-handel, die van allen ouden tijden uijt de selve Landen geluckelijck ende met grooten zegen ghedreven is geweest, op alle Landen ende Koninghrijcken. Soo ist, dat wij begeerende dat de voorsz Ingesetenen, niet alleen bij haere voorgaende Navigatie, Traffijque ende Hanteringe werden gheconserveert, maer oock dat haer Traffijque soo veel moghelijck souden mogen toenemen, bijsonder in conformiteijt vande Tractaten, Alliantien, Verbonden ende Entrecoursen, op de Traffique ende zee-vaert met andere Princen, Republijcken ende Volckeren certijts gemaect, die wij in allen deelen punctuelick verstaen onderhouden ende achtervolght te moeten werden.
- BE it known that we, having taken into consideration that the prosperity of this country and the welfare of its inhabitants principally consist in the navigation and commerce which from time immemorial has been carried on with good fortune and great blessing from out of this same country with all countries and kingdoms: And being desirous that the aforesaid inhabitants not only be maintained in their navigation, commerce, and trade. but also that their commerce should increase as much as possible, especially in conformity with the Treaties, Alliances, Conventions, and Agreements formerly made concerning the commerce and navigation with other Princes, Republics, and nations, which Treaties we intend shall be punctually kept and observed in all their parts:
- Ende wij bij experientie bevinden, dat sonder ghemeene hulpe, assistentie ende middelen van een Generale Compagnie, niet vruchtbaerlijcks inden Quartieren hier naer ghedesigneert, ghedreven, beschermt ende gemainteneert en kan werden, mits de groote avonture van zee-rooverijen, extorsien ende andersints, die op soo groote verre reysen zijn vallende, Soo hebben wij midts ver scheyden ende andere pregnante redenen ende consideratien ons daer toe moverende, met rijpe deliberatie van Raede, ende uijt hoochdringende oorsaecken, goet gevonden, dat die Scheep-vaert, Handelinghe ende Commerciën inde quartieren van West Indien ende Africa ende anderen hier naer ghedesigneert, voortaan niet anders en sal werden gedreven, dan met gemeene vereenichde macht van de Koopluijden ende Ingesetenen deser Landen, ende dat tot dien eijnde opgerecht sal worden eene Generale Compagnie, die wij uijt sonderlinge affectie tot den gemeijnen welstant, ende omme de Ingesetenen van dien te conserveren in goede Neeringhe ende welvaart, sullen mainteneren ende verstercken met onse hulpe, faveur ende assistentie, voor soo veel den jegenwoordigen staet ende
- And we, finding by experience that without the common help, aid and means of a General Company no profitable business can be carried on, protected and maintained in the parts hereafter enumerated, on account of the great risks from sea pirates, extortions, and other things of the same kind, which are incurred upon such long and distant journeys:
- We, therefore, being moved by many different and pregnant considerations, have, after mature deliberation of the Council and for very pressing causes, decided that the navigation, trade, and commerce in the West Indies, Africa, and other countries hereafter enumerated, shall henceforth not be carried on otherwise than with the common united strength of the merchants and inhabitants of these lands, and that to this end there shall be established a General Company which, on account of our great love for the common welfare, and in order to preserve the inhabitants of these lands in full prosperity, we shall maintain and strengthen with our assistance, favour and help, so far as the present state and condition of this country will in any way

ghestaltenisse der Landen eenich sins kan verdragen, ende daer toe te voorsien met behoorlijk Octroy, ende met de Privilegien ende Exemptien hier naer volgende, te weten :

I.

Dat binnen den tijt van vier-en-twintich jaren, niemant van de Ingeboornen ofte Ingesetenen deser Landen, anders dan alleen uijt den Naem van dese Vereenichde Compagnie uijt dese Vereenichde Nederlanden, nochte oock van buijten de selve Landen sal mogen varen ofte Negotieren op de Kusten ende Landen van Africa, van den Tropic Canceri, tot Cabo de bonne Esperance, nochte op de Landen van America, ofte West-Indien, beginnende van 't Zuijt-eijnde van Terra Nova, door de straten van Magellanes, le Maire, ofte andere Straten ende Passagien daer ontrent ghelegen, tot de Straten van Anjan, soo op de Noort-zee, als op de Zuijt-zee, nochte op eenige Eylanden aende eene ende andere zijden ende tusschen beijden gelegen: Mitsgaders op de Australsche ofte Zuijder-landen, streckende ende leggende tusschen bejde de meridianen, raeckende in 't Oosten de Cabo de bonne Esperance, ende in 't Westen het Oost eijnde van Nova Guinea incluijs. Ende soo wie sonder consent van dese Compagnie hem sal vervorderen te varen, ofte te Negotieren op eenige Plaetsen binnen de voorsz Limiten, dese Compagnie gheaccordeert, dat sal zijn op de verbeurte van de Schepen ende Goederen, die bevonden sullen worden op de voorschreve Kusten ende Gewesten te handelen, de welcke datelijck ende al omme van wegen de voorschreve Compagnie, aengetast, ghenomen ende als verbeurt, ten behoeve van de selve gehouden sullen mogen werden. Ende in cas soodanige Schepen ofte Goederen verkocht mochten wesen, ofte in andere Landen ofte Havenen in ghelooopen, sullen de Reeders ende Participanten voor de waarde vande selve Schepen ende goederen mogen werden geexecuteert. Uijtgesondert alleen, dat de geene die voor date van dit Octroy, uijt dese ofte andere Landen, op eenige der voorsz Kusten uijtgelopen ofte uijtgesonden zyn, hunne handelinge totten uijtkoop haerder goederen, ende wederkommen in dese Landen, ofte andersints, ter expiratie toe van haer Octroy, soo sy voor desen eenich hebben verkregen, sullen vermogen te continueeren, ende langer niet. Behoudelick dat naer den eersten Julij sesthien hondert een ende twintich, dage, ende tijde des ingancks van desen Octroye, niemant eenige Schepen ofte goederen en sal vermogen uijt te seijden naer de Quartieren in desen Octroye begrepen, alwaer 't dat voor date van dien dese Compagnie noch niet eijntelick en ware gesloten. Maer sullen daer inne voorsien sulcks als behoort, tegens den geenen die wetens in fraude van dese onse goede meeninge het ghemeene beste soecken te frustreren. Welverstaende dat de zoutvaert op Ponte del Ré sal mogen werden gecontinueert, op conditien ende Instructien bij ons daer van verleden ofte te verlijden, sonder aen desen Octroye anders te wesen verbonden.

II.

Dat voorts de voorschreve Compagnie op onsen Name ende autoriteit, binnen de Limiten hier vooren ghestelt, sal mogen maecten Contracten, Verbintenissen ende Alliancien met de Princen

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allow, and which we shall furnish with a proper Charter, and endow with the privileges and exemptions hereafter enumerated, to wit :

I.

That for a period of twenty-four years no native or inhabitant of this country shall be permitted, except in the name of this United Company, either from the United Netherlands or from any place outside them, to sail upon or to trade with the coasts and lands of Africa, from the Tropic of Cancer to the Cape of Good Hope, nor with the countries of America and the West Indies, beginning from the southern extremity of Newfoundland through the Straits of Magellan, Le Maire, and other straits and channels lying thereabouts, to the Strait of Anjan, neither on the North nor on the South Sea, nor with any of the islands situated either on the one side or the other, or between them both; nor with the Australian and southern lands extending and lying between the two meridians, reaching in the east to the Cape of Good Hope, and in the west to the east end of New Guinea, inclusive. And therefore whoever shall venture, without the consent of this Company, to sail upon or trade with any places within the limits granted to the said Company, shall do so at the risk of losing the ships and merchandize which shall be found upon the aforesaid coasts and districts, which it shall be competent to immediately seize on behalf of the said Company, and to hold as confiscated property at the disposal of the same. And in case such ships or merchandize should be sold or taken to other lands or ports, the underwriters and shareholders may be sued for the value of the said ships and merchandize; with this exception only, that those ships which, before the date of this Charter, have sailed from these or other lands to any of the aforesaid coasts, shall be permitted to continue their trade until they have disposed of their cargoes, and until their return to this country, or until the expiration of their Charter, if they have been granted any before this date, but no longer.

Provided, however, that after the 1st July, 1621, the day and time of the commencement of this Charter, no one shall be permitted to send any ships or merchandize to the districts comprised in this Charter, even if it were before the day on which the Company was finally established; but we shall duly provide against those who wittingly and fraudulently seek to frustrate our good intentions for the commonweal; it being understood that the salt trade to Ponte de Ré shall be permitted to be continued upon the conditions and instructions laid down, or to be laid down, by us in that matter without being otherwise connected with this Charter.

II.

That henceforth the aforesaid Company shall be permitted to make in our name and authority, within the limits set forth above, contracts, leagues, and alliances with the Princes and

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A ende Naturelen vande Landen daer inne begrepen, mitsgaders aldaer eenige Fortressen ende verseeck ertheden bouwen, Gouverneurs, Volck van Oorloge, ende Officiers van Justitie, ende tot andere nootelijke diensten, tot conservatie van de Plaetsen, onderhouding van goede ordre, Policie ende Justitie. Eensamentlijk tot voorderinge vande Neeringe stellen, deporteren ende af-stellen, ende wederom andere in hare plaetse surrogeren, naer sijlijden naer gelegentheijt van saecken sullen bevinden te behooren. Voorts populatie van vructbare ende onbewoonde Quartieren mogen bevorderen, ende alles doen dat den dienst der

B Landen, protijt ende vermeerdering van den handel sal vereijschen. Ende sullen die van de Compagnie ons successivelijk communiceren, ende over-leveren soodanige Contracten ende Alliancien als sy mette voorschreve Princen ende Natien sullen hebben gemaect, mits gaeders de ghelegentheijt van den Fortressen, verseeckertheden ende populatie bij henlijden ter handen genomen.

III.

C Behandelick dat sijlieden eenen Gouverneur-Generael verkooren, ende voor hem Instructie geconcepieert hebbende, de selve daer waer by ons geapprobeert ende Commissie ghegeven sal worden, Ende dat voorts soodanigen Gouverneur-General, soo wel als andere Vice-Gouverneurs, Commandeurs, ende Officiere, gehouden zullen wesen den eeyt van getrouwicheyt aen ons te doen, ende oock aende Compagnie.

natives of the lands therein comprised; they may also build there some fortresses and strongholds, appoint Governors, soldiers, and officers of justice, and do everything necessary for the preservation of the places and the maintenance of good order, police, and justice; they shall likewise, for the furtherance of trade, dismiss and discharge them and nominate others to their places, according as they shall deem advisable for the circumstances of the case; they may further encourage the population of fertile and uninhabited districts, and do everything that the welfare of the land and the profit and increase of trade shall require; and the representatives of the Company shall successively communicate to us and hand over such contracts and alliances as they shall have made with the aforesaid Princes and nations, together with the situation of the fortresses, strongholds, and settlements taken in hand by them.

III.

In the event of their choosing a Governor-General, and drawing up instructions for him, the same will have to be approved and the Commission granted by us. And further, such Governor-General, as also other Vice-Governors, Commanders, and officers shall be bound to take an oath of loyalty to us and to the Company.

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XLV.

Alle welcke Privilegien, Vryheden, ende exemptien, mitsgaders de assistentie hier vooren verbaelt, in alle hare voorsz Poincten ende Articulen, wij de voorsz Compagnie met goede kennisse van saecken hebben ghegunt, verleent, beloofd ende toegeseyt: Gunnen, verleenen ende toesseghen hen mits desen: Beloovende hen luyden de selve te doen, ende laten genieten rustelijk ende vredelijck. Ordonneren oock dat de selve sullen worden onderhouden ende achtervolcht by alle Overicheden, Officiere, ende Ondersaten van dese Vereenichde Nederlanden, sonder daer jegens te doen directelick of indirectelick, soo weijnich binnen,

E

als buijten de selve Vereenichde Nederlanden, op peijne van daer over als Beletters van 't ghemeen welvaren der selver Landen, ende Overtreders van onse Ordonnantie gestraft te worden aen Lijf ende Goet. Beloovende daer en boven, dat wij de Compagnie, in 't innehouden van desen onsen Octroije, sullen maintaineren ende staende houden, by alle Tractaten van Paijse, Aliancien, ende Entercourse met de nae-gebuijre Princen, Rijcken, ende Landen, sonder het ghedaen ofte gehandelt te worden dat tot verminderinge van desen soude mogen strecken. Ontbieden daerom ende bevelen wij expresselijck alle Gouverneurs, Justiciere, Officiere, Magistraten, ende Inwoonders der voorschreve Vereenichde Nederlanden, dat sij de voorschreve Compagnie ende Bewinthebbers van dien, rustelijck ende vredelijck laten ghebrijcken het volkomen effect van desen Octroye, Consent, ende Privilegie: Cesserende alle contradictien ende empeschementen ter contrarien. Ende op dat niemant hier van ignorantie en pretendere, Soo

F

alle welcke Privilegien, Vryheden, ende exemptien, mitsgaders de assistentie hier vooren verbaelt, in alle hare voorsz Poincten ende Articulen, wij de voorsz Compagnie met goede kennisse van saecken hebben ghegunt, verleent, beloofd ende toegeseyt: Gunnen, verleenen ende toesseghen hen mits desen: Beloovende hen luyden de selve te doen, ende laten genieten rustelijk ende vredelijck. Ordonneren oock dat de selve sullen worden onderhouden ende achtervolcht by alle Overicheden, Officiere, ende Ondersaten van dese Vereenichde Nederlanden, sonder daer jegens te doen directelick of indirectelick, soo weijnich binnen, als buijten de selve Vereenichde Nederlanden, op peijne van daer over als Beletters van 't ghemeen welvaren der selver Landen, ende Overtreders van onse Ordonnantie gestraft te worden aen Lijf ende Goet. Beloovende daer en boven, dat wij de Compagnie, in 't innehouden van desen onsen Octroije, sullen maintaineren ende staende houden, by alle Tractaten van Paijse, Aliancien, ende Entercourse met de nae-gebuijre Princen, Rijcken, ende Landen, sonder het ghedaen ofte gehandelt te worden dat tot verminderinge van desen soude mogen strecken. Ontbieden daerom ende bevelen wij expresselijck alle Gouverneurs, Justiciere, Officiere, Magistraten, ende Inwoonders der voorschreve Vereenichde Nederlanden, dat sij de voorschreve Compagnie ende Bewinthebbers van dien, rustelijck ende vredelijck laten ghebrijcken het volkomen effect van desen Octroye, Consent, ende Privilegie: Cesserende alle contradictien ende empeschementen ter contrarien. Ende op dat niemant hier van ignorantie en pretendere, Soo

XLV.

All which privileges, liberties, and exemptions together with the assistance above mentioned in all their points and articles we have freely granted, allowed, promised, and ascribed to the aforesaid Company, and do hereby freely grant, allow, and ascribe with full knowledge of the matter, promising to allow them to enjoy the same in peace and tranquillity. We likewise order that the same shall be kept and observed by all Magistrates, officers, and subjects of these United Netherlands without doing anything contrary to the same, directly or indirectly, either within or without the said United Netherlands, upon pain of being punished therefor, both in person and property, as disturbers of the common welfare of these lands and transgressors of our orders. Promising besides that we shall maintain and uphold the Company in the contents of this our Charter by all Treaties of Peace, alliances, and understandings with the neighbouring Princes, kingdoms, and countries, without suffering anything to be done or negotiated that might tend to diminish its value. Wherefore we expressly charge and command all Governors, Justiciaries, officers, Magistrates, and inhabitants of these United Provinces to permit and suffer the said Company and Commissioners to enjoy peaceably, and without any disturbance, the entire effects of this Charter, licence, and privilege, ignoring all other matters ordered to the contrary. And in order that none may plead ignorance of this, we have ordered the summary of the contents of this Charter to be publicly proclaimed and placarded wherever necessary,

hebben wij belast, dat het sommier inhouden van desen Octroye bij publicatie ofte affixie van Biljetten sal worden genotificeert, daer, ende soo het behooren sal: Want wij 't selve ten dienste van den Lande bevonden hebben te behooren.

Gegeven onder onsen grooten zegel, Paraphure ende de Signature van onsen Griffier, in 's Graven-Hage, op den derden dach der Maent van Junio, in 't Jaer sestien-hondert een-ende-twintich.

Was gheparapheert,

I. MAGNUS.

Onder stond, Ter Ordonnantie van de Hooch-ghemelte Heeren Staten-General, Onderteeckent, C. AERSSSEN.

Hebbende een uyt hangende zegel van rooden Wassche aen een koorde van witte zijde.

such being, in our opinion, to the advantage and service of this country. A

Given under our Great Seal.
Signature of our Notary, in the Hague,
June 3, 1621:

(Signed) J. MAGNUS.

By order of their High Mightinesses the Lords the States-General: B

(Signed) C. AERSSSEN.

(Having a seal of red wax and white silk cord.)

No. 19.

Proclamation prohibiting Trade with the West Indies, dated June 9, 1621.

(Extract.)

De Staten-Generael der Vereenichde Nederlanden, Allen den geenigen die desen sullen hooren lesen, Salujt:

ALSOO Wij naer rijpe deliberatie van Raede, tot welstant deser Provintien, ende welvaren van die goede Ingesetenen van dien, hebben doen besluyten een Compagnie van Negotie ende Trafficque alhier in dese Nederlanden, op de West-Indien, Africa, ende andere Plaetsen hier naer ghedesigneert, ende de selve voorsien van vele Vrijdommen, Privilegien, ende Rechten: oock met verseeckeringe ende faveur van onse notable assistentie, als nader inne houden de Brieven van Octroye daer op bij ons verleent. Soo ist, dat wij tot beter vorderinge van dien geinterdiceert ende verboden hebben, ghelijck wij interdiceren ende verbieden mits desen, dat geene Ingeboornen ofte Ingesetenen deser Landen, binnen den tijdt van vier-en-twintich Jaren, naer den eersten Julij toekomende, uijt dese Nederlanden, nochte de voorschreve Ingeboornen ofte Ingesetenen uijt eenige andere Rijkken of Landen, directelick ofte indirectelick en sullen vermogen te varen, ofte te negotieren, ofte eenigerhande Traffieq te drijven op de Kusten ende Landen van Africa, van den Tropico Canceri af tot de Cabo de bonne Esperance toe, nochte oock op de Landen van America, beginnende van 't Zuyt-eijnde van Terra Nova, door de Strate van Magellanes, le Maire, ofte andere Straten ende Passagien daer omtrent gelegen, tot de Strate van Anjan toe, soo op de Noort-zee, als de Zuyt-zee, nochte op eenige Eylanden aen de eene ende de andere zijde, ende tusschen beijden gelegen: Mitsgaders op de Australsche ende Zuyder Landen, streckende ende leggende tusschen beijde de Meridianen, raeckende in 't Oosten de Cabo de bone Esperance, ende in 't Westen het Oost-eijnde van Nova Guinea incluijs, anders als uijttien Name ende van wegen dese Vereenichde Compagnie: Willende ende ordonnerende dat alle andere Ingeboornen ende Ingesetenen, die ter contrarie ben vervorderen sullen te doen, ofte bevonden sullen kunnen werden gedaen te hebben, verbeuren sullen Schip ende Goederen, die datelijck aengestast ende ten behoeve van de vernoemde Compagnie verbeurt ghehouden sullen werden.

The States-General of the United Netherlands to all who shall hear these presents read, Greeting: C

WHEREAS we, after mature deliberation in Council, for the well-being of these provinces and the welfare of the inhabitants of the same, have caused to be established here in these Netherlands a Company to carry on trade and commerce with the West Indies, Africa, and other places hereafter set forth, and have granted to the same many liberties, privileges and rights, together with assurances of our particular aid and favour, as is more fully dwelt upon in the Letters of Charter given by us: D

We, therefore, for the better furtherance of the same, have prohibited and forbidden, as we now hereby prohibit and forbid, any natives or inhabitants of this country, as well as any natives or inhabitants of any other kingdom or country, to visit, traffic, or carry on, directly or indirectly, except in the name and on behalf of this United Company, any trade whatsoever for a period of twenty-four years, beginning the 1st July next, with the coasts and countries of Africa, from the Tropic of Cancer to the Cape of Good Hope, and with the countries of America, beginning with the south end of Terra Nova, through the Straits of Magellan, Le Maire, or other straits and channels lying thereabouts, to the Straits of Anjan, either in the North Sea or the South Sea, and with any islands on either side or lying in between, together also with Australian and southern countries extending and lying between both meridians, and reaching from the Cape of Good Hope in the east to the east end of New Guinea, inclusive, in the west. E

Desiring and ordering that all other natives and inhabitants who shall act in a contrary manner, or who shall be found to have so done, shall forfeit their vessels and merchandize, which shall immediately be seized and held at the disposal of the aforesaid Company. F

Annex 78

Articles of the Peace of Münster (30 Jan. 1648)

*Articulen Besloten ende geversteet in dese Eeuwige
Vrede tot Munster, op den 30. Januarij, 1648.*

*Articles of the Peace of Münster, concluded
January 30, 1648.*

(Extract.)

3. EEN ijjelijk sal behouden en datelijck ghebruijcken de Landtschappen, Steden, Plaetsen, Landen en de Heerlijckheden die hij tegenwoordigh houdt en besit, sonder daer in getroubleert ofte belet te worden, directelick noch indirectelick in wat manieren dat het zij, daer onder men verstaet te begriipen de Vlecken, Dorpen, Gehuchten en platte Landen die daer van dependeren: Ende sullen dienvolgens de geleele Meijerije van 's Hartogenbosch, als mede de Heerlijckheden, Steden, Casteelen, Vlecken, Dorpen, Gehuchten, en de platte Landen dependende van de voorsz Stadt ende Meijerije van 's Hartogenbosch, Stadt en Marquisaet van Bergen op Zoom, Stadt en Baronnie van Breda, de Stadt van Maestricht, 't resort van dien, als oock 't Graefschap van den Vroonhof, de Stadt Grave en Laudt van Kuijck, Hulst en Bailliage van Hulst en Hulster-Ambacht, als oock Axelo-Ambacht, gelegen bezijden en beoorden de Guele, mitsgaders de Forten die d'geuelte Heeren Staten jegenwoordig in hebben in 't Landt van Waes, ende alle andere Steden en Plaetsen de welke de gedachte Heeren Staten houden in Brabant, Vlaemeren en elders, blijven aen de voorsz Heeren Staten in alle ende de selve rechten en deelen van Souverainiteit en Superioriteit, niet uijtgesondert en even gelijk als sij zijn houdende de Provincien van de Vereenighde Nederlanden, welverstaende dat alle de reste van 't Landt van Waes, nijtghenomen de voorsz Forten, sal blijven aen den Koninck van Spangien. Wat aengaet de drie Quartieren van Over-Maese, te weten Valckenburg, Daelhem en 's Hartogenrade, de selve sullen blijven in den Staet in de welke die sich jegenwoordig vinden. Ende in cas van dispute en controversie, sal de selve grenvoieert worden aen de *Chambre mi partie*, daer van hier na wordt gesprocken, om aldaer te worden gedecideert.

4. De Ondersaten ende Inwoonderen van de Landtschappen van de voorsz Heeren Koninck en de Staten, sullen alle goede correspondentie ende vrientschap t'samen hebben, sonder te gedenccken de offensien en schaden die zijluiden hier vooren hebben geleden, sullen oock mogen komen ende blijven in de Landtschappen d'een van d'andere, ende daer doen haer trafijcke en Commerce in alle verseeckertheit, soo ter Zee, andere Wateren als te Lande.

5. De Navigatie en Trafijcken op de Oost ende West-Indien sullen worden gemaintineert volghens ende in conformité van de Oetroyen daer toe albereijts ghegeven ofte noch te gheven, ende tot verseeckertheit van dien sal strecken het jegenwoordige Tractaet ende de Ratificatie ten wederzijden daer op uijt te brengen: Ende sullen onder het voornoemde Tractaet begrepen worden alle

3. EACH party shall retain and actually enjoy the countries, towns, places, lands, and lordships which he at present holds and possesses, without being troubled or molested therein, directly or indirectly, in any way whatsoever, in which are understood to be included the hamlets, villages, dwellings, and fields belonging thereunto; and consequently the whole "Meyerye" of 's Hartogenbosch, as well as the lordships, towns, castles, hamlets, villages, dwellings, and fields belonging to the aforesaid town and "Meyerye" of 's Hartogenbosch, the town and marquisate of Bergen op Zoom, the town and barony of Breda, the town of Maestricht, and their dependencies, as well as the county of the Vroonhof, the town, county, and province of Kuyck, Hulst, and the bailiwick of Hulst and Hulster-Ambacht, as also Axelo-Ambacht, lying south and north of the Guele, together with the forts which the said Lords States at present hold in the Land of Waes, and all other towns and places which the said Lords States hold in Brabant, Flanders, and elsewhere, shall continue to be held by the aforesaid Lords States in all and the same rights and parts of sovereignty and superiority, not otherwise than and similarly as they hold the Provinces of the United Netherlands, it being well understood that all the remainder of the land of Waes, with the exception of the aforesaid forts, shall remain under the King of Spain. As regards the three districts of Over-Maese, namely, Valckenburg, Daelhem, and 's Hartogenrade, they shall remain under the State under which they at present are. And in case of dispute and controversy, the same shall be referred to the *Chambre mi partie*, of which mention is made hereafter, to be decided there.

4. The subjects and inhabitants of the countries of the aforesaid Lords, the King and States, shall keep up all good relations and friendship together, without remembering the offences and losses which they have heretofore suffered; they shall also be permitted to come and stay in each other's territories, and there carry on trade and commerce in all security, as well on sea and other waters as on land.

5. The navigation and trade to the East and West Indies shall be maintained pursuant to and in conformity with the Charters already given, or yet to be given, therefor, and for the security of which the present Treaty and the ratification to be procured from both sides shall serve. And there shall be comprised under the aforesaid Treaty all potentates, nations, and peoples with

- A** Potentaten, Natien, ende Volckeren, waer mede de voornoemde Heeren Staten, ofte die van de Oost en West-Indische Compagnie van haerent weghen binnen de Limiten van haer Octroij in Vrientschap en Alliantie staen: Ende sal een ijder te weten de hoogst-ghemelde Heeren Koningh ende de Staten respectie blijven besitten, en gauderen sodanige Heerlijkheden, Steden, Casteelen, Sterckten, Handel, ende Landen in de Oost ende West-Indien als oock Brasil, mitsgaders op de Kusten van Asia, Africa ende America respectie, als de selve Heeren Koningh ende Staten respectivelijk zijn hebbende en besittende, daer onder specialick begrepen de Plaetsen bij de Portugijsen 't zedert den Jare 1641 den Heeren Staten afgenomen en geoccupeert, of de Plaetsen, die sij hier namaels sonder infractie van 't tegenwoordigh Tractaet sullen komen te verkrijgen en te besitten: Ende sullen de Bewinthebberen, soo van de Oost als West-Indische Compagnie der Geunieerde Provincien, als oock de Ministers, hooghe als lage Officiers, Soldaten en Bootsgezellen in Actuelen dienst van d'een of d'ander der voorsz twee Compagnien wesende of geweest zijnde, als oock die nijt der selver respectie diensten, soo hier te Lande als in 't district der opghemelde Compagnien al noch continueren ende nae desen noch ge-emploijeert mochten werden, vrij en onbekommert zijn in alle de Landen staende onder de gehoorsamenheit van den Koningh van Spangien in Europa, sullen mogen rejsen, handelen ende wandelen, als alle andere Ingesetenen van de Landen van de voornoemde Heeren Staten. Voorts is gesproocken en gestipuleert dat de Spangiaerden sullen blijven bij hare Vaerten in sodaniger voegen als sij de selve in Oost-Indien al noch hebben, sonder hun verder te mogen extenderen, gelijk oock mede de Inghesetenen van de Vereenigde Nederlanden haer sullen onthouden van de frequentatie van de Castiliaensche plaetsen in Oost-Indien.
- B** Ende wat aenbelanght de West-Indien de Onderdanen en Inwoonderen der Koninghrijcken, Provincien ende Landen der voorsz Heeren Koningh ende de Staten respectivelijk, sullen haer onthouden van te bevaren ende trafiqueren in alle de Havenen en plaetsen met Forten, Logien, Casteelen en alle andere bij d'een of d'andere parthije beset en gepossiedeert, te weten de Onderdanen van de voorsz Heere Koningh en sullen niet bevaren en trafiqueren in de Havenen ende Plaetsen, dewelcke gehouden worden bij de voornoemde Heeren Staten, noch oock de Onderdanen van de voorsz Heeren Staten in die gene de welke gehouden worden bij den ghemelden Heere Koningh: Ende onder de Plaetsen die de voorsz Heeren Staten zijn besittende, sullen mede begrepen wesen de Plaetsen, die de Portugijsen zedert den Jare 1641 in Brasilien van de voorsz Heeren Staten hebben genomen, als mede alle andere Plaetsen die de selve tegenwoordig besitten, soo lange als die onder de Portugijsen sullen zijn, sonder dat het voorgaende Artijckel sal mogen derogeren aen den inhoudt van dit tegenwoordigh.
- C**
- D**
- E**
- F**

whom the aforesaid Lords States, or those of the East and West India Company, in their name, are, within the limits of their said Charter, in friendship and alliance. And each party, to wit, the aforesaid Lords, the King and States respectively, shall continue to possess and enjoy such lordships, towns, castles, fortresses, commerce, and lands in the East and West Indies, as also in Brazil, and on the coasts of Asia, Africa, and America respectively, as the same Lords, the King and States do respectively hold and possess, amongst which are specially included the places which the Portuguese have since the year 1641 taken from the Lords States and occupied, or the places which they shall hereafter come to acquire and possess without infraction of the present Treaty. And the Directors, both of the East and West India Company of the United Provinces, as also the agents, officers high and low, soldiers and sailors being, or having been, in the actual service of one or the other of the said two Companies, as also those who [being] out of the respective services of the same, still remain, and may hereafter be employed either in this country or in the district of the said Companies, shall be free and unmolested in all countries under the dominion of the King of Spain in Europe, and permitted to travel, traffic, and roam like all other inhabitants of the country of the aforesaid Lords States. It is, moreover, agreed and stipulated that the Spaniards shall retain their navigation in the same manner in which they still have it in the East Indies, without being permitted to extend themselves further, as likewise the inhabitants, too, of the United Netherlands shall abstain from the frequentation of the Castilian places in the East Indies.

. 6. And with respect to the West Indies the subjects and inhabitants of the kingdoms, provinces, and lands of the aforesaid Lords, the King and States respectively, shall refrain from navigating and trading in all the harbours and places invested with forts, posts, and castles by either party, and in all others possessed by them, that is to say, the subjects of the aforesaid Lord King shall not navigate and trade in the harbours and places which are held by the aforesaid Lords States, nor the subjects of the aforesaid Lords States in those which are held by the said Lord King. And among the places which the aforesaid Lord States do possess shall be included the places which the Portuguese have taken from the aforesaid Lords States in Brazil since the year 1641, as well as all other places which they at present possess, so long as those shall be under the Portuguese, without the foregoing Article derogating from the purport of this present one.

Annex 79

Articles of Capitulation of Demerara and Essequibo (18-19 Sept. 1803)

SELECT COMMITTEE ON CEYLON AND BRITISH GUIANA. 469

Appendix, No. 8.

Appendix, No. 8.

SCHEDULE.

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Colonial Office, }
3 July 1849. }

B. HAWES.

— No. 1. —

CAPITULATION of *Demerara* and *Essequibo*, 18-19th September 1803.

TERMS of Capitulation proposed by the Governor-General and the Court of Police* of the Colonies of Essequibo and Demerara, and the Commanding Officers of the Sea and Land Forces of the Batavian Republic in the said Colonies, to their Excellencies the Commanders-in-Chief of His Britannic Majesty's Sea and Land Forces off Demerara.

* So in original.

Article 1. The laws and usages of the colony shall remain in force and be respected; the mode of taxation now in use to be adhered to, and the inhabitants shall enjoy the public exercise of their religion in the same manner as before the capitulation. No new establishment shall be introduced without the consent of the Court of Police, as the Legislature of the colony. The constituted authorities, the officers, whether in the civil, law, or church establishments, as well as the members of the respective courts (except the Governor-general), shall be continued in their respective offices and situations until His Majesty's pleasure shall be known.

Answer.—Granted.

Art. 2. The inhabitants who are at present in the colony, as well as those who may be abroad, shall be protected in their persons, and have the free enjoyment of their properties, without being troubled or molested for any acts whatsoever, other than such as they might commit subsequent to the capitulation, and in violation of the oath of fidelity they shall be required to take.

Answer.—Granted.

Art. 3. The inhabitants shall on no account whatever be obliged to take up arms against an external enemy; but their services shall only be required for quelling internal commotions or disturbances, according to the existing regulations for the burghers, and for maintaining the interior tranquillity of the colony, in conformity to what has taken place to this day.

Answer.—Granted, until at the conclusion of the war it shall be determined to what Government those colonies shall be subjected.

Art. 4. The debts contracted by the Government for the building of new barracks, the erection of batteries, the purchase of provisions for the garrison, the salaries of civil officers due, shall, on the first demand, be paid out of the Sovereign's or Government chest, as well as other demands that would have been paid or reimbursed by Government had the colony not been taken.

Answer.—Granted.

Art. 5. The sea and land forces of the Batavian Republic, stationed in this colony, shall be allowed to depart freely. They shall retain their arms and the whole of their baggage, as well as the officers, non-commissioned officers, and privates; they shall be supplied by the Commandant of his Majesty's forces with proper vessels to convey them with the most convenient speed to any of the ports of the Batavian Republic; and during the passage thither they shall receive for account of his Majesty, each according to his rank, the same rations, both as to quantity and quality, as are usually allowed to the British troops.

Answer.—Granted; but the troops and seamen must be considered as prisoners of war, and not bear arms against Great Britain or her allies, until regularly exchanged or released; and the arms and accoutrements of the soldiers must be delivered up.

Appendix, No. 8.

Art. 6. The corvette "Hippomenes" shall be given up, unarmed, for transporting her officers and crew to one of the ports of the Batavian Republic. As many of the troops of the Batavian garrison shall embark and take their passage in the said corvette as can conveniently be placed on board her.

Answer.—Cannot be granted. Proper vessels will be furnished at the expense of the British Government, to convey the troops and seamen to Europe.

Art. 7. The Governor-general not having a military rank, shall be at liberty to remain in the colony until he shall have collected the necessary documents, or proofs, towards enabling him to lay before his Sovereign an account of his administration; after which every facility shall be afforded him to return to the Batavian Republic in a manner suitable to his rank. He shall be allowed to require such copies of papers from the Government and Colonial Secretary's Office as he may deem necessary for the purpose above expressed.

Answer.—Granted.

Art. 8. From the day of the colony being taken possession of by the British forces, the Batavian troops shall be supplied with their usual rations by the British Commander, until the day of their embarkation; and from that moment the Batavian troops are to receive the same rations as are usually allowed to British troops when at sea, in the manner mentioned in the fifth article.

Answer.—Granted.

Art. 9. The Batavian troops shall continue to all intents and purposes under the command of their own officers. Every respect and honour shall be mutually shown by the troops of both nations to one another, and care shall be taken on both sides to preserve peace and tranquillity until the departure of the Batavian troops.

Answer.—Proper quarters will be allowed for the Batavian troops, and to which they must confine themselves until their embarkation.

Art. 10. The Batavian garrison shall be allowed freely, and without any hindrance, to take along with it all accoutrements and arms belonging to it; also the effects of deceased officers, non-commissioned officers, and privates, that may be yet unsold, whether the same be deposited in the public magazines, or in any other place.

Answer.—That part of the article relating to the arms and accoutrements is answered in Article 5. The remainder is granted.

Art. 11. The sick of the Batavian troops who may be left behind in the hospitals, shall be treated and taken care of in the same manner with the British soldiers; they shall be entitled to the same terms of capitulation, and enjoy the same advantages, as are stipulated for the rest of the Batavian garrison; and in like manner as the latter, they shall, after their complete recovery, be transported with the most convenient speed to one of the ports of the Batavian Republic.

Answer.—Granted.

Art. 12. The Commanders of his Majesty's forces shall, immediately on the colony being taken possession of, furnish the Governor-general with a conveyance, to transmit to the Batavian Government a copy of the capitulation, with a statement of the reasons that induced him, as well as the council of police, and the commanding officers of the Batavian forces, to surrender the colony to his Britannic Majesty.

Answer.—Granted. The vessel which takes our despatches to Europe, will take those of the Governor of the colonies.

Article 13. No negroes shall be required from the planters, for the purpose of forming or recruiting any black corps.

Answer.—Granted.

Art. 14. Should any difficulties arise, in consequence of any dubious expressions occurring in the present capitulation, the same shall be explained or construed in the sense most favourable to the colony or the Batavian garrison.

Answer.—Granted.

Government House, 18 September 1803.

(signed) *W. Grinfield, Lieut.-Gen.
Sam. Hood.*

	By order,	
(signed)	<i>W. Tatum, Military Secretary. J. S. Tracy, Naval Secretary.</i>	<i>D. J. C. Lambert, Capt. d'Artillerie. P. P. Luijken. J. Hoffman, First Lieutenant.</i>
(signed)	<i>A. Miertens, Governor-general of Esse- quibo and Demerara. P. Romes Winchel, Major. G. H. Trotz, Com. Adm., Essequibo.</i>	<i>C. D. Mack. T. Vanden Velden. J. Kroll.</i>

By command of the Court of Police.

(signed) *P. F. Tinne, Secretary.*

Annex 80

British Guiana, Letters Patent constituting the Colony of British Guiana and appointing Major-General Sir Benjamin D'Urban, K.C.B., Governor (4 Mar. 1831)

And whereas I have been instructed by His Majesty's Government to publish the said Act, and to declare that the same extends to and is in full force in the Colony of Berbice :

The said Act is therefore hereby published as follows and declared to extend to, and be in full force within, this Colony; of which all persons are required to take notice and govern themselves accordingly.

Extension to
the Colony
of Act 10
Geo. IV.,
c. 7.

[The Act here follows.]

THE LAWS OF BRITISH GUIANA.

LETTERS PATENT constituting the Colony of British Guiana, and appointing Major-General Sir Benjamin D'Urban, K.C.B., Governor.
[4th March, 1831.]

A.D. 1831.

See the Publication next following.

WILLIAM R.

WILLIAM the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To our trusty and well-beloved Sir Benjamin D'Urban, Knight Commander of the Most Honourable Military Order of the Bath, Major-General of our Forces: Whereas, for divers good causes to us appearing, we have deemed it right that our settlements and factories on the northern coast of the continent of South America, comprising the United Colony of Demerara and Essequibo and the Colony of Berbice, should henceforth be united together, and should constitute one Colony in the manner hereinafter provided: Now

know you that we, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Sir Benjamin D'Urban, of our special grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint, you, the said Sir Benjamin D'Urban, to be during our will and pleasure, our Governor and Commander-in-Chief in and over all our settlements on the northern coast of the Continent of South America, comprising all such territories and jurisdictions as have hitherto been comprised in the said United Colony of Demerara and Essequibo and the said Colony of Berbice respectively, with their respective Dependencies, and all forts and garrisons erected and established, or which shall be erected and established, within the same, and which such settlements shall henceforth collectively constitute and be one Colony, and shall be called "THE COLONY OF BRITISH GUIANA": And we do hereby require and command you, our said Governor, to do and execute all things in due manner as shall belong to your said command, and the trust we have reposed in you, according to the several powers and directions granted to or appointed you by this present Commission and the instructions herewith given to you, or according to such further powers, instructions, and authorities as shall at any future time be granted to or appointed for you under our Signet and Sign Manual, or by our Order in our Privy Council, or by us through one of our Principal Secretaries of State: And we do further

grant, direct, and appoint that the form of civil government heretofore by law established in the said United Colony of Demerara and Essequibo shall be and the same is hereby established in and throughout the said Colony of British Guiana, and that all such bodies politic and corporate as have heretofore lawfully existed in the said United Colony of Demerara and Essequibo shall in like manner exist in and throughout the said Colony of British Guiana, and shall in and throughout the said Colony have, exercise, and enjoy all such powers and authorities as have heretofore been lawfully had, exercised, and enjoyed by them respectively in the United Colony of Demerara and Essequibo: Provided, nevertheless, and we do hereby declare our will to be, that the number of the members of certain of the said bodies politic and corporate heretofore existing in the said United Colony of Demerara and Essequibo shall in the said Colony of British Guiana be augmented and enlarged in such manner as by your said instructions as directed in that behalf: Provided, also, and we do further declare our pleasure to be, that nothing herein contained shall extend, revoke, or abrogate any law, or lawful usage or custom, now in force in the said United Colony of Demerara and Essequibo or in the said Colony of Berbice respectively, save only in so far as relates to the separate constitution and form of civil government heretofore established and in use in the said Colony of Berbice, which said constitution or form of civil government we do hereby abrogate and dissolve, and do declare that the same hath become and shall henceforth be extinct, and merged in the government of the Colony of British Guiana; Provided, also, and we do further declare our will and pleasure to be, that nothing herein contained extends, or shall be construed to extend, in any wise to alter or interfere with the provisions of a certain Act of Parliament passed in the fifth year of the reign of our late royal brother and predecessor King George the Fourth, intituled "An Act to Consolidate and Amend the Laws for the Abolition of the Slave Trade," or to render legal any transfer or removal of any slave which would have been illegal if these Presents had not been made, it being our pleasure that, for the purposes and within the meaning of the said Act of Parliament, the said United Colony of Demerara and Essequibo and the said Colony of Berbice shall still continue and be distinct and separate Colonies: And we do hereby give and grant to you, the said Sir Benjamin D'Urban, full power and authority, with the advice and consent of the Court of Policy of our said Colony of British Guiana, to make, enact, ordain, and establish laws for the order, peace, and good government of our said Colony, subject, nevertheless, to all such rules and regulations as by your said general instructions we have thought fit to prescribe in that behalf: Provided, nevertheless, and we do hereby reserve to ourselves, our heirs and successors, our and their undoubted right and authority to disallow any such laws, and to make and establish from time to time, with the advice and consent of Parliament, or with the advice of our or their Privy Council, all such laws as may to us or them appear necessary for the order, peace, and good government of the said Colony as fully as if these presents had not been made: And we do hereby grant to you, the said Sir Benjamin D'Urban, the custody of the Public Seal appointed for the sealing of all things whatsoever that shall pass the Seal of our said Colony: And we do hereby give and grant unto you, the said Sir Benjamin D'Urban,

full power and authority, in our name and in our behalf, but subject nevertheless to such provisions as are in that respect contained in your said general instructions, to make and execute, in our name and under the Public Seal of our said Colony, grants of our waste lands to us belonging within the said Colony, to private persons for their own use and benefit, or to any persons, bodies politic or corporate in trust, for the public uses of our subjects, their resident, or any of them : And we do hereby give and grant unto you full power and authority, as you shall see occasion, in our name and in our behalf, to remit any fines, penalties, or forfeitures which may accrue or become payable to us, so as the same do not exceed the sum of £50 sterling in any one case, and to respite and suspend the payment of any such fine, penalty, or forfeiture exceeding the said sum of £50, until our pleasure therein shall be known and signified to you : And we do hereby give and grant unto you full power and authority, as you shall see occasion, in our name and in our behalf, to grant to any offender convicted of any crime in any Court, or before any Judge, Justice, or Magistrate, within our said Colony, a free and unconditional pardon, or a pardon subject to such conditions as by any law in force in the said Colony may be thereunto annexed, or any respite of the execution of the sentence of any such offender, for such period as to you may seem fit : Provided always that, in cases of treason or murder, no pardon, either absolute or conditional, be granted until the cases shall have been first reported to us by you for our information, and you shall have received the signification of our pleasure therein : And we do hereby give and grant unto you, the said Sir Benjamin D'Urban, as such Governor as aforesaid, full power and authority, upon sufficient cause to you appearing, to suspend from the exercise of his office within our said Colony any person exercising any such office under or by virtue of any commission or warrant granted or to be granted by us, or in our name and under our authority, which suspension shall continue and have effect only until our pleasure therein shall be signified to you : And we do hereby strictly require and enjoin you, in proceeding to any such suspension, to observe the directions in that behalf given to you in and by our said general instructions accompanying this our Commission : And in case of your death or absence from the said Colony, our will and pleasure is, that this our Commission, and the several powers hereby vested in you, shall be exercised by such person as may by us be appointed to be our Lieutenant-Governor of our said Colony, or by such person as may be appointed by us, under our Signet or Sign Manual, to administer the said government ; but if, at the time of such your death or absence, there shall be no person within our said Colony commissioned to be such Lieutenant-Governor or Administrator of the Government as aforesaid, then our pleasure is, and we do hereby direct, that the senior officer for the time being in the command of our land forces within our said Colony shall take upon himself the administration of the government thereof, and shall execute this our Commission, and the several powers herein and in the aforesaid instructions contained ; and if any such officer shall, during his administration of the government, be superseded in the command of our said forces by any senior officer, then our pleasure is that such senior officer shall assume the administration of the said government, and the execution of this our Commission and of the several powers aforesaid, and so from time to time as often as any such case shall

arise: And we do hereby require and command all officers, civil and military, and all other our subjects and persons inhabiting our said Colony of British Guiana, to be obedient, aiding and assisting unto you, or to the officer administering the said government for the time being, in the execution of this our Commission, and of the powers and authorities herein contained: And we do further declare our pleasure to be that the changes established in the constitution and form of civil government in the said Colonies of Demerara and Essequibo and of Berbice respectively, by this our Commission, shall not take effect until this our Commission shall actually have been by you received in our said Colonies, or one of them: And we do hereby declare, ordain, and appoint that you, the said Sir Benjamin D'Urban, shall and may hold, execute, and enjoy the office and place of our Governor and Commander-in-Chief in and over the Colony of British Guiana, together with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure. In witness, &c., &c.

Given at our Court at Brighton, the 4th day of March, 1831, in the first year of our reign.

By His Majesty's Command,

GODERICH.

A.D. 1831.

See the Commission last preceding.

PUBLICATION by the Court of Policy relating to the Assumption by His Excellency Governor Sir Benjamin D'Urban, K.C.B., of the Government of British Guiana. [21st July, 1831.]

Notification of assumption by Sir B. D'Urban of the Government of British Guiana.

His Excellency Major-General Sir Benjamin D'Urban, Knight Commander of the Most Honourable Order of the Bath, of the Royal Guelphic Order, and of the Portuguese Royal Military Order of the Tower and Sword, at an Extraordinary Assembly of this Court, held on the present day, having exhibited to us the Commission granted to him by His Majesty as Governor and Commander-in-Chief in and over British Guiana, comprising the Colonies of Demerara, Essequibo, and Berbice, and their Dependencies, and the said Commission having been read and proclaimed with due solemnity, the Civil Government of British Guiana as aforesaid was thereupon assumed and taken over by His Excellency the Governor aforesaid.

A.D. 1831.

AN ORDER of the King-in-Council relating to Appeals to His Majesty-in-Council. [20th June, 1831¹.]

At the Court of St James's.

PRESENT :

THE KING'S MOST EXCELLENT MAJESTY.

LORD CHANCELLOR,
LORD PRESIDENT,
LORD PRIVY SEAL,
DUKE OF RICHMOND,
EARL OF CARLISLE,
EARL GREY,
VISCOUNT GODERICH,

VISCOUNT PALMERSTON,
VISCOUNT ALTHORP,
VISCOUNT MELBOURNE,
LORD HOLLAND,
RT. HON. SIR JAS. GRAHAM,
RT. HON. SIR C. GRANT,
RT. HON. C. P. THOMPSON.

Published in the Colony on the 22nd November, 1831.

Annex 81

U.S. Congress, 53rd Session, *Joint Resolution*, H. Res. 252 (10 Jan. 1895)

“The Executive of this Republic hopes that your honorable legation will be pleased to transmit the expression of these feelings to His Excellency, the President of the United States, through the Department of State, and in informing Your Excellency of this I have the honor to renew to you the sincere assurances of my high consideration,” etc.

By means of the foregoing reproduction I have taken pleasure in performing in the most faithful manner, according to my judgment, the honorable task which His Excellency, the Minister of Foreign Relations has seen fit to entrust to me, viz., that of communicating to Your Excellency the sentiments expressed in the note above inserted, he having desired that the expression of the gratitude of the Venezuelan Government should reach President Cleveland through two channels at once, *i. e.*, through Mr. Haselton and through me.

I avail, etc.,

JOSÉ ANDRADE.

Joint Resolution by the U. S. Congress.

53D CONGRESS, 3D SESSION, H. RES. 252.

IN THE HOUSE OF REPRESENTATIVES.

January 10, 1895.

Referred to the Committee on Foreign Affairs and ordered to be printed.

Mr. Livingston introduced the following joint resolution :

JOINT RESOLUTION

relative to the British Venezuelan-Guiana boundary dispute.

Whereas, In the present enlightened age of the world, when international disputes in general, and more particularly those pertaining to boundary, are in constant process of adjustment by joint commission or by outside arbitration ; and

Whereas, Since the existing boundary dispute in Guiana between Great Britain and Venezuela ought not to constitute an exception to the general rule, but should more naturally come within the scope and range of modern international precedent

and practice, in that it turns exclusively upon simple and readily ascertainable historical facts ; and

Whereas, Since it would be extremely gratifying to all peace-loving peoples, and particularly to the impartial friends of both parties, to see this long-standing and disquieting boundary dispute in Guiana adjusted in a manner just and honorable alike to both, to the end that possible international complications be avoided and American public law and traditions maintained : Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President's suggestion, made in his last annual message to this body, namely, that Great Britain and Venezuela refer their dispute as to boundary to friendly arbitration, be earnestly recommended to the favorable consideration of both the parties in interest.

The resolution, in this form, passed unanimously in the House, February 7, 1896, when it was transmitted to the Senate, which struck out the preamble, and then passed the resolution, by unanimous vote, in the following form, which was concurred in by the House :

“THE BRITISH-VENEZUELA-GUIANA BOUNDARY DISPUTE.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President's suggestion, made in his last annual message to this body, namely, that Great Britain and Venezuela refer their dispute as to the boundary to friendly arbitration, be earnestly recommended to the favorable consideration of both the parties in interest.”

PART XIV.

Extract from President Cleveland's Annual Message of December 2, 1895.

It being apparent that the boundary dispute between Great Britain and the Republic of Venezuela concerning the limits of British Guiana was approaching an acute stage, a definite statement of the interest and policy of the United States as regards

Annex 82

United States 54th Congress, Act of the United States Congress, *Public Act No. 1*
(21 Dec. 1895)

Your Excellency is authorized to state the substance of this dispatch to Mr. Olney, and to leave him a copy of it if he should desire it.

SALISBURY.

Act of the United States Congress.

[54th Congress.]

PUBLIC ACT—No. 1.

An Act making an appropriation for the expenses of a commission to investigate and report on the true divisional line between the Republic of Venezuela and British Guiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred thousand dollars, or so much thereof as may be necessary, be, and the same is, hereby appropriated, for the expenses of a commission to be appointed by the President to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana.

THOMAS B. REED,

Speaker of the House of Representatives.

A. E. STEVENSON,

Vice-President of the United States and

President of the Senate.

Approved December 21, 1895.

GROVER CLEVELAND.

Annex 83

United Kingdom, Brazil, Treaty Series No. 14, *Treaty and Convention for the settlement of the Boundary between British Guiana and Brazil* (22 Apr. 1926)
(excerpt)

963



Treaty Series No. 14 (1929)

Treaty and Convention
BETWEEN HIS MAJESTY
AND THE PRESIDENT OF THE
BRAZILIAN REPUBLIC
for the settlement of the
Boundary between British Guiana
and Brazil

London, April 22, 1926

[*Ratifications exchanged at London, April 16, 1929*]

Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty

LONDON:

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE
To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
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1929

Price 2d. Net

Cmd. 3341

(2.) CONVENTION.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the Republic of the United States of Brazil, with the object of completing the determination of the frontiers between their respective territories, already fixed as regards almost their entire length by the declaration annexed to the Treaty of London of the 6th November, 1901,* and by the Rome Award of the 6th June, 1904,† and deeming it necessary to rectify certain inaccuracies in that award, have decided to conclude a special complementary boundary convention, and to that end have appointed the following as their Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honourable Sir Austen Chamberlain, K.G., M.P., His Majesty's Principal Secretary of State for Foreign Affairs; and

The President of the United States of Brazil:

His Excellency Senhor Raul Regis de Oliveira, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil at London;

O PRESIDENTE da Republica dos Estados Unidos do Brasil e Sua Magestade o Rei do Reino Unido da Grã Britanha e Irlanda é dos Dominios Britannicos do Ultra-mar, Imperador da India; no intuito de completarem a determinação das fronteiras entre os seus respectivos territorios, já feita em quasi toda a extensão dos mesmos, pela Declaração annexa ao Tratado de Londres de 6 de Novembro de 1901 e pelo Laudo de Roma, de 6 de Junho de 1904, e julgando necessario rectificar algumas inexactidões do mesmo Laudo, resolveram fazer uma Convenção especial e complementar de limites; e, para esse fim, nomearam Plenipotenciarios, a saber:

O Presidente da Republica dos Estados Unidos do Brasil:

O Senhor Raul Regis de Oliveira, Embaixador Extraordinario e Plenipotenciario dos Estados Unidos do Brasil em Londres; e

Sua Magestade o Rei do Reino Unido da Grã Bretanha e Irlanda e dos Dominios Britannicos do Ultra-mar, Imperador da India:

The Right Honourable Sir Austen Chamberlain, K.G., M.P., Secretario de Estado dos Negocios Extrangeiros;

Who, having communicated to each other their full powers,

Os quaes, depois de se haverem communicado os seus plenos pode-

* Ca. 916.

† Ca. 2166.

969

found in good and due form, agreed upon the following articles:—

res, achados em bôa e devida fórma, convieram nos artigos seguintes:

ARTICLE 1.

From Mount Yakontipú westwards, as far as the Roraima chain, the frontier between the United States of Brazil and British Guiana shall follow the watershed between the River Cotingo (Kwating), flowing in Brazilian territory, and the River Paikwa, flowing in British territory. Ascending the Roraima mountains, the frontier shall pass between the Paikwa Fall, to the north, and the falls of the Cotingo (Kwating Falls), to the south, and, leaving the sources of the Cotingo on the side of Brazil, shall end where Venezuelan territory commences, between the sources of the Cotingo (Kwating) and those of the Arapopo (Arabopo), on the said Roraima mountains, in so far as the nature of the ground or the locality permits of these sources being explored or located.

ARTIGO 1.

Do monte Yakontipú para o oeste, até a serra Roraima, a fronteira entre os Estados Unidos do Brasil e a Guyana Britannica seguirá pela linha divisória das aguas (watershed) entre o Rio Cotingo (Kwating), que corre em territorio brasileiro, e o rio Paikwa (Paikwa River), o qual corre em territorio britannico. Subindo pelos montes Roraima, passará a fronteira entre a quéda do Paikwa (Paikwa Fall), ao norte, e as quedas do Cotingo (Kwating Falls), ao sul, e, deixando do lado do Brasil as nascentes do Cotingo (Kwating), terminará onde começa o territorio venezuelano, entre as nascentes do Cotingo (Kwating) e as do Arapopo (Arabopo), nos mesmos montes Roraima, tanto quanto a natureza do terreno ou do lugar permitta a exploração ou localização dessas nascentes.

ARTICLE 2.

The two High Contracting Parties declare that the source of the River Tacutú, at the end of the boundary line fixed by the arbitral decision of the 6th June, 1904, is situated on Mount Wamuriaktawa and not on Mount Vindaua (Wintawa), as was supposed.

ARTIGO 2.

As duas Altas Partes Contractantes declaram que a nascente do Rio Tacutú, onde termina a linha divisória estabelecida pela decisão arbitral de 6 de Junho de 1904, fica situada no monte Wamuriaktawa e não no monte Vindaua (Wintawa), como se suppunha.

ARTICLE 3.

The present convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties, and the ratifications shall be exchanged at the city of London as soon as possible.

ARTIGO 3.

A presente Convenção será ratificada de accordo com as normas constitucionaes das Altas Partes Contractantes e as ratificações serão trocadas na cidade de Londres, logo que isso seja possível.

In witness whereof the above-named Plenipotentiaries have drawn up the present convention in duplicate, each copy being in the English and Portuguese languages, and have signed the same and affixed their respective seals to both copies.

Done at the city of London, the 22nd day of April, in the year one thousand nine hundred and twenty-six.

(L.S.)

(L.S.)

Em fé do que, os Plenipotenciarios acima nomeados fizeram lavrar a presente convenção, em dois exemplares, cada um delles escripto nas linguas portugueza e ingleza, e os assignam, appondo em ambos os seus respectivos sellos.

Feito na cidade de Londres, aos 22 dias do mez de Abril, do anno de mil novecentos vinte e seis.

AUSTEN CHAMBERLAIN.

RAUL RÉGIS DE OLIVEIRA.

Annex 84

Republic of Venezuela, Ministry of Foreign Affairs, [*Tratados públicos y acuerdos internacionales de Venezuela: 1920-1925*] *Public Treaties and International Agreements 1920-1925*, Vol. III (1927)



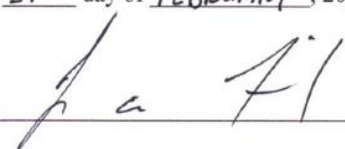
STATE OF NEW YORK)
)
) ss
COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached excerpts.



Lynda Green, Senior Managing Editor
Lionbridge

Sworn to and subscribed before me
this 21st day of FEBRUARY, 20 22.


LAURA E MUSICH
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MU6386791
Qualified in Queens County
My Commission Expires 01-28-2023

UNITED STATES OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS

Public Treaties
And
International Agreements of Venezuela

VOLUME III

1920–1925

Commemorative Edition
of the
FIRST CENTENNIAL OF THE BATTLE OF AYACUCHO

CARACAS
TIPOGRAFÍA AMERICANA
1927

**PUBLIC TREATIES
and
INTERNATIONAL AGREEMENTS
OF VENEZUELA**

VENEZUELA-BRITISH GUIANA

Act of Morajuana

Whereas the undersigned, members of the Commission appointed by Her Majesty the Queen of Great Britain and Ireland to technically delineate the dividing line between the United States of Venezuela and the Colony of British Guiana, in execution of the Paris Award of October 3, 1899, Messrs. Michael Mc. Turk, C. M. G., 1st. Commissioner, Captain Arthur Wybrow Baker, 2nd Commissioner, Captain Surgeon John Charles Ponsonby Widdup, 3rd. Commissioner, and Harry Innis Perkins, Public Surveyor, 4th Commissioner, on the one hand, and on the other hand, Doctors Felipe Aguerrevere and Trino Celis Ríos, Chief Engineer and Attorney, respectively, of the Commission appointed by the Government of the United States of Venezuela for the same purpose, hereby certify that as both Commissions have established themselves at Punta Playa, a place on the coast designated in said Award as the starting point for the boundary line, with the relevant scientific work and operations having been carried out, by mutual and perfect agreement they determine the geographical location of the said place Punta Playa at 8° 33' 22" north latitude and at 59° 59' 48" west longitude from Greenwich; therefore, the starting point of the boundary line between the United States of Venezuela and the Colony of British Guiana on the Atlantic coast is thus fixed in accordance with the arbitral decision of October 3, 1899.

Two original copies of this instrument were made with identical content, one in English and another in Spanish, each of which are equally valid, in Morajuana on November 24, 1900.

Michael Mc. Turk.—A. W. Baker.—C. P. Widdup.—H. I. Perkins.—F. Aguerrevere.—Trino Celis Ríos.

Act of Mururuma

Whereas the undersigned members of the Commission appointed by Her Majesty the Queen of Great Britain and Ireland to technically define the dividing line between the United States of Venezuela and the Colony of British Guiana, pursuant to the Paris Award of October 3, 1899, Mr.

Michael Mc. Turk, C. M. G., 1st Commissioner, Captain Arthur Wybrow Baker, 2nd Commissioner, Captain Surgeon John Carles Ponsonby Widdup, 3rd Commissioner and Harry Innis Perkins, Public Surveyor, 4th Commissioner, on the one hand and, on the other, Doctors Felipe Aguerrevere and Trino Celis Ríos, Chief Engineer and Attorney, respectively, of the Commission appointed for the same purpose by the Government of the United States of Venezuela, hereby certify that as both Commissions have established themselves at the mouth of the Mururuma Channel, the place designated in the Award as the end point of the straight line from Punta Playa, and with the relevant scientific work and operations having been carried out, the geographic location is determined, by mutual and perfect agreement, from the confluence of the Mururuma Channel with the Barima River at latitude 8° 18' 44" north and longitude 59° 48' 10" west of Greenwich, with the direction or azimuth of the mouth of the Mururuma Channel to Punta Playa North 38° 21' 59" to the west and the distance between both points 34,400 meters. Therefore, the straight portion of the boundary line between the United States of Venezuela and the Colony of British Guiana that starts at Punta Playa and ends at the mouth of the Mururuma Channel is thus established, in accordance with the Paris arbitral award of October 3, 1899.

In order to demarcate the direction of this line on the ground, two concrete posts were erected on the right bank of the Barima River: the first, 626 meters from the mouth of the Mururuma, one meter high and 80 centimeters long and 60 centimeters wide, and from the other, a small post, it is 302 meters to Punta Playa.

Two original copies of this instrument were made with identical content, in English one and another in Spanish, each of which are equally valid, at the Camp of Mururuma on December 12, 1900.

Michael Mc. Turk.—A. W. Baker.—C. P. Widdup.—H. I. Perkins.—F. Aguerrevere.—Trino Celis Ríos.

Act of Haiowa

Whereas the undersigned members of the Commission appointed by Her Majesty the Queen of Great Britain and Ireland to technically define the dividing line between the United States of

Venezuela and the Colony of British Guiana, pursuant to the Paris Award of October 3, 1899, Mr. Michael Mc. Turk, C. M. G., 1st Commissioner, Captain Arthur Wibrow Baker, 2nd Commissioner, Captain Surgeon John Charles Ponsonby Widdup, 3rd Commissioner and Harry Innis Perkins, Public Surveyor, 4th Commissioner, on the one hand and, on the other, Doctor Felipe Aguerrevere, Chief Engineer of the Commission appointed for the same purpose by the Government of the United States of Venezuela, hereby certify that as both Commissions have established themselves at the mouth of the Haiowa River, after having performed the topographic survey of the full length of the Mururuma Channel, from the mouth to its headwaters, which measures 12,900 meters in length, taking the geographical positions of the aforementioned headwaters of Mururuma, which has $8^{\circ} 14' 5''$,3 latitude north and $59^{\circ} 50' 7''$, 9 longitude west of Greenwich, the position of this mouth of Haiowa, as it flows into the Amacuro, of $8^{\circ} 13' 4''$ latitude north and $59^{\circ} 56' 39''$, 1 longitude west of Greenwich, and to trace on the ground the straight line joining these two points, headwaters of the Mururuma and mouth of the Haiowa, which are 12,120 meters apart, with direction N. $81^{\circ} 3' 48''$ to the east, they proceed to certify that these data have been verified by both Commissions in perfect agreement and in accordance with the Paris Arbitral Award of October 3, 1899. Two concrete poles have been erected, one immediately at the mouth of the Haiowa and the other 300 meters away from the first towards the headwaters of the Mururuma, which mark between the two the direction of the straight line that joins them.

Two original copies of this instrument were made with identical content, in English one and another in Spanish, each of which are equally valid, at the Camp of the Haiowa on January 21, 1901.

Michael Mc. Turk.—A. W. Baker —C. P. Widdup.—H. I. Perkins.—F. Aguerrevere.

[...]

ESTADOS UNIDOS DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES

Tratados Públicos
Y
Acuerdos Internacionales de Venezuela

VOLUMEN III

1920 - 1925

Edición Conmemorativa
del
PRIMER CENTENARIO DE LA BATALLA DE AYACUCHO

CARACAS
TIPOGRAFÍA AMERICANA
1927

TRATADOS PUBLICOS
y
ACUERDOS INTERNACIONALES
DE VENEZUELA.

VENEZUELA-GUAYANA BRITANICA

Acta de Morajuana

Por cuanto los suscritos, miembros de la Comisión nombrada por Su Majestad la Reina de la Gran Bretaña e Irlanda para delinear técnicamente la línea divisoria entre los Estados Unidos de Venezuela y la Colonia de la Guayana Británica, en ejecución del Laudo de París de 3 de octubre de 1899, señores Michael Mc. Turk, C M G., 1er. Comisionado, Capitán Arthur Wybrow Baker, 2º Comisionado, Capitán Cirujano John Charles Ponsonby Widdup, 3er. Comisionado, y Harry Innis Perkins, Agrimensor público, 4º Comisionado, por una parte, y por la otra los Doctores Felipe Aguerrevere y Trino Celis Ríos, Ingeniero en Jefe y Abogado, respectivamente, de la Comisión nombrada por el Gobierno de los Estados Unidos de Venezuela para el mismo objeto, hacemos constar en la presente acta que, habiendo ambas Comisiones constituídose en Punta Playa, lugar de la costa designado en dicho Laudo como punto inicial de la línea fronteriza, y practicado los trabajos y operaciones científicos del caso, determinan, de mutuo y perfecto acuerdo, la situación geográfica del expresado lugar Punta Playa a los 8° 33' 22" de latitud norte y a los 59° 59' 48" de longitud oeste de Greenwich; por tanto, queda así fijado el punto de partida, sobre la costa del Atlántico, de la línea limítrofe entre los Estados Unidos de Venezuela y la Colonia de la Guayana Británica, de acuerdo con el fallo arbitral de 3 de octubre de 1899.

Hechas dos de un tenor a un solo efecto, en inglés una, y otra en castellano, en Morajuana a 24 de noviembre de mil novecientos.

Michael Mc. Turk.—A. W. Baker.—C. P. Widdup.—H. I. Perkins.—F. Aguerrevere.—Trino Celis Ríos.

Acta de Mururuma

Por cuanto los suscritos, miembros de la Comisión nombrada por Su Majestad la Reina de la Gran Bretaña e Irlanda para determinar técnicamente la línea divisoria entre los Estados Unidos de Venezuela y la Colonia de la Guayana Británica, en ejecución

del Laudo de París de 3 de octubre de 1899, señores Michael Mc. Turk, C. M. G., 1er. Comisionado, Capitán Arthur Wybrow Baker, 2º Comisionado, Capitán Cirujano John Carles Ponsonby Widdup, 3er. Comisionado y Harry Innis Perkins, Agrimensor Público, 4º Comisionado, por una parte y por la otra los Doctores Felipe Aguerrevere y Trino Celis Ríos, Ingeniero en Jefe y Abogado, respectivamente, de la Comisión nombrada para el mismo objeto por el Gobierno de los Estados Unidos de Venezuela, hacemos constar en la presente acta que, habiendo ambas Comisiones constituidose en la boca del caño Mururuma, lugar designado en dicho Laudo como punto extremo de la línea recta que parte de Punta Playa, y practicado los trabajos y operaciones científicos del caso, determinan de mutuo y perfecto acuerdo la situación geográfica de la confluencia del caño Mururuma con el Río Barima a los 8° 18' 44" de latitud norte y a los 59° 48' 10" de longitud oeste de Greenwich, siendo la dirección o azimut de la boca del expresado caño Mururuma a Punta Playa, Norte 38° 21' 59" al oeste y la distancia entre ambos puntos de 34.400 metros. Por tanto, queda así fijada la porción recta de la línea limítrofe entre los Estados Unidos de Venezuela y la Colonia de la Guayana Británica que parte de Punta Playa y termina en la boca del caño Mururuma, de acuerdo con el fallo arbitral de París de 3 de octubre de 1899.

Al efecto de demarcar sobre el terreno la dirección de dicha línea se erigieron dos postes de concreto en la margen derecha del río Barima: el primero distante 626 metros de la boca del Mururuma, de un metro de altura por 80 centímetros de largo, por 60 de ancho, y otro pequeño, distante de éste 302 metros hacia Punta Playa.

Hechas dos de un tenor a un solo efecto, en inglés una y otra en castellano, en el Campamento de Mururuma, a 12 de diciembre de mil novecientos.

Michael Mc. Turk.—A. W. Baker.—C. P. Widdup.—H. I. Perkins.—F. Aguerrevere.—Trino Celis Ríos.

Acta de Haiowa

Por cuanto los suscritos, miembros de la Comisión nombrada por Su Majestad la Reina de la Gran Bretaña e Irlanda para

determinar técnicamente la línea divisoria entre los Estados Unidos de Venezuela y la Colonia de la Guayana Británica, en ejecución del Laudo de París de 3 de octubre de 1899, señores Michael Mc. Turk, C. M. G., 1er. Comisionado, Capitán Arthur Wibrow Baker, 2º Comisionado, Capitán Cirujano John Charles Ponsonby Widdup, 3er. Comisionado y Harry Innis Perkins, Agrimensor Público, 4º Comisionado, por una parte, y por la otra el Doctor Felipe Aguerrevere, Ingeniero en Jefe de la Comisión nombrada para el mismo objeto por el Gobierno de los Estados Unidos de Venezuela, hacemos constar en la presente acta que, habiendo ambas Comisiones constituido en la boca del Río Haiowa, después de haber practicado el levantamiento topográfico del caño Mururuma en toda su extensión, desde la boca hasta sus cabeceras, lo cual da una medida de 12.900 metros longitudinales, tomando las posiciones geográficas de la citada cabecera de Mururuma, que tiene 8° 14' 5",3 de latitud norte y 59° 50' 7", 9 de longitud oeste de Greenwich, la posición de esta boca de Haiowa, al desembocar en el Amacuro, de 8° 13' 4" latitud norte y 59° 56' 39", 1 de longitud oeste de Greenwich, y de trazar en el terreno la línea recta que une estos dos puntos, cabeceras del Mururuma y boca del Haiowa, que distan uno del otro 12.120 metros con dirección N. 81° 3' 48" al Este, proceden a hacer constar que estos datos han sido verificados por ambas Comisiones en perfecto acuerdo y de conformidad con el Laudo Arbitral de París de 3 de octubre de 1899. Se han levantado dos postes de concreto, uno inmediato a la boca del Haiowa y otro distante del primero 300 metros hacia las cabeceras del Mururuma, que marcan entre los dos la dirección de la recta que los une.

Hechas dos de un tenor a un solo efecto, una en inglés y otra en castellano, en el campamento del Haiowa a 21 de enero de 1901.

Michael Mc. Turk.—A. W. Baker.—C. P. Widdup.—H. I. Perkins.—F. Aguerrevere.

Acta del Salto de San Víctor

Por cuanto los suscritos, miembros de la Comisión nombrada por Su Majestad la Reina de la Gran Bretaña e Irlanda para de-

Annex 85

[Tratado General de Arbitraje Interamericano] General Treaty of Inter-American Arbitration, O.E.A. (5 Jan. 1929), entered into force on 28 Oct. 1929



STATE OF NEW YORK)
)
) ss
COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached excerpt from “General Treaty of Inter-American Arbitration Signed at Washington on January 5, 1929.”



Lynda Green, Senior Managing Editor
Lionbridge

Sworn to and subscribed before me

this 4 day of FEBRUARY, 2022.



JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU6169789
Qualified in New York County
My Commission Expires **09-23-2023**

[...]

GENERAL TREATY OF INTER-AMERICAN ARBITRATION
Signed at Washington on January 5, 1929

The Governments of Venezuela, Chile, Bolivia, Uruguay, Costa Rica, Peru, Honduras, Guatemala, Haiti, Ecuador, Colombia, Brazil, Panama, Paraguay, Nicaragua, Mexico, El Salvador, the Dominican Republic, Cuba, and the United States of America, represented at the Conference on Conciliation and Arbitration, assembled at Washington, pursuant to the Resolution adopted on February 18, 1928, by the Sixth International Conference of American States held in the City of Habana;

In accordance with the solemn declarations made at said Conference to the effect that the American Republics condemn war as an instrument of national policy and adopt obligatory arbitration as the means for settlement of their international differences of a juridical nature;

Being convinced that the Republics of the New World, governed by the principles, institutions and practices of democracy, and further bound by increasingly far-reaching mutual interests, have not only the need but also the duty to prevent the disturbance of continental harmony whenever justiciable disputes arise between them;

Conscious of the great moral and material benefits which peace offers to humanity and that the sentiment and opinion of America demand the swift organization of an arbitral system that will strengthen the permanent reign of justice and law;

And motivated by the purpose of giving conventional form to these postulates and aspirations, with the minimum limitations that they have considered indispensable to safeguard the independence and sovereignty of the States and in the broadest manner possible under present international circumstances, have resolved to enter into this treaty, for which purpose they have designated the Plenipotentiaries named below:

The names of Plenipotentiaries are listed

Who, after having deposited their full powers, which were found to be in good and proper form by the Conference, have agreed as follows:

[...]

ARTICLE VII: The award, duly issued and notified to the Parties, settles the dispute definitively and without appeal.

Any differences that arise with respect to its interpretation or enforcement shall be submitted to the decision of the tribunal which rendered the award.

[...]



Tratados Multilaterales

[\[Estado de Firmas y Ratificaciones\]](#) [\[English\]](#)

TRATADO GENERAL DE ARBITRAJE INTERAMERICANO

Suscrito en Washington el 5 de enero de 1929

Los Gobiernos de Venezuela, Chile, Bolivia, Uruguay, Costa Rica, Perú, Honduras, Guatemala, Haití, Ecuador, Colombia, Brasil, Panamá, Paraguay, Nicaragua, México, El Salvador, República Dominicana, Cuba y Estados Unidos de América, representados en la Conferencia de Conciliación y Arbitraje reunida en Washington conforme a la Resolución aprobada el 18 de febrero de 1928, por la Sexta Conferencia Internacional Americana celebrada en la Ciudad de La Habana;

Consecuentes con las declaraciones solemnes hechas en dicha Conferencia de que las Repúblicas americanas condenan la guerra como instrumento de política nacional y adoptan el arbitraje obligatorio como el medio de resolver sus diferencias internacionales de carácter jurídico;

Convencidos de que las Repúblicas del Nuevo Mundo, regidas por los principios, instituciones y prácticas de la democracia y ligadas además por intereses mutuos cada día más vastos, tienen no sólo la necesidad sino también el deber de evitar que la armonía continental sea perturbada en los casos de surgir entre ellas diferencias susceptibles de decisión judicial;

Conscientes de los grandes beneficios morales y materiales que la paz ofrece a la humanidad y de que el sentimiento y la opinión de América demandan de modo inaplazable la organización de un sistema arbitral que consolide el reinado permanente de la justicia y del derecho;

Y animados por el propósito de dar expresión convencional a estos postulados y anhelos, con el mínimo de limitaciones que se han considerado indispensables para resguardar la independencia y soberanía de los Estados y en la forma más amplia que es posible en las circunstancias del actual momento internacional, han resuelto celebrar el presente tratado para lo cual han nombrado los Plenipotenciarios que a continuación se expresan:

Siguen los nombres de los Plenipotenciarios

Quienes después de haber depositado sus plenos poderes, que fueron hallados en buena y debida forma por la Conferencia, han convenido lo siguiente:

ARTICULO I. Las Altas Partes Contratantes se obligan a someter a arbitraje todas las diferencias de carácter internacional que hayan surgido o surgieren entre ellas son motivo de la reclamación de un derecho formulada por una contra otra en virtud de un tratado o por otra causa, que no haya sido posible ajustar por la vía diplomática y que sea de naturaleza jurídica por ser susceptible de decisión mediante la aplicación de los principios del derecho.

Se consideran incluidas entre las cuestiones de orden jurídico:

- (a) La interpretación de un tratado;
- (b) Cualquier punto de derecho internacional;
- (c) La existencia de todo hecho que si fuere comprobado constituiría violación de una obligación internacional;
- (d) La naturaleza y extensión de la reparación que debe darse por el quebrantamiento de una obligación internacional.

12/10/21, 3:44 PM

:: Tratados Multilaterales > Departamento de Derecho Internacional > OEA ::

Lo dispuesto en este tratado no impedirá a cualquiera de las Partes, antes de ir al arbitraje, recurrir a procedimientos de investigación y de conciliación establecidos en convenciones que estén vigentes entre ellas.

ARTICULO II. Quedan exceptuadas de las estipulaciones de este tratado las controversias siguientes:

(a) Las comprendidas dentro de la jurisdicción doméstica de cualquiera de las Partes en litigio y que no estén regidas por el derecho internacional; y

(b) Las que afecten el interés o se refieran a la acción de un Estado que no sea Parte en este tratado.

ARTICULO III. El árbitro o tribunal que debe fallar la controversia será designado por acuerdo de las Partes.

A falta de acuerdo se procederá del modo siguiente:

Cada Parte nombrará dos árbitros, de los que sólo uno podrá ser de su nacionalidad o escogido entre los que dicha Parte haya designado para miembros del Tribunal Permanente de Arbitraje de La Haya, pudiendo el otro miembro de cualquier otra nacionalidad americana. Estos árbitros, a su vez, elegirán un quinto árbitro, quien presidirá el tribunal.

Si los árbitros no pudieren ponerse de acuerdo entre sí para escoger un quinto árbitro americano o, en subsidio, uno que no lo sea, cada Parte designará un miembro no americano del Tribunal Permanente de Arbitraje de La Haya, y los dos así designados elegirán el quinto árbitro, que podrá ser de cualquier nacionalidad distinta de la de las Partes en litigio.

ARTICULO IV. Las Partes en litigio formularán de común acuerdo en cada caso un compromiso especial que definirá claramente la materia específica objeto de la controversia, la sede del tribunal, las reglas que se observarán en el procedimiento y las demás condiciones que las Partes convengan entre sí.

Si no se ha llegado a un acuerdo sobre el compromiso dentro de tres meses contados desde la fecha de la instalación del tribunal, el compromiso será formulado por éste.

ARTICULO V. En caso de fallecimiento, renuncia o incapacidad de uno o más de los árbitros la vacante se llenará en la misma forma de la designación original.

ARTICULO VI. Cuando haya más de dos Estados directamente interesados en una misma controversia, y los intereses de dos o más de ellos sean semejantes, el Estado o Estados que estén del mismo lado de la cuestión podrán aumentar el número de árbitros en el tribunal, de manera que en todo caso las Partes de cada lado de la controversia nombren igual número de árbitros. Se escogerá además un árbitro presidente que deberá ser elegido en la forma establecida en el párrafo final del artículo 3, considerándose las Partes que estén de un mismo lado de la controversia como una sola Parte para el efecto de hacer la designación expresada.

ARTICULO VII. La sentencia, debidamente pronunciada y notificada a las Partes, decide la controversia definitivamente y sin apelación.

Las diferencias que surjan sobre su interpretación o su ejecución serán sometidas al juicio del tribunal que dictó el laudo.

ARTICULO VIII. Las reservas hechas por una de las Altas Partes Contratantes tendrán el efecto de que las demás Partes Contratantes no se obligan respecto de la que hizo las reservas sino en la misma medida que las reservas determinen.

ARTICULO IX. El presente tratado será ratificado por las Altas Partes Contratantes de acuerdo con sus procedimientos constitucionales.

El tratado original y los instrumentos de ratificación serán depositados en la Secretaría de Estado de los Estados Unidos de América, la que comunicará las ratificaciones por la vía diplomática a los demás Gobiernos signatarios, entrando el tratado en vigor entre las Altas Partes Contratantes en el orden en que vayan depositando sus ratificaciones.

Este tratado regirá indefinidamente, pero podrá ser denunciado mediante aviso anticipado de un año, transcurrido el cual cesará en sus efectos para el denunciante, quedando subsistente para los demás signatarios. La denuncia

Annex 86

League of Nations, “Brazil and Venezuela: Exchange of Notes for the Execution of the Provisions regarding the Frontier Delimitation between the two Countries, contained in the Protocol signed at Rio-de-Janeiro, July 24, 1928. Caracas, November 7, 1929”, *Treaty series: Publications of treaties and international engagements registered with the Secretariat of the League of Nations* (1930)

N° 2288.

BRÉSIL ET VENEZUELA

Echange de notes pour l'exécution des stipulations relatives à la délimitation de la frontière entre les deux pays, contenues dans le protocole signé à Rio-de-Janeiro, le 24 juillet 1928. Caracas, le 7 novembre 1929.

BRAZIL AND VENEZUELA

Exchange of Notes for the Execution of the Provisions regarding the Frontier Delimitation between the two Countries, contained in the Protocol signed at Rio-de-Janeiro, July 24, 1928. Caracas, November 7, 1929.

TEXTE ESPAGNOL. — SPANISH TEXT.

Nº 2288. — CANJE DE NOTAS ENTRE LOS GOBIERNOS DE LOS ESTADOS UNIDOS DEL BRASIL Y DE LOS ESTADOS UNIDOS DE VENEZUELA PARA LA EJECUCIÓN DE LAS ESTIPULACIONES PREVISTAS EN EL PROTOCOLO DE 24 DE JULIO DE 1928 RELATIVAS A LA DELIMITACIÓN DE LA FRONTERA ENTRE LOS DOS PAISES. CARACAS, 7 DE NOVIEMBRE DE 1929.

Textes officiels portugais et espagnol communiqués par le ministre des Affaires étrangères du Venezuela. L'enregistrement de cet échange de notes a eu lieu le 10 mars 1930.

I.

ESTADOS UNIDOS DE VENEZUELA.

MINISTERIO DE RELACIONES
EXTERIORES

DIRECCIÓN DE POLÍTICA INTERNACIONAL.

Nº 1798.

CARACAS, 7 de noviembre de 1929.

SEÑOR MINISTRO :

Mi Gobierno, conforme lo estipulado en el parágrafo único del artículo primero del Protocolo firmado en Rio de Janeiro el 24 de julio de 1928, me ha dado instrucciones para proceder, por cambio de notas, al acuerdo, confirmado en las cláusulas expresadas más abajo, al cual llegaron la Cancillería Brasileira y la Legación de Venezuela en Rio de Janeiro a propósito de las instrucciones sobre la Comisión Mixta Venezolano-Brasileira, destinada a ejecutar los trabajos indicados en el referido Protocolo.

1. Cada uno de los dos Gobiernos nombra una Comisión compuesta de un Jefe y tantos ayudantes auxiliares y funcionarios del servicio sanitario o de otro servicio, como le parecieren convenientes ;

2. El nombramiento del personal de ambas Comisiones deberá ser efectuado y comunicado por los respectivos Gobiernos en el más breve plazo y ambas se reunirán en San Carlos, sobre el Rio Negro, entre el 10 y el 20 de diciembre de 1929 ;

3. La reunión de ambas Comisiones constituirá la Comisión Mixta de deslinde ;

4. En la primera conferencia los jefes, subjeses y ayudantes, procederán al examen y confrontación de sus respectivos nombramientos y de sus instrucciones, constantes de las disposiciones del presente ajuste ; y verificada la regularidad de dichos documentos, se procederá a redactar y a firmar la primera acta de la Comisión Mixta ;

5. Si una de las dos Comisiones dejare de comparecer, salvo fuerza mayor comprobada, en la fecha señalada, en el lugar indicado la otra Comisión procederá por si sola a los trabajos pertenecientes a la Comisión Mixta, según se determinó en el parágrafo único del artículo 2 del referido Protocolo ;

TEXTE PORTUGAIS. — PORTUGUESE TEXT.

Nº 2288. — TROCA DE NOTAS ENTRE OS GOVERNOS DOS ESTADOS UNIDOS DO BRASIL E DOS ESTADOS UNIDOS DA VENEZUELA PARA A EXECUÇÃO DAS ESTIPULAÇÕES RELATIVAS A DELIMITAÇÃO DA FRONTEIRA ENTRE OS DOIS PAIZES CONTIDAS NO PROTOCOLLO ASSIGNADO EM 24 DE JULHO DE 1928. CARACAS, 7 DE NOVEMBRO DE 1929.

Portuguese and Spanish official texts communicated by the Minister for Foreign Affairs of Venezuela. The registration of this Exchange of Notes took place March 10, 1930.

II.

LEGACÃO DOS
ESTADOS UNIDOS DO BRASIL.

Nº 37.

CARACAS, 7 de novembro de 1929.

SENHOR MINISTRO :

O meu Governo, em cumprimento do que estipulou o paragrapho unico do artigo 1º do Protocollo firmado no Rio de Janeiro a 24 de Julho de 1928, deu-me instrucções para proceder, por troca de notas, ao accordo, confirmado nas clausulas abaixo, a que chegaram a Chancellaria Brasileira e a Legação de Venezuela no Rio de Janeiro relativamente às instrucções sobre a commissão mixta brasileiro-venezolana, destinada a levar effeito os trabalhos indicados no referido Protocollo.

1. Cada um dos dois Governos, brasileiro e venezolano, nomeará uma commissão, composta de um chefe, e de tantos ajudantes, auxiliares, funcionarios do serviço sanitario e outros, quantos lhe parecerem necessarios ;

2. A designação do pessoal das duas commissões deveser feita e comunicada, pelo dois Governos, no mais breve prazo possivel, devendo ambas se reunir em S. Carlos, à margem do Rio Negro, entre 10 e 20 de Dezembro do corrente anno ;

3. A reunião das duas commissões constituirá a Commissão Mixta Demarcadora ;

4. Na sua primeira conferencia, os chefes, sub-chefes e ajudantes das duas commissões procederão ao exame e confronto do seus titulos de nomeação, assim como de suas respectivas instrucções, constantes das disposições do presente ajuste ; e, verificada a regularidade dos documentos acima citados, farão lavar e assignarão a primeira acta da Commissão Mixta ;

5. Se uma das duas Commissões deixar de comparecer, salvo caso de força maior, claramente comprovado, — na data fixada, ao local indicado, a outra commissão procederá, por si só, aos trabalhos que incumbem à Commissão Mixta, conforme se determinou no paragrapho unico do artigo 2º do mencionado Protocollo ;

6. Cada Comisión estará provista del material necesario para los servicios topográficos y astronómicos indispensables al desempeño de su misión ;

7. En cada hito fronterizo serán indicadas la longitud y la latitud exactas del sitio y se marcará la fecha y también las palabras « Brasil » y « Venezuela » en el lado correspondiente a cada país ;

8. Al colocarse cada hito, será redactada una constancia minuciosa, en donde aparezca descrita la naturaleza de la construcción y se indique su posición geográfica.

9. Además de estas constancias de la colocación e inauguración de los hitos, se redactará una vez fenecidos los trabajos, un acta general descriptiva de toda la frontera deslindada ;

10. La Comisión Mixta empezará sus trabajos de deslinde por la determinación de las coordenadas de los hitos colocados por la Comisión de 1914-15 y por la construcción de los hitos indispensables para que quede bien señalada en el terreno la línea resultante de las nuevas determinaciones astronómicas ; fijará en seguida la situación del cerro Cupy de modo que la línea Huà-Cupy quede bien determinada conforme la situación nuevamente tomada ; continuará después como fuere más conveniente ;

11. Los trabajos podrán ser ejecutados simultáneamente en distintos puntos de la frontera y la Comisión Mixta se dividirá para ello en subcomisiones o partidas. En éstas quedarán representados ambos países y tocará a los jefes la misión de darles, de común acuerdo, las instrucciones por las cuales deben gobernarse ;

12. La Comisión Mixta ejecutará las operaciones de deslinde usando los métodos más adecuados y exactos que fuere posible ;

13. Si durante el deslinde surgieren dudas o desavenimientos entre las dos partes de la Comisión Mixta o se comprobaren errores, esas dudas, desavenimientos o errores serán sometidos a la crítica de los dos Gobiernos que se esforzarán por resolverlos de modo rápido y amigable ;

14. En consecuencia de esas dudas y desavenimientos y en consecuencia de los errores advertidos no serán interrumpidas las operaciones de deslinde sino en la parte a que se refieren esas dudas, desavenimientos y errores ;

15. Los dos Gobiernos convienen en que durante la operación de deslinde, serán accesibles a la Comisión Brasileña las vías terrestres y fluviales de Venezuela y serán accesibles a la Comisión Venezolana las vías terrestres y fluviales del Brasil ;

16. Las embarcaciones, viveres, aparatos y cualesquiera artículos que las Comisiones hayan de trasladar de un punto a otro, durante el trabajo de deslinde, entrarán en uno o en otro territorio sin pagar tributos aduaneros ni de cualquier otro orden.

17. Las Comisiones presentarán a los respectivos Gobiernos, en dos ejemplares, un mapa general de la región deslindada y todos los planos parciales necesarios y últimamente un informe general de los trabajos de deslinde ;

18. Las Comisiones podrán suspender y recomenzar las operaciones de deslinde, mediante acuerdo entre los dos jefes y aprobación de los respectivos Gobiernos, cuando hubiere motivos justificados, que deberán constar en un acta ;

19. Cada Gobierno tomará a cargo sus propios gastos y contribuirá por mitad en los gastos que resulten del trabajo de deslinde. La manera de hacer efectiva esa contribución será establecida por los jefes de las respectivas Comisiones en su primera conferencia.

Válgome complacido de esta oportunidad para reiterar a V. E. las seguridades de mi alta consideración.

P. ITRIAGO CHACIN.

Al Excelentísimo Señor J. F. de Barros Pimentel,
Enviado Extraordinario y Ministro Plenipotenciario de los
Estados Unidos del Brasil.
Presente

6. Cada comissão estará provida do material necessario para os serviços topographicos e astronomicos necessarios ao desempenho da sua missão ;

7. Em cada marco divisorio da fronteira, serão consignadas a longitude e a latitude exactas em que tenha sido collocado, a data dessa collocação e as palavras « Brasil » e « Venezuela », inscriptos nos lados correspondentes aos territorios de cada paiz ;

8. Ao collocar-se cada marco, lavrar-se-à un termo circunstanciado, no qual se descreva a natureza da construcção e se indique a sua posição geographica ;

9. Além desses termos de collocação e inauguração de marcos, serà lavrada, no fim dos trabalhos, uma Acta Geral, descriptiva de toda a fronteira demarcada ;

10. A Comissão Mixta darà principio aos seus trabalhos de demarcação pela determinação das cordenadas dos marcos collocados pela comissão de 1914-1915 e a construcção dos marcos indispensaveis para que fique bem marcada no terreno a linha resultante das novas determinações astronomicas ; farà em seguida a posição do Cerro Cupy para que a linha Huà-Cupy fique bem determinada de accordo com a situação novamente tomada ; continuará depois como for mais conveniente ;

11. Os trabalhos poderão ser executados simultaneamente em pontos diversos da fronteira, dividindo-se para isso a Comissão Mixta em sub-comissões ou partidas, nas quaes estarão representadas os dois paizes, competindo aos chefes dar-lhes, de commun accordo, as instruções por que se devem reger ;

12. A Comissão Mixta praticará as operações demarcadoras mediante o emprego dos methodos mais adequados e rigorosos que forem possiveis ;

13. Se, durante a demarcação, surgirem duvidas ou desintelligencias, entre as duas partes da Comissão Mixta, ou se comprovarem erros, substancias ou não, serão essas duvidas, desintelligencias ou erros submettidos à apreciação dos dois Governos, que procurarão resolvel-os de maneira rapida e amistosa ;

14. Em consequencia dessas duvidas e desintelligencias da Comissão Mixta ou erros por ella verificados, não ficarão suspensas as operações de demarcação, senão na parte a que as duvidas, desintelligencias ou erros disserem respeito ;

15. Os dois Governos accordam em que, durante os trabalhos de demarcação, serão accessiveis à comissão brasileira as vias terrestres e fluviaes venezolanas e à comissão venezolana as vias terrestres e fluviaes brasileiras ;

16. As embarcações, viveres, instrumentos e quaesquer artigos que as comissões devam transportar de um para outro territorio, no desempenho de seus trabalhos entrarão em um ou outro territorio, com isenção de direitos aduaneiros e de qualquer imposto interno ;

17. As comissões apresentarão aos respectivos Governos, em dois exemplares, uma Carta geral da região demarcada e todos os planos parciais necessarios, bem como um Relatório geral dos trabalhos da demarcação ;

18. As comissões poderão suspender e reatar as operações de demarcação, mediante accordo entre os dois chefes e approvação dos respectivos Governos, quando houver motivos justificados, que deverão constar de uma acta ;

19. Cada comissão farà suas proprias despezas e contribuirà por metade para as que resultem dos trabalhos de demarcação. A maneira de se fazer effectiva essa contribuição serà estabelecida pelos chefes das duas comissões, na sua primeira conferencia.

Aproveito a oportunidade para renovar a Vossa Excellencia, Senhor Ministro, os protestos da minha mais alta consideração.

J. F. DE BARROS PIMENTEL.

Sua Excellencia,
Senhor Doutor Pedro Itriago Chacin,
Ministro das Relações Exteriores
de Venezuela.

¹ TRADUCTION.

N^o 2288. — ÉCHANGE DE NOTES ENTRE LES GOUVERNEMENTS DES ÉTATS-UNIS DU BRÉSIL ET DES ÉTATS-UNIS DU VENEZUELA POUR L'EXÉCUTION DES STIPULATIONS RELATIVES A LA DÉLIMITATION DE LA FRONTIÈRE ENTRE LES DEUX PAYS, CONTENUES DANS LE PROTOCOLE SIGNÉ A RIO-DE-JANEIRO, LE 24 JUILLET 1928. CARACAS, LE 7 NOVEMBRE 1929.

ÉTATS-UNIS DU VENEZUELA.
 MINISTÈRE DES AFFAIRES ÉTRANGÈRES.
 DIRECTION
 DE LA POLITIQUE INTERNATIONALE.
 N^o 1798.

CARACAS, le 7 novembre 1929.

MONSIEUR LE MINISTRE,

Conformément aux dispositions de l'article premier du Protocole signé à Rio-de-Janeiro, le 24 juillet 1928, mon gouvernement m'a fait parvenir des instructions m' enjoignant de conclure, par un échange de notes, l'accord défini par les dispositions qui suivent, auquel ont abouti la Chancellerie brésilienne et la Légation du Venezuela à Rio-de-Janeiro, au sujet des instructions à donner à la commission mixte vénézuélo-brésilienne, chargée d'exécuter les travaux indiqués dans le protocole sus-mentionné.

1. Chacun des deux gouvernements nommera une Commission composée d'un chef et d'un aussi grand nombre de collaborateurs, auxiliaires et fonctionnaires du service de Santé ou d'autres services, qu'il paraîtra nécessaire.

2. Les deux gouvernements, dans le plus bref délai possible, procéderont à la nomination des membres des deux commissions et se communiqueront mutuellement les noms de ces membres ; les deux commissions se réuniront à San Carlos, sur le Rio Negro entre le 10 et le 20 décembre 1929.

3. Les deux commissions réunies formeront la commission mixte de délimitation des frontières.

4. Au cours de la première réunion, les chefs, sous-chefs et leurs collaborateurs se communiqueront et examineront leurs lettres de créances ainsi que les instructions qu'ils auront reçues et qui seront constituées par les dispositions du présent accord ; lorsque ces documents auront été vérifiés et trouvés en bonne et due forme, il sera procédé à la rédaction et à la signature du premier acte de la commission mixte.

5. Si l'une des deux commissions ne se présente pas à la date et au lieu indiqués, sauf en cas de force majeure dûment établi, l'autre commission procédera seule à l'exécution des travaux de la commission mixte, conformément aux dispositions de l'article 2 du protocole susmentionné.

6. Chaque commission sera pourvue du matériel nécessaire pour les travaux topographiques et astronomiques indispensables à l'accomplissement de sa mission ;

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ TRANSLATION.

No. 2288. — EXCHANGE OF NOTES BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF BRAZIL AND OF THE UNITED STATES OF VENEZUELA FOR THE EXECUTION OF THE PROVISIONS REGARDING THE FRONTIER DELIMITATION BETWEEN THE TWO COUNTRIES, CONTAINED IN THE PROTOCOL, SIGNED AT RIO DE JANEIRO, JULY 24, 1928. CARACAS, NOVEMBER 7, 1929.

UNITED STATES OF VENEZUELA.
 MINISTRY OF FOREIGN AFFAIRS.
 DEPARTMENT
 OF INTERNATIONAL POLITICS.
 N^o 1798.

CARACAS, *November 7, 1929.*

MONSIEUR LE MINISTRE,

In accordance with Article 1 of the Protocol signed at Rio de Janeiro on July 24, 1928, my Government has instructed me to conclude by means of an exchange of notes the agreement, confirmed by the provisions set out below, which was arrived at between the Brazilian Chancellery and the Venezuelan Legation at Rio de Janeiro with regard to the instructions to be given to the Venezuelan-Brazilian Mixed Commission appointed to carry out the work specified in the above-mentioned Protocol.

1. Each of the two Governments shall appoint a Commission composed of a Chairman and as many assistants and officials of the public health service or other services as they may consider necessary.
2. The members of both Commissions shall be appointed and their names communicated by the respective Governments at the earliest possible date, and both Commissions shall meet at San Carlos on the Rio Negro between December 10 and December 20, 1929.
3. The two Commissions jointly shall form the Mixed Boundary Delimitation Commission.
4. At the first meeting, the Chairman, Deputy-Chairman and assistants shall examine and compare their respective credentials and their instructions arising out of the provisions of the present agreement; when these documents have been verified and found to be in order the first Act of the Mixed Commission shall be drawn up and signed.
5. If either of the two Commissions omits to appear at the date and place indicated, except for reasons of *force majeure*, the other Commission shall proceed alone with the work of the Mixed Commission in accordance with Article 2 of the above-mentioned Protocol.
6. Each Commission shall be provided with the material necessary for the topographical and astronomical services indispensable for the execution of its mission.

¹ Translated by the Secretariat of the League of Nations, for information.

7. Chaque borne frontière devra indiquer la longitude et la latitude exactes de l'endroit où elle se trouve ainsi que la date et elle devra porter les mots : « Brasil » et « Venezuela » sur la face correspondant à chaque pays.

8. Toutes les fois qu'une borne aura été placée, un procès-verbal détaillé sera établi indiquant la nature de sa construction et de sa position géographique.

9. En plus de ces procès-verbaux relatifs à la pose des bornes frontières, un acte général, contenant une description de toute la frontière ainsi délimitée, devra être rédigé à l'issue des travaux.

10. La commission mixte commencera ses travaux de délimitation en déterminant les coordonnées des bornes placées par la Commission de 1914-1915 et en posant les bornes indispensables pour marquer clairement sur le terrain la ligne fixée par les nouvelles déterminations astronomiques ; elle fixera ensuite la position du coteau de Cupy de façon que la ligne Huà-Cupy puisse être correctement déterminée d'après la nouvelle position ; après quoi, elle poursuivra ses travaux de la façon qui lui paraîtra la plus opportune.

11. Les travaux pourront être exécutés simultanément sur divers points de la frontière et la commission mixte se subdivisera, à cet effet, en sous-commissions ou groupes, dans lesquels les les deux pays devront être représentés. Les chefs devront s'entendre au sujet des instructions à leur donner.

12. La commission mixte aura recours, pour l'exécution des travaux de délimitation, aux méthodes les mieux appropriées et les plus précises possibles.

13. Si, au cours des travaux de délimitation, il se produit des doutes ou des différends entre les deux Parties qui composent la commission mixte, ou que des erreurs soient relevées, ces doutes, différends ou erreurs seront soumis aux deux gouvernements qui s'efforceront de les résoudre rapidement et à l'amiable.

14. Les travaux de délimitation ne seront pas interrompus en raison des doutes ou des différends qui auront pu surgir, ou des erreurs qui auront pu être relevées, sauf en ce qui concerne la partie au sujet de laquelle les doutes, différends et erreurs se sont produits.

15. Les deux gouvernements conviennent que, pendant toute la durée des travaux de délimitation, l'accès des voies terrestres et fluviales du Venezuela sera permis à la commission brésilienne et l'accès des voies terrestres et fluviales du Brésil à la commission vénézuélienne.

16. Les embarcations, vivres, appareils et tous articles que les commissions auront à transporter d'un point à un autre au cours des travaux de délimitation seront exempts de droits de douane et de toute autre taxe à l'entrée dans l'un ou l'autre territoire.

17. Les commissions présenteront à leurs gouvernements respectifs, en deux exemplaires, une carte générale de la région délimitée, ainsi que tous les plans partiels nécessaires et un rapport général sur les travaux de délimitation.

18. Les commissions pourront suspendre et reprendre les travaux de délimitation à la suite d'un accord entre leurs deux chefs et avec l'approbation de leurs gouvernements respectifs, toutes les fois qu'une telle mesure sera justifiée par des motifs suffisants, qui devront être consignés dans un procès-verbal.

19. Chaque gouvernement prendra à sa charge les dépenses qui le concernent et contribuera, pour une moitié, aux frais nécessités par les travaux de délimitation. Les chefs des deux commissions fixeront, lors de leur première réunion, la manière dont s'effectuera le paiement de la contribution respective des deux gouvernements.

Je saisis, etc.

P. ITRIAGO CHACIN.

A Son Excellence,
Monsieur J. F. de Barros Pimentel,
Envoyé extraordinaire et Ministre plénipotentiaire
des Etats-Unis du Brésil,
Caracas.

7. On each boundary-mark the exact longitude and latitude of the spot shall be indicated together with the date, and also the words " Brazil " and " Venezuela " on the side corresponding to each country.

8. When each boundary-mark is placed, a detailed statement shall be drawn up containing a description of the nature of the construction and indicating its geographical position.

9. Besides these statements relating to the placing and inauguration of the boundary-marks, a general document describing the whole frontier marked out shall be drawn up when the work has been finished.

10. The Mixed Commission shall commence its work of delimitation by determining the co-ordinates of the boundary-marks fixed by the 1914-1915 Commission, and by setting up the boundary-marks necessary to show clearly the line established on the basis of the new astronomical findings ; it shall at once fix the position of the Cupy hill in order that the Huà-Cupy line may be determined in accordance with this new position ; thereafter it shall proceed as it deems most expedient.

11. The work may be performed simultaneously at different points on the frontier, and the Mixed Commission shall resolve itself for this purpose into sub-committees or parties. Both countries shall be represented in these sub-committees and parties, and the Chairman shall agree on the instructions to be given them.

12. The Mixed Commission shall employ in its work of delimitation the most efficient and accurate methods possible.

13. If during the work of delimitation there should arise any doubtful points or disagreements between the two Parties represented on the Mixed Commission, or if any mistakes come to light, such doubtful points, disagreements or mistakes shall be submitted to the two Governments, which shall make every effort to settle them rapidly and amicably.

14. Such doubts, disagreements or errors shall not have the effect of interrupting the work of delimitation, except the part in connection with which the doubts, disagreements or errors have arisen.

15. The two Governments agree that during the work of delimitation the Brazilian Commission shall be allowed to use the routes and waterways of Venezuela, and the Venezuelan Commission shall be allowed to use the routes and waterways of Brazil.

16. The vessels, provisions, apparatus and any articles which the Commissions may have occasion to transport from one place to another during the work of delimitation shall be admitted into either territory free of Customs duties or other charges.

17. The Commissions shall submit to their respective Governments, in two copies, a general map of the district marked out and all the necessary partial surveys, and shall subsequently submit to them a general report on the whole work of delimitation.

18. The Commissions may suspend and recommence the work of delimitation, subject to agreement between the two Chairmen and to the approval of their respective Governments, for sufficient reasons which shall be set forth in an official act.

19. Each Government shall defray its own expenditure and half the costs of the general work of delimitation. The Chairmen of the respective Commissions shall decide at the first meeting how the contributions are to be paid.

I have the honour to be, etc...

P. ITRIAGO CHACIN.

His Excellency

M. J. F. de Barros Pimentel,
Envoy Extraordinary and Minister Plenipotentiary,
of the United States of Brazil,
at Caracas.

LÉGATION
DES ETATS-UNIS DU BRÉSIL.
N° 37.

CARACAS, le 7 novembre 1929.

MONSIEUR LE MINISTRE,

Conformément aux dispositions de l'article premier du Protocole signé à Rio-de-Janeiro le 24 juillet 1928, mon gouvernement m'a fait parvenir des instructions m'enjoignant de conclure, par un échange de notes, l'accord défini par les dispositions qui suivent, auquel ont abouti la Chancellerie brésilienne et la Légation du Venezuela à Rio de Janeiro au sujet des instructions à donner à la commission mixte vénézuélo-brésilienne, chargée d'exécuter les travaux indiqués dans le protocole susmentionné.

1. Chacun des deux gouvernements nommera une commission composée d'un chef et d'un aussi grand nombre de collaborateurs, auxiliaires et fonctionnaires du service de Santé ou d'autres services, qu'il paraîtra nécessaire.

2. Les deux gouvernements, dans le plus bref délai possible, procéderont à la nomination des membres des deux commissions et se communiqueront mutuellement les noms de ces membres ; les deux commissions se réuniront à San Carlos, sur le Rio Negro, entre le 10 et le 20 décembre 1929.

3. Les deux commissions réunies formeront la commission mixte de délimitation des frontières.

4. Au cours de la première réunion, les chefs, sous-chefs et leurs collaborateurs se communiqueront et examineront leurs lettres de créances, ainsi que les instructions qu'ils auront reçues et qui seront constituées par les dispositions du présent accord ; lorsque ces documents auront été vérifiés et trouvés en bonne et due forme, il sera procédé à la rédaction et à la signature du premier acte de la commission mixte.

5. Si l'une des deux commissions ne se présente pas à la date et au lieu indiqués, sauf en cas de force majeure dûment établi, l'autre commission procédera seule à l'exécution des travaux de commission mixte, conformément aux dispositions de l'article 2 du protocole susmentionné.

6. Chaque commission sera pourvue du matériel nécessaire pour les travaux topographiques et astronomiques indispensables à l'accomplissement de sa mission.

7. Chaque borne frontière devra indiquer la longitude et la latitude exactes de l'endroit où elle se trouve ainsi que la date et elle devra porter les mots : « Brasil » et « Venezuela » sur la face correspondant à chaque pays.

8. Toutes les fois qu'une borne aura été placée, un procès-verbal détaillé sera établi indiquant la nature de sa construction et sa position géographique.

9. En plus de ces procès-verbaux relatifs à la pose des bornes frontières, un acte général contenant une description de toute la frontière ainsi délimitée, devra être rédigé à l'issue des travaux.

10. La commission mixte commencera ses travaux de délimitation en déterminant les coordonnées des bornes placées par la Commission de 1914-1915 et en posant les bornes indispensables pour marquer clairement sur le terrain la ligne fixée par les nouvelles déterminations astronomiques ; elle fixera ensuite la position du coteau de Cupy de façon que la ligne Huà-Cupy puisse être correctement déterminée d'après la nouvelle position ; après quoi, elle poursuivra ses travaux de la façon qui lui paraîtra la plus opportune.

11. Les travaux pourront être exécutés simultanément sur divers points de la frontière et la commission mixte se subdivisera, à cet effet, en sous-commissions ou groupes, dans lesquels les deux pays devront être représentés. Les chefs devront s'entendre au sujet des instructions à leur donner.

12. La commission mixte aura recours, pour l'exécution des travaux de délimitation, aux méthodes les mieux appropriées et les plus précises possibles.

LEGATION
OF THE UNITED STATES OF BRAZIL.

Nº 37.

CARACAS, November 7, 1929.

MONSIEUR LE MINISTRE,

In accordance with Article 1 of the Protocol signed at Rio de Janeiro on July 24, 1928, my Government has instructed me to conclude by means of an exchange of notes the agreement, confirmed by the provisions set out below, which was arrived at between the Brazilian Chancellery and the Venezuelan Legation at Rio de Janeiro with regard to the instructions to be given to the Venezuelan-Brazilian Mixed Commission appointed to carry out the work specified in the above-mentioned Protocol.

1. Each of the two Governments shall appoint a Commission composed of a Chairman and as many assistants and officials of the public health service or other services as they may consider necessary.

2. The members of both Commissions shall be appointed and their names communicated by the respective Governments at the earliest possible date, and both Commissions shall meet at San Carlos on the Rio Negro between December 10 and December 20, 1929.

3. The two Commissions jointly shall form the Mixed Boundary Delimitation Commission.

4. At the first meeting, the Chairman, Deputy-Chairman and assistants shall examine and compare their respective credentials and their instructions arising out of the provisions of the present agreement; when these documents have been verified and found to be in order the first Act of the Mixed Commission shall be drawn up and signed.

5. If either of the two Commissions omits to appear at the date and place indicated, except for reasons of *force majeure*, the other Commission shall proceed alone with the work of the Mixed Commission in accordance with Article 2 of the above-mentioned Protocol.

6. Each Commission shall be provided with the material necessary for the topographical and astronomical services indispensable for the execution of its mission.

7. On each boundary-mark the exact longitude and latitude of the spot shall be indicated together with the date, and also the words "Brazil" and "Venezuela" on the side corresponding to each country.

8. When each boundary-mark is placed, a detailed statement shall be drawn up containing a description of the nature of the construction and indicating its geographical position.

9. Besides these statements relating to the placing and inauguration of the boundary-marks, a general document describing the whole frontier marked out shall be drawn up when the work has been finished.

10. The Mixed Commission shall commence its work of delimitation by determining the co-ordinates of the boundary-marks fixed by the 1914-15 Commission, and by setting up the boundary-marks necessary to show clearly the line established on the basis of the new astronomical findings; it shall at once fix the position of the Cupy hill in order that the Huà-Cupy line may be determined in accordance with this new position; thereafter it shall proceed as it deems most expedient.

11. The work may be performed simultaneously at different points on the frontier, and the Mixed Commission shall resolve itself for this purpose into sub-committees or parties. Both countries shall be represented in these sub-committees and parties, and the Chairmen shall agree on the instructions to be given them.

12. The Mixed Commission shall employ in its work of delimitation the most efficient and accurate methods possible.

13. Si, au cours des travaux de délimitation, il se produit des doutes ou des différends entre les deux Parties qui composent la commission mixte ou que des erreurs soient relevées, ces doutes, différends ou erreurs seront soumis aux deux gouvernements qui s'efforceront de les résoudre rapidement et à l'amiable.

14. Les travaux de délimitation ne seront pas interrompus en raison des doutes ou des différends qui auront pu surgir, ou des erreurs qui auront pu être relevées, sauf en ce qui concerne la partie au sujet de laquelle les doutes, différends et erreurs se sont produits.

15. Les deux gouvernements conviennent que, pendant toute la durée des travaux de délimitation, l'accès des voies terrestres et fluviales du Venezuela sera permis à la commission brésilienne et l'accès des voies terrestres et fluviales du Brésil à la commission vénézuélienne.

16. Les embarcations, vivres, appareils et tous articles que les commissions auront à transporter d'un point à un autre au cours des travaux de délimitation seront exempts de droits de douane et de toute autre taxe à l'entrée dans l'un ou l'autre territoire.

17. Les commissions présenteront à leurs gouvernements respectifs, en deux exemplaires, une carte générale de la région délimitée, ainsi que tous les plans partiels nécessaires et un rapport général sur les travaux de délimitation.

18. Les commissions pourront suspendre et reprendre les travaux de délimitation à la suite d'un accord entre leurs deux chefs et avec l'approbation de leurs gouvernements respectifs, toutes les fois qu'une telle mesure sera justifiée par des motifs suffisants qui devront être consignés dans un procès-verbal.

19. Chaque gouvernement prendra à sa charge les dépenses qui le concernent et contribuera, pour une moitié, aux frais nécessités par les travaux de délimitation. Les chefs des deux commissions fixeront, lors de leur première réunion, la manière dont s'effectuera le paiement de la contribution respective des deux gouvernements.

Je saisis, etc.

J. F. DE BARROS PIMENTEL.

A Son Excellence,
Monsieur le D^r Pedro Itriago Chacin,
Ministre des Affaires étrangères
du Venezuela.

13. If during the work of delimitation there should arise any doubtful points or disagreements between the two Parties represented on the Mixed Commission, or if any mistakes come to light, whether material or not, such doubtful points, disagreements or mistakes shall be submitted to the two Governments, which shall make every effort to settle them rapidly and amicably.

14. Such doubts, disagreements or errors shall not have the effect of interrupting the work of delimitation, except the part in connection with which the doubts, disagreements or errors have arisen.

15. The two Governments agree that during the work of delimitation the Brazilian Commission shall be allowed to use the routes and waterways of Venezuela, and the Venezuelan Commission shall be allowed to use the routes and waterways of Brazil.

16. The vessels, provisions, apparatus and any articles which the Commissions may have occasion to transport from one place to another during the work of delimitation shall be admitted into either territory free of Customs duties or other charges.

17. The Commissions shall submit to their respective Governments, in two copies, a general map of the district marked out and all the necessary partial surveys, and shall subsequently submit to them a general report on the whole work of delimitation.

18. The Commissions may suspend and recommence the work of delimitation, subject to agreement between the two Chairmen and to the approval of their respective Governments, for sufficient reasons which shall be set forth in an official act.

19. Each Government shall defray its own expenditure and half the costs of the general work of delimitation. The Chairmen of the respective Commissions shall decide at the first meeting how the contributions are to be paid.

I have the honour to be, etc...

J. F. DE BARROS PIMENTEL.

His Excellency
Dr. Pedro Itriago Chacin,
Venezuelan Minister for Foreign Affairs.

Annex 87

Exchange of Notes between the United Kingdom and Brazil approving the General Report of the Special Commissioners Appointed to Demarcate the Boundary-Line between British Guiana and Brazil, 51 U.K.T.S. 1946 (15 Mar. 1940)

BRAZIL

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Treaty Series No. 51 (1946)

Exchange of Notes

between His Majesty's Government in the United Kingdom
and the Government of Brazil

approving the General Report of the
Special Commissioners appointed to demarcate the
Boundary-line between British Guiana and Brazil

(with General Report)

Rio de Janeiro, 15th March, 1940

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON

HIS MAJESTY'S STATIONERY OFFICE

TWO SHILLINGS AND SIXPENCE NET

Cmd. 6965

EXCHANGE OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT IN
THE UNITED KINGDOM AND THE GOVERNMENT OF BRAZIL
APPROVING THE GENERAL REPORT OF THE SPECIAL COMMISSIONERS
APPOINTED TO DEMARCATÉ THE BOUNDARY-LINE
BETWEEN BRITISH GUIANA AND BRAZIL

[With General Report]

Rio de Janeiro, 15th March, 1940

No. 1

Sir Geoffrey Knox to Dr. Oswaldo Aranha

*British Embassy,
Rio de Janeiro,*

15th March, 1940

Your Excellency,

IN accordance with instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform Your Excellency that the Government of the United Kingdom of Great Britain and Northern Ireland have examined the General Report of the Special Commissioners appointed to demarcate the boundary-line between Brazil and British Guiana in accordance with the Treaty signed in London on 22nd April, 1926,⁽¹⁾ and the Protocol signed in London on 18th March, 1930.⁽²⁾

2. The Government of the United Kingdom approve the work of the Commissioners as set forth in their General Report, the original of which, with its appendices numbered 1 to 11 and the General Map referred to in Appendix No. 8, is annexed hereto, and they declare:—

- (1) That they accept the line laid down by the said Commissioners, in the manner shown in Appendices Nos. 5 to 9 and the annexed General Map, as constituting the boundary-line between British Guiana and Brazil in accordance with the above-mentioned Treaty of 22nd April, 1926, the Protocol of 18th March, 1930, and the notes exchanged in London on 27th October/1st November, 1932;⁽³⁾
- (2) That they reaffirm the agreement contained in the notes exchanged at Rio de Janeiro on 2nd October/3rd November, 1933 (the text of which is annexed hereto as Appendix 4 to the General Report), regarding a more accurate definition of the boundary in the event of future development of areas adjacent to the boundary.

3. If the Brazilian Government are prepared to make a corresponding declaration, I have the honour to propose that the present note and Your Excellency's reply in similar terms be regarded as constituting a formal agreement between the two Governments for the establishment of the boundary between British Guiana and Brazil.

I avail, &c.
(Signed) G. G. KNOX.

⁽¹⁾ "Treaty Series No. 14 (1929)," Cmd. 3341.

⁽²⁾ "Treaty Series No. 15 (1930)," Cmd. 3538.

⁽³⁾ See Appendix 3 to General Report, page 12.

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No. 2

*Dr. Oswaldo Aranha to Sir Geoffrey Knox**Ministério das Relações Exteriores,
Rio de Janeiro,**Em 15 de Março de 1940*

Senhor Embaixador,

TENHO a honra de acusar o recebimento da nota de hoje datada, na qual Vossa Excelência me informa que, segundo instruções recebidas do Principal Secretário de Estado dos Negócios Estrangeiros de Sua Majestade Britânica, o Governo do Reino Unido da Grã-Bretanha e Irlanda do Norte examinou e aprovou o Relatório Geral dos Comissários especiais nomeados para demarcar a linha divisória entre o Brasil e a Guiana Britânica de conformidade com o Tratado assinado, em Londres, a 22 de Abril de 1926 e o Protocolo firmado, na mesma cidade, a 18 de Março de 1930.

2. Em resposta, cabe-me levar ao conhecimento de Vossa Excelência que o Governo brasileiro, por sua vez, dá a sua aprovação ao trabalho dos referidos Comissários na forma exposta no Relatório Geral, cujo original, acompanhado dos apêndices numerados de 1 a 11 e do Mapa Geral mencionado no apêndice 8, se acha aqui anexo, e declara:

- (1) Que aceita a linha traçada pelos ditos Comissários, de conformidade com o exposto nos apêndices de números 5 a 9 e no Mapa Geral anexo, como constituindo a linha divisória entre o Brasil e a Guiana Britânica, de acôrdo com o Tratado acima mencionado, de 22 de Abril de 1926, o Protocolo de 18 de Março de 1930 e as notas trocadas, em Londres, a 27 de Outubro e 1° de Novembro de 1932;
- (2) Que confirma o acôrdo a que se referem as notas trocadas, no Rio de Janeiro, a 2 de Outubro e 3 de Novembro de 1933 (cujo texto figura como apêndice 4 ao Relatório Geral) relativo a uma definição mais precisa da linha de limites, no caso de desenvolvimento futuro das áreas a éstes adjacentes.

3. Fica, pois, entendido que a presente nota e a de Vossa Excelência, a que tenho a honra de responder, sejam consideradas ajuste formal entre os dois Governos para a fixação dos limites entre o Brasil e a Guiana Britânica.

Aproveito, &c.

(Signed) OSWALDO ARANHA.

(Translation of No. 2)

*Ministry for Foreign Affairs,
Rio de Janeiro,**15th March, 1940*

Monsieur l'Ambassadeur,

I HAVE the honour to acknowledge the receipt of the note of to-day's date, in which Your Excellency informs me that, according to instructions received from His Majesty's Principal Secretary of State for Foreign Affairs, the Government of the United Kingdom of Great Britain and Northern Ireland examined and approved the General Report of the Special Commissioners appointed to demarcate the boundary-line between Brazil and British Guiana in accordance with the Treaty signed in London on 22nd April, 1926, and the Protocol signed in London on 18th March, 1930.

2. In reply, I have to inform Your Excellency that the Brazilian Government have also given their approval to the work of the Commissioners referred to above, as set forth in the General Report, the original of which,

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accompanied by Appendices numbered 1 to 11 and the General Map referred to in Appendix 8, is annexed hereto, and they declare:—

- (1) That they accept the line laid down by the said Commissioners, in the manner shown in Appendices Nos. 5 to 9 and the annexed General Map, as constituting the boundary-line between Brazil and British Guiana in accordance with the above-mentioned Treaty of 22nd April, 1926, the Protocol of 18th March, 1930, and the notes exchanged in London on 27th October/1st November, 1932;
- (2) That they reaffirm the agreement contained in the notes exchanged at Rio de Janeiro on 2nd October/3rd November, 1933 (the text of which is annexed hereto as Appendix 4 to the General Report), regarding a more accurate definition of the boundary in the event of future development of areas adjacent to the boundary.

3. Accordingly it is understood that the present note and that of Your Excellency, to which I have the honour to reply, shall be considered as a formal agreement between the two Governments for the establishment of the boundaries between Brazil and British Guiana.

I avail, &c.

(Signed) OSWALDO ARANHA.

GENERAL REPORT OF THE COMMISSIONERS APPOINTED TO DEMARCATÉ THE BOUNDARY

THE undersigned, Major Kenneth Macaulay Papworth, M.C., R.E., and Captain Braz Dias de Aguiar, Brazilian Navy, having been duly appointed by their respective Governments to make a reconnaissance of the various frontier lines, to draw up plans of each of the various sections, as well as a general map of the boundaries between the two territories, and set up marks where they appear to be necessary, in accordance with the Treaty and Convention signed in London between His Britannic Majesty and the President of the Brazilian Republic on 22nd April, 1926 (*vide* Appendix 1), have surveyed the boundary in accordance with the instructions laid down in the Agreement between His Majesty's Government in the United Kingdom and the Brazilian Government signed in London on 18th March, 1930 (*vide* Appendix 2). The Commissioners present herewith the following General Report.

2. In the maps which accompany this Report, in order to avoid the duplication of place names owing to different methods of orthography in English and Portuguese, the spelling of the country to which the place belongs has been adopted, but in the case of prominent features on or near the boundary the two versions have been given. The following spelling of two place names which occur in the Treaty has been adopted in order to agree with present local usage:—

<i>Treaty Name</i>	<i>Spelling Adopted</i>
Arapopo (Arabopo)	Arabopo
Corentyne	Courantyne

3. The Mixed Commission was constituted at the first meeting held at Fazenda da Conceição on 30th April, 1930. The names of the personnel serving with the Mixed Commission, and their periods of service, are given in Appendix 11. By October 1934 the boundary had been demarcated from Mount Roraima southwards as far as the head of Essequibo River. The

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British Commission was then attacked by beri-beri and had to be withdrawn. This entailed the closing down of all field work. In July 1935 a new British Commission was appointed, and work was recommenced. The first task of the Mixed Commission thus reconstituted was to locate the Trijunction Point of the territories of British Guiana, Brazil and Surinam, in collaboration with a Netherlands Commission. This was satisfactorily completed on 20th February, 1936. At the same time it was agreed by the Commissioners that, for the remainder of the field work, the two Commissions should start from different points, working towards one another, instead of both Commissions covering the same ground independently. This procedure saved a considerable amount of time, particularly as various portions of the boundary still to be completed were more accessible to one Commission than the other. Field work was completed in May 1938, the final meeting of the Mixed Commission in the field being held on 17th May.

4. The International Frontier between British Guiana and Brazil, as demarcated by the Mixed Commission, follows the boundary lines laid down by the Treaty and Convention (*vide* Appendix 1) except in one area, for which the Commissioners make a special recommendation (*vide* Appendix 6). In this area a stream which rises near the line of ideal watershed runs onto a saddle, where it divides, part flowing to British Guiana and part to Brazil. The Commissioners recommend that the boundary in this area should follow the thalweg of the stream from near its source to the point of bifurcation, after which the boundary should revert to the line of ideal watershed.

5. Along the watershed boundary marks are accurately placed on the boundary line but, in view of the present state of development of the territories adjoining the land boundary, it was agreed that the use of spirit levels was unnecessary for the location of the line connecting the boundary marks. In consequence, the line has only been located with the precision attained by an inspection of the ground. In the section between Mount Roraima and the source of the Ireng River the watershed traverses a number of hills over which it was impossible to carry the survey; some additional marks were therefore placed in this area. Astronomical observations were made at every fifth or sixth mark, the intermediate marks being fixed by traverses adjusted between the astronomical stations.

6. The principles to be adopted by the Mixed Commission for the delimitation of the riverain areas were agreed upon by the respective Governments in 1932 (*vide* Appendix 3). The thalweg is indicated by two beacons, one on each bank of the river. Each pair of beacons is fixed by astronomical observations; the distance between pairs is approximately fifty kilometres. At the headwaters of the Tacutú and Ireng Rivers some difficulty was experienced in deciding which of the many branches of those rivers the boundary should follow. After extensive surveys in those areas a satisfactory settlement was reached, in which it was agreed that the boundary should follow the Ireng so long as that river retained that name, and should then follow along its most Eastern confluent. On the Tacutú the boundary was to follow the Tacutú up to the confluence of the East Tacutú, and thence to follow the East Tacutú up to its source on Mount Wamuriaktawa.

7. The numbering of the marks and beacons is somewhat complicated for the following reasons. The Mixed Commission held its first meeting at a point in the middle of the boundary line, and it was consequently impossible to commence the traverse at one end and work straight along the boundary without too great a loss of time. Further, the boundary is partly watershed and partly river; finally, since 1935 the two sections have been working in separate areas with a view to speeding up the rate of progress. It has been impossible, therefore, to arrange that the marks should be numbered consecutively from beginning to end.

8. At the junction of the Ireng and Tacutú there are two Brazilian beacons, No. 1 and No. 2, and one British beacon BG 1. From this point Northwards along the Ireng there are five pairs of beacons, numbered BG 8/B 1, BG 9/B 2, BG 10/B 3, BG 11/B 4, and BG 12/B 5. Southwards along the Tacutú from its junction with the Ireng there are eight pairs of beacons, numbered BG 2/B 1, BG 3/B 2, BG 4/B 3, BG 5/B 4, BG 7/B 5, BG 14/B 6, BG 15/B 7 and BG 16/B 8; there is one mark in the thalweg near the source of the Tacutú, indicated by two beacons, numbered BG 17/B 9.

9. On the land boundary the numbering of the marks begins at the terminal point on Mount Roraima (named B/BG 0), and between that point and the mark at the source of the Ireng there are thirteen intermediate marks. These are numbered consecutively from B/BG 1 to B/BG 11, both inclusive, then B/BG 11A and B/BG 12. The mark at the source of the Ireng is numbered B/BG 13. The land boundary recommences on Mount Wamuriaktawa at a mark numbered B/BG 14, and Eastwards along the boundary the marks are numbered consecutively upwards to B/BG 53. The mark at the terminal point of the boundary, at the point of junction of the territories of British Guiana, Brazil and Surinam, is named B/BG 132. From that point Westwards the marks are numbered consecutively downwards to B/BG 85. Between B/BG 53 and B/BG 85 there is only one mark, numbered B/BG 54/84. It should be noted that numbers 55 to 83, both inclusive, have been omitted.

10. The positions of the boundary marks and beacons are defined by their Geographic Co-ordinates. A complete list is given in Appendix 7, together with their heights, distances between marks, the year of construction, and the Magnetic Variation where observed.

11. For details of the construction of the Marks and Beacons see Appendix 9.

12. Owing to the densely forested nature of almost the whole of the area through which the boundary runs, triangulation was impracticable. The boundary has been fixed by traverses based on astronomical control points. For locating the terminal point on Mount Roraima the Mixed Commission worked in collaboration with a Venezuelan Commission appointed for that purpose. An astronomical point was observed at Arabopo, where a short base was measured, and the whole of the plateau of Roraima was connected to this point by triangulation. In addition, a check base was measured on the summit. The Brazilian Commission also observed on the top of Mount Roraima, near the trijunction point, but, owing to local attraction and other causes, there was a considerable difference between the value of the co-ordinates obtained by them and those deduced by triangulation from the observation post at Arabopo. It was therefore agreed by the Commissioners to adopt as the co-ordinates of the trijunction point the mean values obtained from the triangulation carried out by the three Commissions. A technical report on the methods used by the Mixed Commission is given in Appendix 10.

13. Twenty-eight plans on a scale of 1/50,000⁽⁴⁾ and a general map on a scale of 1/1,000,000 are attached to this Report (*vide* Appendix 8). In addition, special plans⁽⁴⁾ to illustrate the terminal points of the boundary are attached.

14. The figure of the Earth used is that known as "Madrid 1924." The projection used for the Sectional Plans⁽⁴⁾ on the scale of 1/50,000 is the Minimum Error Conformal Projection of Gauss, based on a central meridian of 59° 00' West of Greenwich and the Equator. The origin of co-ordinates

(⁴) Not reproduced.

is the point of intersection of the standard meridian and the Equator. The projection used for the General Map is that of the International Map (Carte du Monde au Millième), with the central meridian of 58° 30' West of Greenwich.

15. A general description of the Boundary is given in Appendix 5.

16. The two Commissioners recommend to their respective Governments that the two marks placed at the terminal points of the Boundary should continue to define the terminal points, irrespective of any future or more accurate calculation of their geographical positions.

17. The two Commissioners are agreed that, in the present state of development of the area through which the boundary runs, the periodical inspection and maintenance of the boundary lines, and of the boundary marks and beacons, would be a useless and unnecessary expense. They therefore make no recommendation to their respective Governments on this point.

18. The question of the free navigation and fishing rights in those portions of the Rivers Mahú and Tacutú which constitute the boundary is covered in the Agreement reached between the two Governments, a copy of which is contained in Appendix 3.

19. The surveys carried out by the Mixed Commission have only been in the nature of reconnaissance surveys to locate the approximate position of the boundary. In the existing state of development of the areas through which the boundary runs, any more accurate survey would have been a waste of time and money. Should any area be developed at any time, an accurate survey with intervisible pillars would be necessary. The procedure for such a survey has been agreed upon by the two Governments in correspondence, a copy of which is given in Appendix 4.

20. The present Report has been drawn up by the Chief Commissioners in duplicate, in the English and Portuguese languages, for presentation to their respective Governments.

(Signed) K. M. PAPWORTH.

(Signed) BRAS DIAS DE AGUIAR.

LIST OF APPENDICES

- 1.—Anglo-Brazilian Treaty and Convention for the Settlement of the Boundary between British Guiana and Brazil. London, 22nd April, 1926.
- 2.—Anglo-Brazilian Agreement for the Demarcation of the Boundary between British Guiana and Brazil. London, 18th March, 1930.
- 3.—Exchange of Notes of 27th October/2nd November, 1932, concerning the Delimitation of the Riverain Areas.
- 4.—Exchange of Notes of 2nd October, 1933, providing for a more accurate definition of the Boundary in the event of Future Development of Areas Adjacent to the Boundary.
- 5.—General description of the Boundary.
- 6.—Recommendation by the Boundary Commissioners for the definition of the Boundary in the Area between Marks B/BG 86 and B/BG 87 where the line of ideal watershed is interrupted.
- 7.—List of Boundary Marks and Beacons.
- 8.—List of Maps and Plans of the Boundary.
- 9.—Description of the Construction of Boundary Marks and Beacons.
- 10.—Technical Report on Methods and Instruments used in the Survey.
- 11.—Diary of Work.

RELATÓRIO GERAL DOS COMISSÁRIOS NOMEADOS PARA
DEMARCAR A FRONTEIRA

Os abaixo assinados Capitão de Mar e Guerra Braz Dias de Aguiar, Marinha do Brasil, e Major Kenneth Macaulay Papworth, M.C., R.E., tendo sido devidamente nomeados pelos seus respectivos Governos para fazerem um reconhecimento das diferentes linhas de fronteira, levantarem plantas de cada uma das diferentes seções, assim como uma Carta Geral dos confins entre os dois territórios, e colocarem marcos onde parecerem convenientes, de acôrdo com o Tratado e a Convenção assinados em Londres entre o Presidente da República Brasileira e Sua Majestade Britânica, em 22 de Abril de 1926 (*vide* Apêndice 1), levantaram a fronteira de conformidade com as instruções contidas no Protocôlo entre o Governo Brasileiro e o de Sua Majestade no Reino Unido assinado em Londres em 18 de Março de 1930 (*vide* Apêndice 2). Os Comissários aqui apresentam o seguinte Relatório Geral.

2. Nos mapas que acompanham este Relatório, de modo a evitar que os nomes de lugares apareçam em duplicata, devido às diferentes ortografias em português e inglês, adotou-se a ortografia do país ao qual pertence o local, porém, no caso de acidentes notáveis na ou nas proximidades da fronteira, são usadas as duas versões. Para os nomes de dois lugares citados no Tratado, foi adotada a seguinte ortografia, afim de concordar com o uso atual no local:—

<i>Nome no Tratado</i>	<i>Ortografia adotada</i>
Arapopo (Arabopo)	Arabopo
Corentyne	Courantyne

3. A Comissão Mixta foi constituída na primeira reunião realizada na Fazenda da Conceição em 30 de Abril de 1930. Os nomes do pessoal que serviu na Comissão Mixta e seus períodos de serviço são dados no Apêndice 11. Até Outubro de 1934 a fronteira tinha sido demarcada do Monte Roraima para o Sul até às cabeceiras do Rio Essequibo. A Comissão Britânica foi então atacada de beri-beri e teve de ser retirada. Isso acarretou o encerramento de todos os trabalhos de campo. Em Julho de 1935 foi nomeada uma nova Comissão Britânica e reiniciados os trabalhos. A primeira tarefa da Comissão Mixta assim reconstituída foi local o ponto de trijunção dos territórios do Brasil, da Guiana Britânica e do Suriname, em colaboração com uma Comissão Neerlandêsa. Isso foi concluído satisfatoriamente em 20 de Fevereiro de 1936. Ao mesmo tempo foi celebrado um acôrdo entre os Comissários, que, para o restante dos trabalhos de campo, as duas Comissões partiriam de pontos diferentes, trabalhando uma ao encontro da outra, em vez de ambas operarem independentemente sobre o mesmo terreno. Esse procedimento economizou consideravel tempo, particularmente porque várias partes da fronteira ainda a serem completadas eram mais accessíveis a uma Comissão que à outra. O trabalho de campo foi concluído em Maio de 1938, sendo a reunião final da Comissão Mixta, no campo, realizada em 17 de Maio.

4. A Fronteira Internacional entre o Brasil e a Guiana Britânica, conforme demarcada pela Comissão Mixta, segue as linhas de fronteira estabelecidas no Tratado e na Convenção (*vide* Apêndice 1), excepto numa área, para a qual os Comissários fazem uma recomendação especial (*vide* Apêndice 6). Nessa área um rio, que nasce próximo ao verdadeiro divisor de aguas, corre até uma selada, onde se divide, correndo uma parte para o Brasil e outra para a Guiana Britânica. Os Comissários recomendam que

a fronteira nessa área deverá seguir o talvégue desse rio das proximidades de suas nascentes até o ponto de bifurcação, depois do qual a fronteira tornará a seguir a verdadeira linha divisória das águas.

5. Ao longo do divisor de águas são os marcos de fronteira colocados precisamente na linha de fronteira, porém, em vista do atual estado de desenvolvimento dos terrenos adjacentes à fronteira seca, ficou combinado que o emprêgo de níveis de precisão era desnecessário para a locação da linha que liga os marcos fronteirios. Conseqüentemente, foi a linha locada sómente com a precisão obtida por uma inspeção do terreno. Na seção entre o Monte Roraima e a nascente do Mahú ou Ireng o divisor de águas atravessa diversos morros, por cima dos quais era impossível continuar o levantamento; foram, por isso, colocados alguns marcos adicionais nessa área. Foram feitas observações astronômicas em cada quinto ou sexto marco, sendo os marcos intermediários fixados por levantamento ajustado às estações astronômicas.

6. Os princípios a serem adotados pela Comissão Mixta para a delimitação das áreas ribeirinhas foram concordados pelos respectivos Governos em 1932 (*vide* Apêndice 3). O talvégue está indicado por dois marcos de referência, um em cada margem do rio. Cada par de marcos de referência foi fixado por observações astronômicas; a distância entre os pares é de aproximadamente cinquenta quilômetros. Nas nascentes principais do Tacutú e do Mahú ou Ireng encontrou-se alguma dificuldade em resolver qual dos muitos afluentes daqueles rios a fronteira deveria seguir. Depois de extensos levantamentos naquelas áreas chegou-se a um acôrdo satisfatório, no qual ficou assentado que a fronteira seguiria o Mahú ou Ireng enquanto aquele rio conservasse aquele nome e seguiria depois seu afluente mais Leste. Quanto ao Tacutú, a fronteira seguiria o Tacutú até à confluência do Tacutú Leste, seguindo daí o Tacutú de Leste até à sua nascente no Monte Wamuriaktawa.

7. A numeração dos marcos de fronteira e de referência ficou um tanto complicada pelas seguintes razões. A Comissão Mixta realizou a sua primeira reunião num ponto no meio da linha da fronteira e, conseqüentemente, foi impossível iniciar o levantamento numa extremidade e trabalhar diretamente ao longo da fronteira, sem demasiada perda de tempo. Além disso, uma parte da fronteira é divisor de águas e outra parte é rio; finalmente, desde 1935 as duas Comissões vinham trabalhando em áreas separadas, com o fim de apressar o progresso. Foi, por isso, impossível conseguir que os marcos fossem numerados consecutivamente do princípio ao fim.

8. Na junção do Mahú ou Ireng e do Tacutú ha dois marcos de referência brasileiros números 1 e 2 e um marco de referência britânico BG 1. Desse ponto, em direção Norte, ao longo do Mahú ou Ireng, ha cinco pares de marcos de referência numerados BG 8/B 1, BG 9/B 2, BG 10/B 3, BG 11/B 4 e BG 12/B 5. Para o Sul, ao longo do Tacutú, desde a sua confluência com o Mahú ou Ireng, existem oito pares de marcos de referência numerados BG 2/B 1, BG 3/B 2, BG 4/B 3, BG 5/B 4, BG 7/B 5, BG 14/B 6, BG 15/B 7 e BG 16/B 8; ha um marco no talvégue próximo às nascentes do Tacutú, assinalado por dois marcos de referência numerados BG 17/B 9.

9. Na fronteira seca, a numeração dos marcos começa no ponto inicial no Monte Roraima (denominado B/BG 0), e entre aquele ponto e o marco nas nascentes do Mahú ou Ireng existem treze marcos intermediários. Esses são numerados consecutivamente de B/BG 1 a B/BG 11 inclusive, depois B/BG 11A e B/BG 12. O marco nas nascentes do Mahú ou Ireng é numerado B/BG 13. A fronteira seca recomeça no Monte Wamuriaktawa num marco numerado B/BG 14 e, para Leste, ao longo da fronteira são os marcos numerados consecutivamente em ordem crescente até B/BG 53. O marco

no ponto terminal da fronteira, no ponto de junção dos territórios do Brasil, da Guiana Britânica e do Suriname, é denominado B/BG 132. Daquele ponto para Oeste, são os marcos numerados consecutivamente em ordem decrescente até B/BG 85. Entre B/BG 53 e B/BG 85 existe somente um marco, numerado B/BG 54/84. Deve se notar que os números 55 e 85, inclusive, foram omitidos.

10. As posições dos marcos de fronteira e de referência são definidas pelas suas coordenadas geográficas. No Apêndice 7 é dada uma lista completa, juntamente com suas altitudes, distâncias entre marcos, o ano da construção e a Variação Magnética, onde observada.

11. Para detalhes da construção dos marcos de fronteira e de referência *vide* Apêndice 9.

12. Devido às densas florestas que cobrem quasi que completamente a área através da qual corre a fronteira, o emprêgo da triangulação foi impraticável. A fronteira foi fixada por levantamentos apoiados em pontos astronômicos de contrôle. Para locar o ponto inicial no Monte Roraima a Comissão Mixta trabalhou em colaboração com uma Comissão Venezuelana nomeada para aquele fim. Foi observado um ponto astronômico em Arabopo, onde foi medida uma base pequena, e o plateau inteiro do Roraima foi ligado àquele ponto por triangulação. Em aditamento foi medida uma base de contrôle no alto. A Comissão Brasileira ainda observou no cume do Roraima, próximo ao marco de trijunção, porém, devido à atração local e outras causas, houve sensível diferença entre o valor das coordenadas assim obtidas e o deduzido, por triangulação, do observatório de Arabopo. Ficou, por isso, convencionado entre os três Comissários, adotar para coordenadas do marco de trijunção, a média dos valores resultantes da triangulação feita pelas três Comissões. No Apêndice 10 é dado um relatório técnico sobre os métodos empregados pela Comissão Mixta.

13. Vinte e oito mapas na escala de 1/50,000⁽⁵⁾ e uma Carta Geral na escala de 1/1,000,000 são anexados ao presente Relatório (*vide* Apêndice 8). Em aditamento, são anexados mapas⁽³⁾ especiais para ilustrar os pontos extremos da fronteira.

14. A figura da Terra usada é a conhecida como "Madrid 1924." A projeção usada para as plantas parciais⁽³⁾ na escala de 1/50,000 é a Projeção Conforme de Gauss de Erro Mínimo, baseada no Meridiano Central de 59° 00' W. Greenwich e no Equador. A origem das coordenadas é o ponto de interseção do meridiano padrão e o Equador. A projeção empregada para a Carta Geral é a do Mapa Internacional (Carta du Monde ou Millième), com o Meridiano Central de 58° 30' W. Greenwich.

15. Uma descrição geral da fronteira é dada no Apêndice 5.

16. Os dois Comissários recomendam aos seus respectivos Governos que os dois marcos colocados nos pontos extremos da fronteira continuem a definir os pontos terminais, independente de qualquer cálculo mais acurado que, de sua posição geográfica, possa ser feito no futuro.

17. Os dois Comissários concordam que, no atual estado de desenvolvimento da área que a fronteira atravessa, uma inspeção periódica e a conservação das linhas de fronteira, dos marcos de fronteira e de referência, seria uma despesa inútil e desnecessária. Portanto, nada recomendam aos seus respectivos Governos a êsse respeito.

18. A questão dos direitos de livre navegação e pesca, naqueles trechos dos rios Mahú ou Ireng e Tacutú que constituem a fronteira, está prevista no Acôrdo a que chegaram os dois Governos, uma cópia do qual é dada no Apêndice 3.

(⁵) Not reproduced.

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19. Os levantamentos executados pela Comissão Mixta foram sómente no caráter de levantamentos de reconhecimento para locar a posição aproximada da fronteira. No atual estado de desenvolvimento das áreas através das quais corre a fronteira, qualquer levantamento mais preciso teria sido um desperdício de tempo e de dinheiro. Si for desenvolvida qualquer área, em qualquer época, será necessário um levantamento acurado com pilares intervisíveis. O processo para tal levantamento ficou assentado em correspondência, uma cópia da qual é dada no Apêndice 4.

20. O presente Relatório foi redigido pelos Comissários Principais, nos idiomas português e inglês, para apresentação aos seus respectivos Governos.

(Signed) BRAZ DIAS DE AGUIAR.

(Signed) K. M. PAPWORTH.

RELAÇÃO DOS APÊNDICES

- 1.—Tratado e Convenção assinados em Londres em 22 de Abril de 1926.
- 2.—Acôrdo assinado em Londres em 18 de Março de 1930.
- 3.—Correspondência contendo um Acôrdo sobre a delimitação das zonas fluviais.
- 4.—Correspondência contendo um Acôrdo sobre uma melhor caracterização da fronteira no caso do desenvolvimento futuro de áreas adjacentes à fronteira.
- 5.—Descrição geral da fronteira.
- 6.—Recomendação dos Comissários sobre a definição da fronteira na área entre os Marcos B/BG 86 e B/BG 87 onde a linha ideal divisória de águas sofre uma interrupção.
- 7.—Lista de Marcos de fronteira e de referência.
- 8.—Lista de Mapas e Planos da fronteira.
- 9.—Descrição da construção dos Marcos de fronteira e de referência.
- 10.—Relatório técnico sobre métodos e instrumentos empregados na demarcação.
- 11.—Diário do Serviço.

APPENDIX 1

ANGLO-BRAZILIAN TREATY AND CONVENTION FOR THE SETTLEMENT OF THE BOUNDARY BETWEEN BRITISH GUIANA AND BRAZIL. LONDON, 22ND APRIL, 1926.⁽⁶⁾

APPENDIX 2

ANGLO-BRAZILIAN AGREEMENT FOR THE DEMARCATION OF THE BOUNDARY BETWEEN BRITISH GUIANA AND BRAZIL. LONDON, 18TH MARCH, 1930.⁽⁷⁾

⁽⁶⁾ Not reproduced. See "Treaty Series No. 14 (1929)," Cmd. 3341.

⁽⁷⁾ Not reproduced. See "Treaty Series No. 15 (1930)," Cmd. 3538.

APPENDIX 3

EXCHANGE OF NOTES OF 27TH OCTOBER/2ND NOVEMBER, 1932,
CONCERNING THE DELIMITATION OF THE RIVERAIN AREAS

No. 1

*Sir John Simon to Senhor Raul Régis de Oliveira**Foreign Office, S.W. 1,
27th October, 1932.*

Your Excellency,

IN order to give effect to the desire expressed by the Brazilian Government that His Majesty's Government in the United Kingdom and the Brazilian Government should reach an agreement as to the principles to be adopted by the Mixed Commission in the delimitation of the riverain areas of the Boundary between British Guiana and Brazil, I have the honour to make the following detailed proposals on the basis of the proposals already put forward by the Brazilian Government:—

- (i) Without prejudice to the provisions relating to the sovereignty of islands contained in paragraph (iii), the boundary line at any particular time shall be the thalweg of the river wherever the thalweg may be situated at that time. It is understood that the water, and not the river bed, is to be the boundary. The thalweg is understood to imply the line of minimum level along the bed of the river throughout its length. Where, owing to rapids or to any other cause, it is not possible to determine the position of the thalweg, the median line of the channel which offers the most favourable course for down-stream navigation shall be the boundary.
- (ii) Subject to the provisions of paragraph (iii) the sovereignty of islands shall be determined by their situation in relation to the thalweg at the time of demarcation, or to the median line in reaches where it forms the boundary. Islands shall belong to that State on whose side of the boundary they are situated.
- (iii) The position of the thalweg cannot be relied upon to remain constant owing to the natural action of the water, *e.g.*, the gradual deposit of alluvium silting up and perhaps even closing channels. The question of the change of sovereignty of islands on account of the movement of the thalweg through such causes shall be determined as follows:—
 - (a) Where, owing to the gradual movement of the thalweg, an island, situated at the time of demarcation on one side of it, is found, at any subsequent time, to be situated on the opposite side of the thalweg and still remains an island, its sovereignty shall not change, despite the change in the position of the thalweg.
 - (b) Where, owing to the gradual movement of the thalweg, or to the deposit of alluvium or to other gradual and natural causes, an island situated at the time of demarcation in the territory of one State becomes joined to the territory of the other State its sovereignty shall change.
 - (c) Where, in virtue of the gradual and natural action of the river, two islands of different sovereignty unite and form one island, the sovereignty of the island resulting from that union shall be determined by its position with relation to the thalweg at that time.

- (d) An island shall be deemed to be joined to another island or to the mainland when the level of the bed separating the two shall have risen to a height greater than that of the water at other than flood periods in that part of the river.
 - (e) Where, owing to the deposit of alluvium, or other gradual and natural causes, a new island is formed attaining a height greater than that of the water at other than flood periods in that part of the river, where previously no land existed, it shall belong to that State on whose side of the thalweg it may be situated, wherever the thalweg may be at the time of the appearance of the island.
 - (f) Each State shall have the right both to protect its own banks and islands from the gradual and natural action of the river and also to effect works in its own territory to prevent any local deviation of the current of the main stream, or of any branch of the river, from its course at the time, provided in both cases that such works do not themselves cause any such deviation elsewhere.
- (iv) If the river should suffer complete dislocation of its course, on account of any sudden natural phenomenon, in such a way as to abandon its bed and to open up another, the boundary line shall continue to be the thalweg of the river. In such a case the State affected by the loss of territory shall have the right to force the river back into its abandoned bed within a space of four years from the date on which the change of course became known to it.
 - (v) Nevertheless, in every case where change of sovereignty of land is involved, the property rights of the population shall be observed, and the State affected by the loss of territory shall have the right to a reasonable indemnity from the other State, the amount to be fixed by mutual agreement. In the event of the two States failing to agree upon the amount of the indemnity, the matter shall be submitted for arbitration by the Permanent Court of International Justice and both States shall abide by the decision of the Court.
 - (vi) The river shall be open to free navigation and fishing to both States throughout that portion of its length which constitutes the boundary but no works shall be permitted other than those intended solely to retain the river in its present course and not involving any risk of altering that course except with the mutual consent of the Governments of both States and any work such as canalisation, irrigation, or the development of electrical power shall only be undertaken subject to the mutual consent of both riparian States.

2. If the Brazilian Government agree to the adoption of these principles by the Mixed Commission, I have the honour to suggest that the present note and Your Excellency's note in reply accepting the proposals be regarded as constituting an Agreement between the two Governments to this effect.

I have, &c.

(Signed) JOHN SIMON.

Senhor Raul Régis de Oliveira to Sir John Simon

*Brazilian Embassy, Londres,
1 de Novembro de 1932.*

Senhor Secretario de Estado,

TENHO a honra de accusar recebida a Nota, de 27 de Outubro ultimo, pela qual Vossa Excellencia, com o fim de attender ao desejo manifestado pelo Governo brasileiro de que o Governo de Sua Majestade britannica no Reino Unido e o Governo brasileiro cheguem a um accôrdo sobre os principios a serem adoptados pela Commissão Mixta de delimitação das áreas ribeirinhas da fronteira entre o Brasil e a Guyana britannica, faz a seguinte proposta detalhada, baseada na proposta já anteriormente apresentada pelo Governo brasileiro, que tenho a honra de aceitar:—

- (i) Sem prejuizo das disposições, contidas no paragrapho n. (iii), relativamente á soberania das ilhas, a linha de fronteira, em qualquer momento determinado, será o thalvegue do rio, onde quer que o thalvegue possa estar situado nesse momento. Fica assente que a agua, e não o leito do rio, será o limite. Entende-se por thalvegue a linha do nivel mais baixo no leito do rio, em toda a sua extensão. Quando, em virtude de saltos ou de qualquer outra causa, não fôr possivel determinar a posição do thalvegue, o limite será a linha mediana do canal que offerecer o curso mais favoravel para a navegação rio abaixo.
- (ii) Observadas as disposições do paragrapho n. (iii), a soberania das ilhas será determinada pela sua situação em relação ao thalvegue no momento da demarcação, ou á linha mediana, nas extensões em que esta seja o limite. As ilhas pertencerão ao Estado, em cujo lado da fronteira estiverem situadas.
- (iii) Não se póde confiar em que a posição do thalvegue permaneça constante, em consequencia da acção natural das aguas, por exemplo o deposito gradual de alluvião que enche de lodo e até ás vezes obstrue canaes. A questão da mudança de soberania de ilhas por motivo do deslocamento do thalvegue, em razão de taes causas, será resolvida como se segue:—
 - (a) Quando, em virtude do deslocamento gradual do thalvegue, uma ilha, situada no momento da demarcação de um dos seus lados, ficar, em qualquer momento subsequente, situada do lado opposto, e continuar a ser uma ilha,—a sua soberania não mudará, apesar de alterada a posição do thalvegue.
 - (b) Quando, em virtude do deslocamento gradual do thalvegue ou do deposito de alluvião ou de outras causas graduaes e naturaes, uma ilha, situada, no momento da demarcação, no territorio de um Estado, se unir ao territorio do outro Estado,—a sua soberania mudará.
 - (c) Quando, em virtude da acção gradual e natural do rio, duas ilhas de soberania differente se unirem e formarem uma só ilha,—a soberania da ilha resultante dessa união será determinada pela sua posição, nesse momento, em relação ao thalvegue.
 - (d) Entender-se-á que uma ilha se uniu a outra ilha ou ao continente quando o nivel do leito intermedio houver subido, nessa parte do rio, a uma altura maior do que a da agua em periodos que não os de enxurradas.

- (e) Quando, em virtude do deposito de alluvião ou de outras causas graduaes e naturaes, se formar uma ilha nova, que attinja uma altura maior do que a da agua em periodos que não os de enxurradas nessa parte do rio, onde antes nenhuma terra existia,—a ilha pertencerá ao Estado de cujo lado do thalvegue estiver situada, seja qual fôr o lugar do thalvegue na occasião do apparecimento da ilha.
- (f) Cada Estado terá o direito tanto de proteger as suas proprias margens e ilhas contra a acção gradual e natural do rio, como de effectuar trabalhos no seu proprio territorio para prevenir qualquer desvio local do curso da corrente principal, ou de qualquer braço do rio, no momento,—contanto que, em ambos os casos, esses trabalhos não causem por sua vez desvios semelhantes em qualquer outra parte.
- (iv) Se o rio soffrer completa deslocação do seu curso, em virtude de qualquer phenomeno natural repentino, de tal sorte que abandone o proprio leito e abra outro, a linha de fronteira continuará a ser o thalvegue do rio. Em tal caso, o Estado prejudicado pela perda de territorio terá o direito de forçar a volta do rio ao leito abandonado, dentro do espaço de quatro annos, a contar da data em que a mudança do curso tiver chegado ao seu conhecimento.
- (v) Entretanto, em todos os casos em que a mudança de soberania da terra estiver envolvida, os direitos de propriedade da população serão respeitados, e o Estado prejudicado pela perda de territorio terá direito a uma indemnização razoavel por parte do outro Estado, devendo o montante ser fixado por mútuo accôrdo. Dado o caso em que os dois Estados não cheguem a accôrdo sobre a importancia da indemnização, será a divergencia submettida á arbitragem da Côte permanente de Justiça internacional, a cuja decisão ambos os Estados terão que se sujeitar.
- (vi) O rio será aberto á livre navegação e á pesca de ambos os Estados, de uma extremidade á outra da parte limitrophe, mas só serão permittidas as obras que visem apenas manter o rio no seu curso actual e não envolvam risco algum de alterar esse curso, excepto com o mútuo consentimento dos Governos de ambos os Estados, e qualquer trabalho, tal como canalização, irrigação ou captação de energia electrica, só será emprehendido mediante mútuo consentimento de ambos os Estados marginaes.

2. Fica entendido que a presente nota e a de Vossa Excellencia, de 27 de Outubro ultimo, constituem um accôrdo entre os Governos brasileiro e o de Sua Majestade britannica no Reino Unido para os efeitos acima referidos.

Tenho, &c.
(Signed) REGIS DE OLIVEIRA.

(Translation of No. 2)

*Brazilian Embassy, London,
1st November, 1932.*

Sir,

I HAVE the honour to acknowledge the receipt of the note of 27th October last in which Your Excellency, with the object of meeting the desire expressed by the Brazilian Government that His Majesty's Government in the United Kingdom and the Brazilian Government should reach an agreement on the principles to be adopted by the Mixed Commission for the delimitation of the riverain areas of the boundary between Brazil and British Guiana, makes

the following detailed proposals, based on the proposals previously put forward by the Brazilian Government, which I have the honour to accept:—

[As in paragraphs (i) to (vi) in No. 1]

2. It is understood that the present note and Your Excellency's note of 27th October last shall constitute an agreement between the Brazilian Government and His Majesty's Government in the United Kingdom for the purposes mentioned above.

I have, &c.
(Signed) RÉGIS DE OLIVEIRA.

APPENDIX 4

EXCHANGE OF NOTES OF 2ND OCTOBER, 1933, PROVIDING FOR A MORE ACCURATE DEFINITION OF THE BOUNDARY IN THE EVENT OF FUTURE DEVELOPMENT OF AREAS ADJACENT TO THE BOUNDARY

No. 1

Mr. J. M. Troutbeck to Dr. Afranio de Mello Franco

*British Embassy,
Rio de Janeiro,*

2nd October, 1933

Monsieur le Ministre,

WITH reference to Sir William Seeds' Note No. 69 of 15th June last relative to the demarcation of the frontier between British Guiana and Brazil, I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform Your Excellency that in connexion with paragraph 7 of the minutes of the Meeting of the respective Commissioners held on 3rd February last, His Majesty's Government in the United Kingdom are most anxious that any final agreement regarding the demarcation of this frontier should take into account the proposal put forward in the first instance by the Brazilian Commissioner that, in the event of either State deciding upon the development of any area adjacent to the boundary, that State should undertake the accurate demarcation of the boundary in that area, inviting the other State to send a representative with full power to approve such demarcation on behalf of his Government, and that, thereafter, the State undertaking the development of the area in question should be responsible for the marking and maintenance of the approved line.

2. His Majesty's Government in the United Kingdom also consider it desirable that, in connexion with the section of the boundary referred to in paragraph 7 of the minutes of the Meeting of the Commissioners mentioned above, the final agreement should make provision for the revision of the boundary in that area at the request of either party should it be found at any future date that it diverges from the true watershed.

3. I should be grateful if Your Excellency would be so good as to inform me whether the Brazilian Government concur in the suggestion of His Majesty's Government in the United Kingdom that the final Agreement should be drafted so as to make provision for the points set out above.

I avail, &c.
(Signed) J. M. TROUTBECK.

No. 2

*Dr. Afranio de Mello Franco to Sir William Secods**Ministério dos Negócios Estrangeiros,
Rio de Janeiro,*

Senhor Embaixador,

Em 3 de Novembro de 1933

TENHO a honra de acusar recebimento da nota de 2 de Outubro próximo findo, em que Vossa Excelência me comunica o desejo do Governo de Sua Majestade Britânica de constar da ata final da demarcação da fronteira do Brasil com a Guiana Britânica um compromisso dos dois Estados no sentido de que, decidindo-se um deles a fazer utilizar qualquer area adjacente à linha de limite, fique obrigado a proceder à sua custa a uma cuidadosa caraterização da fronteira nessa area, convidando o outro Estado a enviar um representante, munido de Plenos Poderes, para aprovar a referida caraterização em nome de seu Governo. Ao Estado que tomasse a iniciativa incumbiria a tarefa de conservação da mencionada linha.

2. Manifesta ainda Vossa Excelência no § 2º de sua nota, com referência ao trecho da fronteira referido no § 7º da ata da Conferência dos Delegados-chefes, realizada em 3 de Fevereiro do corrente ano, ser desejavel que, da ata final antes referida, igualmente conste que uma das Partes póde pedir à outra a revisão da demarcação nesse trecho, caso futuramente se verifique que se afasta do verdadeiro divisor de aguas a linha tal como foi fixada.

3. Apraz-me manifestar a Vossa Excelência a concordância do Governo brasileiro com essas duas sugestões e comunicar-lhe que o Comandante Braz Dias de Aguiar receberá instruções no sentido de constarem uma e outra da ata final da demarcação.

Aproveito, &c.
(Signed) A. DE MELLO FRANCO.

(Translation of No. 2)

*Ministry for Foreign Affairs,
Rio de Janeiro,*

Monsieur l'Ambassadeur,

3rd November, 1933

I HAVE the honour to acknowledge the receipt of your note of 2nd October last, in which Your Excellency informs me of the desire of His Majesty's Government that the final act of the demarcation of the frontier between Brazil and British Guiana should contain an agreement between the two States to the effect that should one of them decide to develop any area adjacent to the boundary line it should be obliged to proceed at its own expense to an accurate definition (caraterização) of the boundary in that area, inviting the other State to send a representative with full powers to approve such definition on behalf of his Government. The duty of maintaining the line in question would fall upon the State taking the initiative.

2. Your Excellency further states in paragraph 2 of your note, with reference to the section of the boundary referred to in section 7 of the minutes of the meeting of the Commissioners which took place on the 3rd February last, that it would be desirable that the above-mentioned final act should also make provision for one of the parties being able to request of the other the revision of the demarcation in that section should it be found in the future that the line as fixed diverges from the true watershed.

3. I have pleasure in informing Your Excellency of the agreement of the Brazilian Government with these two suggestions and in stating that Commander Braz Dias de Aguiar will receive instructions in the sense of their being both included in the final act of the demarcation.

I avail, &c.
(Signed) A. DE MELLO FRANCO.

APPENDIX 5

GENERAL DESCRIPTION OF THE BOUNDARY

GENERAL

The boundary between British Guiana and Brazil is 1,605·800 kilometres in length, and can be divided into four sectors:—

- (a) A land boundary from Mark B/BG 0 on the summit of Mount Roraima, at the point of junction of the three territories of British Guiana, Brazil and Venezuela, to Mark B/BG 13 at the source of the Mahú or Ireng River. Length 92·187 kilometres, defined by thirteen intermediate marks.
- (b) A river boundary from Mark B/BG 13 along the thalweg of the Mahú to Beacons BG 1 and Brazilian Nos. 1 and 2 at the junction of the Mahú and Tacutú Rivers. Length 374·873 kilometres, defined by five intermediate pairs of beacons.
- (c) A river boundary from there along the thalweg of the Tacutú and East Tacutú Rivers to Mark B/BG 14 at the source of the latter river on Mount Wamuriaktawa. Length 323·313 kilometres, defined by nine pairs of intermediate beacons.
- (d) A land boundary thence to Mark B/BG 132 at the point of junction of the territories of British Guiana, Brazil and Surinam. Length 815·427 kilometres, defined by eighty-seven intermediate marks.

2. The boundary passes through densely forested country, except for a portion of the river boundary along the Ireng and Tacutú, where there is extensive open savannah country with cattle ranches and Indian habitations. Visibility in the forest is limited to about 20 metres. The trees have an average diameter of 30 to 80 centimetres and rise to a height of 30 to 50 metres. There are several varieties of giant trees with buttresses, which are occasionally met. They rise to a height of 70 metres or more, with a diameter of 3 to 4 metres.

3. Communications are non-existent except in the savannah country mentioned above, where a network of mud tracks some 50 metres wide connects the various villages and farms. In the forest area the rivers are the only means of communication, but they are obstructed by falls and rapids, and the transporting of supplies has been extremely costly. In the headwaters of the rivers, extensive work on cleaning the creeks for use by canoes has been necessary; once away from the rivers, tracks through the forest have had to be cleared for the surveying parties and porters.

4. The country through which the first section of the boundary passes is sparsely inhabited by Arecuna, Patamona and Igaricó Indians on both sides of the frontier. Along the Ireng as far as the Tumong (Timão) River there are settlements of Macusis on either side, and on the Tacutú of Wapisianas. Beyond the fringe of the savannahs there are no Indian inhabitants on the British side in the whole boundary area to the junction with Surinam, with the sole exception of a small Wai-wai village near the Essequibo head. At

the heads of the Brazilian rivers, however, there are scattered villages of Wai-wai, Paricotto, Moyana, Pianocotto, Maopityan, Rangupiki and Marachó Indians, with bush trails connecting them with the Wapisiana villages on the Rupununi savannahs.

MOUNT RORAIMA TO THE SOURCE OF THE MAHU OR IRENG RIVER

5. Mount Roraima is situated at the South-Western corner of a number of large rock massifs with flat tops and precipitous sides, rising vertically for 300 to 500 metres. On the plateau of Roraima, the general level of which is 2,750 metres above sea level, a number of streams rise which form the sources of the Caroni, a tributary of the Orinoco, the Cotingo or Kwating River, a tributary of the Rio Branco, and the Kako, which flows to the Mazaruni River. The ascent to the plateau can only be made from the South-West, from Arabopo village, situated some 8 kilometres away in the valley of the river at a height of about 1,300 metres. The mass of the mountain is formed of sandstone. At the North-Western end of the plateau, there is a large area of serrated cliffs and rocks where it was impossible to carry out any survey work. The streams which rise on the plateau have cut deeply into the rock surface, forming chasms many metres in depth. On reaching the edge of the plateau, these streams fall some 500 metres to the base of the cliffs forming the plateau. The Mixed Commission worked in collaboration with a Venezuelan Commission for the survey of Roraima and for the selection of the point of junction of the frontiers of the three countries.

MARK B/BG 0

6. Situated on the plateau of Roraima at the sources of streams which flow into the territories of the three countries.

From this mark the Brazil-Venezuela boundary follows the watershed between the Cotingo (Kwating) and the Arapopo (Arabopo) Rivers in an Easterly direction to Mark B/V 1, situated near the edge of the plateau. The British Guiana-Venezuela boundary runs in a straight line, approximately N.N.W., from Mark B/BG 0 to the source of the River Wenamú. The British Guiana-Brazil boundary follows the watershed between the headwaters of the Mazaruni and Cotingo Rivers from Mark B/BG 0 in a North-Easterly direction for $2\frac{1}{2}$ kilometres to Mark B/BG 1.

MARK B/BG 1

7. Situated on the plateau of Mount Roraima about 250 metres from the cliff edge, and on the watershed between the Mazaruni and Cotingo Rivers.

From B/BG 1 the boundary runs towards the East to the edge of the cliffs, from the bottom of which it continues running Eastwards for about a kilometre to Mark B/BG 2.

MARK B/BG 2

8. Situated on the watershed between the Paikwa (British) and Cotingo Rivers.

The boundary runs E.N.E., crossing Mount Wei-assipú, for about 4 kilometres to Mark B/BG 3. Mount Wei-assipú is another rock massif, the summit of which was found to be inaccessible. A traverse was carried round the base of the cliffs until the watershed was again picked up on the Eastern side. The ground, however, was extremely difficult to walk over, owing to the large masses of rock which have fallen down from the mountain face.

MARK B/BG 3

9. Situated on the watershed between the Mazaruni and Cotingo Rivers. The boundary runs Eastwards for about 2 kilometres to Mark B/BG 4, crossing Mount Appokailang on the way, but owing to its precipitous sides the traverse was surveyed round its base until the watershed was again picked up on its Eastern face.

MARK B/BG 4

10. Situated on the watershed between the Mazaruni and Cotingo Rivers. Immediately after leaving Mark B/BG 4 the boundary crosses Mount Yacontipú, which was found to be inaccessible from the West. It was impossible to carry the traverse round its base on account of the large masses of fallen rock debris. The mountain was, however, scaled from its Eastern face, and the survey was recommenced from a point on its summit, leaving a gap of about 1 kilometre unsurveyed. The boundary then runs slightly South of East for 5 kilometres to Mark B/BG 5.

MARK B/BG 5

11. Situated on the watershed between the Mazaruni and Cotingo Rivers. From Mark B/BG 5 the boundary runs Eastwards for 2 kilometres to Mount Maringma, over which it passes, and then turns sharply to the South. After 1 kilometre it turns E.S.E., and 6 kilometres further on N.E., to Mark B/BG 6.

MARK B/BG 6

12. Situated 9 kilometres, measured in a straight line, East of Mark B/BG 5, near the source of the River Ataro (British), at which point a trail crosses the watershed. The boundary then runs slightly South of East for about 8 kilometres, afterwards turning South to Mark B/BG 7.

MARK B/BG 7

13. Situated on the watershed between the headwaters of the Ataro and Kopé Rivers, where a trail crosses the watershed.

The boundary continues running Southwards for a short distance, and then runs Eastwards for 3 kilometres, after which it turns North to Mark B/BG 8, near Mount Akurima.

MARK B/BG 8

14. Situated on the watershed between the Tiara and Panari Rivers, where an Indian trail crosses the watershed. From Mark B/BG 8 the boundary runs in a general Easterly direction for about 11 kilometres to Mark B/BG 9.

MARK B/BG 9

15. Situated on the watershed between the headwaters of the Kukui and Panari Rivers.

Thence the boundary runs towards the North-East for 6 kilometres to Mark B/BG 10.

MARK B/BG 10

16. Situated on the Western side of Mount Aromatipú on the watershed between the Kukui and Panari Rivers.

The boundary continues to run in a North-Easterly direction for 8 kilometres through dense forest to Mark B/BG 11.

MARK B/BG 11

17. Situated on the watershed between the Kukui and Panari Rivers. The boundary now turns slightly more to the East for 2 kilometres to Mark B/BG 11A.

MARK B/BG 11A

18. Situated on the Western side of Mount Kaburai, on the watershed between the Kukui and Ailan Rivers. It marks the most Northerly point of the boundary, and of Brazil.

The boundary now runs South-Eastwards along the watershed between the Haieka and Ailan Rivers for 8 kilometres to Mark B/BG 12.

MARK B/BG 12

19. Situated on the Eastern side of Mount Ulamirtipú, between the Haieka and Ailan Rivers.

The boundary runs to the North-East along the Ulamir Hills for 3 kilometres to Mark B/BG 13, which is the end of the land boundary.

MARK B/BG 13

20. Situated on the watershed between the tributaries of the Haieka River and the source of the Mahú or Ireng River.

This is the terminal point of the land boundary in this area.

SOURCE OF RIVER MAHU (IRENG) TO ITS JUNCTION WITH THE RIVER TACUTU

21. From Mark B/BG 13 the boundary follows the thalweg of the Ireng, which flows through well forested country slightly East of South for 14 kilometres, and then runs South-East for a further 16 kilometres to Beacon BG 12/B 5, at the confluence of the Sukabi (Socobí) Creek. At this point the river is about 40 metres wide with a mean depth of $1\frac{1}{2}$ metres.

BEACON BG 12/B 5

22. Beacon BG 12 is situated on the left bank of the Ireng, about 60 metres downstream from the mouth of Sukabi Creek. Beacon B 5 is on the right bank of the Ireng, opposite Beacon BG 12.

From this point the river flows West of South through more level, but still well forested, country. After about 23 kilometres the village of Ipishau (Ipichau) is reached, and here open savannah country begins on the left bank. On the right bank the forest continues another 16 kilometres up to Matarauhy Creek, after which there is savannah on both banks of the river. About 51 kilometres from the Sukabi Tumong (Timão) Creek is reached, where Beacon BG 11/B 4 was built. In this stretch the river is about 50 metres wide and 2 metres deep, and is navigable between the rapids. There are many small tributaries, of which the chief are the Warga and Tumong.

BEACON BG 11/B 4

23. Beacon BG 11 is situated on the left bank of the Ireng, about 120 metres downstream from the mouth of the Tumong Creek. Beacon B 4 is immediately opposite, on the right bank of the Ireng.

From this point the river flows in a South-Westerly direction for about 30 kilometres; it then turns South for 8 kilometres and then runs slightly South of East for about 90 kilometres to Beacon 10/B 3, at the mouth of the

Echilebar River. The river runs between ranges of hills and broken ground, making navigation in this part of the river very difficult and dangerous on account of the numerous rapids and falls.

BEACON BG 10/B 3

24. Beacon BG 10 is situated on the left bank of the Ireng about 314 metres below the mouth of Echilebar River. The Brazilian Beacon B 3 is on the right bank of the river opposite. The river flows South-West for some 20 kilometres, and then turns Southwards for about 25 kilometres to Kurewaki Island, where the thalweg passes on the West side of the island, which is therefore British. The river now flows South of East for another 12 kilometres to the mouth of Karabaikurú Creek; it then turns West of South for about 8 kilometres, and then South-East in a very winding course to Beacon BG 9/B 2.

BEACON BG 9/B 2

25. Beacon BG 9 is situated on the left bank of the Ireng, at the foot of the hill known as Tapirimeping. Beacon B 2 is on the opposite bank of the river.

From this point onwards the river has a very winding course. For about 10 kilometres it flows to the South-East, and then runs South-South-West for about 30 kilometres, when it turns South-West for some 20 kilometres to Beacon BG 8/B 1.

BEACON BG 8/B 1

26. Beacon BG 8 is situated on the left bank of the Ireng River about 500 metres below Sunnyside Ranch. Beacon B 1 is on the opposite bank.

From this point the river flows in a general South-Westerly direction in a less winding course for about 45 kilometres to the junction of the Ireng and Tacutú Rivers, marked by Beacon BG 1 and Brazilian Beacons No. 1 and No. 2.

At this point the Mahú or Ireng is about 150 metres wide and 2 metres deep, and runs between steep banks. The Tacutú below the junction is about 200 metres wide and less than a metre in depth. Its banks are low and sandy. Above the confluence it is about 170 metres wide and somewhat shallower than the Ireng; in the dry season navigation throughout the river is impeded by frequent sandbanks and shallows.

BEACONS BG 1/IRENG MOUTH NOS. 1 AND 2

27. Beacon BG 1 is situated at the confluence of the Ireng or Mahú and the Tacutú, some 200 metres East of the river bank. Beacon No. 1 is on the right bank of the Ireng, and Beacon No. 2 on the left bank of the Tacutú.

CONFLUENCE OF THE IRENG AND TACUTU RIVERS TO MARK B/BG 14

28. The boundary now follows the thalweg of the Tacutú upstream to its source on Mount Wamuriaktawa. Its direction is South-East for 15 kilometres to the mouth of Manariwau Creek. The boundary then turns W.S.W. to the mouth of Arraia Creek, about 15 kilometres upstream, after which it turns East for 3 kilometres and then South for 5 kilometres to Bon Success, where there is a ranch and British Government Station on the right bank of the Tacutú. For the whole of this stretch the river is very much obstructed by sandbanks.

BEACON BG 2/B 1

29. Beacon BG 2 is situated on the right bank of the Tacutú, 300 metres below the mouth of Tabatinga Creek, and 300 metres South of the Government Rest House. Beacon B 1 is on the opposite bank.

From here the boundary goes South for 3 kilometres and then West for another 3 kilometres, after which it runs in a general direction of South-South-West for 45 kilometres before reaching Beacon BG 3/B 2. For the last 16 kilometres before the beacon the river has a very winding course with a number of rapids. In this part a large tributary, the Sowari-Wau, joins the river from the East. The river is here about 120 metres wide with an average depth of 2 metres.

BEACON BG 3/B 2

30. Beacon BG 3 is situated on the right bank of the Tacutú about 500 metres below the mouth of Weked-Wau Creek. Beacon B 2 is on the opposite bank of the river about 900 metres West of it.

The boundary now runs South-West for 5 kilometres and then turns due South to Beacon BG 4/B 3, about 50 kilometres further upstream. This portion of the river is obstructed by a number of rapids and small falls. There are numerous creeks joining the river, of which the chief are the Skabunk (British) and Mutum (Brazilian).

BEACON BG 4/B 3

31. Beacon BG 4 is situated on the right bank of the Tacutú, about 40 metres below the mouth of Baiwau Creek. Beacon B 3 is immediately opposite, on the left bank.

The boundary runs East of South for some 45 kilometres and then runs South-East for another 30 kilometres to Beacon BG 5/B 4. Three kilometres upstream from Beacon BG 4 Urubú Creek joins the Tacutú from the West. Ruawau Creek joins the Tacutú from the East a further 14 kilometres upstream, and the Kowari-Wau from the East 16 kilometres farther on. The river is again obstructed by a number of falls and rapids.

BEACON BG 5/B 4

32. Beacon BG 5 is situated on the right bank of the Tacutú about 2,600 metres below the mouth of Miruwau Creek, and 1,500 metres South-West of Anawanab Hill. Beacon B 4 is on the opposite bank of the Tacutú.

The boundary runs Eastwards for about 3 kilometres past the mouth of Miruwau Creek, after which it runs almost due South for 35 kilometres to Beacon BG 7/B 5. There are a number of creeks joining the river in this section, and many falls and rapids. At this point the river is about 30 metres wide.

BEACON BG 7/B 5

33. Beacon BG 7 is situated on the right bank of the Tacutú, and is about 30 metres upstream from the mouth of the Soniwau Creek. Beacon B 5 is on the opposite bank of the Tacutú.

The boundary runs almost due South for about 15 kilometres, following the river upstream over rather a winding course to the junction of the Wamuriak River with the Tacutú, which is here only about 25 metres wide. The river is freely navigable by small craft as far as this point, except that care has to be taken in passing through the many rapids and falls. In the rainy season the river becomes dangerous because of the very rapid rise and fall of the water level. Up to this point the river valley lies in open savannah country, but upstream from here the forest begins again.

BEACON BG 14/B 6

34. Beacon BG 14 is situated on the right bank of the Tacutú, on a narrow spit of land between that river and the Wamuriak River. Beacon B 6 is on the opposite bank of the river. From that point the boundary runs South-South-West to the junction of a creek known as Anderson's River, which rises on the Northern slopes of Mount Wamuriaktawa. At this point the Tacutú is 20 metres wide, with an average depth of 2 metres. The boundary continues towards the South-West for 2 kilometres and then turns South for about 15 kilometres. It then runs in an Easterly direction to the confluence of the South and East Tacutú Rivers. At this point the Tacutú is 15 metres broad and 1 metre deep.

BEACON BG 15/B 7

35. Beacon B 7 is situated on the left bank of the East Tacutú, 24 metres East of the mouth of the South Tacutú. Beacon BG 15 is on the right bank of the East Tacutú immediately opposite.

The boundary runs slightly North of East for $3\frac{1}{2}$ kilometres, and then slightly South of East for about 7 kilometres to the mouth of the Betim River, which flows from the South. The river here is 5 metres wide and 1 metre deep.

BEACON BG 16/B 8

36. Beacon B 8 is situated on the left bank of the East Tacutú, 13 metres East of the Betim River. Beacon BG 16 is on the right bank of the East Tacutú, directly opposite.

The boundary follows the thalweg upstream towards the North for $2\frac{1}{2}$ kilometres, and then turns North-East for 1 kilometre to Beacon BG 17/B 9.

BEACON BG 17/B 9

37. Beacons BG 17 and B 9 are situated on the right and left banks of the East Tacutú respectively, the line joining them indicating a block of concrete buried in the thalweg of the stream, which is here 3 metres wide and 0.40 metre deep.

The boundary follows the thalweg of the stream for 400 metres Northwards up to its source on a spur running Eastwards from Mount Wamuriaktawa, indicated by Mark B/BG 14.

MARK B/BG 14

38. Mark B/BG 14 is the southern terminal of the river boundary. It is situated on the watershed between the East Tacutú, Anderson's Creek (noted in paragraph 34 above) and the headwaters of the Kuyuwini, which flows to the Essequibo. It is about 400 metres East of the highest point of Mount Wamuriaktawa.

**MOUNT WAMURIAKTAWA TO TRIJUNCTION POINT OF THE TERRITORIES
OF BRITISH GUIANA, BRAZIL AND SURINAM**

39. The land boundary starts again at Mount Wamuriaktawa. The general character of the watershed varies widely at different points; it is sharply defined at most of the saddles between hills, and on many of the higher ridges; on the tops of the smaller hills, however, there is much more level ground, on which it would have been impossible to locate the watershed exactly without the use of spirit levels. The whole of the area through which the boundary passes is covered with forest.

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40. The boundary is defined by a series of marks, consisting of a buried concrete block with either one or two concrete reference pillars. These marks are spaced about 8 to 10 kilometres apart, and the position of every fifth or sixth mark was fixed by astronomical observations. In the short description which follows the boundary is divided into sections from one astronomical station to the next. Except where otherwise stated, there are four intermediate marks in each of these sections.

41. From B/BG 14 the general trend of the boundary is slightly West of South for about 20 kilometres, after which it turns Eastward to B/BG 19. The watershed runs along a low and ill-defined ridge throughout this section. To the North and East it is drained by the Kuyuwini River as far as B/BG 17, and then by tributaries of the Kassikaityu River. On the opposite side it is drained by the South Tacutú as far as B/BG 16, and thence by tributaries of the Anauá, which flows into the Rio Branco.

MARK B/BG 19

42. Situated on the Amazon-Essequibo watershed, in the vicinity of the headwaters of the Kassikaityu and Anauá Rivers.

From B/BG 19 the watershed continues to the East for 7 kilometres and then runs South-East to B/BG 24. In this section it crosses a series of undulating hills, gradually increasing in height. It is drained by the Kassikaityu River on the North side, and the Anauá on the South side.

MARK B/BG 24

43. Situated on the Amazon-Essequibo watershed in the vicinity of the headwaters of the Kassikaityu and Anauá Rivers.

In this section the country is much more hilly. The watershed continues in a general South-Easterly direction, passing over several steep-sided ridges of over 1,000 metres in height. On the North side the streams as far as 3 kilometres past B/BG 26 drain to the Kassikaityu; thence up to B/BG 28 to the Kamoa, and after that to the Sipu. On the South side the Anauá drains the watershed up to a point between B/BG 27 and B/BG 28, and after that a tributary of the Mapuera.

MARK B/BG 29

44. Situated on the Amazon-Essequibo watershed in the vicinity of the headwaters of the Sipu and Mapuera Rivers.

From B/BG 29 the watershed runs East-South-East to B/BG 34 in very nearly a straight line, roughly parallel to the Sipu River, which continues to drain the watershed on the North side, the South side being drained by tributaries of the Mapuera. The country is still very hilly with steep-sided ridges.

MARK B/BG 34

45. Situated on the Amazon-Essequibo watershed in the vicinity of the headwaters of the Sipu and Mapuera.

From B/BG 34 the watershed runs Eastwards for about 17 kilometres; it then turns South as far as B/BG 37, and thence runs South-East to B/BG 39. The general level of the watershed descends to B/BG 37, shortly after which there is an area of low swamp; it then rises again to B/BG 39. As far as B/BG 37 the watershed drains on the North side to the Sipu and on the South to the Mapuera. After that the streams on the North side run to the Chodikar, and on the South to the Comuno, a branch of the Mapuera River.

MARK B/BG 39

46. Situated on the Amazon–Essequibo watershed in the vicinity of the headwaters of the Chodikar and Comuno Rivers. From B/BG 39 the watershed runs in a general North-Easterly direction to B/BG 42, after which it turns Easterly. The general character of the country is still hilly, but after B/BG 42 much steeper slopes and higher ground are encountered. The watershed is drained on the North side by the Chodikar River, and on the South by the Comuno as far as B/BG 43, and then by the Tutumo, a tributary of the Mapuera.

MARK B/BG 44

47. Situated on the Amazon–Essequibo watershed in the vicinity of the headwaters of the Wapuu and Tutumo Rivers.

After observations were completed at the next astronomical station, it was found that that station was not on the same watershed. From B/BG 44 to B/BG 48 the survey followed the correct line, which was adjusted to agree with the astronomical station at B/BG 44 and the “false” station. Thence the traverse was adjusted between the corrected position for B/BG 48 and B/BG 54/84. There are nine intermediate marks in this section. From B/BG 44 the watershed continues East as far as Mark B/BG 48, and then turns North-North-East up to Mark B/BG 54/84. As far as B/BG 44 the watershed passes through difficult country with steep-sided hills; thence up to B/BG 51 the general character again changes, and the country becomes much lower and flatter, with areas of swamp, dense undergrowth and low palm forest. From B/BG 51 to B/BG 54/84 the country again rises slightly but it still remains comparatively flat. From B/BG 44 the watershed is drained by the Wapuu River as far as B/BG 52, and then by the Onoro River; on the South side it is drained by the Tutumo as far as B/BG 48, after which the basin of the Capuwini or Alto Trombetas takes all the waters.

MARK B/BG 54/84

48. Situated on the Amazon–Essequibo watershed in the vicinity of the headwaters of the Onoro and Capuwini Rivers. On the North side of the watershed, at a point near B/BG 54/84, the change over from the Essequibo basin to that of the Courantyne takes place. As far as B/BG 98 the watershed is drained by the New River proper, and thence as far as B/BG 119 by the Oronoque, a tributary of the New River. From B/BG 119 to B/BG 123 it is drained by the Aramatau River, and thence to the Trijunction Point by the Kutari, which join to form the Courantyne River. The confluence of the New River with the Courantyne is at approximately Longitude 57° 30' West, and Latitude 03° 20' North.

49. On the South side the watershed is drained by tributaries of the Capuwini as far as B/BG 110, and thence up to the Trijunction Point by the Wanamú (Anamú). These two rivers unite to form the Trombetas. As far as B/BG 92 the general course of the River Capuwini is parallel to the watershed, which is here only some 6 kilometres North of it. At this point the river is some 50 metres broad; from the watershed the ground drops down extremely sharply to the comparatively low valley.

50. From B/BG 54/84 the watershed runs towards the North in a winding course for 10 kilometres; it then runs North-East to B/BG 86, where it turns South for about 4 kilometres. It then runs in an Easterly direction to B/BG 89, and thence Southwards to B/BG 90. Shortly after leaving B/BG 54/84 the country rises to an average height of 600 metres. The hills have very well defined ridges and extremely steep gradients. The highest point (838 metres) is about half-way between B/BG 88 and B/BG 89.

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Between B/BG 86 and B/BG 87 there is an interruption in the line of ideal watershed. A stream which rises near the watershed flows on to a saddle where it divides, part flowing to British Guiana and part to Brazil. This is made the subject of a special recommendation embodied in Appendix 6. There are five intermediate numbers in this section.

MARK B/BG 90

51. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of a tributary of New River, and of streams running to the Caphuwin River.

From B/BG 90 the boundary runs Eastwards to B/BG 92, shortly after which it turns sharply Northwards to B/BG 95. Between B/BG 93 and B/BG 94 the character of the country changes completely. The general level of the ground falls off to about 300 metres, the saddles between hills being little over 240 metres high.

MARK B/BG 95

52. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of tributaries of the New River and Caphuwin.

The watershed goes Eastwards to 1 kilometre past B/BG 96, running parallel to, and in between, tributaries of the New River and Caphuwin. It then turns North-East to B/BG 97, and then runs North of East to within a kilometre of B/BG 99, where it turns Northwards for 5 kilometres and then East to B/BG 100. The country is a mass of rounded hills with flat, ill-defined summits little over 300 metres high. The saddles are low but well defined.

MARK B/BG 100

53. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of the Oronoque and tributaries of the Caphuwin River.

From B/BG 100 the watershed runs Eastwards to B/BG 101, after which it makes a loop to the North and then runs South-East to B/BG 103; thence it runs Eastwards to B/BG 105. The country consists of an intricate maze of low, rounded hills with no main feature, through which the watershed takes a very zig-zag course.

MARK B/BG 105

54. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of the Oronoque and tributaries of the Caphuwin River.

From B/BG 105 the watershed runs North-East to B/BG 109 and then turns North to B/BG 110. It passes through the same general type of country as in the previous section until within 4 kilometres of B/BG 110, when the ground rises steeply to a large hill area, over 700 metres high.

MARK B/BG 110

55. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of the Oronoque on the North and West sides, and tributaries of either the Caphuwin or Wanamú Rivers on the East.

From B/BG 110 the watershed continues Northwards for 2 kilometres and then runs North of East for about 10 kilometres. It turns Northwards again for 9 kilometres and then Eastwards to B/BG 113. From here it makes a loop to the North to B/BG 114 and then runs South-East to B/BG 115. The watershed has a very winding course, passing over rather higher country than in the previous section, except between B/BG 111 and B/BG 112, where there is a small area of low, rounded hills.

MARK B/BG 115

56. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of tributaries of the Oronoque and Wanamú Rivers.

From B/BG 115 the watershed runs in a zig-zag course North-Easterly over low, rounded hills to B/BG 119, where it turns Southwards to B/BG 120.

MARK B/BG 120

57. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of tributaries of the Aramatau and Wanamú Rivers.

From B/BG 120 the watershed runs Eastwards for 4 kilometres and then turns to the South-East until just before B/BG 122. It then turns approximately Eastwards to B/BG 125, after which point it makes a loop to the South and then runs North-East to B/BG 127. In general, the watershed traverses very low ground, scarcely rising above 300 metres. There are six intermediate marks in this section.

MARK B/BG 127

58. Situated on the Amazon-Courantyne watershed in the vicinity of the headwaters of the Aramatau River and of tributaries of the Wanamú.

From B/BG 127 the watershed runs in a general Easterly direction to the Trijunction Point of the territories of British Guiana, Brazil and Surinam. It runs through very low country until B/BG 131, after which the ground rises and becomes more broken, with large outcrops of rock.

MARK B/BG 132

59. Situated on a large rock outcrop on the watershed between the headwaters of the Kutari and Wanamú Rivers. It marks the point of junction of the frontiers between the territories of British Guiana, Brazil and Surinam. It is the terminal point of the British Guiana-Brazil boundary.

 APENDICE 5

DESCRICÃO GERAL DA FRONTEIRA

1. A fronteira entre o Brasil e a Guiana Britânica tem o comprimento de 1,605·800 quilômetros e pôde ser dividida em quatro setores:—

- (a) Uma fronteira terrestre do marco B/BG 0, no alto do monte Roraima, no ponto de junção dos tres territórios, do Brasil, da Guiana Britânica e da Venezuela, até o marco B/BG 13, nas nascentes do rio Mahú ou Ireng. Tem o comprimento de 92·187 quilômetros e está definida por treze marcos intermediários.
- (b) Uma fronteira fluvial do marco B/BG 13 ao longo do talvégue do Mahú até os marcos de referência brasileiros Nos. 1 e 2 e marco de referência BG 1, todos na confluência desse rio com o Tacutú. A extensão é de 374·873 quilômetros e definida por cinco pares de marcos de referência intermediários.
- (c) Uma fronteira fluvial da foz do rio Mahú, sobre o talvégue dos rios Tacutú e Tacutú de Leste até o marco B/BG 14, na nascente deste último rio no monte Wamuriaktawa. Tem a extensão de 323·313 quilômetros e está demarcada com nove pares de marcos de referência intermediários.

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(d) Uma fronteira terrestre daquele monte até o marco B/BG 132, no ponto de junção dos territórios do Brasil, Guiana Britânica e Suriname, numa extensão de 815-427 quilômetros e definida por 87 marcos intermediários.

2. A fronteira passa através de terreno coberto de densas florestas, com exceção de um trecho da linha fluvial ao longo do Tacutú e Mahú ou Ireng, onde existem extensas regiões de campos gerais, com fazendas de gado e habitações de indígenas. A visibilidade na floresta é confinada a, aproximadamente, vinte metros. As árvores têm um diâmetro médio entre 30 e 80 centímetros, elevando-se a uma altura entre 30 e 50 metros. Há diversas variedades de árvores gigantes com sapupemas, que são encontradas ocasionalmente. Elevam-se a uma altura de 70 ou mais metros com diâmetro de 3 a 4 metros.

3. Não existem comunicações na fronteira excepto nas regiões dos campos, acima mencionada, onde uma rede de caminhos lamacentos, com cerca de 50 metros de largura, liga as várias fazendas de criação e aldeias de índios. Na área de floresta os rios constituem os únicos meios de comunicações, sendo, porém, obstruídos por quedas e corredeiras, tornando o transporte de viveres extremamente dispendioso. Nos formadores principais dos rios foi necessário grande trabalho de limpeza dos igarapés, de modo a permitir a utilização das canoas. Uma vez fóra dos rios era preciso abrir picadas através da floresta para passagem das turmas de levantamento e de cargueiros.

4. A região atravessada pela primeira seção da fronteira é habitada, dispersamente, por índios Arecunas, Patamonas e Igaricós, em ambos os lados. Ao longo do Mahú ou Ireng até o Timão (Tumong), há malocas de Macuxis, nas duas margens; e no rio Tacutú encontram-se algumas de Uapixanas.

Em toda área fronteira, do lado britânico, ao Sul da orla de campo até a junção com o Suriname, não existem habitantes índios, com exceção de uma pequena maloca Wai-Wai, próxima das cabeceiras do rio Essequibo. Nas cabeceiras dos rios brasileiros, entretanto, estão espalhadas malocas de índios Wai-Wai, Paricotós, Moianas, Pianocotós, Maupitans, Rangupikís e Maraxós, com picadas que as ligam entre si e às malocas Uapixanas, da região dos campos do Rupununi.

MONTE RORAIMA ATÉ AS NASCENTES DO RIO MAHÚ OU IRENG

5. O monte Roraima está situado no ângulo Sudoeste de diversos e grandes maciços de rocha com cumes achatados e vertentes precipitadas, elevando-se verticalmente de 300 a 500 metros. No planalto do Roraima, cuja altitude média é de 2,750 metros acima do nível do mar, nascem vários rios que formam as nascentes do Caroní (tributário do Orinoco), do Cotingo ou Kwáting, (afluente do rio Branco) e do Kako, que corre para o Mazaruni. A ascensão ao planalto somente pôde ser feita pelo lado de Sudoeste, partindo da aldeia do Arabopo, situada a uns 8 quilômetros, no vale do rio do mesmo nome, numa altitude aproximada de 1,300 metros. O maciço da montanha é de arenito. Na extremidade Noroeste do planalto há uma grande área de penhascos e rochedos dentados, onde foi impossível executar qualquer trabalho de levantamento. Os rios que nascem no planalto sulcaram, profundamente, a superfície da rocha, formando abismos com muitos metros de profundidade. Esses rios, ao alcançarem as bordas do planalto, caem de uma altura de 500 metros para a base dos penhascos que o formam.

A Comissão Mixta trabalhou em colaboração com uma Comissão Venezuelana para o levantamento do Roraima e para a escolha do ponto de junção das fronteiras destes países.

MARCO B/BG 0

6. Situado, no planalto do Roraima, nas nascentes dos rios que correm para os territórios dos tres paises.

A partir desse marco a fronteira Brasil-Venezuela segue pelo divisor de aguas entre o Cotingo (Kwating) e o Arabopo, numa direção Leste, para o marco B/V 1, situado próximo á borda do planalto. A fronteira Guiana Britânica-Venezuela corre numa linha geodésica, aproximadamente Noroeste, do marco B/BG 0 para as nascentes do Uanamú (Wanamú). A fronteira Brasil-Guiana Britânica segue, do marco B/BG 0 até o marco B/BG 1, na direção de Nordeste, cerca de 2·5 quilômetros, pelo divisor de aguas entre os formadores dos rios Mazaruni e Cotingo.

MARCO B/BG 1

7. Situado, no planalto do monte Roraima, a mais ou menos 250 metros da borda do penhasco, sobre o divisor de aguas entre os rios Mazaruni e Cotingo.

De B/BG 1 a fronteira corre para Leste até a borda da rocha, de cuja base continua, durante mais ou menos um quilômetro, em direção Leste até o marco B/BG 2.

MARCO B/BG 2

8. Está no divisor de aguas entre os rios Cotingo e Paikwa (britânico).

A fronteira corre para Les-nordeste, atravessando o monte Weiassipú, aproximadamente 4 quilômetros, até o marco B/BG 3. O monte Weiassipú é outro maciço de rocha, cujo cume foi verificado ser inacessível. Foi executado um levantamento ao redor da base das rochas até o divisor de aguas ser novamente encontrado no lado Este. O terreno, entretanto, era muito difícil de atravessar, devido ás grandes massas de rocha caídas da borda da montanha.

MARCO B/BG 3

9. Construído no divisor de aguas entre os rios Mazaruni e Cotingo.

A fronteira corre, aproximadamente, uns dois quilômetros, para o marco B/BG 4, passando por cima do monte Apocailã; devido, porém, ao escarpado de seus lados, o levantamento foi feito ao redor de sua base, até encontrar o divisor pelo lado Este.

MARCO B/BG 4

10. Erigido no divisor de aguas entre os rios Mazaruni e Cotingo.

A fronteira, imediatamente após deixar o marco B/BG 4, atravessa o monte Yakontipú, o qual é, pelo lado de Oeste, inacessível. Foi impossível conduzir o levantamento ao redor de sua base devido a grandes massas de rochas caídas do monte. O monte foi alcançado, entretanto, pelo lado de Este, sendo o levantamento recomeçado de um ponto, no cume do monte, ficando, assim, um iato de cerca de um quilômetro no levantamento deste trecho. A fronteira corre, então, quasi para Leste, tendendo para o Sul, cerca de 5 quilômetros, até o marco B/BG 5.

MARCO B/BG 5

11. Situado no divisor de aguas entre o Mazaruni e o Cotingo.

Do marco B/BG 5 a fronteira continua para Leste, durante cerca de 2 quilômetros, em direção ao monte Marima, que atravessa, infletindo depois, bruscamente, para o Sul. Um quilômetro após muda para Les-sueste, mudando, 6 quilômetros além, para Nordeste, até o marco B/BG 6.

MARCO B/BG 6

12. Construído a nove quilômetros, medindo uma linha reta, a Leste do marco B/BG 5, nas proximidades das nascentes do rio Ataro (britânico). Neste ponto o divisor de águas é atravessado por um caminho. A fronteira corre para Leste, ligeiramente inclinada para o Sul, durante oito quilômetros aproximadamente, voltando-se depois para o Sul, até a marco B/BG 7.

MARCO B/BG 7

13. Situado no divisor de águas entre os principais formadores dos rios Ataro e Copé, onde um caminho corta o divisor.

A fronteira continua, numa pequena extensão, em direção Sul, correndo, depois, para Leste, tres quilômetros, inflitando daí para o Norte até o marco B/BG 8, proximo ao monte Acurimã.

MARCO B/BG 8

14. Está no divisor de águas entre os rios Tiara e Panari, onde uma picada de índios corta o divisor.

Do marco B/BG 8 a fronteira segue, até o marco B/BG 9, durante 11 quilômetros, aproximadamente, a direção geral Leste.

MARCO B/BG 9

15. Construído no divisor de águas entre os principais formadores dos rios Cucú e Panari.

Daí a fronteira segue para Nordeste seis quilômetros até o marco B/BG 10.

MARCO B/BG 10

16. Está no lado Oeste do monte Aromatipú, no divisor de águas entre os rios Cucú e Panari.

A fronteira continua, durante oito quilômetros, numa direção Nordeste, através de densas florestas até o marco B/BG 11.

MARCO B/BG 11

17. Colocado no divisor de águas entre os rios Cucú e Panari.

A fronteira se volta, agora, um pouco mais para Leste, durante 2 quilômetros, até o marco B/BG 11A.

MARCO B/BG 11A

18. Situado no lado Oeste do monte Caburai, no divisor de águas entre os rios Cucú e Ailã. É o ponto mais setentrional da fronteira e do Brasil.

A linha segue para Sueste, sobre o divisor de águas entre os rios Haieka e Ailã, oito quilômetros até o marco B/BG 12.

MARCO B/BG 12

19. Construído no lado Leste do monte Ulamirtipú, entre os rios Haieka e Mahú ou Ireng.

A fronteira segue para Nordeste, sobre os montes Ulamir, durante tres quilômetros até o marco B/BG 13, que é o fim da fronteira terrestre.

MARCO B/BG 13

20. Situado no divisor de águas entre os tributários do rio Haieka e as nascentes do Mahú ou Ireng. Esse ponto é terminal da fronteira terrestre nessa área.

NASCENTE DO RIO MAHÚ (IRENG) ATÉ SUA CONFLUÊNCIA COM O RIO TACUTÚ

21. Do marco B/BG 13 a fronteira segue o talvégue do rio Mahú, que corre através de terreno de densas florestas, em direção Sul tendendo para Este, durante 14 quilômetros; segue depois para Sueste durante outros 16 quilômetros até os marcos de referência BG 12/B 5, na confluência do rio Socobí (Sukabi). Nesse ponto tem o rio mais ou menos 40 metros de largura, com uma profundidade média de metro e meio.

MARCOS DE REFERÊNCIA BG 12/B 5

22. O marco de referência BG 12 está situado na margem esquerda do Mahú, mais ou menos a 60 metros rio abaixo do rio Socobi. O marco de referência B 5 está situado na margem direita do Mahú, em frente ao marco BG 12. Daí o rio corre para Su-sudoeste, através de terrenos mais ou menos planos, porém ainda bastante cobertos de florestas. Depois de, aproximadamente, 23 quilômetros chega-se à aldeia Ipichau (Ipishau), onde começam os campos abertos, na margem esquerda. Na margem direita continuam as florestas, durante mais 16 quilômetros até o igarapé Matarauhy, depois do qual existem campos em ambas as margens do rio. A mais ou menos 51 quilômetros do rio Socobi encontra-se o igarapé Timão (Tumong), onde foram construídos os marcos de referência BG 11/B 4. Nesse trecho o rio tem, mais ou menos, 50 metros de largura e dois de profundidade, sendo navegável entre as corredeiras. Ha muitos tributários pequenos, dos quais os principais são o Warga e o Timão.

MARCOS DE REFERÊNCIA BG 11/B 4

23. O marco de referência BG 11 está situado na margem esquerda do Mahú, mais ou menos a 120 metros rio abaixo da boca do igarapé Timão. O marco de referência B 4 acha-se defronte, na margem direita do Mahú. Desse ponto corre o rio, numa direção Sudoeste, aproximadamente 30 quilômetros, infletindo depois para o Sul, cerca de 8 quilômetros; em seguida, para Este, tendendo para o Sul, mais ou menos 90 quilômetros até os marcos de referência BG 10/B 3, na boca do rio Echilebar. O rio corre entre cadeias de morros e terrenos acidentados, o que torna a navegação muito difícil e perigosa devido às inúmeras corredeiras e quedas.

MARCOS DE REFERÊNCIA BG 10/B 3

24. O marco de referência BG 10 está construído na margem esquerda do Mahú a, mais ou menos, 314 metros abaixo da boca do rio Echilebar. O marco de referência brasileiro B 3 está na margem direita, do lado oposto. O rio corre uns 20 quilômetros, para Sudoeste, voltando depois para o Sul, mais ou menos uns 25 quilômetros até a ilha Kurewaki, onde o talvégue passa do lado Oeste da ilha, que é, portanto, britânica. O rio corre, em seguida, para Este, tendendo para o Sul, durante cerca de 12 quilômetros até a foz do igarapé Carabaicurú, infletindo depois para Su-sudoeste, cerca de 8 quilômetros, para seguir, mais tarde, para Sueste, com muitas voltas até os marcos de referência BG 9/B 2.

MARCOS DE REFERÊNCIA BG 9/B 2

25. O marco de referência BG 9 está situado na margem esquerda do Mahú, na base de um morro conhecido como Tapirimeping. O marco de referência B 2 se acha na margem oposta do rio.

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Desse ponto em diante o curso do rio é muito sinuoso. Durante dez quilômetros, aproximadamente, corre ele para Sueste, e, depois, para Su-sudoeste, cerca de 30 quilômetros, quando se volta para Sudoeste, mais ou menos uns 20 quilômetros até o marco de referência BG 8/B 1.

MARCOS DE REFERÊNCIA BG 8/B 1

26. O marco de referência BG 8 está na margem esquerda do rio Mahú, mais ou menos a 500 metros abaixo da fazenda de "Sunnyside," e o marco de referência B 1 se acha na margem oposta. O rio corre, desse ponto, numa direção geral de Sudoeste, com o curso muito tortuoso, cerca de 45 quilômetros até à junção dos rios Mahú e Tacutú, assinalada pelos marcos de referência brasileiros No. 1 e No. 2 e pelo britânico BG 1.

Tem o Mahú, nesse ponto, mais ou menos 150 metros de largura e dois metros de profundidade, correndo entre margens escarpadas. O Tacutú, abaixo da junção, tem cerca de 200 metros de largura e menos de um metro de profundidade, na estiagem. Suas margens são baixas e arenosas. Acima da confluência tem mais ou menos 170 metros de largura e é um pouco mais raso que o Mahú. Na estação seca é a navegação em todo o rio frequentemente impedida por bancos de areia e baixios.

MARCOS DE REFERÊNCIA DA FOZ NOS. 1 E 2 E BG 1

27. O marco de referência BG 1 está situado na confluência do Mahú e do Tacutú, a uns 200 metros a Leste da margem do rio. O marco de referência No. 1 se acha na margem direita do Mahú e o marco No. 2 na margem esquerda do Tacutú.

CONFLUÊNCIA DO MAHU E TACUTU ATÉ O MARCO B/BG 14

28. A fronteira segue pelo talvégue do Tacutú, rio acima, até às suas nascentes no monte Wamuriaktawa. A sua direção é Sueste até a boca do igarapé Manari-wau, num percurso de 15 quilômetros. A fronteira volta-se depois para Oés-sudoeste até a boca do igarapé Arraia, mais ou menos 15 quilômetros rio acima, correndo depois para Leste 3 quilômetros e adiante para o Sul, cerca de 5 quilômetros até Bom-Sucesso, na margem direita do Tacutú, onde ha uma fazenda e um Posto do Governo Britânico. Em todo esse trecho é o rio muito obstruído por bancos de areia.

MARCOS DE REFERÊNCIA BG 2/B 1

29. O marco de referência BG 2 está situado na margem direita do Tacutú, a 300 metros abaixo da boca do igarapé Tabatinga e 300 metros ao Sul da residência temporária de funcionários do Governo Britânico. O marco de referência B 1 se acha na margem oposta.

Desse ponto a fronteira segue tres quilômetros para o Sul e, depois, outros tres para Oeste, correndo, depois, numa direção geral Su-sudoeste, 45 quilômetros até os marcos de referência BG 3/B 2. Nos últimos 16 quilômetros, antes de chegar aos marcos de referência, o curso do rio é muito sinuoso e com numerosas corredeiras. Junta-se ao rio, nesse trecho, um grande tributário, o Sowariwau, que vem de Leste. O rio tem, ali, mais ou menos 120 metros de largura, com uma profundidade média de dois metros.

MARCOS DE REFERÊNCIA BG 3/B 2

30. O marco de referência BG 3 está situado na margem direita do Tacutú, mais ou menos a 500 metros abaixo do Weked-wau. O marco de referência B 2 se acha na margem do rio, a 900 metros, aproximadamente, para Oeste.

A fronteira corre, então, 5 quilômetros para Sudoeste, infletindo depois para o Sul, até os marcos de referência BG 4/B 3, cerca de 50 quilômetros, rio acima. Essa parte do rio é obstruída por numerosas corredeiras e pequenas quedas. Existe grande número de igarapés que desaguam no rio, dos quais os principais são o Skabunk (britânico) e o Mutum (brasileiro).

MARCOS DE REFERÊNCIA BG 4/B 3

31. O marco de referência BG 4 está situado na margem direita do Tacutú, a 40 metros, aproximadamente, da foz do igarapé Baiewau. O marco de referência B 3 se encontra defronte, na margem esquerda.

A fronteira corre num percurso de uns 45 quilômetros para o Sul, tendendo para Este, seguindo depois cerca de 30 quilômetros para Sueste, até os marcos de referência BG 5/B 4. Tres quilômetros além do marco BG 4, rio acima, o igarapé Urubú, vindo de Oeste, se reúne ao Tacutú. O igarapé Ruawau, vindo de Leste, desagua no Tacutú 14 quilômetros adiante, rio acima, e o Kowari-wau, vindo de Leste, 16 quilômetros além daquele. O rio é continuamente obstruído por numerosas corredeiras.

MARCOS DE REFERÊNCIA BG 5/B 4

32. O marco de referência BG 5 está situado na margem direita do Tacutú, a 2,600 metros, aproximadamente, da foz do Miruwau e a 1,500 a Sudoeste do morro Anawanab. O marco de referência B 4 se encontra na margem oposta do Tacutú.

A fronteira corre para Leste até 3 quilômetros, mais ou menos, além da foz do igarapé Miruwau, seguindo depois, quasi que diretamente, para o Sul, cerca de 35 quilômetros até os marcos de referência BG 7/B 5. Ha nessa secção varios igarapés que desaguam no rio e muitas corredeiras. Nesse ponto tem o rio mais ou menos 30 metros de largura.

MARCOS DE REFERÊNCIA BG 7/B 5

33. O marco de referência BG 7 está situado na margem direita do Tacutú, a 30 metros, aproximadamente, da foz do igarapé Soniwau. O marco de referência B 5 se encontra na margem oposta daquele rio.

A fronteira corre, durante quasi 15 quilômetros, para o Sul, acompanhando o rio, para cima, num curso bastante sinuoso, até a junção do rio Wamuriak com o Tacutú, o qual tem ali mais ou menos 25 metros de largura. O rio é navegavel, livremente, até esse ponto, por pequenas embarcações, devendo-se tomar cuidado na passagem das quedas e corredeiras. Na estação das chuvas o rio se torna perigoso em virtude das altas e baixas do nivel das aguas. Até esse ponto o vale do rio é situado em região de campos abertos, aí começando, novamente, a floresta.

MARCOS DE REFERÊNCIA BG 14/B 6

34. O marco de referência BG 14 está situado na margem direita do Tacutú, numa estreita ponta de terra entre aquele rio e o Wamuriak. O marco de referência B 6 está construído na margem oposta do rio.

A fronteira segue, daquele ponto, para Su-sudoeste até a junção de um igarapé conhecido como "Rio Anderson," que nasce nas vertentes septentrionais do monte Wamuriaktawa. Tem o Tacutú, nesse ponto, 20 metros de largura e uma profundidade média de dois metros. Continua a fronteira para Sudoeste, durante dois quilômetros, voltando-se depois para o Sul cerca de 15 quilômetros. Segue ela, então, na direção Leste até a confluência dos rios Tacutú Sul e Tacutú Leste. Nesse ponto tem o Tacutú 15 metros de largura e um metro de profundidade.

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MARCOS DE REFERÊNCIA BG 15/B 7

35. O marco de referência B 7 se acha situado na margem esquerda do Tacutú Leste, 24 metros a Leste do foz do Tacutú Sul. O marco de referência BG 15 se acha defronte, na margem direita do Tacutú Leste.

A fronteira corre três quilômetros e meio para Leste, tendendo para o Norte, e depois com tendência para o Sul, cerca de 7 quilômetros até a boca do rio Betim, o qual vem do Sul. O rio tem ali 5 metros de largura e um metro de profundidade.

MARCOS DE REFERÊNCIA BG 16/B 8

36. O marco de referência B 8 está situado na margem esquerda do Tacutú Leste, a 13 metros a Leste do rio Betim. O marco de referência BG 16 está em frente, na margem direita do Tacutú Leste.

A fronteira segue o talvégue rio acima, para o Norte, 2 quilômetros e meio, voltando depois para Nordeste um quilômetro até os marcos de referência BG 17/B 9.

MARCOS DE REFERÊNCIA BG 17/B 9

37. Os marcos de referência BG 17 e B 9 estão construídos, respectivamente, nas margens direita e esquerda do Tacutú Leste, passando a linha que os liga por cima de um bloco de concreto enterrado no talvégue do rio, que tem ali a largura de 3 metros e a profundidade de 0.40 metro.

A fronteira segue o talvégue do rio 400 metros para o Norte, até à sua nascente, num lombo que corre a Leste do monte Wamuriaktawa, assinalada pelo marco B/BG 14.

MARCO B/BG 14

38. O marco B/BG 14 é o terminal Sul da fronteira fluvial. Encontra-se no divisor de águas entre o Tacutú de Leste, o igarapé Anderson (mencionado no parágrafo 34 acima) e os principais formadores do Kuyuwini, que corre para o Essequibo. Está mais ou menos a 400 metros a Leste do ponto culminante do monte Wamuriaktawa.

DO MONTE WAMURIAKTAWA AO FONTO DE TRIJUNÇÃO DOS TERRITÓRIOS DO BRASIL, GUIANA BRITÂNICA E SURINAME

39. A fronteira terrestre recomeça no monte Wamuriaktawa. A natureza geral do divisor de águas varia grandemente; na maior parte das seladas entre os morros, e em muitos dos lombos mais elevados, ele é rigorosamente definido; nos topos de colinas, menores, entretanto, onde existem terrenos mais planos, seria impossível local o divisor de águas, com rigor, sem empregar nivelamento de precisão. Toda a área através da qual a fronteira passa é coberta de densas florestas.

40. A fronteira é definida por uma série de marcos, que consistem em um bloco de concreto enterrado, com uma ou duas testemunhas, também de concreto. Esses marcos são espaçados, entre si, de 8 a 10 quilômetros, sendo que a posição de cada quinto ou sexto marco foi fixada por observações astronômicas. Na curta descrição que se segue é a fronteira dividida em seções, de uma estação astronômica à seguinte. Ha quatro marcos intermediários, em cada uma dessas seções, excepto onde se menciona o contrário.

41. De B/BG 14 segue o divisor de águas na direção geral de Sul, ligeiramente desviado para Oeste, cerca de 20 quilômetros, mudando depois para Leste até o marco B/BG 19. O divisor de águas corre, em todo esse

trecho, ao longo de um lombo baixo e mal definido. Para o Norte e para Leste é drenado pelo rio Kuyuwini até o marco B/BG 17 e depois por tributários do rio Kassikaityu. No lado oposto verte para o Tacatú Sul, até o marco B/BG 16, sendo daí em diante para afluentes do Anauá, que cõe no Rio Branco.

MARCO B/BG 19

42. Situado no divisor de aguas Amazonas–Essequibo, nas vizinhanças dos formadores principais dos rios Kassikaityu e Anauá.

Do marco B/BG 19 o divisor de aguas continua para Leste, cerca de 7 quilômetros, correndo depois até o marco B/BG 24, para Sueste. Nessa seção o divisor atravessa uma série de morros ondulantes, que aumentam, gradativamente, de altitude. Do lado Norte é vertente do rio Kassikaityu, e do Anauá pelo lado Sul.

MARCO B/BG 24

43. Construído no divisor de aguas Amazonas–Essequibo, entre cabeceiras dos principais formadores dos rios Kassikaityu e Anauá. Nessa seção o território é muito mais acidentado. O divisor de aguas continua numa direção de Sueste, passando por cima de vários espinhaços de mais de 1,000 metros de altitude, com vertentes escarpadas. No lado Norte, até tres quilômetros além do marco B/BG 26, as aguas escoam para o Kassikaityu; daí, até o marco B/BG 28, para o Kamoá e depois para o Sipú. Do lado Sul, o Anauá recebe as aguas que veem do divisor até um ponto situado entre os marcos B/BG 27 e B/BG 28, e daí em diante, afluentes do rio Mapuera.

MARCO B/BG 29

44. Erigido no divisor de aguas Amazonas–Essequibo, nas proximidades dos formadores principais dos rios Sipú e Mapuera.

Do marco B/BG 29 o divisor de aguas corre, na direção Les-sueste, até o marco B/BG 34, numa linha quasi reta e sensivelmente paralela ao rio Sipú, que continua a drenar o divisor de aguas pelo lado Norte; as aguas que veem para o Sul, caem em afluentes do Mapuera. O terreno é ainda muito acidentado e com vertentes escarpadas.

MARCO B/BG 34

45. Está no divisor de aguas Amazonas–Essequibo, nas vizinhanças dos principais formadores dos rios Sipú e Mapuera.

Do marco B/BG 34 a fronteira segue mais ou menos 17 quilômetros para Leste, infletindo, então, para o Sul até o marco B/BG 37, onde toma a direção Sueste até o marco B/BG 39. A altitude geral do divisor de aguas desce, gradualmente, até o marco B/BG 37, havendo, em seguida, uma área de pantânos baixos; eleva-se depois até o marco B/BG 39. Até o marco B/BG 37 as aguas da encosta Norte do divisor se escoam para o Sipú e as do Sul para os afluentes do Mapuera. Desse ponto em diante, as aguas do lado Norte correm para Chodikar e as do Sul para o Comuno, afluente do rio Mapuera.

MARCO B/BG 39

46. Situado no divisor de aguas Amazonas–Essequibo, nos arredores dos formadores dos rios Chodikar e Comuno.

Do marco B/BG 39 o divisor de aguas segue na direção geral Nordeste, até o marco B/BG 42, onde muda para Leste. A natureza geral do terreno continua acidentada, encontrando-se, depois do marco B/BG 42, vertentes mais precipitadas e terreno mais elevado. O divisor separa as aguas que

vão, pelo lado Norte, para o rio Chodikar, das que vão, pelo lado do Sul, até o marco B/BG 43 para o Comuno e daí em diante para o Tutumo, ambos tributários do Mapuera.

MARCO B/BG 44

47. Está no divisor de águas Amazonas-Essequibo, nas vizinhanças dos formadores dos rios Wapau e Tutumo.

Depois de terminadas as observações na estação astronômica seguinte, verificou-se que ela não se achava no mesmo divisor de águas. Do marco B/BG 44 ao marco B/BG 48 o levantamento seguiu a linha correta que foi ajustada pelas observações feitas nas estações astronômicas de B/BG 44 e a estação falsa. O levantamento entre os marcos B/BG 48 e B/BG 54/84 foi ajustado pela posição do primeiro, depois de corrigida, e as observações astronômicas feitas no segundo. Existem nessa seção nove marcos intermediários. Do marco B/BG 44 a fronteira continua para Leste até o marco B/BG 48, depois se dirigindo para Nor-nordeste ao marco B/BG 54/84. Até o marco B/BG 48 a fronteira passa através de terreno acidentado com morros de encostas escarpadas; daí ao marco B/BG 51, a natureza geral muda, tornando-se o terreno muito mais baixo e plano, com áreas de pantânos, capoeira densa e florestas de palmeiras baixas. Do marco B/BG 51 ao marco B/BG 54/84 o terreno se eleva ligeiramente continuando, porém, sensivelmente plano. Do marco B/BG 44 até o marco B/BG 52 o divisor, pelo lado do Norte, encaminha as águas para os rios Wapau e Onoro; pelo Sul para o Tutumo até o B/BG 48, e deste em diante para a bacia do Cafuine ao alto Trombetas.

MARCO B/BG 54/84

48. Situado no divisor de águas Amazonas-Essequibo, nas cercanias dos formadores principais dos rios Onoro e Cafuine.

Do lado Norte do divisor de águas, num ponto próximo do marco B/BG 54/84, dá-se a mudança da bacia do Essequibo para a do Courantine. Até o marco B/BG 98 as águas que vão da vertente Norte do divisor são encaminhadas para o próprio Rio Novo e daquele marco ao B/BG 119, para o Oronoque, tributário do Rio Novo. Daí até o marco B/BG 123 as águas dessa vertente são dirigidas para o rio Aramatau e desse marco até o ponto de Trijunção para o Kutari, ambos esses rios formadores do Courantine. A confluência do Rio Novo com o Courantine se efetua, aproximadamente, na latitude de 3° 20' Norte e longitude de 57° 30' Oeste Greenwich.

49. A parte Sul do divisor até o marco B/BG 110 é vertente de tributários do rio Cafuine e, depois, da bacia do rio Uanamú até o ponto de Trijunção. Esses dois rios se reúnem para formarem o Trombetas. O curso geral do Cafuine, até o marco B/BG 92, é paralelo ao divisor de águas, que nesse ponto passa somente a 6 quilômetros ao Norte. O rio tem ali 50 metros de largura. O terreno desce a pique do divisor de águas para o vale do rio, que é sensivelmente baixo.

50. Do marco B/BG 54/84 o divisor de águas corre, cerca de dez quilômetros em direção Norte, num percurso muito sinuoso; volta-se, então, para Nordeste até o marco B/BG 86, onde muda para o Sul, cerca de 4 quilômetros. O divisor de águas segue depois até o marco B/BG 89 na direção Leste e daí para o Sul até B/BG 90. Pouco adiante do marco B/BG 54/84 o terreno se eleva a uma altitude média de 600 metros. Os morros tem lombadas muito bem definidas e faldas extremamente escarpadas. O ponto culminante (838 metros) se acha, aproximadamente, a meio do trecho entre os marcos B/BG 88 e B/BG 89. Entre os marcos

B/BG 86 e B/BG 87 ha uma interrupção na linha ideal do divisor de águas. Próximo ao divisor de águas nasce um rio que corre para uma selada, onde ele se divide, correndo parte para o Brasil e parte para a Guiana Britânica. Esse fato constitui o objeto de uma recomendação especial incorporada no Apêndice 6.

Nessa seção ha cinco marcos intermediários.

MARCO B/BG 90

51. Construído no divisor de águas Amazonas-Courantine, entre formadores de um tributário do Rio Novo e de rios que correm para o Cafuine.

Do marco B/BG 90 a fronteira corre para Leste até o marco B/BG 92, voltando-se, pouco depois, para o Norte até o marco B/BG 95. Entre os marcos B/BG 93 e B/BG 94 a natureza do terreno muda completamente. O nível geral do divisor cae para 300 metros, aproximadamente, tendo as seladas entre os morros pouco mais de 240 metros de altitude.

MARCO B/BG 95

52. Situado no divisor de águas Amazonas-Courantine, nas vizinhanças das cabeceiras de tributários do Rio Novo e Cafuine.

O divisor de águas segue para Leste até um quilômetro além do marco B/BG 96, correndo paralelamente e entre tributários do Rio Novo e do Cafuine. Infieta depois para Nordeste até o marco B/BG 97 e em seguida para Leste, tendendo para Norte, até, aproximadamente, um quilômetro antes do marco B/BG 99, onde muda para o Norte, cerca de 5 quilômetros, e depois para Leste até o marco B/BG 100. O terreno é constituído por uma série de colinas redondas com os cumes achatados e mal definidos com pouco mais de 300 metros de altitude. As seladas são baixas, porém, bem definidas.

MARCO B/BG 100

53. Está no divisor de águas Amazonas-Courantine, nas proximidades das cabeceiras do Oronoque e tributários do rio Cafuine.

Do marco B/BG 100 o divisor de águas segue para Leste até o marco B/BG 101, fazendo uma curva para o Norte, e em seguida corre para Sueste até B/BG 103; daí para Leste até o marco B/BG 105. O terreno é um labirinto de morros baixos, redondos, sem nenhuma característica fundamental, através do qual o divisor de águas segue um caminho muito sinuoso.

MARCO B/BG 105

54. Situado no divisor de águas Amazonas-Courantine, nas proximidades das cabeceiras de tributários do Oronoque e do Cafuine.

Do marco B/BG 105 o divisor de águas segue para Nordeste até o marco B/BG 109, voltando, então, para o Norte até o marco B/BG 110. Atravessa um terreno de aspecto geral semelhante ao da seção anterior até 4 quilômetros antes do marco B/BG 110, quando o solo se eleva rapidamente para uma grande área montanhosa de mais de 700 metros de altitude.

MARCO B/BG 110

55. Colocado no divisor de águas Amazonas-Courantine, nas proximidades dos principais formadores do Oronoque, dos lados Norte e Oeste, e de tributários do Cafuine e do Uanamú do lado Leste.

Do marco B/BG 110 o divisor de águas segue para o Norte dois quilômetros, correndo daí para Leste, tendendo para o Norte, mais ou menos dez quilômetros. Retorna para o Norte 9 quilômetros, donde segue em direção Leste ao marco B/BG 113. Desse ponto faz uma curva para o Norte, até

o marco B/BG 114, onde passa a correr para Sueste até o marco B/BG 115. O divisor de águas tem um curso muito sinuoso, passando por um terreno relativamente mais alto que na secção anterior, excepto entre os marcos B/BG 111 e B/BG 112, onde ha uma pequena área de colinas redondas e baixas.

MARCO B/BG 115

56. Situado no divisor de águas Amazonas-Courantine, nas proximidades dos principais formadores do Trombetas, Oronoque e Uanamú.

Do marco B/BG 115 o divisor de águas tem um curso em zig-zag na direção Nordeste sobre colinas redondas e baixas até o marco B/BG 119, quando se volta para o Sul até o marco B/BG 120.

MARCO B/BG 120

57. Está construído no divisor de águas Amazonas-Courantine, nas vizinhanças das cabeceiras de tributários dos rios Aramatáu e Uanamú.

Do marco B/BG 120 o divisor de águas corre para Leste 4 quilômetros, quando se volta para Sueste até próximo do marco B/BG 122. Segue então para Leste até o marco B/BG 125, daí fazendo uma pequena curva para o Sul e depois para Nordeste até o marco B/BG 127. O divisor de águas atravessa, em geral, um terreno baixo que depois se eleva rapidamente a mais de 300 metros. Ha seis marcos intermediários nessa secção.

MARCO B/BG 127

58. Erigido no divisor de águas Amazonas-Courantine, nas cercanías das cabeceiras do rio Aramatáu e de tributários do Uanamú.

Do marco B/BG 127 o divisor de águas prosegue na direção geral de Leste até a ponto de Trijunção dos territórios do Brasil, Guiana Britânica e Suriname. Corre através de um terreno baixo até o marco B/BG 121, depois do qual o solo se altêa, tornando-se mais acidentado e com afloramentos de pedra.

MARCO B/BG 132

59. Construído sobre um grande afloramento de rocha no divisor de águas, entre as cabeceiras dos rios Kutari e Uanamú. Marca o ponto de junção das fronteiras entre os territórios do Brasil, da Guiana Britânica e de Suriname.

E o ponto terminal da fronteira Brasil-Guiana Britânica.

APPENDIX 6

RECOMMENDATION BY THE COMMISSIONERS FOR THE DEFINITION OF THE BOUNDARY IN THE AREA BETWEEN MARKS B/BG 86 AND B/BG 87 WHERE THE LINE OF IDEAL WATERSHED IS INTERRUPTED

1. When locating the line of ideal watershed between Marks B/BG 86 and B/BG 87, an interruption in the watershed was discovered.

2. In this area the survey was proceeding from East to West from B/BG 90. At a point 5,597 metres along the watershed from B/BG 87 the source of a stream was found, which, after running Northwards for about 2 kilometres, flowed on to a saddle and there divided, part going to British Guiana and part to Brazil.

3. A sketch plan⁽⁸⁾ of the stream at 1/10,000 scale and a plan⁽⁸⁾ of the actual point of bifurcation at a scale of 1/1,000 are attached to this Appendix.

⁽⁸⁾ Not reproduced.

4. Although the present main branch flows to British Guiana, it appears as if the stream were changing its course so as to flow into Brazil, and that it is now in a stage of transition. The country through which this stream flows is dense and uninhabited forest, of little apparent value.

5. The Commissioners recommend that from the source of the main stream to the point of bifurcation the thalweg of the stream should be accepted as the boundary, and that from the point of bifurcation the boundary should revert to the line of ideal watershed.

6. In the event of this particular area being developed at any future date, the Commissioners recommend that particular attention should be paid to this stream and that, if the change in its course, noted in paragraph 4 above, has been completed, the Commission appointed under the Agreement, a copy of which is given in Appendix 4, should be empowered to draw a new boundary line.

7. With these recommendations in view, the Commissioners define the boundary in this area as follows:—

From Mark B/BG 87 the boundary shall follow the line of ideal watershed in a Westerly direction to Peg No. 547, situated at Latitude $01^{\circ} 33' 59.7''$ North and Longitude $58^{\circ} 19' 00.6''$ West of Greenwich; height above sea level 729 metres. Thence the boundary shall run towards the North-North-West for about 50 metres to the junction of two small rivulets. Thence the boundary shall follow the thalweg of the stream for about 2 kilometres to the point where it divides, part flowing to British Guiana and part to Brazil.

This point is 4 metres East of Peg No. 587, situated approximately at Latitude $01^{\circ} 34' 54.2''$ North and Longitude $58^{\circ} 18' 50.5''$ West of Greenwich; height above sea level 523 metres. Both sets of co-ordinates are deduced from the traverse adjusted between astronomical stations at Marks B/BG 90 and B/BG 54/84. Thence the boundary shall follow the line of ideal watershed in a Northerly direction.

APENDICE 6

RECOMENDAÇÃO PELOS COMISSARIOS, SOBRE A DEFINIÇÃO DA FRONTEIRA, ONDE A LINHA DO DIVISOR DE AGUAS VERDADEIRO É INTERROMPIDA, NA ÁREA COMPREENDIDA ENTRE OS MARCOS B/BG 86 E B/BG 87

1. Quando se locava, entre os marcos B/BG 86 e B/BG 87, a linha ideal do divisor de águas, descobriu-se uma interrupção nessa divisória.

2. Nessa área o levantamento vinha de Leste para Oeste do marco B/BG 90. Num ponto do divisor, distante 5,597 metros do marco B/BG 87, achou-se a nascente de um igarapé que, depois de correr para o Norte, cerca de dous quilómetros, desaguou sobre uma sela, aí se dividindo, indo uma parte para a Guiana Britânica e a outra para o Brasil.

3. Um croquis desse igarapé, na escala de 1/10,000, assim como um mapa do próprio ponto de bifurcação na escala de 1/1,000, vão anexados a este Apêndice.

4. Si bem que o atual braço principal corra para a Guiana Britânica, parece, entretanto, estar mudando seu curso de modo a correr para o Brasil, estando, assim, em um período de transição. A região através da qual ele passa é de densa floresta, inhabitada e, aparentemente, de pouco valor.

2. RIVER MAHU OR IRENG

No. of Mark	Distance from Previous Mark Metres	Latitude North			Longitude West of Greenwich			Altitude Metres	Magnetic Variation West	Date
		°	'	"	°	'	"			
		°	'	"	°	'	"			
B/5	34612.00	05	04	33.77	59	58	15.59	623	6 03	1932
BG/12	—	05	04	35.88	59	58	11.37	—	—	1932
B/4	51528.50	04	42	26.30	60	01	35.04	536	5 12	1932
BG/11	—	04	42	29.59	60	01	25.21	—	—	1932
B/3	128500.0	04	22	20.57	59	40	17.19	343	5 04	1932
BG/10	—	04	22	16.30	59	40	07.67	—	—	1932
B/2	81375.0	03	58	22.51	59	33	37.99	—	5 03	1931
BG/9	—	03	58	35.16	59	33	42.52	—	—	1931
B/1	33964.0	03	44	01.70	59	39	56.31	—	5 04	1931
BG/8	—	03	43	51.04	59	39	53.91	—	—	1931

3. CONFLUENCE OF THE RIVERS MAHU OR IRENG AND TACUTU

FOZ No. 1	44893.0	03	33	58.25	59	52	09.19	—	—	1930
FOZ No. 2	—	03	33	41.25	59	52	14.35	—	—	1930
BG/1	—	03	33	44.60	59	51	58.48	—	—	1930
River Mahú or Ireng ...	...	...	...	...	...	...	...	329979.5	—	—
Confluence of the Rivers Mahú or Ireng and Tacutú	...	...	...	...	...	...	...	44893.0	374872.5	—

4. RIVER TACUTU

B/1	37639.50	03	23	02.42	59	48	45.12	—	—	1931
BG/2	—	03	22	58.50	59	48	35.43	—	—	1931
B/2	56042.50	03	06	30.08	59	55	59.69	—	—	1930
BG/3	—	03	06	32.98	59	55	30.91	—	—	1930
B/3	58966.50	02	40	02.13	59	58	28.61	—	—	1930
BG/4	—	02	40	05.28	59	58	19.68	—	—	1930
B/4	70635.00	02	17	29.55	59	45	48.77	—	—	1930
BG/5	—	02	17	31.84	59	45	46.48	—	—	1930
B/5	42061.00	02	02	29.06	59	43	52.35	—	—	1930
BG/7	—	02	02	28.68	59	43	50.48	—	—	1930
B/6	18867.50	01	57	23.90	59	44	23.08	157.0	—	1933
BG/14	—	01	57	23.17	50	44	21.22	—	—	1933
B/7	21987.27	01	50	53.89	59	44	04.41	195.0	—	1933
BG/15	—	01	50	55.17	50	44	04.40	—	—	1933
B/8	12841.97	01	50	44.53	59	40	08.05	218.0	—	1933
BG/16	—	01	50	45.93	59	40	07.47	—	—	1933
B/9-BG/17	3481.25	01	51	57.85	59	39	47.97	257.0	—	1933
B-BG/14	790.27	—	—	—	—	—	—	—	—	—
	323312.8	—	—	—	—	—	—	—	—	—
River Mahú or Ireng	...	...	...	...	...	...	...	374872.5	—	—
River Tacutú	...	...	...	...	...	...	...	323312.8	—	—
Total	...	...	...	...	...	...	...	698185.3	—	—

5. FROM MONTE WAMURIAKTAWA TO THE TRIJUNCTION

B-BG/14	—	01	52	10.76	59	39	46.23	360.0	4 58	1933
B-BG/15	7914.87	01	49	01.54	59	39	14.11	—	—	1934
B-BG/16	8759.06	01	46	58.82	59	41	06.79	—	—	1934
B-BG/17	6646.14	01	44	54.52	59	39	51.85	471.0	—	1934
B-BG/18	6259.50	01	43	41.02	59	37	45.62	434.0	—	1934
B-BG/19	8070.90	01	43	54.38	59	35	00.97	430.0	—	1934
B-BG/20	8420.30	01	43	06.35	59	32	11.48	422.0	—	1934
B-BG/21	9059.90	01	40	08.33	59	30	39.29	445.0	—	1934
B-BG/22	8070.29	01	38	25.27	59	29	18.08	390.0	—	1934
B-BG/23	7749.82	01	36	31.80	59	26	34.67	294.0	—	1934
B-BG/24	9236.78	01	33	07.08	59	24	43.74	332.0	—	1934

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5. FROM MONTE WAMURIAKTAWA TO THE TRIJUNCTION.—*continued*

No. of Mark	Distance from Previous Mark Metres	Latitude North			Longitude West of Greenwich			Altitude Metres	Magnetic Variation West	Date
		°	'	"	°	'	"			
B-BG/25	8135.03	01	31	00.57	59	22	43.12	427.0	—	1934
B-BG/26	7561.22	01	31	00.73	59	21	11.68	542.0	—	1934
B-BG/27	8411.59	01	28	47.37	59	19	21.29	576.0	—	1934
B-BG/28	9327.10	01	27	04.62	59	17	08.21	622.0	—	1934
B-BG/29	8919.23	01	24	25.22	59	16	18.38	603.0	5 47	1934
B-BG/30	8204.33	01	22	35.80	59	13	14.35	782.0	—	1934
B-BG/31	8008.81	1	21	34.7	59	10	28.0	1009	—	1934
B-BG/32	8133.87	1	20	44.9	59	07	16.4	961	—	1934
B-BG/33	8204.21	1	19	48.0	59	04	11.4	812	—	1934
B-BG/34	8510.10	1	19	37.80	59	00	57.90	839	5 42	1934
B-BG/35	9493.46	1	18	45.7	58	57	55.7	753	—	1934
B-BG/36	10578.75	1	17	38.2	58	55	23.5	764	—	1934
B-BG/37	11491.55	1	14	18.8	58	54	41.7	284	—	1934
B-BG/38	11330.60	1	11	52.8	58	51	35.6	456	—	1934
B-BG/39	11486.80	1	10	55.69	58	48	29.96	506	6 07	1935
B-BG/40	9413.87	1	11	51.4	58	45	49.3	459	—	1937
B-BG/41	9190.53	1	13	11.2	58	43	25.5	399	—	1937
B-BG/42	9915.45	1	16	42.4	58	42	46.5	537	—	1937
B-BG/43	8371.21	1	17	01.4	58	40	20.6	592	—	1937
B-BG/44	10501.59	1	16	27.49	58	36	20.37	587	6 04	1937
B-BG/45	10210.90	1	17	35.0	58	33	40.2	513	—	1937
B-BG/46	11060.50	1	15	35.3	58	31	29.8	566	—	1937
B-BG/47	9686.00	1	17	07.5	58	29	42.5	541	—	1937
B-BG/48	4422.20	1	18	23.59	58	28	38.15	794	6 17	1938
B-BG/49	6579.91	1	21	23.3	58	28	14.4	327	—	1938
B-BG/50	7892.26	1	23	05.1	58	28	49.4	421	—	1938
B-BG/51	8262.14	1	25	15.2	58	30	15.3	374	—	1938
B-BG/52	8100.85	1	28	02.3	58	29	44.1	627	—	1938
B-BG/53	8147.15	1	27	21.3	58	26	49.0	546	—	1938
B-BG/54-84	8466.75	1	28	13.22	58	23	28.56	430	6 26	1938
B-BG/85	17902.00	1	32	14.4	58	21	42.7	547	—	1938
B-BG/86	11133.80	1	35	50.7	58	19	19.5	495	—	1938
B-BG/87	10804.80	1	34	19.4	58	16	50.9	566	—	1938
B-BG/88	10034.40	1	33	20.0	58	13	27.4	601	—	1938
B-BG/89	9445.20	1	33	36.9	58	09	37.8	577	—	1938
B-BG/90	9149.60	1	30	20.35	58	08	16.53	699	6 51	1938
B-BG/91	10937.50	1	30	29.6	58	04	04.0	625	—	1938
B-BG/92	10810.50	1	30	13.4	58	00	22.9	464	—	1938
B-BG/93	9973.80	1	33	30.8	57	59	29.4	299	—	1938
B-BG/94	9279.00	1	36	54.9	57	59	01.5	302	—	1937
B-BG/95	10216.80	1	39	38.02	57	59	12.17	267	6 28	1937
B-BG/96	9212.5	1	38	36.2	57	56	00.3	286	—	1937
B-BG/97	9695.0	1	40	03.5	57	53	08.6	252	—	1937
B-BG/98	9033.0	1	40	56.7	57	50	56.9	259	—	1937
B-BG/99	10128.5	1	41	56.1	57	48	16.2	286	—	1937
B-BG/100	9607.3	1	43	17.91	57	45	41.40	304	6 35	1936
B-BG/101	9148.8	1	43	03.5	57	42	38.2	263	—	1936
B-BG/102	8909.8	1	42	16.7	57	40	58.0	269	—	1936
B-BG/103	8425.0	1	41	10.5	57	38	27.8	266	—	1936
B-BG/104	9310.0	1	41	55.7	57	35	26.6	282	—	1936
B-BG/105	9267.6	1	41	50.53	57	33	15.00	327	7 03	1936
B-BG/106	9182.6	1	43	23.9	57	31	29.7	329	—	1936
B-BG/107	8452.4	1	45	44.9	57	30	01.6	323	—	1936
B-BG/108	9056.4	1	47	46.6	57	29	01.4	306	—	1936
B-BG/109	8164.4	1	49	23.1	57	26	42.1	361	—	1937
B-BG/110	11093.0	1	53	33.64	57	26	04.55	611	7 16	1937
B-BG/111	8907.4	1	55	37.8	57	23	30.9	443	—	1937
B-BG/112	8370.6	1	57	09.9	57	22	03.6	440	—	1937
B-BG/113	9232.6	1	58	45.1	57	19	18.3	385	—	1937
B-BG/114	8624.0	1	58	58.8	57	16	09.1	323	—	1937
B-BG/115	9308.6	1	56	51.40	57	14	35.82	368	7 34	1937
B-BG/116	8925.0	1	58	17.0	57	12	38.1	335	—	1937
B-BG/117	8259.8	1	59	39.8	57	09	44.5	350	—	1937

5. FROM MONTE WAMURIAKTAWA TO THE TRIJUNCTION—*continued*

No. of Mark	Distance from Previous Mark Metres	Latitude North			Longitude West of Greenwich			Altitude Metres	Magnetic Variation West	
		°	'	"	°	'	"		°	'
B-BG/118	9471.0	2	01	05.7	57	07	06.5	347	—	1937
B-BG/119	9352.6	2	01	16.1	57	04	53.8	353	—	1937
B-BG/120	11324.4	1	57	33.09	57	03	54.35	332	7 27	1937
B-BG/121	11203.4	1	55	14.2	57	01	03.0	301	—	1937
B-BG/122	9750.6	1	54	42.5	56	58	07.2	308	—	1937
B-BG/123	9322.2	1	55	43.1	56	55	00.9	320	—	1937
B-BG/124	9658.7	1	53	35.9	56	52	06.9	315	—	1937
B-BG/125	8320.4	1	52	58.0	56	49	30.6	318	—	1937
B-BG/126	10576.84	1	51	53.4	56	47	10.8	335	—	1937
B-BG/127	10572.82	1	54	51.49	56	44	09.97	324	7 45	1937
B-BG/128	8012.31	1	54	46.4	56	41	20.9	304	—	1937
B-BG/129	14310.27	1	56	35.7	56	37	05.3	330	—	1937
B-BG/130	9288.29	1	54	28.9	56	34	21.3	306	—	1937
B-BG/131	8406.01	1	55	44.6	56	31	10.6	361	8 02	1937
B-BG/132	7649.62	1	56	58.2	56	28	24.5	463	—	1936
Total	... 815426.68									
B-BG/0	to	B-BG/13	...	...	...	...	...	92187.58		
B-BG/13	to	BG/1/Nos. 1 and 2	...	...	...	...	...	374872.5		
BG/1/Nos. 1 and 2	to	B-BG/14	...	...	...	...	...	323312.8		
B-BG/14	to	B-BG/132	...	...	...	...	...	815426.68		
		Total	...	...	...	...	...	1605799.56		

APPENDIX 8

LIST OF MAPS AND PLANS OF THE BOUNDARY

I.—GENERAL MAP

on the scale of 1/1,000,000, with Plans inset showing:—

- (a) Trijunction Point with Venezuela. Scale 1/20,000.
- (b) Sources of River Mahú or Ireng. Scale 1/20,000.
- (c) Kurewaki Island. Scale 1/30,000.
- (d) Confluence of River Mahú or Ireng with River Tacutú. Scale 1/50,000.
- (e) Sources of the River Tacutú. Scale 1/20,000.
- (f) Interruption of the ideal watershed between Marks B/BG 86 and B/BG 87. Scale 1/20,000.
- (g) Trijunction Point with Surinam. Scale 1/20,000.

II.—SECTIONAL MAPS^(*)

on the scale of 1/50,000.

Mount Roraima to Ireng Sources

- No. 1.—Mark B/BG 0—Mount Roraima—to B/BG 6—Mount Wupaima.
- No. 2.—Mark B/BG 7—River Ataro—to B/BG 11A—Mount Kaburai.
- No. 3.—Mark B/BG 12—Mount Ulamir—to B/BG 13—Ireng Source, and thence to Beacon BG 12/B 5—Sukabi River.

(*) Not reproduced.

River Mahi or Ireng

- No. 4.—Beacon BG 12/B 5—R. Sukabi—to BG 11/B 4—R. Konunki.
 No. 5.—Beacon BG 11/B 4—R. Tieraio—R. Ailan.
 No. 6.—Mataruca, Village—R. Seriman—R. Camará.
 No. 7.—Beacon BG 10/B 3—Echilebar—R. Tapanang to R. Mara-paikurú.
 No. 8.—Kurewaki Island—R. Masuaca—R. Rapo.
 No. 9.—Beacon BG 9/B 2—Boqueirão da Lua V. to R. Passarinho.
 No. 10.—Beacon BG 8/B 1 to Ireng Mouth—BG 1/Nos. 1 and 2—and thence up R. Tacutú—Novo Destino to R. Javari.

River Tacutú

- No. 11.—Beacon BG 2/B 1—Bon Success—S. Lourenço to Ant. Vicente.
 No. 12.—Beacon BG 3/B 2—R. Inajá—R. Mutum.
 No. 13.—Tucunaré Village—R. Skabunk—Mashipau Falls.
 No. 14.—Beacon BG 4/B 3—R. Baiewau—R. Ruawau.
 No. 15.—Beacon BG 5/B 4—R. Shininiwau—R. Miliwau.
 No. 16.—Beacon BG 7/B 5—BG 14/B 6—R. Soetanawau—R. Soniwau.
 No. 17.—Beacon BG 14/B 6—Mark B/BG 14—Mt. Wamuriaktawa—and thence to B/BG 16—watershed Kuyuwini/Tacutú S.

Amazon—Essequibo Watershed

- No. 18.—Mark B/BG 17 to B/BG 23—watershed Kassikaityu/Anauá.
 No. 19.—Mark B/BG 24 to B/BG 32—watershed Kamao, Sipu/Anauá, and Mapuera tributaries.
 No. 20.—Mark B/BG 33 to B/BG 40—watershed Sipu, Chodikar/Mapuera tributaries.
 No. 21.—Mark B/BG 41 to B/BG 50—watershed Chodikar, Wapuu/Mapuera and Capuwin.
 No. 22.—Mark B/BG 51 to B/BG 54/84, thence to B/BG 87—watershed Wapuu, Onoro and New River/Capuwin.

Amazon—Courantyne Watershed

- No. 23.—Mark B/BG 88 to B/BG 96—watershed New River/Capuwin.
 No. 24.—Mark B/BG 97 to B/BG 104—watershed Oronoque/Capuwin.
 No. 25.—Mark B/BG 105 to B/BG 110—watershed Oronoque/Capuwin.
 No. 26.—Mark B/BG 111 to B/BG 118—watershed Oronoque, Aramatau/Wanamú.
 No. 27.—Mark B/BG 119 to B/BG 126—watershed Aramatau/Wanamú.
 No. 28.—Mark B/BG 127 to B/BG 132—Trijunction Point with Surinam—watershed Aramatau, Kutari/Wanamú.

III.—SPECIAL PLANS^(*)

- (a) Trijunction Point with Venezuela. Scale 1/10,000.
 (b) Trijunction Point with Surinam. Scale 1/10,000.

IV.—SCHEDULE PLAN OF THE SECTIONAL MAPS

(*) Not reproduced.

APÊNDICE 8

LISTA DOS MAPAS E PLANOS DA FRONTEIRA

I.—MAPA GERAL

na escala de 1/1,000,000, com planos de detalhes mostrando:—

- (a) Ponto de Trijunção com Venezuela, na escala de 1/20,000.
- (b) Nascentes do rio Mahú ou Ireng, na escala de 1/20,000.
- (c) Ilha de Kurewaki, na escala de 1/30,000.
- (d) Confluência do rio Mahú ou Ireng com o Tacutú na escala de 1/50,000.
- (e) Nascentes do rio Tacutú, na escala de 1/20,000.
- (f) Interrupção da linha ideal divisória de aguas, entre os Marcos B/BG 86 e B/BG 87, na escala de 1/20,000.
- (g) Ponto de Trijunção com Suriname, na escala de 1/20,000.

II.—MAPAS PARCIAIS(*)

na escala de 1/50,000.

Monte Roraima às Nascentes do Rio Mahú

- No. 1.—Marco B/BG 0—Mt. Roraima—ao B/BG 6—Mt. Upaima.
- No. 2.—Marco B/BG 7—R. Ataro—ao B/BG 11A—Mt. Caburái.
- No. 3.—Marco B/BG 12—Mt. Ulamir—ao B/BG 13—nascentes do rio Mahú, e daí ao BG 12/B 5—foz do rio Socobí.

Rio Mahú ou Ireng

- No. 4.—Marco de Ref. BG 12/B 5—R. Socobí—ao BG 11/B 4—R. Konunki.
- No. 5.—Marco de Ref. BG 11/B 4—R. Secreu ao R. Ailã.
- No. 6.—Maloca de Maturuca—R. Serimã ao R. Camará.
- No. 7.—Marco de Ref. BG 10/B 3—Echilebar—R. Tapanang ao R. Marapaikurú.
- No. 8.—Ilha de Kurewaki—R. Masuaca ao R. Rapo.
- No. 9.—Marco de Ref. BG 9/B 2—Boqueirão da Lua ao R. Passarinho.
- No. 10.—Marco de Ref. BG 8/B 1 à foz do Mahú—BG 1/Foz Nos. 1 e 2 daí pelo Tacutú—Novo Destino ao R. Javari.

Rio Tacutú

- No. 11.—Marco de Ref. BG 2/B 1—São Lourenço à Mal. Ant. Vicente.
- No. 12.—Marco de Ref. BG 3/B 2—R. Inajá ao R. Mutum.
- No. 13.—Maloca de Tucunaré—R. Skabunk às Cach. Machipáu.
- No. 14.—Marco de Ref. BG 4/B 3—R. Baiewau ao R. Ruawau.
- No. 15.—Marco de Ref. BG 5/B 4—R. Shininiwau ao R. Miliwau.
- No. 16.—Marco de Ref. BG 7/B 5—BG 14/B 6—R. Soetanawau ao R. Soniwau.
- No. 17.—Marco de Ref. BG 14/B 6 ao Marco B/BG 14—M. Wamuriaktawa e daí ao B/BG 16—divisor R. Tacutú Sul/Kyuwini.

Divisor de Aguas Amazonas—Essequibo

- No. 18.—Marco B/BG 17 ao B/BG 23—divisor Anauá/Kassikaityu.
- No. 19.—Marco B/BG 24 ao B/BG 32—divisor Anauá e afluentes do Mapuera/Kamoa e Sipú.

(*) Not reproduced.

- No. 20.—Marco B/BG 33 ao B/BG 40—divisor afluentes do Mapuera/Sipú e Chodikar.
 No. 21.—Marco B/BG 41 ao B/BG 50—divisor Mapuera e Cafuine/Chodikar e Wapuáu.
 No. 22.—Marco B/BG 51 ao B/BG 54/84 e daí ao B/BG 87—divisor Cafuine/Wapuáu, Onoro e New River.

Divisor de Aguas Amazonas—Courantine

- No. 23.—Marco B/BG 88 ao B/BG 96—divisor Cafuine/New River.
 No. 24.—Marco B/BG 97 ao B/BG 104—divisor Cafuine/Oronoque.
 No. 25.—Marco B/BG 105 ao B/BG 110—divisor Cafuine/Oronoque.
 No. 26.—Marco B/BG 111 ao B/BG 118—divisor Uanamú/Oronoque e Aramatáu.
 No. 27.—Marco B/BG 119 ao B/BG 126—divisor Uanamú/Aramatáu.
 No. 28.—Marco B/BG 127 ao B/BG 132—Ponto de Trijunção com Suriname—divisor Uanamú/Aramatáu e Kutari.

III.—PLANOS PARCIAIS⁽⁹⁾

- (a) Ponto de Trijunção com Venezuela, na escala de 1/10,000.
 (b) Ponto de Trijunção com Suriname, na escala de 1/10,000.

IV.—ESQUEMA DOS MAPAS PARCIAIS

APPENDIX 9

DESCRIPTION OF CONSTRUCTION OF BOUNDARY MARKS AND BEACONS

1. On the land boundary it was possible to erect marks accurately on the Boundary line and here they are designated "Marks." On the riverain boundary, where it follows the thalweg, the line is indicated by a pair of marks, one on each bank of the river. These are designated "Beacons."

2. All Marks and Beacons have been built of concrete. In general they consist of a block of concrete with a centre mark of a copper bolt or piece of rod, the block being buried a few inches below ground level. In addition one or two reference pillars, also of concrete, were erected within a few metres of the buried block. The positions given for Marks and Beacons all refer to the centre mark on the buried block where it exists.

3. On the land Boundary from B/BG 2 to B/BG 12 and from B/BG 15 to B/BG 39 the Mark consists of a buried block, accurately sited on the line of ideal watershed, and two reference pillars, one on each side of the boundary line. From B/BG 40 to B/BG 131 only one reference pillar, which was also sited on the boundary, was constructed. Marks B/BG 0, B/BG 1, B/BG 13, B/BG 14 and B/BG 132 consist of a concrete pillar only, with no buried mark.

4. The Agreement between the two Governments (*vide* Appendix 2, Article 9) lays down that "on every mark shall be stated the exact longitude and latitude in which they have been placed." It soon became apparent that a great deal of time would be wasted if the construction of pillars were to be held up until their positions were accurately known. The Commissioners therefore agreed that the marks and beacons should be numbered only, and that they should not be inscribed with their geographical co-ordinates.

5. Sketches and details of all marks and beacons are attached to this Appendix.

⁽⁹⁾ Not reproduced.

APÊNDICE 9

DESCRIÇÃO DA CONSTRUÇÃO DOS MARCOS DE FRONTEIRA
E DE REFERÊNCIA

1. Na fronteira sêca foi possível erguer os marcos exatamente sobre a linha de fronteira e são aqui denominados "Marcos." Na fronteira fluvial, onde a divisória segue o talvêgue, a linha é indicada por um par de marcos, um em cada margem do rio. Estes marcos são designados por "Marcos de referência."

2. Todos os marcos, de fronteira e de referência, foram construídos de concreto. Em geral consistem de um bloco de concreto com uma marca no centro, um prego de cobre ou um pequeno cilindro, sendo o bloco enterrado algumas polegadas abaixo do nível do solo. Além disso um ou dois "pilares testemunhas," também de concreto, foram construídos a poucos metros do bloco enterrado. As posições dadas para os marcos de fronteira e de referência, são todas referidas à marca central do bloco, onde ela existe.

3. Na fronteira sêca, de B/BG 2 a B/BG 12 e de B/BG 15 a B/BG 39, o "Marco" consiste de um bloco enterrado, situado precisamente sobre a linha ideal de divisão das águas e dois "pilares testemunhas," um de cada lado da linha de fronteira. De B/BG 40 a B/BG 131 só se construiu um "pilar testemunha," também colocado sobre a linha fronteira.

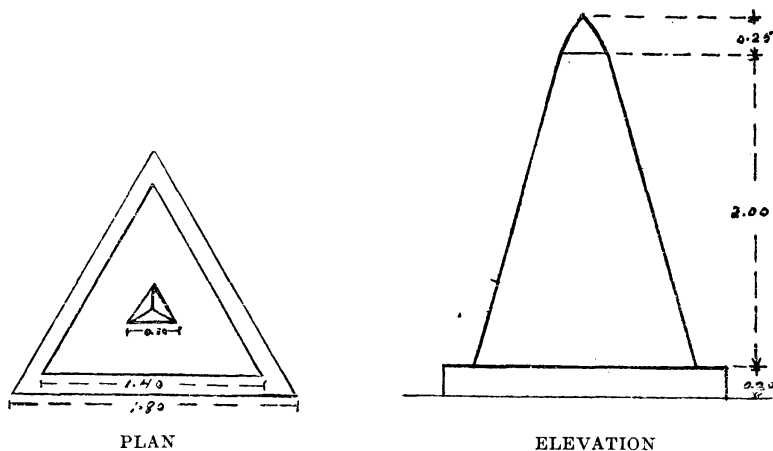
Os marcos B/BG 0, B/BG 1, B/BG 13, B/BG 14 e B/BG 132 consistem sómente de um pilar de concreto, na linha de fronteira, sem marco algum enterrado.

4. O Protocolo entre os dois Governos (*vide* Apêndice 2, Art. 9) diz que "Em cada marco serão consignados a longitude e a latitude exatas em que tenham sido colocados." Tornou-se logo visível que se perderia muito tempo si a construção dos pilares fosse sustada até que as suas posições fossem exatamente conhecidas. Os Comissários combinaram, por isso, que os marcos de fronteira e de referência sómente fossem numerados e que neles não se gravasse as coordenadas geográficas.

5. Os croquis e detalhes de todos os marcos de fronteira e de referência estão anexos a este Apêndice.

MARK B/BG 0 AT THE JUNCTION OF BRITISH GUIANA, BRAZIL AND VENEZUELA
ON MOUNT RORAIMA

Dimensions in Metres. Scale = 1 : 50



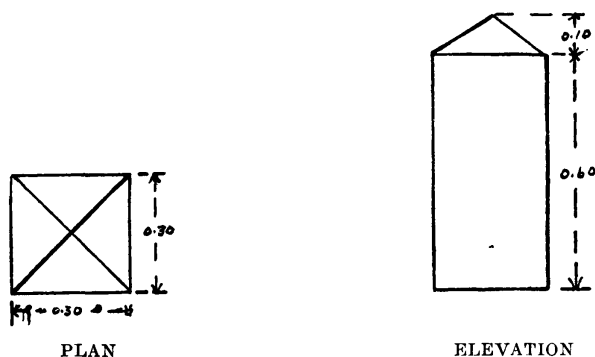
The pillar, on the side facing British Guiana, has a brass plate inscribed "BRITISH GUIANA" in relief, and on the side facing Brazil, the Arms of

the Republic of Brazil, and below it "BRASIL—C.D.F.S.N.—1931" outlined with quartz crystals. On the side facing Venezuela, it has the Arms of the Republic of Venezuela and "VENEZUELA" outlined in quartz crystals.

O pilar tem, do lado voltado para o Brasil, um Escudo com as Armas da República Brasileira, e por baixo os dizeres: "BRASIL—C.D.F.S.N.—1931," feitos com crystaes de quartzo. Do lado voltado para a Guiana Britânica, tem uma placa de metal com a inscrição "BRITISH GUIANA" em relêvo. Do lado que defronta a Venezuela, tem o Escudo com as Armas da República Venezuelana e a inscrição "VENEZUELA," feita com crystaes de quartzo.

MARK B/BG 1 ON MOUNT RORAIMA

Dimensions in Metres. Scale = 1 : 20

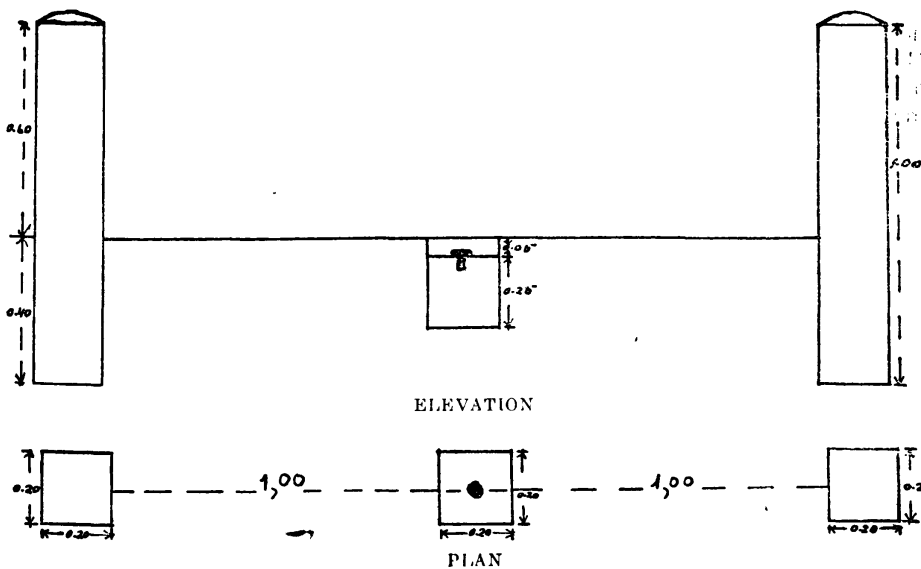


The pillar is inscribed "BG" on the side facing British Guiana; on the side facing Brazil it has the Arms of the Republic of Brazil and the letter "B" inscribed below it. It is also engraved with the number 1.

O pilar tem, do lado voltado para o Brasil, o Escudo com as Armas da República Brasileira e a letra "B" gravada por baixo. Do lado voltado para a Guiana Britânica tem a inscrição "BG." Também tem gravado o numero 1.

MARKS B/BG 2, 3, 4

Dimensions in Metres. Scale = 1 : 20



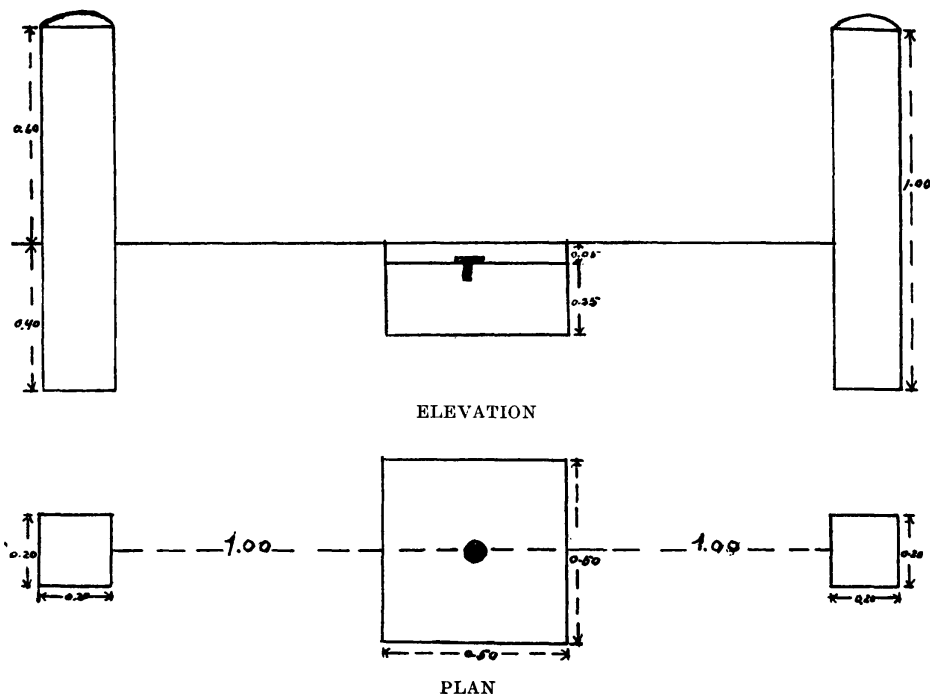
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MARK B/BG 5

Dimensions in Metres. Scale = 1 : 20

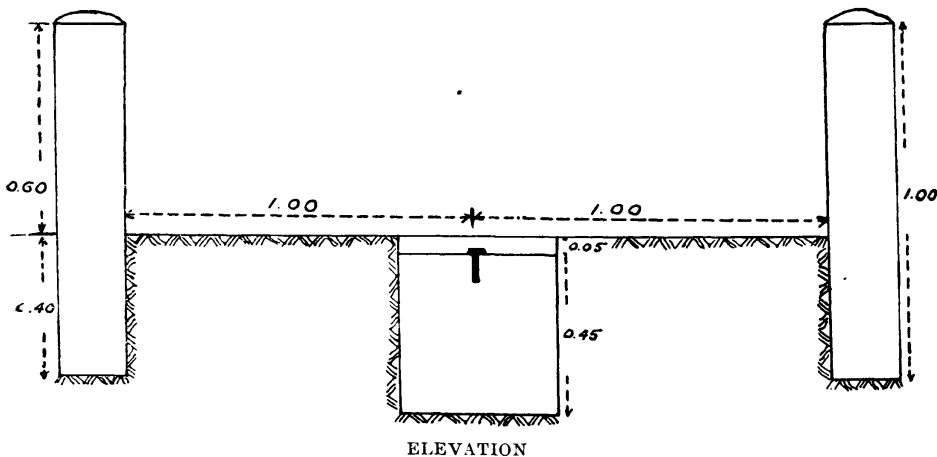


The buried cube is engraved "BG" on the side facing British Guiana, and "B" on the side facing Brazil. A copper bolt is embedded in the centre, engraved "BG" over the number of the mark. The pillar in British Guiana is also engraved "BG" over the number of the mark, and that in Brazil has the Arms of the Republic of Brazil and the number of the mark engraved.

O cubo enterrado tem gravado "B" no lado que defronta o Brasil e "BG" no lado que defronta a Guiana Britânica. O prego de cobre embutido no centro tem gravado "BG" em cima do numero do marco. O pilar no Brasil tem as Armas da República Brasileira e o numero do marco gravado; o pilar na Guiana Britânica tem gravado "BG" em cima do numero do marco.

MARKS B/BG 6, 7 AND 8

Dimensions in Metres. Scale = 1 : 20



Annex 88

McQuillen & Brading, *Minutes regarding the Venezuelan - British Guiana
Boundary Dispute* (10 Mar. 1944) (9 Sept. 1944)

Index

AS ~~4758~~ 3113/47

Venezuela-British Guiana Boundary Dispute.

AS 5013
25 SEP 1944

Recently the Venezuelans have shown signs *that they are* feeling a grievance over the question of the Venezuela British Guiana frontier settlement, and wishing to re-open the matter.

This boundary dispute was settled by arbitration in 1899 and the frontier was finally fixed in 1905, since when the Venezuelan Government do not appear to have questioned the decision.

No official démarche has yet been made by the Venezuelan Government. Protests have been confined to a speech by the Venezuelan Ambassador in the United States, which was reproduced in the Ministry of Foreign Affairs Annual Report to Congress, and a speech in Congress by a Left Wing member of the Government party, which was endorsed by the President of the Senate in closing Congress. (He also demanded a seat for Venezuela at the Peace Conference). These speeches have invoked the Atlantic Charter and the 1899 award was referred to as "an unparalleled miscarriage of justice". The Leftist newspapers took up this controversy and published articles with maps; so far the Government-owned Press has been silent.

The Colonial Office view with alarm and despondency the possibility of an inflation of a claim which is absolutely baseless but which can well become tiresome, as in the case of the Guatemala-British Honduras Treaty dispute. Sir George Ogilvie-Forbes was instructed to look into the matter on his arrival in Venezuela, but at his first Press Conference the first question asked by Venezuelan journalists was: "what was Great Britain going to do about British Guiana?" H.M. Ambassador replied that he had not yet presented his credentials and could not discuss the matter. Mr. Anderson is inclined to think that the valuable potentialities of the territory on the Venezuela British Guiana border may have revived Venezuelan interest in the boundary dispute. This territory contains Bauxite and diamonds, and favourable sites for international air fields.

According to the Pounceforte-Andrade Treaty of 1897, both parties agreed that adverse holding or prescription for a period of 50 years should constitute a title. As the Award was made in 1899, the Venezuelans have only 5 years to run to establish their claim, which may explain their trying to stake out a claim now.

Sir George Ogilvie-Forbes is of the opinion that we should wait for the Venezuelan Government to bring up this matter officially. The alternative course of action would be to approach President Medina in a friendly way and state formally that in our view no grounds exist for re-opening this controversy which was

definite-

NOTHING TO BE WRITTEN IN THIS MARGIN.

This was apparently retrospective only.

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definitely settled in 1899. The views of the C.O. are being sought on Sir G. Ogilvie-Forbes' suggestions.

Sean McDermott

9th September 1944.

Legal Adviser
(Mr. Fitzmaurice)

Library

N.A. Dept.

F.O.R.D.

RA

Sep. 11.

I think Sir G. O. Forbes missed an opportunity with his former question.

MB

11/ix

I should have said that a certain point might not be made in initial approach to the Venezuelan part. And there is not much more preparing a reply to my approach of this until it means that form it takes.

The present ^{main} pp. ~~main~~ shows that the Venezuelan view of that trouble is. There are however some back pp. setting out our view & case, & these might be looked out & attached in future. I remember seeing them before the war - & my recollection certainly is that the Venezuelan had no case -

The fact that the V's have no case won't prevent the State Dept supporting them if Mr Hull wants to twist our tails over Argentina. I think we had better have our pp as Mr Fitzmaurice suggests, and reconsider. 23/ix

NOTHING TO BE WRITTEN IN THIS MARGIN.

The award of the Arbitration Tribunal in 1899 had not previously been challenged until the present agitation started in 1941 (A 2675/210/41). The Venezuelan MFA then said that it was his view and that of his govt that the affair was chose jugée, and there was no reason to fear that it would be re-opened.

Ten years earlier, in connexion with the marking of the tri-junction point of the British Guiana - Brazil - Venezuela boundaries, the Venezuelan govt insisted on a literal application of the 1899 Award. (A 148/27/6 1932)

The correspondence in connexion with the arbitration and the negotiations preceding it runs into thousands of pages of print. The index to the cases and counter-cases, for example, is a volume of 200 pages. It hardly seems worth while to delve into this mass of material until ~~we~~ we have something more specific to answer than the present ^{charge} allegation of injustice.

W. Brading
3/10/44

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Annex 89

U.S. of Venezuela, [*Ley orgánica de los Territorios Federales*] *Organic Federal Territories Law* (14 Sept. 1948)

LIONBRIDGE

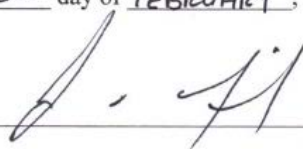
STATE OF NEW YORK)
)
) ss
 COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached Organic Federal Territories Law, dated September 14, 1948.



 Lynda Green, Senior Managing Editor
 Lionbridge

Sworn to and subscribed before me
 this 20th day of FEBRUARY, 2022.


LAURA E MUSICH
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01MU6386791
 Qualified in Queens County
 My Commission Expires 01-28-2023

FROM: P. FRAY CESAREO DE ARMELLADA (comp.) Fuero indígena venezolano: (pt. 2) (Caracas, 1954, pg. 293-295)

Organic Federal Territories Law (September 14, 1948)

TEXT No. 98

ORGANIC FEDERAL TERRITORIES Law

TITLE I

CHAPTER I

Regarding the Federal Territories.

Article 1 - Pursuant to the provisions of Article 7 of the National Constitution, the Federal Territories are: Amazonas and Delta Amacuro.

CHAPTER II

Regarding the Amazonas Federal Territory

Article 2 - The Amazonas Federal Territory, formerly Rio Negro, with which the former Alto Orinoco Territory was combined, is formed by the region found within the following boundaries: Bolivar State to the north, Bolivar State and the United States of Brazil to the east, the United States of Brazil to the south, and the Republic of Colombia to the west.

Article 3 - The capital of the Amazonas Federal Territory is the town of Puerto Ayacucho, though the National Executive may transfer it to a different town of the territory when the

needs of the public service so require.

Article 4 - The Amazonas Federal Territory is divided into four Departments for its political regime, namely:

1. Atabapo Department; Capital: San Fernando de Atabapo.
2. Atures Department; Capital: Puerto Ayacucho.
3. Casiquiare Department; Capital: Maroa.
4. Rio Negro Department; Capital: San Carlos.

CHAPTER III

Regarding the Delta Amacuro Federal Territory

Article 5 - The Delta Amacuro Federal Territory is formed by the region found within the following boundaries: the Gulf of Paria and the Atlantic Ocean to the north, the Atlantic Ocean and British Guyana to the east, as defined by the Border Treaty between Venezuela and Great Britain: "From Punta Playa in a straight line to the confluence of the Barima and the Baruma. It continues along the mainstream of this river until its source. From this point along a straight line to the junction of the Haiwoa and the Amacuro. It continues along the mainstream of the Amacuro to its source in the Imataka Mountains; it continues southwest along the highest peaks of the Imataka to the highest point opposite the source of the Barima. Monagas State to the west, from which it is separated by the Caño Manamo and the Brazo del Orinoco until the foot of the Imataka Mountains between San Miguel and Aramaya; and Bolivar State to the south."

Article 6 - The capital of the Delta Amacuro Federal Territory is the town of Tucupita, though the National Executive may transfer it when he deems it appropriate.

Article 7 - The Delta Amacuro Federal Territory is divided into three Departments, namely:

1. Tucupita Department; Capital: Tucupita.
2. Pedernales Department; Capital: Pedernales.
3. Antonio Diaz Department; Capital: Curiapo.

- 294 -

Pg. 295

The Territorial Jurisdiction formerly belonging to Amacuro Department is included in that of the Antonio Diaz Department.

FROM : P. FRAY CESAREO DE ARMELLADA (comp.) Fuero indigena
venezolano : (pt. 2) (Caracas, 1954, p. 293-295)

Ley orgánica de los Territorios Federales (14 Sept. 1948)

TEXTO N° 98

LEY ORGANICA DE LOS TERRITORIOS FEDERALES

TITULO I

CAPITULO I

De los Territorios Federales.

Artículo 1°.—De conformidad con lo dispuesto en el artículo 7° de la Constitución Nacional, los Territorios Federales son: el Amazonas y el Delta Amacuro.

CAPITULO II

Del Territorio Federal Amazonas

Art. 2°.—El Territorio Federal Amazonas, antes Río Negro, en que se refundió el antiguo Territorio Alto Orinoco, lo forma la región comprendida dentro de los siguientes linderos: al Norte, el Estado Bolívar, al Este, el Estado Bolívar y los Estados Unidos del Brasil, al Sur, los Estados Unidos del Brasil, y al Oeste, la República de Colombia.

Art. 3°.—La Capital del Territorio Federal Amazonas es la población de Puerto Ayacucho, pero el Ejecutivo Nacional podrá trasladarla a otra población del territorio cuando las

necesidades del Servicio Público así lo requieran.

Art. 4º.—El Territorio Federal Amazonas se divide para su régimen político en cuatro Departamentos, a saber:

- 1º.—Departamento Atabapo, Capital San Fernando de Atabapo.
- 2º.—Departamento Atures, Capital Puerto Ayacucho.
- 3º.—Departamento Casiquiare, Capital Maroa.
- 4º.—Departamento Río Negro, Capital San Carlos.

CAPITULO III

Del Territorio Federal Delta Amacuro.

Artículo 5º.—El Territorio Federal Delta Amacuro lo forma la región comprendida dentro de los siguientes linderos: por el Norte, el Golfo de Paria y, el Océano Atlántico; por el Este, el Océano Atlántico y la Guayana Británica, definidos así por el Tratado de Límites celebrado entre Venezuela y la Gran Bretaña: "De Punta Playa en línea recta a la confluencia del Barima y del Baruma. Continúa por el medio de la corriente de este río hasta sus fuentes. De este punto en línea recta a la unión del Haiwoa con el Amacuro. Continúa por el medio de la corriente del Amacuro hasta sus fuentes en la Sierra Imataca; siguen al S. O. por las cimas más altas de Imataca hasta el punto más alto frente a las fuentes del Barima. Por el Oeste, el Estado Monagas, del que lo separan el Caño Mánamo y el Brazo del Orinoco hasta el pie de la Sierra Imataca entre San Miguel y Aramaya; y por el Sur, el Estado Bolívar."

Artículo 6º.—La Capital del Territorio Federal Delta Amacuro es la población de Tucupita, pero el Ejecutivo Nacional podrá trasladarla a otra cuando lo estime conveniente.

Artículo 7º.—El Territorio Federal Delta Amacuro, queda dividido en tres Departamentos a saber:

- 1º.—Departamento Tucupita, Capital Tucupita.
- 2º.—Departamento Pedernales, Capital Pedernales.
- 3º.—Departamento Antonio Díaz, Capital Curiapo.

p. 295
La Jurisdicción Territorial que anteriormente correspondía al Departamento Amacuro, queda comprendida en la del Departamento Antonio Díaz.

Annex 90

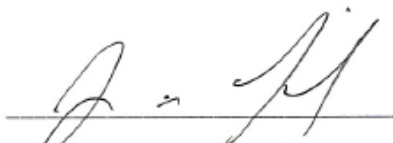
Minutes and Documents from the Tenth Inter-American Conference (1-28 Mar. 1954) (excerpt)



STATE OF NEW YORK)
)
) ss
 COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached excerpt from the Tenth Inter-American Conference Minutes and Documents, Volume 1.



 Laura Musich, Managing Editor
 Lionbridge

Sworn to and subscribed before me

this 15 day of FEBRUARY, 20 22.



JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU6169789
Qualified in New York County
My Commission Expires 09-23-2023

EXTRACTED FROM:

“Tenth Inter-American Conference,
Caracas, Venezuela.

March 1 – 28, 1954

Minutes and Documents
Volume I”

However, my delegation believes that it is essential to insist at this time on that Venezuelan tradition, and to recall, among the most significant recent events that make such tradition clear, the statement made by Venezuela’s Delegate to the Fourth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics, held in Washington, 1951, and the Communiqué issued by the Venezuelan Foreign Ministry on October 16, on the occasion of events in Georgetown.

Recalling that background, the Government of Venezuela wishes to reaffirm the approach adopted on those occasions and, to that end, makes to this Assembly the following statement, and requests that it be entered into the record:

1. With respect to the general problem of colonialism in the Americas, the Government of Venezuela believes that now, more than ever, the existence of vassal countries and the maintenance of colonial rule are inappropriate in the New World.

2. With respect to the specific case of British Guiana, the Government of Venezuela declares that none of the status changes that may occur in that neighboring country can be an obstacle to allowing the national government, interpreting the unanimous sentiment of the Venezuelan people, and in view of the particular circumstances that prevailed in connection with the marking of its border line with the aforementioned Guiana, to avail itself of its just aspiration for the damage suffered by the nation on such occasion to be repaired, according to an equitable rectification. In accordance with the foregoing, no decision on the subject of colonies adopted at this Conference may impair the rights of Venezuela in this regard, nor be interpreted, in any case, as a waiver thereof.

[...] to read "Declares: The present resolution shall be known as the "Caracas Declaration."

Adopted.

Representative of VENEZUELA (Mr. Lépervanche Parparcén): Mr. President, I thank the delegation of Brazil and all of the delegations for assigning the name of the "Caracas Declaration," which was unanimously adopted. My few words demonstrate our gratitude. (*Extended applause*)

PRESIDENT: Let us now turn to Document 555, entitled "Colonies and Occupied Territories in America." The cited document is under consideration.

Representative of VENEZUELA (Mr. Carmona): Mr. President: the position that Venezuela has maintained throughout its history with respect to the problem now under consideration is well known, given that it is confused with the very origin of our nationality, born out of our vocation for the freedom and independence of the peoples, and thanks to the efforts and sacrifices that made possible the realization of those ideals on much of the American soil.

However, my delegation believes that it is essential to insist at this time on that Venezuelan tradition, and to recall, among the most significant recent events that make such tradition clear, the statement made by Venezuela's Delegate to the Fourth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics, held in Washington, 1951, and the Communiqué issued by the Venezuelan Foreign Ministry on October 16, on the occasion of events in Georgetown.

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2. With respect to the specific case of British Guiana, the Government of Venezuela declares that none of the status changes that may occur in that neighboring country can be an obstacle to allowing the national government, interpreting the unanimous sentiment of the Venezuelan people, and in view of the particular circumstances that prevailed in connection with the marking of its border line with the aforementioned Guiana, to avail itself of its just aspiration for the damage suffered by the nation on such occasion to be repaired, according to an equitable rectification. In accordance with the foregoing, no decision on the subject of colonies adopted at this Conference may impair the rights of Venezuela in this regard, nor be interpreted, in any case, as a waiver thereof.

PRESIDENT: The above-cited document is under consideration. The delegates who are in favor of its adoption will be well advised to state so in a customary manner.

Adopted by 19 votes in favor and one abstention. Let us now turn to the next document, number 557, entitled "Colonies in American Territory." The delegates who are in favor of its adoption will be well advised to state so.

Adopted by 19 votes in favor and one abstention. Document 521 is [...]

EXTRACTED FROM:

"Decima Conferencia Inter Americana
Caracas, Venezuela.

1 al 28 de Marzo de 1954

Actas Y Documentos
Volumen I"

Sin embargo, cree mi delegación indispensable insistir en esta oportunidad acerca de esa tradición venezolana, y recordar, entre los hechos recientes de mayor significación que la hacen evidente, la declaración formulada por el Delegado de Venezuela ante la Cuarta Reunión de Consulta de Ministros de Relaciones Exteriores de las repúblicas americanas, celebrada en Washington, 1951, y el Comunicado emitido por la Cancillería venezolana el 16 de octubre último, con motivo de sucesos ocurridos en Georgetown.

Al recordar ahora esos antecedentes, el Gobierno de Venezuela desea reafirmar el criterio sustentado en esas ocasiones y, al efecto, formula frente a esta asamblea la siguiente declaración, de cuyos términos pide que quede expresa constancia en actas, a saber:

1°. Respecto del problema general del coloniaje en América, el Gobierno de Venezuela considera que hoy más que nunca se hacen impropios en el ámbito del Nuevo Mundo la existencia de países vasallos y el mantenimiento del régimen colonial.

2°. En cuanto al caso concreto de la Guayana Británica, el Gobierno de Venezuela declara que ninguno de los cambios de *status* que puedan ocurrir en ese país vecino, puede ser obstáculo para que el gobierno nacional, interpretando el sentimiento unánime del pueblo venezolano, y en vista de las peculiares circunstancias que prevalecieron en relación con el señalamiento de su línea fronteriza con la mencionada Guayana, haga valer su justa aspiración de que se reparen, conforme a una rectificación equitativa, los perjuicios sufridos por la nación en esa oportunidad. De conformidad con lo que antecede, ninguna decisión que en materia de colonias se adopte en la presente Conferencia, podrá menoscabar los derechos que a Venezuela corresponden por este respecto, ni ser interpretada, en ningún caso, como una renuncia de los mismos.

que dijera "Declara: La presente resolución será conocida como 'Declaración de Caracas'."

Aprobada.

El Representante de VENEZUELA (Sr. Lépervanche Parparcén): Señor Presidente, doy las gracias a la Delegación del Brasil y a todas las delegaciones por haber puesto el nombre de "Declaración de Caracas", a ésta que ha sido aprobada unánimemente. Mis pocas palabras demuestran nuestra gratitud. (*Aplausos prolongados*)

El señor PRESIDENTE: Pasamos ahora al documento 555, que lleva por título "Colonias y Territorios Ocupados en América". En consideración el documento citado.

El Representante de VENEZUELA (Sr. Carmona): Señor Presidente: la posición que Venezuela ha mantenido a todo lo largo de su historia frente al problema que estamos considerando, es bien conocida, puesto que ella se confunde con el origen mismo de nuestra nacionalidad, surgida como fruto de nuestra vocación por la libertad y la independencia de los pueblos, y gracias a esfuerzos y sacrificios que hicieron posible la realización de esos ideales en gran parte del suelo americano.

Sin embargo, cree mi delegación indispensable insistir en esta oportunidad acerca de esa tradición venezolana, y recordar, entre los hechos recientes de mayor significación que la hacen evidente, la declaración formulada por el Delegado de Venezuela ante la Cuarta Reunión de Consulta de Ministros de Relaciones Exteriores de las repúblicas americanas, celebrada en Washington, 1951, y el Comunicado emitido por la Cancillería venezolana el 16 de octubre último, con motivo de sucesos ocurridos en Georgetown.

Al recordar ahora esos antecedentes, el Gobierno de Venezuela desea reafirmar el criterio sustentado en esas ocasiones y, al efecto, formula frente a esta asamblea la siguiente declaración, de cuyos términos pide que quede expresa constancia en actas, a saber:

1º. Respecto del problema general del colonisaje en América, el Gobierno de Venezuela considera que hoy más que nunca se hacen impropios en el ámbito del Nuevo Mundo la existencia de países vasallos y el mantenimiento del régimen colonial.

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El señor PRESIDENTE: En consideración el documento citado. Los señores delegados que estén por su aprobación, tendrán a bien manifestarlo en la forma acostumbrada.

Aprobado por 19 votos a favor y una abstención. Pasamos al documento siguiente, número 557, que lleva por título "Colonias en Territorio Americano". Los señores delegados que estén por su aprobación, tendrán a bien manifestarlo.

Aprobado por 19 votos a favor y una abstención. El documento 521 lleva por

Annex 91

Ministry of Foreign Relations, Mixed Venezuelan-Brazilian Commission on the
Demarcation of Boundaries, [*Acta de la Cuadragésima Primera Conferencia*]
Minutes of the Forty-First Conference (1973) (excerpt)



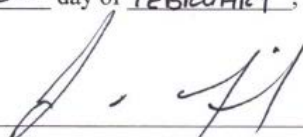
STATE OF NEW YORK)
)
) ss
 COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached Minutes of the Forty-First Conference of the Ministry of Foreign Affairs Venezuelan-Brazilian Joint Boundary Demarcation Commission.



 Lynda Green, Senior Managing Editor
 Lionbridge

Sworn to and subscribed before me
 this 20th day of FEBRUARY, 2022.


LAURA E MUSICH
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01MU6386791
 Qualified in Queens County
 My Commission Expires 01-28-2023

[initials]

Ministry of Foreign Affairs
Venezuelan – Brazilian Joint Boundary
Demarcation Commission

MINUTES OF THE FORTY-FIRST CONFERENCE

On the twenty-third day of August of the year nineteen seventy-three, President of the Republic of Venezuela His Excellency Dr. Rafael Caldera and President of the Federative Republic of Brazil His Excellency General of the Army Emilio Garrastazu Médici, Foreign Minister of Venezuela His Excellency Dr. Arístides Calvani Silva and Minister of State for Foreign Affairs of Brazil His Excellency Ambassador Mario Gibson Barboza, met in the city of Caracas, Capital of the Republic of Venezuela, for the special purpose of recording the results of the work of the Venezuelan-Brazilian Joint Boundary Demarcation Commission, reviewed starting on the thirteenth day of that month during consecutive sessions at its Forty-First Conference by the following individuals: for Venezuela, His Excellency Ambassador Doctor Román Rojas Cabot, Director of Borders, and the members of the Venezuelan-Brazilian Border Demarcation Commission, Technical Adviser and Supervisor Mr. Georges Pantchenko, Engineer Jorge Cardona Johnson, Surveyor Rene Gay Pola, Surveyor Reinaldo Morales Solá, and the Secretaries of the Commission Olga Salazar de Morillo and Gloria Basalo Ballesté, and for Brazil, His Excellency Major-General Ernesto Bandeirs Coelho, Head of the First Brazilian Boundary Demarcation Commission, previously known as the Brazilian Boundary Demarcation Commission - First Division, the honorable Counsellor Antonio Conceicao, Head of the Border Division of the Ministry of Foreign Affairs of Brazil, and the members of the Commission, Astronomer Dilermando de Moraes Mendes

.../

[initials]

Ministry of Foreign Affairs
Venezuelan – Brazilian Joint Boundary
Demarcation Commission

Cocuy – Huá;


- from there, with another straight [line], guided by two boundary markers, continues to the Cerro Cupi;

- from the boundary marker erected on the summit of this hill, and then on the peaks of the elevations corresponding to the westernmost section of the water divide, which governs the border divider, it stretches continuously along the Sierra Imeri, Tapirapécó, Curupirá and Urucusiro, extending its long route onto the summit of the Parima mountain range to its intersection with the Pakaraima mountains;

- from there, in continuation of the Orinoco- Amazon water divide defined by this mountain range, it passes successively over the side of the Maribá, Uarai or Arai, Caranguejo, Uaipá, Uranapimbarú, and Ueiasipu or del Sol mountain ranges, until arriving at Mount Roraima, where it ends at the tripoint marker of the borders of Venezuela, Brazil and Guyana.

- Having described the dividing line demarcated by the Joint Commission, the Head of the Venezuelan Commission, as a representative of his Government, stated that with respect to Guyana, the tripoint nature of this marker is subject to Venezuela's claim under the Geneva Agreement of February 17, 1966, and the Port of Spain Protocol of June 18, 1970.

- The Head of the Brazilian Commission then stated that he took due note of the statement made by his distinguished colleague, but wished to place on record that, for purposes of the relevant demarcation, the location of this boundary marker is the same as the location described in the respective Inauguration Act that was drawn up and signed by the representatives of the Venezuelan and Brazilian Commissions on December 29, 1931.



Ministerio de Relaciones Exteriores
Comisión Mixta Venezolano-Brasileña
Demarcadora de Límites

ACTA DE LA CUADRAGESIMA PRIMERA CONFERENCIA

A los veintitres días del mes de agosto del año de mil novecientos setenta y tres, siendo Presidente de la República de Venezuela Su Excelencia el Señor Doctor Rafael Caldera y Presidente de la República Federativa del Brasil Su Excelencia el Señor General de Ejército Emilio Garrastazu Médici, Ministro de Relaciones Exteriores de Venezuela Su Excelencia el Señor Doctor Aristides Calvani Silva y Ministro de Estado de Relaciones Exteriores del Brasil su Excelencia el Señor Embajador Mario Gibson Barboza, se reunieron en la ciudad de Caracas, Capital de la República de Venezuela, con el propósito especial de consignar los resultados de los trabajos de la Comisión Mixta Venezolano-Brasileña Demarcadora de Límites, examinados a partir del día trece del citado mes, durante sesiones consecutivas correspondientes a su Cuadragésima Primera Conferencia, las siguientes personas: por parte de Venezuela, el Excelentísimo Señor Embajador Doctor Román Rojas Cabot, Director de Fronteras y los miembros de la Comisión Venezolana de Demarcación de la Frontera con el Brasil, Consejero Técnico y Jefe Señor Georges Pantchenko, Ingeniero Jorge Cardona Johnson, Topógrafo Rene Gay Pola, Topógrafo Reinaldo Morales Solá y las Secretarias de la Comisión Olga Salazar de Morillo y Gloria Basalo Ballesté y por parte del Brasil, El Excelentísimo Señor General de División Ernesto Bandeira Coelho, Jefe de la Primera Comisión Brasileña Demarcadora de Límites, anteriormente designada con el nombre de Comisión Brasileña Demarcadora de Límites - Primera División, el honorable Señor Consejero Antonio Conceicao, Jefe de la División de Fronteras del Ministerio de Relaciones Exteriores del Brasil y los integrantes de la mencionada Comisión, Astrónomo Dilermando de Moraes Mendes

.../



Ministerio de Relaciones Exteriores
Comisión Mixta Venezolano-Brasileña
Demarcadora de Límites

Cocuy - Huá;

- desde allí, con otro recta, orientada por dos hitos, si gue hasta el Cerro Cupí;

- a partir del hito erigido en la cumbre de este cerro y, entonces, sobre las cimas de las elevaciones que corresponden al tramo más occidental del divortium-aquarum, que rige el divisor-frontera, si gue en forma continua a lo largo de las Sierras Imeri, Tapirapecó, Curu pirá e Urucusiro, prolongando su extenso trayecto sobre la cumbre de la cordillera Parima hasta su unión con la cordillera Pacaraima;

- desde allí, en continuación del divortium-aquarum Orinoco- Amazonas definido por esta cordillera pasa sucesivamente sobre el perfil de las Sierras Maribá, Uarai u Arai, Caranguejo, Uaipá, Uranapimbarú, y Uelasipu o del Sol, hasta llegar al monte Roraima, donde remata sobre el hito trifinio de las fronteras de Venezuela, Brasil y Guyana.

- Una vez descrita la línea divisoria demarcada por la Comi sión Mixta, el Jefe de la Comisión venezolana, como representante de su Gobierno, manifestó que con relación a Guyana el carácter trifinio de este hito, está sujeto a la reclamación venezolana según el Acuerdo de Ginebra del diecisiete de febrero del año de mil novecientos sesenta y seis y el Protocolo de Puerto España del dieciocho de junio del año de mil novecientos setenta.

- El Jefe de la Comisión brasileña expresó, entonces, que tomaba debida nota de la declaración hecha por su Ilustre colega, desean do no obstante dejar constancia de que, para los efectos de la demarca ción realizada, la situación del referido hito es la misma descrita en la respectiva Acta de inauguración, elaborada y firmada por los repre sentantes de las Comisiones venezolana y brasileña, a los veintinueve días del mes de diciembre del año de mil novecientos treinta y uno.

Annex 92

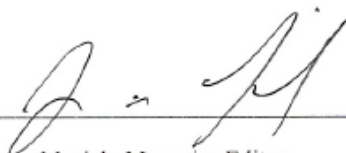
Federative Republic of Brazil, Ministry of Foreign Affairs, “9.4 – BV-0 Mount Roraima Marker”



STATE OF NEW YORK)
)
) ss
COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Portuguese into English of the attached excerpt from Federative Republic of Brazil Ministry of Foreign Affairs 1st Brazilian Commission to Establish Borders.



Laura Musich, Managing Editor
Lionbridge

Sworn to and subscribed before me

this 15 day of FEBRUARY, 20 22.



JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU6169789
Qualified in New York County
My Commission Expires 09-23-2023



Federative Republic of Brazil

Ministry of Foreign Affairs



1st Brazilian Commission To Establish Borders

9.4 – BV-0 Mount Roraima Marker





República Federativa do Brasil
Ministério das Relações Exteriores
1ª Comissão Brasileira Demarcadora de Limites



9.4 - Marco BV-0 Monte Roraima



Annex 93

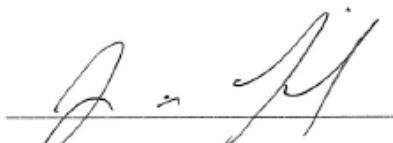
Ministry of Foreign Affairs of Brazil, First Brazilian Commission to Establish Borders, “8.1 – Brazil – Guyana –Venezuela Tri-Border Area (Mount Roraima)”



STATE OF NEW YORK)
)
) ss
COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Portuguese into English of the attached excerpt from Ministry of Foreign Affairs First Brazilian Commission to Establish Borders.



Laura Musich, Managing Editor
Lionbridge

Sworn to and subscribed before me

this 15 day of FEBRUARY, 20 22.



JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU6169789
Qualified in New York County
My Commission Expires 09-23-2023



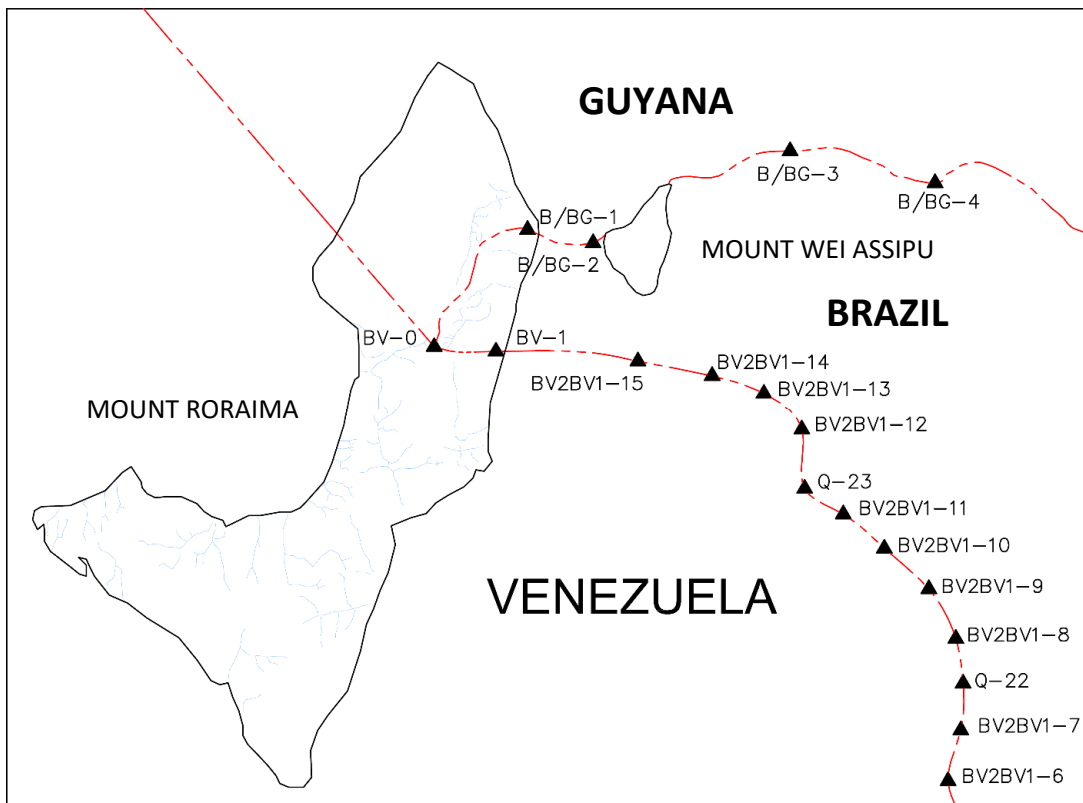
MINISTRY OF FOREIGN AFFAIRS

FIRST BRAZILIAN COMMISSION TO ESTABLISH BORDERS



8.1 – BRAZIL – GUYANA – VENEZUELA TRI-BORDER AREA

(MOUNT RORAIMA)

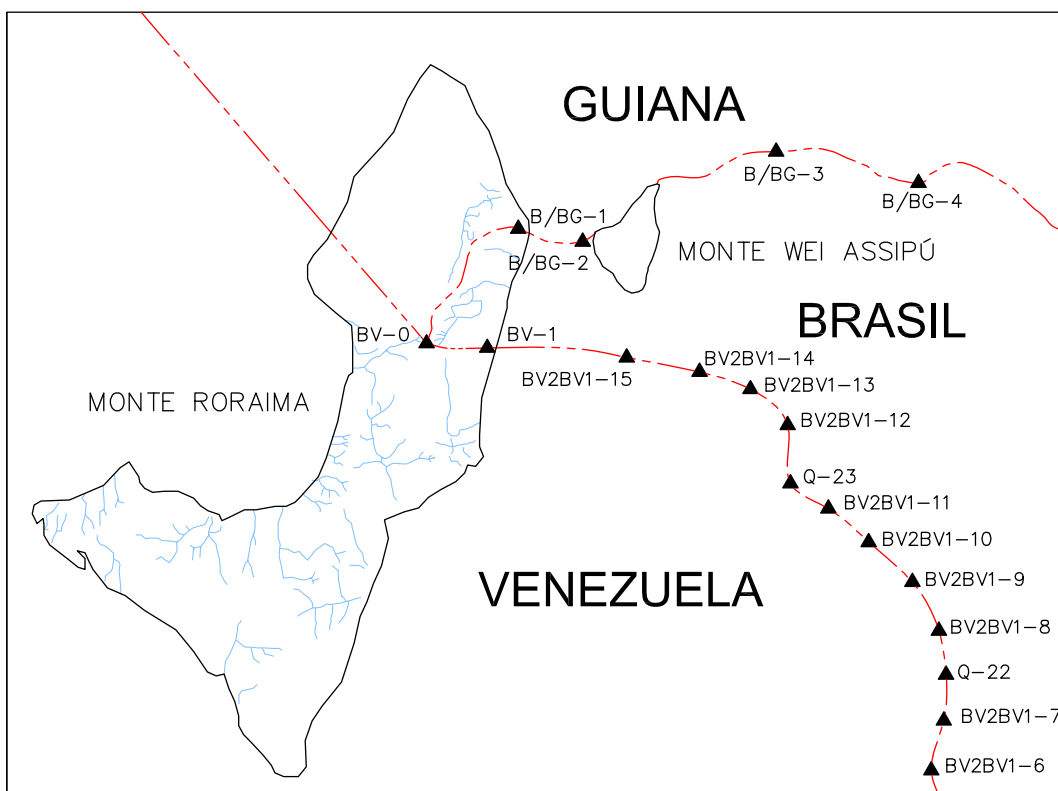




MINISTÉRIO DAS RELAÇÕES EXTERIORES
PRIMEIRA COMISSÃO BRASILEIRA DEMARCADORA DE LIMITES



8.1 - TRIJUNÇÃO BRASIL - GUIANA - VENEZUELA
(MONTE RORAIMA)



Annex 94

Petition to the Noble and Mighty Lords the States-General of these United Provinces concerning the Population of the Coasts of Guiana situated in America
(undated)

A 12½ last, ende van de custen van Barbarijen comende, op ditto voorts geseijlt binnen de voerz. eijlanden, ende op 22 ditto wederomme deur d'eijlanden van Dommenica, Poorebano ende alsoe onsen cours gestelt op d'eijlanden van Tersera, waervan wij op 21 November d'eijland van Fayal int'sicht gegregeen ende voerbij geseijlt hebben, ende op den avond een Engelsche pinasse vernomen op 22 ditto sanderdaegs versproocken omtrent d'eijlandt van Graciose, ende van daer onsen cours gestelt op de cannael ende op 11 Decembris doer contrarij windt tot Pleijmouth in Engeland ingelooopen ende aldaer gelegen totten 25 ditto, en tseijl gegaeen naer dese landen met diverse scheepen ende op 28 ditto tot Middelborch in Zeelandt gearriveert.

B Sulcx, dat wijluiden in dese voijage hebben ontdeekt; gevonden ende beseijlt over de 24 rivieren, veel eijlanden in de rivieren ende andere diverse havenen, die nijet bij dese landen en zijn bekent nog beseijlt geweest, ja dat meer is, in geene quaerten oft cosmographen voerdato onse voijage bescreven noch ontdekt zijn geworden. Alle hetwelcke ik onderschreven als commiss-generael van dese voijage, verclaere waerachtig te wesen, zijde bereit (soo noot sij) tzelvde Uwe **C** M. E. breedere bij monde oft schriftelick te verclaren. Oronden der waerheit, zoe hebbe ik deze onderteekent, den derden Februarij anno 1599.

U. E. onderdanigen dienaer,
A. CABELIAU.

size, and coming from the coasts of Barbary, on the same day we sailed further within the said islands, and on the 22nd again through the Islands of Dominica and Poorebano, and so made our way to the Islands of Tersera, of which we got the Island of Fayal in sight on the 21st November, and sailed past it, and in the evening we sighted an English pinnace, and spoke it next day, on the 22nd, near the Island of Graciose, and from there we kept our course up the Channel, and on the 11th December put into Plymouth in England on account of contrary winds, and lay there till the 25th, and set sail to this country with various ships, and arrived on the 28th at Middelburg in Zeeland.

So that we have discovered, found, and navigated in this voyage more than twenty-four rivers, many islands in the rivers, and other divers harbours which were not known in this country nor had they been sailed upon, nay more, that had not been described or discovered before the date of our voyage in any maps or cosmographies. All of which, I, the undersigned, as Commissary-General of this voyage, declare to be true, being ready (if necessary) to declare the same to your Honours more circumstantially by mouth or in writing. As documents of the truth I have signed these on the 3rd February, 1599.

Your Honours' humble Servant,
(Signed) A. CABELIAU.

No. 9.

D *Remonstrantie aen de E. mo. heeren Staten Generael van deeser gemierde Provincien opt stuck de populatie van de costen van Guiana in America gelegen.*

ICK en twijfele nijet oft tis de E. mo. Heeren Staaten Generaal genochsaem bekent, wat rijcker, schoender, vruchtbarder populaeuser plaisanter, ende costelijcker landt, nu onlanex door eenige van deeser landts coopvaerlieschepen ontdeekt is worden in America gelegen, genampt de provincie van Guiana.

E Alwaer nijet alleenelijck veel schoone zeehavenen, bequame diepe schipbruijkige revieren, overvloedige weijden, bequaem tot alderhande veetocht, maer oock een vruchtbaer ende zeer bequaem landt, tot de cultivatie van terwe, wijn, olie, suijskerriet, gember, catoen, brazilie ende steertpeper, pastel, anijl indigo, ende alderlaije andere laudt vruchten die men in andere quartieren in Oost ende West Indien gewoen is te cultivieren op gelijcke hoochden ende climaet.

F Noch brengt dit landt voorts palmiten, ende balsemolie, diversche sorten van gommen, witten wieroock oft masticx, een vaste oragne verwe annota genampt daer men 16 derlaije coleuren mede verwen kan, een zeeckere swaerte varwe die so meer corrosieff goet is tot zijde ende lijnwaet te verwen, lignum gaiaicum, Brazilie haut ende andere welrieckende hauten.

Jae men twijfelt oock nijet, oft daer zal metter tijt, goede coutionili kunnen gewonnen worden, dwelek, men vastelijck conjectureert nuijt dien aldaer bevonden wordt in overvloet te wasschen het cruijt oft arbuste genaempt Tonnael alias ficus Indicus daer de wormkens mede gespijst ende gevoet worden daer men de coutionilie aff maeckt.

Petition to the Noble and Mighty Lords the States-General of these United Provinces concerning the Population of the Coasts of Guiana situated in America.

I DOUBT not that it is sufficiently well-known to the noble and mighty Lords, the States-General, what a rich, beautiful, fertile, populous, pleasant, and splendid country has now recently by some of the merchant-ships of this country been discovered situated in America and named the Province of Guiana, where there are not only many fine harbours, sufficiently deep, navigable rivers, pasture in abundance, suitable for all kinds of cattle breeding, but also a fertile and very suitable country for the cultivation of wheat, wine, oil, sugar-cane, ginger, cotton, Brazil and other pepper, wood, aniline, indigo, and all other kinds of products which we are accustomed to cultivate in the same latitude and in similar climates in other quarters of the East and West Indies.

This country also produces palmiten and balsam, different kinds of gums, white olibanum or mastic, a fast orange dye called annota, with which sixteen different colours can be produced, a certain black dye which is non-corrosive and fit for dyeing silk and linen, lignum gaiaicum, Brazil wood and other pleasant smelling woods.

There is, indeed, also no doubt that in time it would be possible to produce good cochineal there, which conjecture is strongly based upon the fact that there is found to grow in abundance the plant or bush named tonnael or ficus indicus upon which the little worms are fed out of which cochineal is made.

Ende wat hoop ende expectatieff datter is, van een rijke goudt ende silver mine te vinden, daer van geven de wercken ende experientie gethuijgenisse wandt men alle reeds ontdeekt heeft een mine daer van de adere gout ende het onliggende arts silver is.

Daer van cenige proeven ende assaijen gemackt zijn, van het arts (dat bij cenige ombeavene oft ombedrevene luijden opt stuck vant berchwerck) van daer gebrocht is worden, dweleck sij van boven neer (sonder eenige kennisse, noch onderscheijt) uutjt de voorsz. mine genomen ende gegraven hebben, Ende werdt bevonden deen meer ende dandere min te renderen.

Eenige proeven responderen op 60 gulden t quintaal arts, noch sijnder assaijen gemackt die maer $\frac{1}{2}$, 2, 5, 7, 14, ende 45 st[uijvers] ende oock ander 3 gulden vant pont arts coomen te renderen. Dan hoe rijk dat de selve mine vallen zal is nijet te weten voor datter kenners ende bedrevene berchwerckers tot het mineren geimploijert werden, dweleck noch ter tijt nijet en dient gedaen noch wijlders ontdeekt te worden, voor ende al eer dat men tselve landt gepopuleert ende met goede sterke steden ende forteressen bevesticht heeft, op dat andersints door den rijckdomme der selver geen andere onliggende natien, tsij vrindt oft viant, geenen lust krijgen, nocht beweect worden ons in deselve interprinse t'anticipieren, ende te voorcoomen, middeler tijt dat wij alhier doende sauden weesen int consuleren oft overleggen hoe men deese interprinse ten zeekersten ende bequacmelijcxsten, als oock bij ende met wat middelen men deesen aenslach saude moegen nijet allenelijck beginnen maer oock tot een gewensten eijnde uutjt vueren.

Wandt men bevindt metter daet door lange ende menichvuldige experientie dat uutjt de voorsz. costen van America geen rijckomme noch profijten soo wel van de mijnen als vruchtbaerheijt van de landen te trecken noch te veroveren zijn ten zij dat men tselve landt ierstelijck populere.

Dweleck den cooplieden ende iersten ontdeckers dunckt geen interprinse noch saecke te weesen om bij henlieden alleen oft op hen eijgen handt ende costen geattenteert noch aenvert te worden nijet om dat sij hen schroemen van de costen die tot de selve populatie gedaen moeten worden (die men gist dat lichtelijck onder een pluralitejt van cooplieden ende andere rijke borsten sauden kunnen gevonden worden mits de goede hoope ende aensien datter is om profijit te doen) maer verneijnen tselve een tstück te weesen (dat alleen aan de hooge overicheijt oft souvereijn prince competeert ende betaempt oft immers benefens d'assistentie faveur ende protectie van de selve behoort gehanthaeft ende geinterpreneert te worden.

Dacronne staet bij Uwe E. E. hier op te verclaeren ende resolveren oft zij de voorsz. populatie alleen op slands costen oft andersints met behulpsaemheijt van eenige rijke borsten ende particuliere cooplieden sauden begeeren t'interpreneren ende aengrijpen.

Tot welcken aenslach God Almachtich ongetwijfelt zal verleenzen zijnen zegen geluck, ende voorspuet soo verre men te spoedelijcxste compt te resolveren, ende metter daet effectuieren, dat men sonder eenich langer dilaye in de voorsz. costen van America oversette een goede quantiteijt van volck, daer mede men voor d'ierste alle bequame zeehavenen sal besetten ende bevestigen de selve met eenige steden oft forteressen.

Dweleck in deese coniuactie van tijt zeer licht

Both works and experience bear testimony to what hope and expectation there is of finding a rich gold and silver mine, because already a mine has been discovered of which the veins are gold, and the surrounding ore is silver, of which ore (found by some inexperienced or unskilled people on a part of the mine) brought from thence some proofs and assays have been made, and which ore they took and dug (without any knowledge or discrimination) from the top of the aforesaid mine, and of which some was found to yield more and some less.

Some proofs amount to 60 guilders per quintal of ore, whilst other assays have been made which only yield half, 2, 5, 7, 4, and 45 pence, and also other 3 guilders per lb. of ore.

But how rich this same mine shall prove to be cannot be known before experts and experienced miners are employed to dig, which it is not yet opportune and expedient to do and discover before the same land has been populated and invested with good strong cities and fortresses, lest otherwise other surrounding nations, be they friends or enemies, moved by the riches of the same, may take it into their heads to anticipate and forestall us in that same enterprise whilst we are here occupied in devising or considering how this enterprise could be carried out in the most safe and proper way, and also by and with what means this undertaking should not only be commenced, but also carried to a successful issue.

For we find indeed by long and varied experience that from the aforesaid coasts of America no riches or profits are to be drawn or gained either from the mines or from the fertility of the country unless the said land be first populated.

Which the merchants and first discoverers deem to be no enterprise or matter to be attempted or commenced by them alone, or upon their own responsibility and costs; not that they shrink from the costs that would have to be made for such population (which one can guess could easily be found amongst a number of merchants and other rich nobles, considering the good hope and expectation there is of making profit), but they consider it a duty which is only competent and meet for the highest authority or sovereign prince to do, or which should certainly only be done and undertaken with the assistance, favour, and protection of the same.

It is therefore for your Lordships to declare and resolve whether you would desire to undertake and commence the aforesaid population at the cost of the country alone, or otherwise with the help of some rich nobles and private merchants.

To which undertaking God Almighty will undoubtedly grant His blessing, good fortune and prosperity so soon as it has been resolved and put into execution, that without further delay there shall be transported to the aforesaid coasts of America a goodly number of people with whom in the first place all suitable harbours shall be occupied and some towns or fortresses invested, which at this juncture can very easily be done with slight cost on account of the

A ende met cleijnen cost, om doen zal weesen, mits de gelegenheit van de sout schepen, die jaerlijcx in groote quantiteit daerwarts aen varen gelijck een iegelijck lichtelijck kan oordeelen wel gefondert te zijn die de situatie ende gelegenheit van de voorsz. Americaense costen bekennt zijn.

Tot instructie van dien dient gepremittert ende is te weeten dat de provincie van Guiana in America gelegen, licht op 4, 6, ende meer graeden bij noorden der linie equinoctiael, haer streckende van de groote reviere Amasones tot aen punto della Rae oft Trinitade hebbende een gesonde bequame, ende wel getemperde locht ende climaet, overvloedich van alle lijftocht. Ende alsoo gelegen dat de naeste palen (bij de Portuiguisen bewoent in Brasilien daer van disteren over de 300 mijlen.

Ende de naeste plaetsen bij de Spanniaerden bewoent sijn oock omtrent 200 mijlen disterende, vant quartier daer het berchwerck voorsz. ontdeckt is, dwelck men oock voor dierst moet populeren ende sterck maeken.

Sijnde deselve provintie van beijde der voorsz. natien litten (neffens de voorsz. wijde distantie) oock inaccessibel, door veel hooge bergen, groote wildernissen, boscagien, ende met zeer diepe rivieren ende stroomen gesepareert ende affgesondert.

De zeestrandt is over alles zeer vlack ende d'incoomen van alle zeehavnen sijn oock met eenige ondiepte, bancken ende sanden beset, die met baeckens ende tonnen voor de vrienden geopent ende ter contrarie met het opnemen der selver voor alle vianden gesloten kunnen werden.

Dwelck alle is streckende tot grooter vestinge ende sterckte van de voorsz. Americaense provincie.

D Hoewel men aldaer van de costen van Brasilien geen aenstoot, fortse noch inval verwachtende is.

Ende van de costen van Spaensch oft West Indien heeft men aldaer geen macht, noch geweld te vreesen, om dat sijn beneden windt ende stroem liggen.

Wat van Spanniën oft Portugael te beduchten is, moet met groote vaten ende schepen geattenteert worden, die hen nijt gerne sullen begeven, in de voorsz. ondiepte, ende vlacke stranden tegens een vast landt ende ijsere zeeosten zijnde over alles de zeehavnen in tijde van noode gesloten, mits het op nemen van de baeken ende tonnen, als voorsz. is.

E Is oock de voorsz. provincie soo wel gelegen ende gesituert, dat de selve tot allen tijden van den jaere kan beseijlt worden uijt deese gemierde provincien, sonder dat iemandt de selvige vaert saude kunnen beletten, verhinderen oft becommeren die wijle dat de passagie van hier tot daer breet ende wijt ende continuelijck een volle zee te beseijlen hebben, sonder dat men eenige capen eerst op doen, oft engten ende straten door te zejlen.

F Welcke provincie oock veel bequamer van hier kan over ende weer beseijlt worden, als van Spanniën, sijnde onse schepen gemeijnelijck 6 weeken oft twee maenden doende om van hier daerwarts te zejlen. Soo dat apparentelijck jae ongetwijfelt op de voorsz. Guiaense provincie metter tijt groote navigatie ende geenen cleijnen handel ende negotie sal coomen gedreven te worden, nijt alleenelijck met sout ende lantsvruchten die aldaer sullen coomen gelaeden ende gecultivert worden, maer oock met menichvuldige manufacturen ende andere waren die van deese landen

opportunity afforded by the salt ships which annually sail thither in great numbers, and as every one who is acquainted with the situation and locality of the aforesaid American coasts can easily know to be well-founded.

For the instruction of your Lordships it should be stated and ought to be known that the Province of Guiana, situated in America, lies upon 4, 6, and more degrees north of the equator, extending from the great River Amazon to Punt della Rae or Trinidad, having a healthy, suitable and well-tempered atmosphere and climate, with abundance of all the necessaries of life, and so situated that the nearest settlements [palen] inhabited by the Portuguese in Brazil are more than 300 [Dutch] miles distant from there. And the nearest places inhabited by the Spaniards are also about 200 [Dutch] miles distant from the quarter where the afore-mentioned mine was discovered, which should also be first populated and fortified.

The said province is also separated and cut off from the boundaries of both the aforementioned nations by very deep rivers and streams, and (in addition to the aforesaid great distance) inaccessible from them on account of many high mountains, extensive deserts, and woods. The sea-shore is everywhere very flat, and the entrances to the harbours are also encumbered with shallows and sand-banks which can be opened by means of beacons and buoys for friends, and on the contrary closed to enemies by the removal of the same. All of which serves to the better investment and fortification of the aforesaid American province; although no attack, annoyance, or invasion is to be expected there from the coast of Brazil.

And no power or violence is to be feared from the coasts of Spanish or West Indies, because they lie below wind and stream.

Whatever is to be feared from Spain or Portugal must be attempted with great vessels and ships which will not willingly betake themselves into the aforesaid shallows and flat sea-shores against a continent and an iron-bound sea-coast, all the harbours being closed when necessary by the removal of the beacons and buoys as has been described.

The aforesaid province is also so well situated that it can at all times of the year be reached from these United Provinces without any one being able to prevent, hinder, or disturb the said voyage, since the passage from here to there is broad and wide, and the ships are continually in the full sea without having to round any capes or pass through any channels or straits.

Which province can also be much better reached from here over and again than from Spain, our ships usually taking six weeks or two months to sail there from here. So that apparently, nay undoubtedly, much navigation and no small trade and commerce will in time come to be done with the aforesaid Province of Guiana, not only in salt and produce, which will be shipped and cultivated there, but also in various manufactures and other wares which will be sent thither from this country, and retailed both among the Christians and among

daerwaerts sullen gevuert ende gesleten worden soo onder de Kristenen als oock onder de Indianen ende vernemelijck den gekleeden Indianen residerende eenige dachreysen te landewaerts in.

Ick verswijge hier wat profijtjen ende emolumenten dat Uw. E. E. metter tijt uuijt de voorsz. Americaense provincie gepopuleert sijnde saude coomen te fructueren, soo uuijt de berchwercken jaerlijcxse provenueu, oft tribuijten, als andersints, Ende van wat importantie ende aensien tsaude weesen dat de voorsz. provincie van Guiana, met deese geunierde Nederlanden geannexeert waar, nijet alleenelijck in consideratie ende ten respecte van de zeevaert, sout handel (dwelck aldaer uuijter nature ende van selfs groijet ende sonder cost geladen wordt) rijke minen ende berch wercken ende ander vrachtbaerheijden, maer t vernemelijcxste ende principaelste dat Uw. E. E. oochmerk op te nemen hebben is de bequaeme situatie der selver provincie, op avonture oft Uw. E. E. in toecommende tijden haerlieden resolveren (ter imitatie der Roomeynen) deese longdurige oorloge uuijt deese landen te diverteren ende daerwaerts te trekken, Sijnde deese provincie de bequaemste ende beste gelegene plaetse van geheel America om aldaer een artsinael ende sedem belli te fonderen, etc., Alwaer de oorloge lichtelijck haer selven saude kunnen voeden oft immers gehandthaeft ende ende [*sic*] onderstunet worden, met alderleye vromde natien van Engelsche Fransoyen Luyckenaers, hoochduytsen, Oosterlingen, Sweden, Deenen, &c., die apparentelijck meest ende voor d'ierste, hen daerwaerts sullen begeven in de selve populatie hebbende sanderlinge genegentheijt tot berchwercken ende vernemelijck daer gout ende silver te mineren is.

En restert maer datter eenige middelen ende voet geraempt ende gevonden worde hoe ende bij wat manieren men saude moegen te samen brengen alsulcke quantiteijt van penningen als tot den beginne van den selven aenschlag zal van noode weesen, nijet twijfelende oft de selve populatie sal eer lange haer selven kunnen bedruppen door haer eijgene middelen ende provenueu.

Welcke ierste middelen zeer lichtelijck bij de E. mo. heeren Staten Generael alleen kunnen gevonden worden, wandt men meijndt ende verhoopt vastelijck dat men deese populatie lichtelijck saude kunnen te weege gebrengen [*sic*] mediantibus alle jaere de somme van hondert duysent guldenen, jae al waert oock wat min wandt men gist dat men met dertich duysent guldenen wel een duysent sielen sal kunnen passeren ende over vueren, Want om't volck metten minsten costen over te vueren sal men kunnen gebruijcken die schepen die leech naer Punto della Rae in West Indien om sout varen die gerne voor eenen cleijnen salaris de costen van Guiana sullen aenvaren om 't volck te landen, Welcke vaert ende navigatie Uw. E. E. sullen weeten veel frequenter te maeken met eenige ruese te gebruijcken, Verbannde alle het Spaensch saut uuijt deese landen behalven tgene dat tot de visscherije gebruijckt moet worden, Ende verbiedende wel expresselijck dat men alhier te lande geen ander sout verbruijcke in de sout pannen als alleenelijck Punto della Rae ende Bruagie saut etc.

Men mocht den buijsliden oft stuerlieden oock gewoenen maeken wit oft pan sout te gebruijcken tot den harinck etc.

Ende alsoo deese interprinse ende cristelick voornemen nijet alleenelijck streckende is ter eere Godes, propagatie sijns heijlich wordts, welvaren ende profijte, nijet alleenelijck deeser geunierde

the Indians, and especially among the clothed A
Indians residing a few days' journey inland.

I will be silent concerning the profits and emoluments which your Lordships would come to enjoy when once the aforesaid American province would be populated, both from the yearly revenues or tributes of the mines and otherwise, and of what importance and consideration it would be that the aforesaid Province of Guiana were annexed to these United Netherlands not only in respect of the navigation, salt trade (which grows there naturally and by itself, and is shipped without any cost), B
rich mines, and other products, but the most important and principal thing that your Lordships have to observe is the suitable situation in case chance or your Lordships should in the future resolve (in imitation of the Romans) to divert this long war from these lands, and carry it thither, This province being the most suitable and best situated place in all America in which to establish an arsenal and a *sedem belli*, where the war could easily feed itself or be carried on and supported by all kinds of foreign nations—of English, French, Liègeois, Germans, Austrians, Swedes, Danes, &c.—who C
will most probably betake themselves thither at first in the same population, they having peculiar inclination to mining, and especially since there is gold and silver to be dug for.

And it only remains that some way and means be conceived and found how and in what manner such a sum of money may be got D
together as will be necessary for a beginning of the said enterprise, there being no doubt that the said Colony will ere long be able to support itself by its own means and revenues.

Which first means could very easily be found by the Noble and Mighty Lords the States-General alone, because it is firmly believed and hoped that this Colony could easily be brought into existence by means of an annual sum of 100,000 guilders—nay, even for a somewhat lesser sum than that—because it is conjectured that for 30,000 guilders 1,000 souls could be E
transported thither, for to transport these at the smallest cost we should be able to use the ships which go over empty to *Punte de la Rae*, in the West Indies, for salt, and who would willingly go as far as the coasts of Guiana for a small payment to land the people.

The sailing and navigation of which ships your Lordships could make much more frequent by employing a ruse and stopping the use of all Spanish salt in this country with the exception of that which must be employed in the fishery, and forbidding most expressly the use of any other salt in the salt-pans in this F
country than what comes from *Punte de la Rae*, &c.

Fishermen and sailors should also be made accustomed to use white or pan-salt for herings, &c.

And whereas this enterprise and Christian undertaking not only tends to the honour of God and the propagation of His Holy Word, to the welfare not only of these United Provinces

- A** provincien int Generael ende der particuliere reederen ende coopliden, die hennen handel ende navigatie daerwarts sullen coomen te dirigeren, maer oock tot troost, retreijte ende asijlum voor veel duijsende arme, verdruckte, verdrevene persoonen ende desolate familien, die 'door deesen langdurigen crijch uiijt hennen welvaren ende middelkens geweken ende gevloeden zijn, ende jegenwordelijck geheel auropa door desolatelijck in groote armoede ende elende vagabonderen, oft verstroet liggen, alles tot grooter smaet, ende veraerachtinge van deese onse Nedederlantsche natie, ende swaer verdriet van de voorsz. velloopene ende desolate onse medebroederen, Sijnde eenige daer van geweeken tot onder het tribuijt van den grooten Torck.

Door welcke verwesinge ende verstroijinge sijn alle de goede kunsten ende manufacturen (eenigen schat ende tresoir van deese Seventhien provincien) den geheelen arbodem door verbreyt, tot grooter achterdeel, ende schaede van deese landen.

- B** Saude oock nijet lichtelijck meer gebueren (dwelck wij nu onlanx Godt beeteert met goeden ooggen hebben moeten aensien) dat veel duijsende sielen uiijt deese provincien, ende vernelijck uiijt de steden van Haerlem, Leyden, ende andere onliggende plaetsen door slappe neeringe hebben moeten wijcken, waer van veel (nijet wetende waerwarts wijders loopen) wederomme gekeert sijn over dander sijde, onder het jock des pausdomme, alles tot grooter naerdeel, verachtinge ende schandael der warer Christelijke religie, schade ende achterdeel van deese geunierde provincien ende versterkinge van des landts vianden.

Wie weet oft eenige nijet liever naer d'uijterste palen des artbodems sauden geweeken hebben, in de vrijdomme haer lieder religie ende consientie dat [*sic*] dat sij het uijtgespogene pausdomme wederomme op geslobbert saude hebben.

- D** Dwelck alles ten deele bij deese bovengemelde interprinse ende aenslach saude coomen geredresseert, ende oock voortaan verhuet ende geprecaerveert worden, soo verre men alsulcke verloopene ende desolate menschen quame te versamelen op de voorsz. Americaense costen, daer sij nijet alleenelijck wel varen maer oock deesen landen grooten dienst, profijjt ende voordeel sauden coomen te doen.

Uwe. E. E. hebben oock nijet te sorgen dat men door het populieren van Guiana, deese geunierde provincien saude mogen depopulieren wandt 't geeft geen apparentie dat hen daerwarts, uiijt deese landen sullen begeven eenige luijden van goet vermogen die alhier gestabileert, off in goede neeringe ende doen zijn, mits de ongesienelijcheijjt van den voorsz. Americaensen chaos, waer inne vrij wat arbeids steken zal cer men de selve in cultivatie ende bauwe brengen sal.

- E** Waer toe hen apparentelijck bauwerluijden, ende ander arme lieden uiijt andere provincien ende landtschappen van oost west noordt ende suijden den arbeit wel gewoen sijnde begeven sullen, die hen herwarts over in Auropa qualijck kunnen generen, ende voeden, die men uiijt alle quartieren lichtelijck herwarts trecken sal, zoo verre deese populatie bij Uwe. E. E. aengegrepen ende onder eenige favorable conditien, den passagieren die daerwarts sullen begeeren te gaen woenen, aengeboden werle.

Ende soo verre daerwarts loopen eenige arme luijden uiijt deese provincien, die door crancke neeringe, soobere winste, belast sijnde met veel kinderen etc. haer alhier in sware huijshuere nijet

in general, and to the particular shippers and merchants who shall come to direct their trade and navigation thither, but also as a consolation, refuge, and asylum for many thousands of poor, oppressed, persecuted persons and desolate families who by this long continued war have lost their welfare and fled from their means, and who at present are roaming or lying scattered about the whole of Europe in desolation, great poverty, and misery, all to the greater disgrace and contempt of this our Dutch nation, and to the great sorrow of the aforesaid wanderers and the desolation of our fellows, some of them having strayed as far as the dominion of the Great Turk.

By which devastations and dispersions all the fine arts and manufactures (a treasure and source of riches of these seventeen provinces) are scattered over the whole earth, to the great prejudice and damage of these countries.

Would it also not easily happen (what we recently, God better it! have been obliged to look upon helplessly) that many thousands of souls have been obliged, from want of nourishment, to leave these provinces, and especially the towns of Haerlem, Leyden, and other surrounding places, many of whom (not knowing whither further to go) have again returned to the other side, under the yoke of the Papacy, all to the greater loss, contempt, and shame of the true Christian religion, to the loss and prejudice of these United Provinces, and to the reinforcement of the country's enemies.

Who knows whether some would not rather have gone to the utmost confines of the globe, in the liberty of their religion and conscience, than to have again gobbled up the Papacy which they had eschewed.

All of which would partly be redressed by this above-mentioned enterprise and proposal, and would also in future be guarded against and prevented in so far as all such dispersed and desolate people could be gathered upon the aforesaid American coasts, where they would not only fare well, but also bring great service, profit, and advantage to these countries.

Your Lordships need also not be afraid that by populating Guiana these United Provinces would be depopulated, because there is nothing to make one believe that any wealthy persons established here, or such that are well-to-do, will leave this country to go thither, seeing the unseemliness of the aforesaid American chaos, in which there will be a great deal of work to do before it is brought into cultivation.

Whither probably peasants and other poor people well accustomed to work will betake themselves from other provinces and districts from east, west, north, and south, who can scarcely feed themselves over here in Europe, and who will be easily drawn from all quarters so soon as this Colony is undertaken by your Lordships, and is presented under some favourable conditions to the passengers who may wish to go and live there.

And some poor people wander so far from these provinces who, through want of nourishment, small earnings, and the burden of many children, cannot stay here on account of the

en kunnen ernerer deselve sauden doch gelijcke wel genootsaect zijn hen ander wegen te transporteren gelijck men tselve Godt beert daegelijcx nijt dan te veel siet geschieden.

Restert maer dat Uw. E. E. de voorsz. populatie daedelijcken ende sonder langer vertreck oft dilaije aen grijpen daer toe verordonerende een Indische camer oft andere gedeputeerde die van nu aff moegen ramen alsulcke articulen ende conditien als Uw. E. E. den passagieren sullen begeeren voor te hauden ende consenteren, als oock soot van noode ware om middelen te inventeren met welcke men deese populatie saude moegen becostigen etc.

heavy rentals, and the same could very probably be compelled to transport themselves elsewhere in the same way as we see happening, which God better! only too well daily.

It only remains for your Lordships to commence immediately, and without further delay or protraction, the aforesaid population, appointing for that purpose an Indian Chamber, or other Deputies, who shall immediately frame such Articles and conditions as your Lordships shall desire and consent to submit to the emigrants, and also, if it be necessary, to devise means with which the costs of this population might be defrayed.

No. 10.

Sancho de Alquiça to the King, February 11, 1612.

Señor,

SON las cosas desta tierra tan diferentes de lo que suenan en essa corte que no tienen comparación. A mi se me commetio el tomar residencia á Don Fernando de Berrio y mas hiciese información de los rresgates desta Ysla y de la de Santo Thome con enemigos Ingleses y Flamenco que esta en tierra firme y la cedula que vuestra Magestad que esta en esta ysla fué siniestra la rrelacion que se hizo en este particular á vuestra Magestad y assi en conformidad de la rrelacion dicha se me inbiavan las comisiones y que las acavase dentro de tres meses cosa impusible porque desde esta ciudad á la de Santo Thome ay sesenta leguas de camino por mar y por el Río Orinoco arriba y ademas desto no se hallan embarcaciones las veces que son menester en esta ciudad y quando se hallan no se hallan bogas de Yndios por andar tan acosados de los Caribes que por las muchas muertes que hacen en ellos se an retirado á la tierra dentro de manera que no vienen á esta ciudad sino es que bayan por ellos y esto tiene mucha dificultad por no poder yr menos de veinte y quatro soldados cada vez á la menorette porque yendo menos ban como bendidos y aqui no hay mas de treinta y tres vecinos y con ellos se a de guardar esta ciudad de flamencos Ingleses porque andan como en el canal de ynglaterra en este puerto y ayer andube á balaços con dos lanchas Flamencas y visto que no rresgatan como solian andan tomados del diablo y yo tengo poca jente y no puedo acudir á pelear y para pelear en tan poco tiempo are lo que pudiere como tengo obligacion y aqui es fuerça mas andar con el Mosquete al ombro que con la pluma en la mano porque tan poca gente y tantos enemigos alejo es menester dormir como la grulla en un pié; de aqui á Orinoco ay 27 navios de enemigos segun esto bea vuestra Magestad como podre acavar la residencia en tampoco tiempo que para yr á Santo Thome e de salir una noche oscura por los navios que estan en este puerto que son cinco.

Sire,

THE affairs of this country are so different from what they sound in your Court that they bear no comparison.

I was charged to make the official investigation respecting Don Fernando de Berrio, and further, to make a report on the contraband trade of this island, and on that of Santo Thomé with the English and Flemish enemies who are on the mainland, and to execute the Cedula of your Majesty which is in force in this island. It was a wrong report that was made to your Majesty in this matter, and consequently, in conformity with the said report, the commissions were sent to me with orders to complete them within three months, which is an impossibility. For from this town to that of Santo Thomé is a distance of 60 leagues by sea, and up the River Orinoco; and furthermore, boats are not to be found when they are wanted in this town, and when they are found, Indian rowers are not to be got, on account of their having been so harried by the Caribs, that in consequence of the great ravages they make amongst them they have retired inland, and do not come to this town unless they are fetched; and this is a matter of considerable difficulty, as not less than twenty-four soldiers can go at a time, for if less go, it is like sending them to destruction; and there are not more than thirty-three residents here, and with them this town has to be protected against Flemings and English, for they go about in this port just as in the English Channel. And yesterday I exchanged shots with two Flemish launches, and since they cannot trade as they used to do they are possessed of the devil, and I have few men, and cannot go to fight, but in order to fight as soon as possible I will do what I can, as I am in duty bound. It is more needful here to go with musket on shoulder than with pen in hand, for there are so few men, and so many enemies, and I must say, it is necessary to sleep like the crane, on one foot. From here to the Orinoco there are twenty-seven of the enemies' ships; consider therefore, your Majesty, how can I finish the inquiry in so short a time? For in order to go to Santo Thomé I must go out on a dark night through the ships that are in this port, which are five in number.

"Archivo General de Indias." Press 54. Case 4. Bundle 1.

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Annex 95

Bulletin of the Ministry of Foreign Affairs of Venezuela, [*Acta de Inaguración de dos hitos Venezolano-Brasileros en el Monte Moraima*] *Act of Inaguration of two Venezuelan-Brazilian Boundary Marks on Mount Roraima*

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Inclosure No. 3 in Mr. Hutcheon's despatch
No. 28 of November 5, 1932.

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274 BOLETÍN DEL MINISTERIO DE RELACIONES EXTERIORES

1º—Fijar para la próxima reunión de las Comisiones venezolana y brasileña la margen del río Arabapu, entre los días del 1º al 15 de setiembre del año en curso; y

2º—Reanudar entonces los trabajos de demarcación en la divisoria de las aguas entre los ríos Cotinga y Arabapo, prosiguiéndose normalmente la demarcación hacia la Sierra Weítipú, o Sierra del Sol.

Considerada esta proposición por el Señor Presidente de la República, he recibido instrucciones para aceptarla en todas sus partes, determinados como han quedado ya por convenio firme el hito donde coincide la frontera venezolano-brasileña con la frontera británica y el segundo hito mencionado en el Acta de 29 de diciembre de 1931, que señala el extremo Este de la divisoria de aguas Cotinga-Arabapo, en el Monte Roraima.

Todo lo cual me complace en participar a V. E. para que se sirva elevarlo a conocimiento de su Gobierno.

Aprovecho esta oportunidad para renovar a V. E. las seguridades de mi alta consideración.

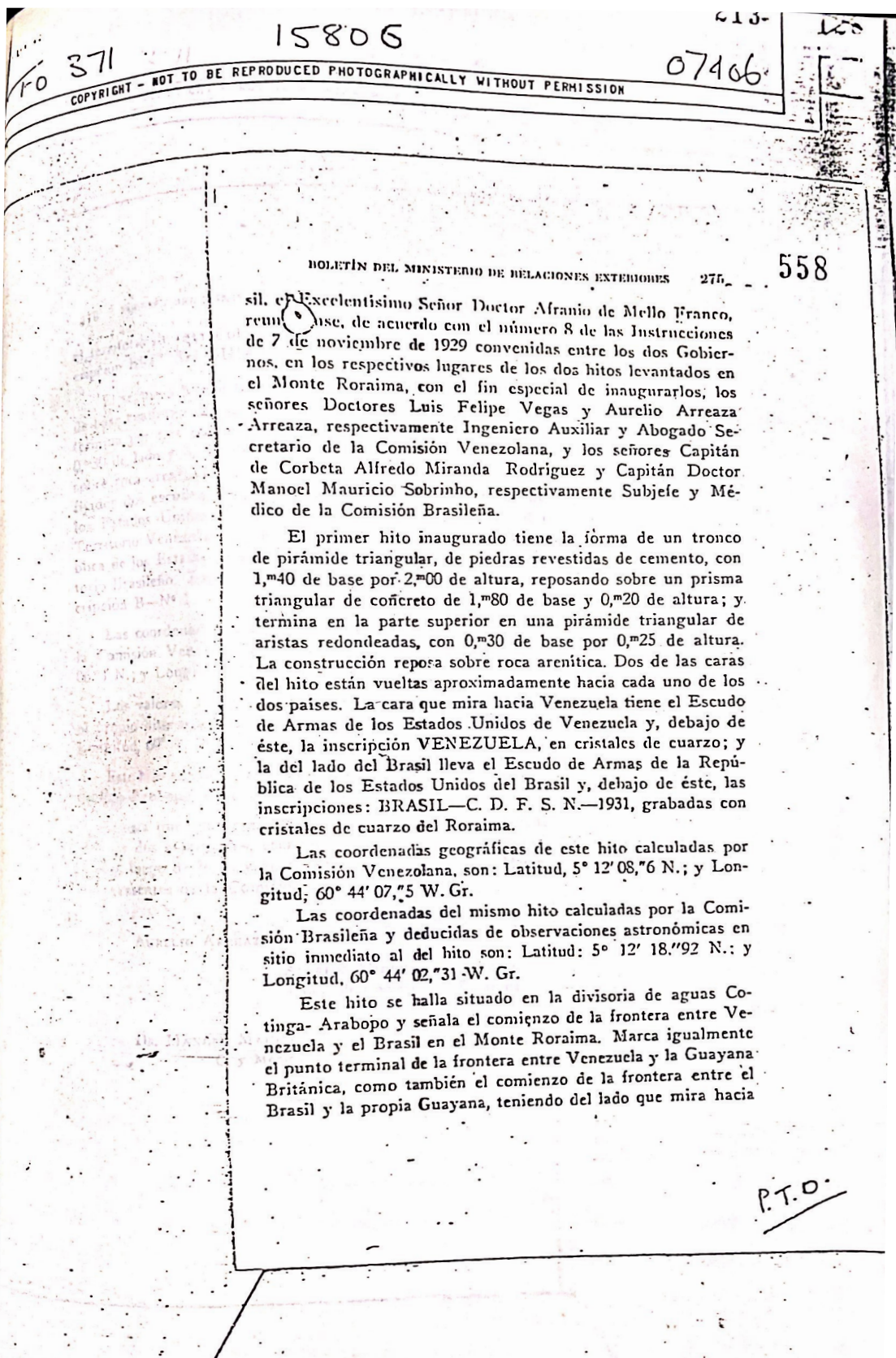
P. ITRIAGO CHACÍN.

Al Excelentísimo Señor José Joaquín Moniz de Aragao, Enviado Extraordinario y Ministro Plenipotenciario de los EE. UU. del Brasil.

Presente.

ACTA DE INAUGURACION
 DE DOS HITOS VENEZOLANO-BRASILEROS
 EN EL MONTE RORAIMA

A los veintinueve días del mes de diciembre del año de mil novecientos treinta y uno, siendo Presidente de los Estados Unidos de Venezuela Su Excelencia el Señor General Juan Vicente Gómez; Jefe del Gobierno Provisorio de la República de los Estados Unidos del Brasil Su Excelencia el Señor Doctor Getulio Dornellas Vargas; Ministro de Relaciones Exteriores de Venezuela, el Excelentísimo Señor Doctor Pedro Itriago Chacín; y Ministro de Relaciones Exteriores del Bra-



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276 BOLETÍN DEL MINISTERIO DE RELACIONES EXTERIORES

el territorio de esta Colonia una placa de bronce con inscripción BRITISH GUIANA.

El segundo hito está construido por un pilar de concreto de base cuadrangular de 0,30 de lado por 0,60 de altura, y termina por una pirámide también de base cuadrangular de 0,30 de lado y 0,10 de altura. Está construido igualmente sobre roca arenítica. En dos caras opuestas lleva el prisma fijados dos escudos, uno de los cuales ostenta las Armas de los Estados Unidos de Venezuela y mira hacia el lado del Territorio Venezolano, y el otro, con las Armas de la República de los Estados Unidos del Brasil, vuelto hacia el Territorio Brasileño. Exhibe, asimismo, del lado del Brasil la inscripción B—N° 1.

Las coordenadas geográficas de este hito calculadas por la Comisión Venezolana son las siguientes: Latitud, 5° 12' 06,"1 N.; y Longitud, 60° 43' 32,"6 W. Gr.

Los valores encontrados por la Comisión Brasileña para el propio hito son como sigue: Latitud, 5° 12' 16,"72 N.; y Longitud, 60° 43' 27,"01 W. Gr.

Este hito señala el extremo Este de la divisoria de aguas Cotinga-Arobopo, en el Monte Roraima.

Y para que conste en todo tiempo se levantó la presente Acta en dos ejemplares, escritos en español y en portugués, la cual, luego de leída y aprobada, es firmada por los Miembros presentes de la Comisión Mixta.

LUIS FELIPE VEGAS.

AURELIO ARREAZA A.

ALFREDO MIRANDA RODRÍGUEZ.
Captn. de Corveta. Sub-Chefe da
Comissão Brasileira.

DR. MANOEL MAURICIO SOBRINHO.
C. y Médico.

Inclosure No. 4 in Mr. Hutcheon's despatch No. 28 of Novr. 5, 1932.

(Translation of Extract)

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Act of Inauguration of two Venezuelan-Brazilian
Boundary Marks on Mount Roraima

On the 29th day of December, 1931,.....there met at the two boundary marks on Mount Roraima for the purpose of inaugurating them..... (here follow names).

The first mark inaugurated has the form of a truncated triangular pyramid, of stones and cement, measuring 1.4 metres at the base and 2 metres in height, standing on a triangular concrete prism, 1.8 metres at the base and 20 centimetres in height, and terminating at the top in a triangular pyramid with rounded edges, 30 centimetres at the base and 25 centimetres in height, the whole standing on sandstone rock. Two of the sides of the mark face approximately in the direction of each of the two countries. The side facing Venezuela bears the coat of arms of the United States of Venezuela and, beneath it, the inscription "VENEZUELA" in quartz crystals: that facing Brazil bears the coat of arms of the Republic of the United States of Brazil and, underneath, the inscription "BRASIL - C.D.F.S.N. - 1931" in crystals of Roraima quartz.

.....
.....
This pillar is situated on the watershed dividing the waters of the Cotinga and Arabapo and marks the beginning of the boundary between Venezuela and Brazil on Mount Roraima. It also marks the terminal point of the boundary between Venezuela and British Guiana, as well as the starting point of the boundary between Brazil and British Guiana, and on the side facing the territory of that colony it bears a bronze plate with the inscription "BRITISH GUIANA."

Annex 96

*Boundary between the Colony of British Guiana and the United States of
Venezuela, First Day's Proceedings (25 Jan. 1899)*

ARBITRATION BETWEEN

THE GOVERNMENTS OF

HER BRITANNIC MAJESTY

AND

THE UNITED STATES OF VENEZUELA

FIRST DAY'S PROCEEDINGS. JANUARY 25TH 1899

The Arbitrators present were :

His Excellency Professor DE MARTENS;
The Rt. Hon. Lord Justice COLLINS;
The Hon. Mr JUSTICE BREWER.

The Government of Her Britannic Majesty were represented by :

Sir RICHARD EVERARD WEBSTER, G. C. M. G, Q. C, M. P. (Her
Majesty's Attorney General);
Mr. G. R. ASKWITH.

The Government of the United States of Venezuela were represented by:

Mr. S. MALLET-PREVOST of New York.

Agent for the British Government :

Mr. GEORGE BUCHANAN.

Agent for the Venezuelan Government :

Señor J. M. de ROJAS.

Secretaries to the Tribunal of Arbitration :

M. PAUL VIEUGUÉ;
M. TATISCHEFF.

The President. — Gentlemen,

In the first place I have to inform the meeting that, in accordance with Article II of the Treaty of Washington, I have had the great honour to be nominated as the fifth Arbitrator and at the same time the President of

this Tribunal of Arbitration between Great Britain and the United States of Venezuela.

The next point concerns the Secretary of the Tribunal. The present meeting is a preliminary meeting which will not consider the matter of the claims, or the dispute itself. But, however, at this meeting we propose to appoint Secretaries. The Secretary will be M. Vieugué who is connected with the Ministry of Foreign Affairs of the French Republic, and the assistant Secretary will be M. Tatischeff, who is in the Ministry of Foreign Affairs of St. Petersburg.

Then the third point is that according to the opinion of the Arbitrators, of whom two, Lord Herschell and Chief Justice Fuller have not been able to come to Paris, the three Arbitrators present here recognize that in accordance with the Treaty the preliminary course of the Arbitration, that is, the exchange of cases, counter-cases, and printed arguments, is closed. The Arbitrators are of opinion that the two Governments have worked in accordance with the Treaty of Washington.

Then the fourth point is that the two Governments, the British Government and that of Venezuela, will be informed that the next meeting of the Tribunal will be on the 25th May, when we hope that all the Arbitrators will be able to meet in Paris.

Those are the principal points which the Arbitrators have decided to day. We are not able to open the discussion or the debates on the matters of the claim. But there is, however, one further point : the Arbitrators desire that the Counsel of the two Governments settle the order among themselves in which they will take part in the debates before the Tribunal.

If the Counsel of the different Governments do not agree among themselves about the order between them, then the Tribunal must suggest it, but I think that that is a matter that principally concerns the Counsel of the different Governments.

Mr. Justice Brewer. — They will agree, I am sure.

Mr. Mallet-Prevost. — M. de Martens, may I ask if the 25th of May which has been fixed is a date that is absolutely immovable? The reason I ask that is that those who come from the other side may naturally have to make arrangements dependant on the sailing of the steamers and it might be that, for the purpose of being here on the 25th, we might have to anticipate our journey a week or ten days or even two weeks to have a desirable steamer, whereas by a delay of one or two days we might be able to make more convenient arrangements.

The President. — I think the 25th of May is a date which is agreed to at this moment as convenient, but it may happen that somebody cannot come on the 25th or perhaps even till two or three days later and I do not think that that will be a matter of great difficulty.

Mr. Mallet-Prevost. — So that we can feel there is, if only a brief latitude, nevertheless some latitude.

The President. — Yes, but that is the date agreed now. It is our

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hope and wish that Counsel will be here on the 25th of May. If there is *force majeure*, it can be another date, say, perhaps, two days later.

Sir R. Webster. — M. de Martens, let me say that I appear with Mr. Askwith to day on behalf of the Government of Great Britain, and on behalf of the Government of Her Britannic Majesty I desire to express their gratification that you, Sir, have been nominated to be President of this Tribunal, in addition to the very distinguished men, the Chief Justice of the United States, Mr. Justice Brewer, Lord Herschell, and Lord Justice Collins, your colleagues. I desire, Sir, on behalf of the Counsel of Great Britain to tell you (and I am sure in this I shall be supported by my friend Mr. Mallet-Prevost) that if in anyway in the course of the proceedings we are able to assist the Tribunal with information or if there is anything which you, Sir, or the Arbitrators, desire, or think will facilitate the course of the proceedings, we shall be only too glad to place ourselves at your entire disposition.

With regard to the date I quite understand that my learned friends from the United States have not the same facilities for arriving here that we have and I understand it to be settled as near as may be that we shall sit on the 25th. But if from public or private reasons Counsel from the United States find it difficult to be here in time and ask for a day or two of delay we shall feel it our duty to assent most loyally to any such suggestion.

Now, Sir, there is one matter which perhaps it did not occur to you to mention and that is I think Señor de Rojas representing the Venezuelan Government, and Mr Buchanan as representing Her Majesty should hand in their Commissions. They are in Paris and they will hand them in to you or your Secretary so that they can be recognized as the Agents empowered to act on behalf of their respective Governments in the event of any communication having to be made, either to you, or to each other.

I gather that you wish to postpone the decision how many days a week you will sit until all the Arbitrators are here, and of course that is a matter that it is not necessary to fix to-day. It can be done when all the Arbitrators meet in Paris.

Then with regard to another point, namely, the actual order of procedure. I do not know if Mr Mallet-Prevost will be in a position in the absence of other Counsel to come to a final arrangement with me to day; but, in accordance with the suggestion made by the Tribunal I will communicate with him and we will endeavour, as far as possible, before we meet on the 25th May to have agreed the procedure, and in the event of our not being able to we will ask the Tribunal to settle it for us.

That, Sir, is all I have to say except to thank you for your courtesy and the long journey you and Mr Justice Brewer have taken to open the proceedings of this very important Arbitration.

The Agents will lay before the Tribunal of Arbitration their Commissions which enable them to act.

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The President. — I think, in the Behring Sea Arbitration, all the Records were signed by the President, by the Secretary of the Tribunal, and by the two Agents. This procedure, I think, will be adopted by us.

Mr. Mallet-Prevost. — M. de Martens, I have the honour, at this time, to appear as one of the Counsel for Venezuela and it gives me very great pleasure to indorse all that my distinguished friend has said.

As you very well know, Sir, to day has realized for Venezuela a dream that she has had for years, and the efforts of her statesmen for half a century past have been towards this end. It is a matter of great congratulation not only for Venezuela but I think I may be permitted to say also for Great Britain that a subject which at one time suspended the friendly relations between those two Nations has been removed from the field of diplomacy, that the old cordiality and friendship which existed between the two Nations has been renewed and cemented firmly, and that we are to-day able to submit the very serious questions involved not only to a Tribunal of Arbitration, but to Arbitrators whose distinguished records and whose high reputation give us the assurance that the questions involved will be decided in justice and equity.

I thank you, Sir, and the other Arbitrators for having come this journey and for being present here to day.

Sir R. Webster. — I understand, Sir, it will be adjourned till Thursday the 25th of May subject to any order made by the Tribunal.

Now, Sir, before the Tribunal adjourns, as there is no doubt your consultations here on other days will be entirely among yourselves perhaps it is as well I should ask, as well for the guidance of the Counsel for the United States of Venezuela as for those of Great Britain, whether in the event of our not being able to arrange a procedure satisfactory to both parties, you would wish that we should send the Tribunal our points of difference, or suggestions, if not agreed before the next meeting. Possibly it would be a convenience that that should be done. I do not know if the Tribunal propose to make any suggestion or prefer that the suggestion should come from us, but we are most willing to endeavour to agree, and if it meets with the view of the Tribunal and we are not able to agree, we will prepare a memorandum and let the Tribunal have it say by the beginning of May and they will then know what points of difference they have to consider as to procedure. I mention this in the interests of time, in order that the matter may be so to say stereotyped and crystallized and no undue delay take place with reference to the consideration of the question. We will do what the Tribunal wishes in that respect. If we agree we will let the Tribunal know what course we propose; if we differ, as is possible, we will communicate with the tribunal and let them know what the differences are.

Mr. Mallet-Prevost. — I feel so entirely certain that we shall have no difficulty in agreeing that I do not think that suggestion will become practical at all but I think the suggestion Sir Richard makes is a very sensible one and I have great pleasure in agreeing to it.

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The President. — We leave it to you entirely.

Mr. Justice Brewer. — Fully expecting that you will agree.

Sir R. Webster. — Yes.

M. de Martens, I rather gather there is nothing further the Tribunal wishes to say.

The President. — To day, no.

Sir R. Webster. — Then might I venture, as representing the Government of Her Britannic Majesty to be allowed to express publicly through the few words I say to the Tribunal our respectful appreciation of the great courtesy of the Government of the French Republic in again placing at our disposal this place, and in allowing these proceedings to be conducted here. I am sure in the course of these proceedings you and your Brother Arbitrators will assure the French Government of your appreciation also, but I felt it right and I have no doubt my friend Mr. Mallet-Prevost feels it right to ask to be allowed to take the opportunity of expressing our appreciation of the courtesy and hospitality of the French Government.

Mr. Mallet-Prevost. — I desire to second most heartily what my learned and distinguished friend has just said.

The President. — I will express to the Minister of Foreign Affairs, M. Delcassé, our thanks for the hospitality which the French Government has extended to us.

Before closing this preliminary sitting, I think it is my duty at once to thank you for the kind words which Sir Richard Webster has pronounced and Mr. Mallet-Prevost echoed concerning my election to the Presidential Chair, and at the same time I thank you on behalf of my Brother Arbitrators. Mr. Justice Brewer and Lord Justice Collins will concur with me in saying that we will do our best according to justice and law to decide the very difficult questions submitted to our Tribunal.

Adjourned till May the 25th.

Annex 97

Boundary between the Colony of British Guiana and the United States of Venezuela, Second Day's Proceedings (15 June 1899), pp. 6-9

SECOND DAY'S PROCEEDINGS. JUNE 15, 1899.

The Arbitrators present were :

M. DE MARTENS, Privy Councillor, *President of the Tribunal of Arbitration*;

The Right Honourable Lord RUSSELL of Killowen, G. C. M. G., (Lord Chief Justice of England);

The Right Honourable Lord JUSTICE HENN COLLINS;

The Honourable MELVILLE WESTON FULLER, (Chief Justice of the United States of America); and

The Honourable DAVID JOSIAH BREWER, (Justice of the Supreme Court of the United States of America).

There were present at the Meeting;

Mr GEORGE BUCHANAN as *Agent of Her Britannic Majesty's Government*, and Señor J. M. DE ROJAS, as *Agent for the Government of the United States of Venezuela*.

There were also present at the Meeting as Counsel for Her Britannic Majesty's Government :

Sir RICHARD WEBSTER, G. C. M. G., Q. C., M. P., *Her Britannic Majesty's Attorney General*.

Sir ROBERT REID, Q. C., M. P. ; Mr G. R. ASKWITH ; Mr S. A. T. ROWLATT, and Mr F. WEBSTER, Solicitor;

And as Counsel for the Government of the United States of Venezuela;

The Honourable BENJAMIN HARRISON; The Honourable BENJAMIN F. TRACY; Mr S. MALLET-PREVOST, and Mr JAMES RUSSELL SOLEY.

The President. — Gentlemen, in the name of the Tribunal of Arbitration of which I have the honour to be nominated the President, I will state the several rules which were adopted at our sitting of yesterday as the basis of our proceedings. The Tribunal have confirmed as Chief Secretary Mr Martin, *Secretary of Embassy*, and Mr L. D'Oyly Carte and Mr Perry Allen as Under Secretaries. They have also decided that our Tribunal will have its sittings, after some days when I am free to return to Paris, every day except Saturday.

Then it has been decided also that the proceedings will be generally public and the public will be admitted by cards of admission delivered by the Secretary. Those are all the communications which I have to make in the name of the Tribunal.

Now the Tribunal is ready to hear any motions or to enter upon the hearing of the oral arguments which the Counsel of both parties will submit to the Tribunal.

Sir Richard Webster. — Mr President, My Lords, and Your Honours, with reference to what has been said as to the number of the days for the sittings, I think if the Tribunal would be good enough to sit only four days a week, it would meet the views of General Harrison and the other Counsel for Venezuela and of my colleagues and myself. There is a great deal of heavy work, and we wish to condense it as much as possible, and the preparation of the matter is no light task : and therefore if it please you, Sir, and the other members of the Tribunal, I shall be glad if we might sit on the first four days of the week, instead of the first five days of the week.

General Harrison. — Mr President, I beg to support the proposition brought forward by Sir Richard Webster. I think it will be found that when Counsel come to address the Court, four hours a day for four consecutive days will be about the limit of the strength of ordinary men, and we are all ordinary men, and that five days a week would unduly tax the endurance of the Counsel addressing the Court. That would be twenty hours of speech each week. It seems to me that would be an undue strain, and that that strain would be felt by the Counsel and perhaps by the Court, and ensure a less clear and adequate presentation of the case to the Court.

Lord Russell. — I presume, General Harrison, when you mention four hours a day, you mean four hours of work ?

General Harrison. — From 11 to 4, with an interval for breakfast, or whatever one may call it.

Lord Russell. — The proceedings should be from 11 to 4 ?

General Harrison. — Yes, I should think so.

Lord Russell. — That will be four hours a day with an interval.

General Harrison. — I should think it would be convenient to follow the procedure adopted in the Behring Sea Case. There would be an interval for breakfast. It seems to me we shall make more progress upon that basis, than upon the one suggested by the President.

The President. — The proposition which has been made by Counsel for both the Parties is agreed to by the Tribunal, and we shall not sit five days a week, but only four days in the week.

Sir Richard Webster. — Mr President, it probably would be convenient if you could indicate to us how many days you would be able to give us next week. I understand that your public engagements take you away from Paris after to-day's sitting, but you hope to be able to give us two days next week.

The President. — Yes.

Sir Richard Webster. — If you could indicate them, not now perhaps, you might let us know when you reach the Hague what days we shall have to attend. I presume it would not be before Wednesday, probably ?

The President. — Not before Wednesday.

Sir Richard Webster. — Wednesday and Thursday, or possibly Wednesday, Thursday, and Friday.

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The President. — If possible, yes. I shall know about next Sunday, I should think.

Sir Richard Webster. — That will be quite satisfactory, Mr President.

Mr President, it would be convenient if I indicate to you the course of proceedings so far as the speeches are concerned which have been arranged between the Counsel for Venezuela and the Counsel for Great Britain. Venezuela has the honour of being represented, as you are aware, Mr President, by very distinguished Counsel, General Harrison, General Tracy, Mr Soley, and Mr Mallet-Prevost. I have the honour, on behalf of Great Britain, of being associated with my friends, Sir Robert Reid, Mr Askwith, and Mr Rowlatt. I need not enter into any statement of the discussion which we have had, — it has been a perfectly friendly discussion, and we have arranged that Great Britain through myself should speak first; that the next two speeches should be by the Counsel for Venezuela; that the fourth speech should be by Great Britain, with possibly two Counsel speaking at that stage instead of one, but we have not at present determined whether we shall ask the Tribunal to hear two Counsel or only one; then that there shall be a speech by Venezuela, and a speech by Great Britain and a final speech by Venezuela. Subject to anything that may occur in the course of these proceedings, that, Mr President, is the procedure which we have determined upon.

General Harrison. — If I rightly understand Sir Richard Webster, he has accurately stated the agreement which has been arrived at between the Counsel for the two Governments. I understand it remains somewhat in doubt whether Great Britain will speak by four Counsel or only by three. If she should speak by four Counsel, those two speeches would follow the two speeches of Venezuela and come together?

Sir Richard Webster. — Certainly.

Sir Richard Webster. — Mr President, it now falls to me to present to you on the part of Great Britain the whole argument in support of the case that she has to bring before this Tribunal. I should wish, however, before I attempt to approach the mass of matter with which I have to deal, to endorse on behalf of Great Britain the words which you, Sir, addressed, but a few moments ago to the Minister of Foreign Affairs for the French Republic, expressing our appreciation of the courtesy which has been displayed to the countries disputing in this matter, by the reception which is given to us in Paris, and by the generous way in which every resource and convenience of the Government of the Republic, is placed at the disposal of the parties to the Arbitration. I feel that in this I shall have the entire concurrence of my friends who represent Venezuela. I know that they endorsed what I said upon this matter at the preliminary meeting but I did not wish the formal proceeding on the part of Great Britain to commence without a public acknowledgment of the debt our nation owes to the French Republic for the reception they have given us.

Mr President, I shall wish to say a few words also about the Tribunal. For a second time within not many years I have the privilege of appearing in this very same room on the part of Great Britain in a friendly arbitration. On the last occasion our opponents were the great Republic of the West, the United States of America, and it is significant that on this hearing to day we have the cause of Venezuela advocated by distinguished men from that same Republic. But I do not wish, nor would my friends on the other side wish me, to dwell upon the personnel of the Counsel. I will only for one moment refer to the personnel of the Tribunal I have the honour to address. Sir, we have from that same Republic two judges of the very highest position, the Chief Justice of the Supreme Court of the United States and Mr Justice Brewer, long a distinguished member of that Court, and it is a great honour to us, representing Great Britain, that we should have the honour of addressing them.

We have also, I am sure this my friends of the United States will endorse, the members of the Tribunal nominated by Great Britain, the Lord Chief Justice of England and Lord Justice Collins, a member of the Court of Appeal; the Lord Chief Justice nominated to represent the very great man who had commenced his labour in this regard, but who was suddenly called away, as you, Sir, will remember very well, but a few months ago. And when I come to you, Sir, the head of the Tribunal, it would be impertinence in me to make any personal observations upon your position, but it is a very great satisfaction to us, representing Great Britain, to be able to endorse what was said by the Foreign Minister but a few moments ago that we address a President whose reputation as a jurist, as a lawyer, as a diplomatist is not confined to the boundaries of his own country, but extends to every civilized nation.

Sir, that is the Tribunal which I have now the honour of addressing, and I shall have to make a very large draft upon their patience. They are as aware as I am, though perhaps they do not feel the burden so greatly, that there is a very vast mass of matter to be discussed and to be presented to the Tribunal. A perusal of the written arguments would themselves have convinced the Tribunal that that was the case. I feel very greatly the responsibility which rests upon me. It may possibly be — it will certainly be — that in the course of my observations I shall say much that my friends on the other side will not agree with, and I may be guilty of many omissions and mistakes. I am sure they will extend to me as we shall extend to them that friendly forbearance and consideration which counsel accustomed to our modes of procedure are accustomed to extend to one another.

Mr President, before I pass to the more serious part of the work I should like to tell you that, as you know, of course, perfectly well, on the last occasion when I was here I had the honour of being the junior counsel to the distinguished man who now sits upon your left and who spoke from this very desk, but not only did he speak from it, but Mr Carter, Mr Phelps and the other distinguished counsel from the United States

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“ and shall be governed by the following Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to be applicable to the case ”.

Mr President, the history of arbitrations has shown that they tend to make international law, that they tend to advance that consent of nations which is the foundation, and in my respectful submission to this Tribunal the only foundation of international law properly so-called. It may be, I hope it is, the fact that with reference to the future of discussions, the rules laid down by Venezuela and Great Britain in this Treaty may be adopted by others. We have to consider their bearing to-day. Sir, they are rules as between Great Britain and Venezuela and nobody else at present. They are not rules as between Spain and Holland and it would be in my submissions to you, Sir, and to this Tribunal, a perversion of the terms of this Treaty so to treat them. What does the first rule say? « Adverse holding or prescription during a period of 50 years shall make a good title ».

Whose adverse holding? Does anybody suggest that this was not meant to be the adverse holding of Venezuela? Does anybody suggest that it does not mean the adverse holding of Great Britain? Those are the parties who have arranged this contract, those are the parties whose boundary-line is to be determined. No other nation has at present consented to the fifty years' prescription making a good title. I am not here, for the moment of course, to discuss before you what is necessary for legal prescription or what is necessary for international prescription. Some day, I hope not very far distant, I shall have the privilege of putting my view in regard to the leading authorities on international law as clearly as I can before you. At present my whole point is to drive home that by this article the two countries agree that if Venezuela had been in possession for fifty years it should be a good title, whatever might have been the paramount title of Great Britain, or that if Great Britain had an adverse holding for fifty years, whatever may have been the paramount title of Venezuela, Great Britain should hold that territory. In fact in other words, Sir, the opening language of Rule (a) is only necessary where the other party to whom the rule is applied has a better paramount title. If neither Great Britain nor Venezuela have any title to the territory in possession of the other one, Rule (a) has no application. Rule (a) is for the purpose of giving to a country which has occupied a portion of territory which rightfully belongs to another nation a title notwithstanding the existence of that paramount title. It has no application to territory to which the other claimant had no better title.

I pass on :

“ The Arbitrators may deem exclusive political control of a

district as well as actual settlement thereof sufficient to constitute adverse holding or to make title by prescription. ”

Again, Mr President, those words have no application and can have no application to the case of territory to which the other disputing party had no better title. Let me take a concrete case. You will find in the course of these proceedings that Venezuela has within the last twenty years put down some small stations within part of the territory to which Great Britain thinks that she might rightfully have a claim. If Great Britain has no title to that territory the title of Venezuela is complete the moment she took possession. I am not going to argue this very important point of international law now, but I said, and it is the foundation of my argument, an argument as to which I will not fail to appeal to every jurist and every international lawyer of eminence whose writings I know, that possession gives a perfectly good title if there is no paramount title which overrides it.

Lord Russell. — In other words your argument is that Rule (a) of Article IV, has no application where the territory in possession may be called *terra nullius*.

Sir Richard Webster. — None whatever. My contention is that Rule (a) is wanted to deprive either nation of territory to which they would have a good title but for the occupation or control indicated therein. Mr President, let me say a word about the last part of Rule (a). I admit those words are not as imperative as in the first, but for the purpose of my present argument it makes no difference. The last part of Rule (a) is only wanted where the country in possession is seeking to get rid of a prior title. If, Mr President, it be true that the whole of America belonged to Spain and that every Dutchman who went there was a trespasser and almost a robber, if it were true that the whole of South America belonged to Venezuela as the successors of Spain, there might be some necessity to rely on Rule (a). I think I will demonstrate to this Tribunal that no such contention can be made. My present point is to bring out in strong relief and to drive home as clearly as I can that Rule (a) is wanted to get rid of a prior right and not for the purpose of altering the rule of international law and especially that if there is no prior title possession is sufficient.

Sir, the last part of that Article directed to the same object is, I admit, optional. I do not think in the present day there is much difference between “ may ” and “ shall ”. As you probably know very well, when you come to study back in the books of International Law, it is very surprising how far back the idea of Spheres of Influence, Political Control and what are now called “ Protectorates ” extends. In favor of both nations, I should without hesitation ask this Tribunal to say that where there has been *de facto* jurisdiction, control, virtual alliance, partial dependence — that which makes up political control in this year — you would give the same effect to that as you would to actual holding.

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But, Mr President, I admit that the Tribunal have a discretion in that matter and I am not [now discussing the difference between the first and last limbs of Rule (a) of Article IV. I simply point out that the whole of the Rule only relates to the getting rid of a prior title. I now come to Rule (b) which is clearly inserted in the interest of clearness, clearly enumerating what the duty of the Tribunal may be.

Rule (b)

“ The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing Rule. ”

I do not pretend to give an exhaustive list but I do not think my learned friends and I will differ as to many of the main principles of law which are very compendiously embodied in the Treaty, but I take the first, which in my respectful submission is, in some respects, the most important of all, and that is the taking possession of land to which no person has a better title.

I assert that the first principle of international law which is not only not in conflict with Rule (a) but which makes the existence of Rule (a) necessary for the purpose of a right decision is that where there is territory of which no nation has got either possession or political control the first possessor of that territory becomes the owner. I will, Mr President, in the course of my argument, demonstrate that to this Tribunal by citation of, I believe if it be necessary, every law-writer of experience whose opinion would carry weight, and whose meaning is carefully examined and thoroughly understood.

Then again, another principle of international law which undoubtedly would also come within that rule, is the perfecting of an imperfect title by development, a natural expansion. — I can well imagine there being the case in which, it being in doubt as to whether or not claims might have been asserted to a particular territory, the continuous development and control would in international law give that ownership to the controlling and developing country quite apart from any question of adverse possession for a limited period, Rule (a) dealing with a case where there was a clear prior title and Rule (b) dealing with the case in which there was not a clear prior title but doubts and questions as to whether a prior title might have been raised at the earlier stages of the transaction.

Then comes, Mr President, the question of natural features. Nobody I think will deny that from the point of view of the questions we have to consider natural features are of importance. I do not now talk of ranges of mountains approaching the coast and numbers of things of that

kind to be considered but there are rules more or less of international law which have to be considered by the Tribunal. I do not know at what date we ought to fix a doctrine of "hinterland". I have been surprised in endeavouring to prepare myself to the best of my ability to address this Tribunal at the early date at which "hinterland" appears in the writings of international writers. It was not called "hinterland" until much later, of course, but those considerations have to be borne in mind by the Tribunal when dealing with a doubtful question. But, Mr President, a really superior title over-rides the whole of this and I shall say nothing in the course of my argument even to indicate to this Tribunal that a superior title can be interfered with as far as I have gone except by including the provisions of Rule (a) which are evidently intended to lay down for this Tribunal limits of time in which superior title can be deflected by adverse holding or political control.

I now come to Rule (c) and if I may be perfectly frank, as I hope to be with this Tribunal, I have a difficulty in seeing what the limits of the powers of this Tribunal under Rule (c) are. The words are :

Rule (c).

" In determining the boundary-line, if territory of one party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the Tribunal, require. "

Mr President, that that is applicable as between Great Britain and Venezuela there is no question. I shall have to say a word or two about that but I deal with the Rule itself. It is " in determining the boundary-line ", and the question arises — is the boundary-line, when the Tribunal acts under Rule (c), to be deflected, the boundary-line otherwise ascertained to be deflected or diverted, or is some other compensation to be given? I think the Tribunal may take one of three views. I think they may either say that " in determining the boundary-line we find Venezuela or Great Britain, as the case may be, to be in occupation of territory which the boundary-line ascertained would have given to the other, we think that we had better leave the parties as they are but give a compensation by deflecting the boundary-line somewhere else ", or we can conceive it possible that if Venezuela was in possession of territory of Great Britain the arbitrators might say " the boundaries shall be deflected in favor of Great Britain if you, Great Britain, choose to compensate Venezuela, for what has happened for the loss of that piece of territory or for anything done by her citizens "; or, on the other hand, might say to Venezuela, " we find Great Britain in the occupation of this piece of territory : if you like, the boundary shall not be deflected and for that, Great Britain, if you choose ought to make a payment of compensation "

It may be (the Tribunal has an absolute discretion in the matter, as I submit) a give-and-take line; that is to say, by deflecting it where it will not interfere with other persons, by compensation, or in other ways, or by determining the boundary-line itself.

Lord Russell. — I do not understand the third... First, one possible construction you say is drawing a give and take line, the next compensation.. What is the third?

Sir Richard Webster. — That in determining the boundary-line the equity of the case will require that the title line should be deflected without compensation in either way. May I read the words, my lord, again.

“ Such effect shall be given to such occupation as reason, justice, the principles of international law and the equities of the case shall, in the opinion of the Tribunal, require. ”

Lord Russell. — That would be deflection pure and simple without any countervailing advantage on either side.

Sir Richard Webster. — Exactly, my lord. My submission is that there are three ways in which that can be worked out.

Chief Justice Fuller. — What effect would that have upon the fifty years of Rule (a)? There is no limit of time under Rule (c).

Sir Richard Webster. — I had of course considered that that question was likely to be put to me. It seems to me that if you get fifty years absolute possession and control, the prior title is ousted and the line must be deflected. But when you come to Rule (c) you have to apply what I hope and I am sure, Chief Justice, you are endowed with, reason and that justice which you have been administering for years, those principles of international law which you know very well, and the equities of the case which includes them all.

There is no limit as to time. I can imagine an occupation by Venezuela or an occupation by Great Britain which might take place 12 months before this as to which they might say Venezuela has no equity to Great Britain or *vice versa*. Let me follow it out for a moment. Take this case, that supposing in what I will call the North-West district, by which I mean round Point Barima — suppose that I establish that onwards from 1835 Great Britain has been policing, exercising criminal jurisdiction, exercising civil jurisdiction, maintaining various kinds of civil organisation and Venezuela has been doing nothing, I put that case; I say in that case when you come to apply Rule (c) Venezuela would have no equity to deprive Great Britain of this place. Let me take the case the other side, taking the mission territory, (I only speak roughly, it is that yellow spot on that map). You will learn in the course of this that Venezuela destroyed the missions in the year 1817. It may be, in fact I shall submit to this Tribunal, it would have been, but for other considerations, quite possible for Great Britain to have made a perfectly valid claim to the missions. If it be, as is the fact, that Venezuela has esta-

blished certain villages within a comparatively recent time to which the fifty years' rule does not apply and Great Britain has to ask this Tribunal to draw the boundary line to include that territory, my learned friend would have a right to say " what equity have they to ask Venezuela to be turned out or what principle of international law can you appeal to or what justice or reason is there to which you can appeal? "

Mr President, I submit to this Tribunal that the duty and power imposed on this Tribunal is absolutely unfettered by any limit of time. If I may repeat myself Rule (a) is concerned with the getting rid of previous existing title by virtue of 50 years occupation, possession or control. Rule (b) is concerned with applying the principles of international law to such rights of either possession or other rights as either nation can maintain apart from the rule which would dispose of prior title. Rule (c) is in order to give the tribunal absolute and free power to say what ought to be done in cases in which the territory which they would otherwise have given to the one side or the other as the case may be found in the *de facto* possession of a nation.

Lord Russell. — Is there, without expressing any view, not a possible fourth construction of that Rule, namely that it may have relation not to the rights of the States or the powers, *qua* powers, but to individual citizens?

Sir Richard Webster. — I should have thought the difficulty of taking that view was that the Rule is prefaced by the words " In determining the boundary-line ". That is not as between citizens, it is as between States. That was the reason it was thought that it was not legitimate to limit Rule (c) to the case of individual interests as compared with neutral interests, but if the Tribunal think that is a view that might be presented, I am not to contest it.

Chief Justice Fuller. — May I ask another question as to Rule (a)? as to the 50 years which being ascertained, would govern — does your view cover a 50 years before 1814, a 50 years after 1814, or a 50 years which might consist of occupation partly before and partly afterwards?

Sir Richard Webster. — You have approached, Chief Justice, by your question the very next point in my argument, and I am obliged. I think it is quite immaterial whether it applies before 1814. If it applies before 1814 I think it will turn out there has been no change of circumstances since which would destroy it. It is equally immaterial if it is partly before or partly after, there has been nothing which happened at the termination of that 50 years which made any difference. The third point was one upon which I was about to address you as clearly as I can. I also contend, and it is from my point of view vital to this arbitration that that 50 years may also be a period up to the date of this Treaty, by which I mean February 2nd, 1897. I contend that each nation — the only bargain ever made and why we are here is because Great Britain and Venezuela agreed that their actions during 50 years prior to the 2nd February, 1897 should be the foundation of rights under Rule (a) of Article IV.

Mr President, I am very anxious to avoid anything like contest in this matter if I can, and I will state my argument on this clearly, and I mean to state it very firmly, I hope without saying a single word to which exception can in any way be taken by my learned friends. As the Case was originally presented by Venezuela and as the Counter Case was presented our contention, namely that the 50 years rule applies to the period up to the date of the Treaty was not disputed. Not only was it not disputed but if it ever becomes necessary for me to make good my point I will show the tribunal that both in the Case and Counter Case Venezuela argued upon the basis that the 50 years rule was to apply up to the date of the Treaty, and they further argued, and I quite admit it is an argument I have to meet, in connection with the character of the occupation, whether it was secret or open, whether it amounted to control, whether it was not giving of rum or old pairs of trousers, whether it could amount to political control in order to do away with the effect of anything done by Great Britain during that period of 50 years. We met them to the best of our ability in the most positive and distinct manner and we thought we were at one.

When the argument for Venezuela appeared, which you know was delivered in December of last year, we found to our surprise that a point was raised that nothing that Great Britain had done after 1814 could give her any rights at all, and that the only way that that could be used was to throw light upon what was the nature of the previous occupation by the Dutch, or in other words that Great Britain got no benefit whatever under rule (a) of Article IV. I think I had best state it at present without referring to any documents which, if necessary, can be laid before the tribunal. The matter appeared to us to be so serious that we communicated with my learned friends in writing upon the matter, and we called attention to this fact, that this Rule of the Treaty was the outcome of Diplomatic negotiations between the Agent and Representative of Great Britain, Lord Salisbury, and the Agent and Representative of Venezuela by the courtesy of Mr Olney, the then Secretary of State. With a fairness which I wish to recognise the Counsel for Venezuela have agreed that the Diplomatic correspondence should be before this Tribunal.

The effect of it, Mr President, is this, that Rule [a] is the outcome of discussion raised by Lord Salisbury in order to protect *de facto* settlers. The first proposal of Lord Salisbury was that any *de facto* settlement in the year 1887 should be respected. The counter proposal of Mr Olney was — “ I cannot go as far as that, 60 years from the date of the convention “ settlement for 60 years from the date of the convention, should be taken ”. By “ convention ” I mean the Treaty of Arbitration. Counter-proposal by lord Salisbury, “ I will take 30 years from the date of the Treaty of Arbitration ”. “ No ” says Mr Olney, “ I cannot take 30 years, because that may cut us out from some argument with reference to the particular arrangement of 1850, I must go back to something antecedent to that. ” “ Very well, then

50 years" as it appears in Rule (a). I believe I have stated it fairly. I do not intend to introduce into this stage of the argument anything which can promote heat or prevent us conducting this case in the most friendly way throughout, but I do say this, that as the case for Venezuela was framed in the Case and Counter-case and upon the construction of the Treaty itself the contention was not a possible one. When you know that Rule (a) is the arrangement and bargain made between the parties in order to protect to a limited extent *de facto* settlements it becomes an impossible argument.

General Harrison. — Mr President and Sir Richard, will you allow me to interrupt. I understand Counsel to have stated and stated with accuracy that certain Diplomatic correspondence that was not brought forward by either party in the Cases and Counter-cases (presented by the Counsel or Agent of Great Britain to Venezuela), Venezuela had consented might be stipulated into the case and brought to the attention of the Tribunal. I understand the Counsel has been discussing the purport of that correspondence. It seems to me that it should then be laid before the Tribunal.

Sir Richard Webster. — Certainly.

General Harrison. — Because then we shall be at liberty to paraphrase its contents, to describe its effect. Venezuela has assented that these Diplomatic notes might — that she would offer no objection to the presentation of them by Great Britain. Obviously if an argument is to be founded on them the very papers should be before the Tribunal.

Sir Richard Webster. — Certainly, so I understood, Mr President.

Lord Russell. — I do not understand you, General Harrison, to dissent from the general view of the correspondence.

General Harrison. — That if you please I prefer not to answer now, if you will excuse me; later in the case I hope to make myself clear on all these points.

Sir Richard Webster. — I quite understand that. I had stated to the Tribunal acknowledging the fairness of the United States of Venezuela that that Diplomatic correspondence was to be before the Tribunal, and assumed it should be handed in. It is no part of my argument to day to discuss it at length.

The President. — No.

Sir Richard Webster. — I have stated what I thought was the fair effect of it.

General Harrison. — I did not intend to contest now the construction Sir Richard put upon it at all, I only understood him to say that if either party should desire it, it would be laid before the Commission. Now Venezuela has not asked for it, we understand Great Britain has, and I have no disposition to dictate as to when it shall be, but I should like it should be presented before it is discussed.

Sir Richard Webster. — I thought it was before the Tribunal. We are quite at one, a copy shall be handed to each member of the Tribunal

to day and there will be no question about it. For the purpose of my discussion to day I am satisfied that it will not be found that I have misrepresented by one iota the fair inference to be drawn from that correspondence, and if I have correctly represented it I say that Rule (a) was inserted in the interests of both parties to protect the rights of both parties in respect of what happened during the period immediately antecedent to this Treaty. It was upon that condition and that condition only that Great Britain entered into this treaty of arbitration. And, Sir, I can quote from memory, I believe textually, how it came about that there being difficulties Mr Olney said “ May it be understood that Great Britain will consent to unrestricted arbitration if settlements existing for 60 years before the date of the Arbitral convention are to be respected. ” Therefore agreeing and quite accepting what General Harrison said that he does not contest the accuracy of my representation, I go as far as to say this that I submit respectfully to the Tribunal that you ought not to hear, I prefer not to use any stronger expression, any argument to deprive Great Britain of any advantages that she may have of the 50 years Rule under Rule (a) Article IV.

Mr President, I am not aware there is anything else in the Treaty to which attention need be called. The remaining Articles are those of procedure, and I will with your permission ask you to let me summarise what I submit are the questions that you have to decide stating them perhaps not exactly in the order they would occur to you or to any member of the Tribunal, not stating them in the order in which they occur in the treaty itself, but as we appreciate what your jurisdiction is.

You are here “ to determine the boundary-line ” between Great Britain and Venezuela. I admit that when that award is made Great Britain and Venezuela will be coterminous, I admit that there will be no intervening territory between the two countries. I think that passage of this Treaty has been singularly misunderstood by those who framed the argument, but I admit as far as an admission is necessary that when the award is made this portion of South America will be divided so to speak between Great Britain and the United States of Venezuela. I further submit to you, Sir, that it is your duty in arriving at that boundary-line to ascertain what the position of the parties would have been in 1814, which is the date of the cession of British Guiana to Great Britain. I think it is by no means clear that the line would have been the same in 1814 as it is today or as it ought to be determined to-day, for really there is no line yet — it is by no means clear that the line, apart from Rule (a) altogether, is the same to day as it would have been in the year 1814.

When the true facts come to be ascertained and appreciated, as after a discussion of more than 50 years they are now for the first time going to be appreciated, it will very likely turn out that the line which you will to-day determine, quite apart from the provisions of Article IV, will be a different line from what you would have determined had you been sitting

Annex 99

Boundary between the Colony of British Guiana and the United States of Venezuela, Fifteenth Day's Proceedings (21 July 1899), p. 867

ARBITRATION BETWEEN

THE GOVERNMENTS OF

HER BRITANNIC MAJESTY

AND

THE UNITED STATES OF VENEZUELA

FIFTEENTH DAYES PROCEEDINGS. JULY 21ST 1899

The President. — The Court is ready to hear the argument of Counsel on behalf of Venezuela.

Mr Mallet-Prevost. — Mr President, we have had some copies printed of a note addressed by the Marquess of Salisbury to Sir Julian Pauncefote on November the 26th, 1895, which is not included in the Cases or the Counter Cases which have been submitted. A copy of this was handed to our friends on the other side, and I understand from the Attorney General that there is no objection to submitting that note in evidence; and I therefore do so at this time. Copies will be handed to the members of the Tribunal in the course of the day.

Mr President, at the close of his speech on Thursday of last week, the Attorney General, in very eloquent language, referred to the responsibilities which this case involves, responsibilities resting alike upon the Tribunal which is called on to decide, and upon the Counsel who are here to assist the Tribunal in arriving at a just decision. Speaking for myself, as I take my place at this now historic desk this morning I feel very keenly the responsibility which rests upon me. The territory in dispute is, roughly speaking, about the area of England, and within this area are included points whose strategical importance from a military and political and a commercial standpoint it would be difficult to overestimate. Indeed, I may say, that so far as Venezuela is concerned, the taking possession by Great Britain of the mouth of the Orinoco involves her political and her commercial independence, and if this Tribunal were called upon to decide no other question, that point alone is pregnant with tremendous meaning to the future of Venezuela. But great as are these issues, Mr President, I trust it will not seem unbecoming in me to say that even greater issues hang upon the result of this arbitration, — issues in which not only Venezuela, not only Great Britain, but the world at large is interested.

Arbitration itself, as a means of settling disputes amicably between nations, is here on trial. I shall not attempt to enlarge upon the impor-

Annex 100

Boundary between the Colony of British Guiana and the United States of Venezuela, Nineteenth Day's Proceedings (29 July 1899), p. 1119

— 1119 —

Lord Russell. — This same letter of Schomburgk, opposite 8, would rather appear to suggest not. He says this :

“ And the only access to this vast inland communication for sailing vessels of more than 10 feet draft of water is by means of the Boca de Navios, which is *commanded from Point Barima.* ”

If there were a passage round the other Islands, it would not be commanded from Point Barima.

Lord Justice Collins. — I am under the impression that there is some statement that qualifies that or is adverse to that in some document I have read.

Mr Mallet-Prevost. — The only statement that qualifies that or is adverse to that is the statement of Mr Mc Turk which has been made in order to rebut all those statements of Schomburgk and everybody else who has written on the subject; and I shall show in a moment when I have finished reading these extracts upon maps which have been prepared under British Authority exactly where it is and how wide it is and how far front Point Barima.

Lord Russell. — I think if you would come to that point, it would be desirable, because *ex facie*, the importance to Venezuela of the command of the Orinoco is obvious. It does not seem to me to need argument,

Mr Mallet-Prevost. — It is obvious, and it does not need argument, and yet Great Britain is today arguing that it has no importance; is arguing that Barima Point has no military importance; is arguing that it does not command the mouth of the Orinoco and it is because Great Britain has taken that position that I am compelled to weary the Tribunal by pointing to that evidence.

Lord Russell. — Whether it does or does not, if Barima Point is Great Britain's, whether it is important or not, Great Britain has it if it is hers.

Mr Mallet-Prevost. — Of course she has it today, my Lord; she has taken it by force.

Lord Russell. — I am not referring to that. I mean if, in the result by the decision of this Tribunal, it should be found to be Great Britain's, then *cadit quæstio*, whether it is important or not to Venezuela.

Mr Mallet-Prevost. — My Lord, let me point out this fact. I have been dealing up to this point with the original Spanish title to this region and with the settlements of Spain and of Holland. I have shown and I think I have shown satisfactorily that at the date of the Treaty of Münster there was a Spanish settlement in the Orinoco.

Lord Russell. — I thought I was helping you. I almost desire to withdraw what I have been saying. You are apparently treating my observation as if I was interposing some obstacle.

Mr Mallet-Prevost. — I desire simply to make this observation, if you will permit me, and I make it in answer to the suggestion that has

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— 1124 —

or two Mr Mc Turk and Mr im Thurn have made affidavits for use before this Tribunal. Lord Granville in 1881 recognises this fact. I will not read the statement but he refers to this mouth and the importance of Venezuela's command of it, speaking of it as it has been spoken of more than once as the Dardanelles of the Orinoco. It is in the seventh volume of the British Case Appendix, pages 99 and 100. Now I will read the evidence that Great Britain presents today to rebut. It is in the Counter Case Appendix, page 402. This I think is the extract to which Lord Justice Collins referred a short time ago, when he spoke of the channel possibly not being commanded by Barima Point itself; opposite F, paragraph 12 :

“The said Case also refers to the value of Barima Point from a military and strategical point of view. As is well known, there are other entrances to the Orinoco than the one by Barima Point, and although it is true that the one opposite Barima Point which is known as Boca des Navios, or Great Ships Mouth, is the most used, yet the edge of the navigable channel, which is of itself of considerable width, is at least 5 miles from Barima Point, and owing to the nature of the soil and the wash of the sea, it would be practically impossible to erect any fortifications of sufficient strength to contain heavy artillery. ”

Chief Justice Fuller. — He does not say there is another channel that has the depth of this.

Mr Mallet-Prevost. — No, he says this channel is five miles away.

Chief Justice Fuller. — Guns throw five miles.

Mr Mallet-Prevost. — And considerably further than five miles.

Lord Russell. — I suppose you are right. I do not recall the Attorney General making a great point of this at all. As more than one member of the court has intimated it is impossible not to see the command of the river is important.

Mr Mallet-Prevost. — If the Attorney-General had gone into it exhaustively he would have exposed the fallacy of his position but he referred to and relied upon it, skated over it as quickly as he could. It is a point made in the Case and Counter Case of Great Britain.

Lord Russell. — Well, I would not waste too much usefull strength about it, I think.

Mr Mallet-Prevost. — In line with the same extract which I read yesterday from the case of the “ Anna ” I want to call the attention of the Tribunal to a statement in Twiss's Law of Nations, Section 131, where he says :

“ Upon the like considerations of security, islands which have been formed by the accumulation of mud and drift at the mouth of a river, and which keep sentinel as it were over the approaches to the mainland, are regarded as natural or neces-

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Boundary between the Colony of British Guiana and the United States of Venezuela, Nineteenth Day's Proceedings (12 Aug. 1899), p. 1170

— 1170 —

torney General can give me from a copy that he may have the distances upon the British map.

Sir Richard Webster. — I am afraid I have not it here.

Mr Mallet-Prevost. — The distance upon the Venezuelan map?

Sir Richard Webster. — I do not think there is much difference as far as the Moruca is concerned.

Mr Mallet-Prevost. — But as to the Waini there is a difference of some 30 miles. What was it your Honour asked?

Chief Justice Fuller. — From Moruca to the mouth of the Waini.

Lord Russell. — That has a very wide mouth.

Mr Mallet-Prevost. — From Pomeroun to the mouth of the Waini according to the Venezuelan map is 120 miles, according to the British map it is 88 miles, and the difference between those two measurements is explained by the fact to which I have been calling attention; the two maps differ greatly as to the location of the Mora Passage.

The President. — My observation is that the maps of the 18th century have very great mistakes, and are very different, — that is the only foundation of the question I put, because the maps of this time, 1756 and 1757, were very different.

Chief Justice Fuller. — This was at the Moruca whatever the distance was.

Mr Mallet-Prevost. — Yes.

Lord Russell. — Now you were reading from pages 137.

Mr Mallet-Prevost. — Thank you, my Lord,

“ What I understand from the Report is, that it is intended to make some plantations for sugar cane growing, and unite for that purpose, with their owners and slaves, a number of Aruaca Indians, who are most in their confidence, to assist in preventing soldiers deserting, as well as Indian slaves and negroes, in that district.

It may be that, for that purpose, and to protect the sugar estates from any outbreak of the slaves, both negroes and Indians, they may construct a small fort with a few small cannon, and guarded by some four or six soldiers. ”

I think I read that, but there is another statement on page 138 in connection with this same date. This is the enclosure which is referred to in the letter from which I have just read :

“ I beg to inform your Excellency that I have fulfilled the commission with which you charged me of surveying the waters of the Creek Moruca, and of reconnoitring the fortification of which you were informed. The result has been to show that such report is unfounded, for in the whole of that and the other creeks in communication with it there is no fortification of any kind; and the only thing which appears to have given cause

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— 1737 —

“ Schomburgk's astronomically observed positions in the interior and south of the colony remain however generally unchanged and thus the northern portion of the map may possibly be placed too much to the east compared with the center and southern portions. ”

Now, I say, Mr President, that that is a most extraordinary confession to be made by those who have the monopoly of the geography in this controversy. It means that upon that map (pointing), (a photograph of map 1 of the British atlas) the geographers, or the map-makers, finding that Schomburgk's positions on the coast were inaccurate as compared with the positions in the Admiralty chart and preferring, I have no doubt wisely, to take the positions in the Admiralty chart instead of Schomburgk's positions, moved arbitrarily those positions twenty minutes to the east, twenty minutes being a third of a degree and a distance on the map of somewhat like that (describing), but they did not move them in the interior. They left them as they were in the interior. They did not verify them in the interior.

They do not know now whether they are correct in the interior and so say; and confess in plain terms that possibly the northern part of the map may be twenty minutes too far to the east as compared with the southern. Now I say that is a most extraordinary confession. It is not only a question of longitude but a question of the whole structure of the map and that I think I can explain in two minutes. Along the coast here they have one series of astronomical determinations of position. They have in the interior another series of astronomical determinations of position. These two do not agree and those on the coast have been arbitrarily changed but those in the interior have not been changed. Now that means that the whole coast has been mapped out with reference to the Admiralty chart and that the others in the interior have been left and that a certain space of territory from the coast towards the interior has been determined with reference to the new astronomical positions and that the whole interior has been left determined with reference to the old and probably erroneous astronomical positions. I do not care where the line is where they made the distinction. It may run up *here* or *there* or anywhere. You cannot tell, but taking any vertical line which crosses the line of demarcation separating the Admiralty determinations from the Schomburgk determinations, the line of the Waini, for instance, it must be, upon their coast map as constructed, that a point on the Waini is twenty minutes to the east, on the coast map, of the position of the same that point in the map of the interior; and having nothing else to guide them a purely arbitrary connection must be made between the two; and consequently no reliance is to be placed on this map whatever, not only as to the astronomical determinations of longitude which is admitted but also as to all vertical lines in the interior where the two different standards of longitude are used.

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— 1761 —

has any material bearing upon this question, which I am now considering, and that part of the correspondence, we knew nothing about.

Sir Richard Webster. — It recites part of it. However, never mind about it.

Mr Soley. — Of course, Venezuela is under a great disadvantage in considering these questions in the present century by reason of the facts that I have stated. The decision of any question in reference to Venezuelan control, if there is any, must be decided solely upon evidence presented by Great Britain.

Even in this evidence, we from time to time receive intimations, so that we may find out without travelling out of the record at all, what might have been introduced, in case the question in controversy had assumed at an earlier stage a different character. We find a reference, for instance, about the year 1850 to grants of land, land held by Venezuelan tenures, which had evidently been held by Venezuelan tenure for a very long period in the neighborhood of what is known as the mission Valley or the Savanna Region, — the mission region north of the Cuyuni. We find repeated visits of the Postholders, so called, of Coriapo, a Venezuelan Post placed above the Island of Papagos and the territory known as the Barima. We find an exercise of the police power by a Venezuelan gun-boat in the Barima, and we find that the waterways of the Barima were used, and constantly used, and used to an enormous extent, just about this time during the first half of this century by Venezuelan traders and used almost exclusively by Venezuelan traders. I only mention those matters as indications in the record of the testimony which might have been presented had Venezuela felt herself called upon to present any, and in order that the Tribunal may make a proper allowance for the absence of that testimony and to rebut the inference that might be drawn that such testimony was not presented because there was no such testimony to present.

Mr Justice Brewer. — You have just been referring to certain intimations which you say are hinted at in this record.

Mr Soley. — Yes; and which indicate sufficiently what a voluminous record might have been presented by Venezuela.

Mr Justice Brewer. — Are there, in the record here, passages which contain those intimations?

Mr Soley. — I shall call attention to them specifically at a later point in my argument. Now here I want to call the attention of the Tribunal for a moment to the map which my learned friends have been making use of during the whole of the oral argument of the Attorney General. I do not know what that map represents, or what it is intended to represent. It has on it a large colored area. Now the purpose of a large colored area and the effect of a large colored area are to indicate some sort of continuity of possession, or some sort of unity — some political unity —, in the various parts of that area.

I mention this fact because the map seems to me to be exceedingly

misleading, and I know how strong the impressions are that are produced by the constant inspection of a misleading map like that. That map does not represent the colony of British Guiana. That map does not represent the territory in dispute. It does not represent the British claim unless the British claim today is the claim that was stated by Sir Thomas Sanderson in the year 1890, where he said it should include all the land between the Essequibo and the Caroni and the Orinoco. It appears to me that that map prepared by them represents the colony of British Guiana with all the territory that Great Britain might according to that theory of Sir Thomas Sanderson by any possibility claim.

Now, Mr President, the colony of British Guiana lies in that little strip of territory between the Essequibo and the Corentin. That is the colony of British Guiana. The rest of it is the territory in dispute. And in order that the impression produced by that map may be corrected, I would ask the Tribunal to look carefully at the map on the other wall, which is the map of Hadfield in 1838. That is stated to be a map of British Guiana from the latest surveys of Schomburgk, Owen, Hilhouse, and others, showing the parochial divisions as well as the present extent of cultivation, the staple productions and so forth, respectfully dedicated to his Excellency Henry Light Esquire, Governor in and over the said colony by his Excellency's very obedient and humble Servant, J, Hadfield, Crown Surveyor, dated at Georgetown, Demerara, in the year 1838. Now there is no question as to the official character of that map. There is no question as to the knowledge and the competency of the man who got it up.

Lord Russell. — What is its number in the atlas? Do not trouble about it if you have it not in your mind.

Mr Soley. — I have it right here in my notes. It is map No. 79 in the Venezuelan atlas. The importance of this fact lies in the claim which is made from time to time in the Diplomatic correspondence that the determination of a boundary line at any point east of the Schomburgk line would involve the surrender on the part of British Guiana of some great part of the colony. That idea is expressed in the British Argument at page 54 :

“ Such a boundary — ”

that is, east of the Schomburgk line —

“ Such a boundary would deprive Great Britain of territory she has held as of right, which she has controlled for upwards of ninety years, in which she has established a fixed Government and developed trade, and on which her subjects have expended large sums of money. ”

And the memorandum of Sir Thomas Sanderson says the same thing. This in the British Case Appendix, volume 7, at page 137 at letter C:

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— 1999 —

Mr Soley. — Yes.

The President. — From where did Schomburgk take this boundary?

Mr Soley. — I do not know where Schomburgk got the boundary claimed by Venezuela. Of course Venezuela is not bound by anything Schomburgk states, or by anything the British Government states. He had put the claim of boundary at the Moruca. The boundary claimed by Venezuela, as far as I know, has always been at the Essequibo.

The President. — It begins at Moruca and goes to Essequibo?

Mr Soley. — He has put it at Moruca, and it may be said he has run that boundary as claimed by Venezuela down very near the identical line which I have suggested from time to time as being substantially the county of Essequibo. That is to say the line which starts at the mouth of the Moruca and runs up to the source of that river then follows the water parting, being about the line of the Blue mountains, then comes down south east to the falls of the Cuyuni, to the falls of the Massaruni, to the falls of the Essequibo, and then follows the course of the Essequibo. That is the line which Schomburgk has put on this map as the line claimed by Venezuela. Where he got it I do not know. Schomburgk at this time had published a book giving an account of his travels and explorations on the Essequibo and in this book appeared a map which map was similar to the map published in the Parliamentary Paper.

Now as to this first Schomburgk map which was published in the Parliamentary Papers with Lord Palmerston's letter it has been suggested that it was an imaginary map, that it represented imaginary localities and imaginary boundaries. I submit, Mr President that that is not the case. With reference to the longitudes I am free to say, as I said about the longitudes on a much later and more carefully prepared map, namely the map in the British atlas, they are quite untrustworthy, they are obviously untrustworthy. I should not have said that as to the British map except that the statement is made in the British atlas itself. As to this Schomburgk map no reliance is to be placed on longitude at all. It is not necessary, as I have already suggested, to rely upon longitude or latitude, that is to say, astronomical positions, in making out a boundary in this territory. It may be taken by monuments, by natural features and by natural points, the position of which is absolutely certain and definite, and that is precisely what this map does.

It begins, as the Tribunal will see, at the mouth of the Amacura. It follows the Amacura for a short distance till it reaches a stream called the Caño Coyoni which is one of the network of streams which penetrate the country between there and the Upper Orinoco. It purports to follow the Caño Coyoni to its source which must not be confused with the great River Cuyuni, and it proceeds by a substantially straight line to a river and follows down that river to its confluence with the Cuyuni.

Now if the Tribunal will turn to the Memoir of Schomburgk, in the seventh volume at page 5 C, they will see his description of that line, which after it leaves the source of the Caño Coyoni proceeds in a south-

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— 2011 —

But Lord Aberdeen does make statements in connection with this matter which indicate plainly a line of right. He says if Venezuela will adopt this line that I propose on the Moruca, then the Government of Great Britain will do — What? Will *cede* to the Republic certain territory. Now the use of the word “cede” is perhaps somewhat beyond what the situation called for, but at any rate without pausing to consider that, he says that Her Majesty’s Government are willing to waive their claim to the Amacura as the western boundary of British territory, to consider the mouth of the Moruca as the limit, and if Venezuela accepts this to cede to the Republic the coast between the Moruca and the Amacura. Now I say that the result of that language is this; that Lord Aberdeen says to Venezuela “I propose a compromise line here on a give and take basis, this line from the Moruca to the Cuyuni. If you take that, I will cede to you the territory between the Moruca and the Amacura.” Of course he says “I will waive our claim to the Amacura.” Of course he is ceding all the territory that he claims. He is not claiming, that there is a strip west of the Amacura to which Great Britain is reserving rights. He is ceding a territory which is contiguous to the Venezuelan frontier and by that fact he is withdrawing from the line of right established by Lord Palmerston and which went beyond the Amacura to the Coyoni and the Caño Coyoni, and he is establishing as a new line of right the line of the Amacura. In other words, it is part of the territory which Lord Palmerston claimed, beyond the Amacura, that he withdraws from and he says: We will waive our rights from the Amacura, and we will cede the territory from the Amacura to Moruca up to Venezuela.

That is a clear definition of a new line of right. In other words, it is the line of right of Lord Palmerston modified by the line of Lord Aberdeen.

We come now to the Agreement of 1850.

Lord Justice Collins. — Do you say that, up to this date, no map of Schomburgk’s showing the Acarabisi as the line had been published?

Mr Soley. — No, my Lord, up to this date, that is up to the date of the Agreement of 1850, and up to 1875, no map showing any line of Schomburgk’s except the Palmerston line was published.

Sir Richard Webster. — And the Acarabisi was not shown upon that map

Mr Soley. — No; the Acarabisi was not shown on that map. There was no need to show it. It did not mark anything.

Sir Richard Webster. — Well, that is another matter.

Mr Soley. — On the map of 1875, the Schomburgk map that was published then, which was not an original Schomburgk map at all, but it was a map, the great Colonial map as it was called, of Brown and Sawkins, a boundary was drawn which was neither the boundary put down in Lord Palmerston’s paper nor the boundary of the Acarabisi, but was a boundary midway down the Otomong creek, I will not say midway, but it was somewhere in the Otomong creek. In the year 1886 the Schomburgk line was published on the great Colonial map which was a change from

the map of 1875. 1886 is the first date when what is known as the Schomburgk line was made public.

Lord Justice Collins. — That is, the Acarabisi line?

Mr Soley. — Yes; when the Acarabisi line, I should say, was made public. Turning now to the 6th volume of the Appendix to the British Case at page 178 —

Lord Russell. — When was Lord Palmerston first Prime Minister? Do you recollect?

The President. — In 1844 Lord Palmerston was Foreign Secretary.

Lord Russell. — I think he was first Prime Minister in on about 1858.

Sir Richard Webster. — Yes, my Lord, I think it was 1858.

Mr Soley. — If your Lordship please, he was Foreign Secretary in 1840 because this correspondence is when he was Foreign Secretary.

Chief Justice Fullcr.—Lord John Russell was the Colonial Secretary.

Mr Soley. — Yes.

Now it is important here to consider what the situation was at Caracas during the period preceding the Agreement of 1850. Since the year 1843, there had been a political party in Venezuela whose object had been to represent that the British Government was attempting to take possession of the territory in dispute which was considered in Caracas as being Venezuelan Guiana. Their principal spokesman was Level, who wrote the Report to which allusion has already been made, and the intrigues of this party had been with a view to their own political exaltation, but, as stated by the British Minister at Caracas, they had been seriously prejudicing British interest there by representing that Great Britain was pursuing an aggressive policy and was seeking to occupy and to control this territory.

I was asked the other day when speaking of the strong language which the British Minister had used in reference to Level and to his want of veracity what connection this Report that Level had made about the Missions in Guiana had to do with the accusation that the British Minister brought against him. It did not occur to me then that one of the passages read from Level's article, which does not speak of Great Britain by name, but plainly refers to Great Britain is this: "This is the ostensible origin" says this very report of Level "of the occupation of the Guianese territory by the foreigner who claims to base his titles upon the protection for which he says he has been asked by the persecuted Venezuelans fleeing from our towns." That accords so completely with all the other statements that have been made with reference to the subject that I could not forbear calling the attention of the Tribunal to it.

The first letter in this correspondence (British Case, volume 6, page 178, is a letter of Mr Wilson, the Minister at Caracas, to Lord Palmerston on April the 2nd, 1850. He says:

"In order to excite the public mind against what is here designated concession to the British demands in respect of the

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spent on the place, but these arrangements fell through on account of a Government notice dated January 30th, 1867 — ”

which makes the connection there.

I found a note which is pertinent to this meridian of 60 degrees. It is a note referring to four maps. One is Hebert's map in the British atlas, the map constructed by the Intelligence Department of the War Office in 1842 from Schomburgk's surveys, but not published till 1886. Another is the Brown and Sawkins map. Another is the Arrowsmith map; and the fourth is the Codazzi map. Now Hebert's map puts 60 degrees at the mouth of the Waini river; the Brown and Sawkins map puts it little more than half way between the Waini and the Orinoco; Arrowsmith puts it at the mouth of the Orinoco; and Codazzi's map, which is the one which the Venezuelan Government were in the habit of using, makes it run through the head waters of the Moruca. That is to say, Codazzi's map, by applying the correction which is well known, of two degrees between the meridian of Paris and the meridian of Greenwich, it makes 62 degrees, which is 60 degrees west of Greenwich, and that runs through the Moruca river. That shows what utter confusion there is on the subject of longitudes.

Lord Russell. — I was rather struck with the fact, looking at the Palmerston sketch, as it is called, the course of the line representing the 60th degree coincides very much with the map No I in the British Atlas. I do not know if you have examined that.

Mr Soley. — It is quite possible it may. It is exceedingly difficult to say what may have been the effect of moving the astronomical positions in this map 20 miles in the upper part of the map. Of course the result of that is to make a straight line a broken line. That is perfectly clear. As the meridian itself will be a broken line and broken to the extent of 20 miles, it makes the straight lines broken lines and there must be an arbitrary connection between the broken ends of the lines. A line which appears straight on one map will appear very much the reverse of straight on another.

I propose now to discuss the question of Schomburgk and his work. In the first place, I would say that it is a matter of overwhelming importance in connection with the boundary question by reason of the fact that, as I contend, the boundary question is due altogether, in its present aspect, to Schomburgk. The Schomburgk line, so-called, is that which has created the boundary question, as we know it, and as it appears before this Tribunal. It therefore becomes of importance to know what grounds Schomburgk had for placing his boundary where it was placed. And there is an additional reason for that, and that is this. From the first moment when this Prussian geographer made his appearance, he seems to have produced a profound impression upon them, an impression which we cannot account for by anything which is in the man's work. It must have been to a great extent a personal impression, or it must have been

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Now the British Government had, since 1876, made public that map, and it had been the published statement of Schomburgk's line, that is to say, as the British Case says, a modified statement of the Palmerston line. It had been hanging in every room in the colony where a wall map was hung. It had been in the Colonial Office list, and had been seen by everybody that had occasion to look at the Colonial Office list. It was accompanied, on this wall map, by the note which practically stated that it was the line of the Agreement of 1850; not only the Schomburgk line, but the line of the Agreement of 1850. Now what does the Government do, at this time, after it arranged with the colony as to the expense of publishing the Hebert map? It did publish the Hebert map, but that is neither here nor there. It took the stone upon which this map of 1876 had been constructed and caused to be removed from the map the boundary which had been upon it for 10 years. It then placed a new boundary upon the map and published it. That is the map which is above the other. That was the publication that was made in 1886. The title remains the same, the date remains the same, so that it would appear from this map that it was a publication of 1875; but the note in reference to the Agreement of 1850 disappears.

Now, what is the effect of that? The effect of that, of course, is to make it appear that this line is an error and that that line is the true thing that was intended there. The effect physically is to extend the territory claimed, which had been stated by Lord Palmerston in 1840, had been the basis of the Agreement of 1850, had been officially stated by the British Government from 1876 to 1886 as a single line, or a slight modification of that line, was to change that, by the addition of all this territory running round the head waters of the Barima between a straight line running south at that angle, and further, to increase the claimed territory by all the territory around the great bend of the Cuyuni and between that great bend and the line upon the map of 1876 which represented the Palmerston line. It added, I suppose, somewhere in the neighborhood of 50 000 square miles of territory to the British claim. That change was made simultaneously with the issue of this Gazette notice. My learned friend tells me I have the amount excessive, and I will say 10 000 miles.

Now here is the statement that is made in the British Case (page 144) in explanation of this change :

“ When the British Government was about to issue the Proclamation of 21st October, 1886, their attention was called to the boundary-line upon Mr Stanford's Map of 1875 above mentioned. As the line so drawn did not correspond with the real Schomburgk line, the map was altered so as to show the real line traced by Sir Robert Schomburgk, and the note upon the map was erased. ”

What was the real Schomburgk line, Mr President? The real

Schomburgk line that had any importance. The only real Schomburgk line that existed in this controversy was the line of Lord Palmerston, the line represented by that map, and there was no occasion, in order to ascertain the real Schomburgk line, that is to say the real, as far as international controversy was concerned, to change it from that line to the line put there, which was absolutely an unknown Schomburgk line, which rested up to this day on no official authority from the British Government, which had no foundation whatever except those ramblings and recommendations and statements in the reports of Schomburgk, and which never appeared at all outside of the files of the Colonial Office till, in 1886, it was put upon that map. And yet, according to that statement in the British Case, it shows how much effect Schomburgk had on this controversy. Why was it, apparently, apart from the question of including greater territory, that this alteration was made in the map, and that the new line was selected? It was selected, not because it was right, but because it was Schomburgk's. That was the only reason for selecting it. And after all it was not the real Schomburgk, because the real Schomburgk, was the Schomburgk which had been given approval by the act of Lord Palmerston.

Now there is only one matter, before I leave this question, to which I want to call attention. And I only call attention to that by reason of the fact that if I did not it might mislead. That is this: that in the reproduction of this map, of 1876, in the British atlas a dotted line has been made on the extended Schomburgk boundary. I wish it to be understood that I am not commenting on this, in any way whatever, except to prevent the Tribunal being misled. On page 41 there is the map which purports to be the copy of the lower map. Upon this map is a dotted line which runs round the great bend of the Barima and also runs round the great bend of the Cuyuni or a part of the great bend of the Cuyuni.

Sir Richard Webster. — It went as far as the Curumu.

Mr Soley. — I say it follows the Cuyuni. The existence of that line would lead one to suppose that, though there was not a *colored* Schomburgk boundary on the first of those maps, there was a *dotted* Schomburgk boundary. As I say, it would lead to the supposition there was a dotted boundary on this first map. That dotted boundary, which is in the reproduction of the map in the British atlas, does not occur in the original map. My learned friend says they have written to us about it. I will ask my colleagues.

Sir Richard Webster. — Yes, we wrote and pointed out the mistake.

Mr Mallet-Prevost. — We have never heard of or had any communication from Her Majesty's Government on the subject of any kind.

Mr Soley. — I point out, on what purports to be a reproduction of the map of 1875, there has erroneously crept in a dotted line following round that.

Sir Richard Webster. — In the 1875 map; it is quite right.

Mr Soley. — That does not exist in the original, and the Tribunal, looking at that map, must not suppose there is any indication on the earl-

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THIRTY-FIFTH DAY'S PROCEEDINGS AUGUST 29, 1899

The President. — Mr Soley, the Tribunal is ready to hear the conclusion of your argument.

Mr Soley. — Mr President, I ought to begin today by saying in reference to the question or matter, to which I called attention yesterday, of the existence of an engraved line on a copy of the map of 1876 in the British atlas, that I find that the Agent of Venezuela received from the Agent of Great Britain, in the month of May last, a notice to the effect that an error existed in that map. Owing to some accident or inadvertence, the information of this fact never reached the counsel for Venezuela, and consequently, when I spoke yesterday, I spoke without any knowledge that the letter had been written. I mention this in justice to my learned friends on the other side, although I would call attention to the fact that my mention of the existence of this engraved line was specifically only in order that the Tribunal might not be misled by the existence of the line upon the map.

A party complaining of a breach of contract may elect to consider the contract as still binding and sue for damages for the breach, or, in certain cases, he may elect to treat the contract as broken, and consider himself absolved from its obligations. He cannot do both at the same time. If he appeals to the contract as being still in force, he waives all prior breaches of the contract up to that time as a ground for the rescission of contract.

When, therefore, Lord Iddesleigh wrote his letter, in the year 1887, appealing to the Agreement of 1850 as a reason why Venezuela should abstain from doing certain acts, he waived any right that Great Britain may have had to treat the contract as rescinded by reason of alleged previous breaches on the part of Venezuela. It therefore makes no difference what may have been the character of the acts of Venezuela in reference to the concessions of 1881, of 1883, or of 1884. It makes no difference what General Guzman Blanco may have said in the summer of 1886, prior to the issue by Mr Stanhope of the proclamation in reference to the territory in dispute. Those matters were all as completely extinguished, wiped out, passed away, and done with, as if they had never existed when Lord Iddesleigh wrote the letter of January the 12th 1887.

It is strange to me, inexpressibly strange, that this fact which is based upon the most elementary legal principles, has been lost sight of both in the British Counter Case and in the oral argument. The Counter Case states the situation at page 115, line 30, as follows :

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settlement on the east of the territory in dispute at a time when Spanish settlement on the west was growing to such an enormous extent.

Any acts in the nature of an exercise of territorial sovereignty on the part of the Dutch west of the Blue mountain line were prevented by the presence of effective Spanish control and Spanish dominion in the territory. But the line nevertheless served as a visible, tangible, and indestructible physical barrier, marking the point, for all time, beyond which the Dutch occupation could not go, or did not go. It is in connection with this question of what is the constructive extent of a first occupation in the light of the principle of national security, that the discussion of the strategic relations of the Orinoco river, and especially that which we have received from the pen of Schomburgk, becomes of so much importance.

Spain having settled an empire to the north and west of the Orinoco, to the safety and security of which the possession and control of that river was essential; having taken and firmly held possession of both banks, the constructive possession of a second comer cannot be so extended as to imperil the control of this river by Spain.

Upon this argument it is conceded that Spain so possessed, occupied and controlled the Orinoco as to place beyond all question here Venezuela's right to the watershed of the Orinoco. If the Barima and Amacura are found by the Tribunal to be tributaries of the Orinoco, that of course goes far towards ending this branch of the discussion. But if the Tribunal should reach the decision that they are not tributaries of the Orinoco, still the rule of national security prevents Point Barima and the two rivers being awarded to Great Britain in this controversy. It would be nothing less than farcical to award the Orinoco to Venezuela and Point Barima to Great Britain. The nation to whom is awarded Point Barima is given absolutely the control of the Orinoco. The importance of the Orinoco to Venezuela is so great and so universally acknowledged that no statement of Great Britain has ever seriously proposed to deprive her of the control of its mouth, unless the present is to be regarded as a serious effort in that direction. Point Barima in the hands of Great Britain would not only imperil the very existence of Venezuela, but it would enable Great Britain in time of peace to absolutely control the main entrance to the Orinoco. A port of entry established by Great Britain at this point would put the entire commerce of the river within her power and control. No one can doubt, after hearing Schomburgk's report, and especially his confidential letter that all this was the real object and purpose of his claiming the Barima and the Amacura. He says, June 22nd, 1841 :

“ The peculiar configuration of the only channel (Boca de Navios) which admits vessels of some draught to the Orinoco, passes near Point Barima, so that if hereafter it became of advantage to command the entrance to the Orinoco, this might be easily effected from that point. This assertion is supported by

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ARBITRATION BETWEEN

THE GOVERNMENTS OF

HER BRITANNIC MAJESTY

AND

THE UNITED STATES OF VENEZUELA

FIFTIETH DAY'S PROCEEDINGS SEPTEMBER THE 19th 1899

The President. — General Harrison, the Tribunal is ready to hear your argument.

General Harrison. — Mr President, the closing argument is usually regarded by Counsel as having a special value, especially in hearings before Juries. But I gravely doubt, Sir, whether, in an argument to a Tribunal composed of judges, it is rather not a place of disadvantage, as in this case, and this for several reasons. The Counsel who addresses the Tribunal comes to his work in a frame of weariness of mind and body and he addresses judges who are weary. And not only so, Mr President, but he has to deal with propositions of law and of fact that have been tossed from side to side by the Counsel for many weeks. He is using the flail for the third time, or it may be, as in this case, for the eighth time upon the straw.

Mr President, I do not intend to repeat the speech made by any of the Counsel for Venezuela. The suggestion manifesting some sort of special limitation that would be upon me, which the Attorney General has made, will not, I think, shut me out from doing this. I have a strong dislike Mr President, to the work of repeating myself, and a downright repugnance to the work of repeating anybody else. I shall feel at liberty to discuss this case upon all the principles of fact and of law which have been introduced in the Printed Arguments of Venezuela and of Great Britain, or which have been introduced and discussed by any of the Counsel in the case. I shall not, Mr President, introduce new citations of law or bring forward any proposition of law, or of fact, that has not already been definitely stated to the Tribunal. But, within those limits,

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Sir, I shall be free, by fresh illustration, or by new methods of approach, to discuss every question in the case.

Mr President, it has to me been a matter of special interest that the President of this Tribunal, after his designation by these two contending nations for that high place, which assigned to him the duty of participating in practical arbitration between nations, was called by his great Sovereign to take part in a convention which I believe will be accounted to be one of the greatest assemblies of the nations that the world has yet seen, not only in the personnel of those who are gathered together, but in the wide and widening effects which its resolutions are to have upon the intercourse of nations in the centuries to come.

And there was nothing, Mr President, in your proceedings at the Hague that so much attracted my approbation and interest as the proposition to constitute a permanent Court of Arbitration. It seems to me that, if this process of settling international difficulties is to commend itself to the nations, it can only be by setting up for the trial of such questions an absolutely impartial, judicial Tribunal. If conventions, if accommodations, and if the rule of give — and — take are to be used, then let the diplomatists settle the questions. But when these have failed in their work, and the question between two great nations is submitted for judgment, it seems to me necessarily to imply the introduction of a judicial element into the Tribunal.

It seems to me, Mr President, that anticipating what seemed to be so prominent in this discussion at the Hague, these nations have adopted that basis in the constitution of this Tribunal. Mr President, it is quite natural perhaps that lawyers should magnify the law. Perhaps my public life might incline me rather to exalt the executive, but more and more as I live, Sir, do I come to realize that a system of law, administered by just, impartial, and able judges, is the cornerstone upon which all domestic and social security and peace rests. And this is specially brought home to us in this time, Sir, when the pressure of life upon men, and the dissensions and distractions which are brought in by these social questions, come to disturb all nations. Force may be applied, but its effects are temporary. Force, except as it is an executor of the law, is hopeless and begets resentment. What is our safety? That in all of the countries where law has been established, we have quiet, sedate chambers, where judges sit and where litigants, rich or poor, may come to have their rights adjudged. That is the pacifying influence, that is the safety of our communities.

I have read many times, but never without glow, that wonderful panegyric, in Hooker's Ecclesiastical Polity, to the law :

“ Of the law, there can be no less a knowledge than that her seat is the bosom of God, her voice the harmony of the world. All things in heaven and in earth do her homage, the very least as feeling her care, the greatest as not exempted

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from her power. Both angels and men and the creatures of what condition soever, though each in different sort and manner, yet all with uniform concert admire her as the mother of their peace and joy. ”

The peace, the content, the good order, the prosperity of a community, may be measured by the public confidence in the purity, impartiality and integrity of its judiciary. It is that that stays the hands of violence, and clothes the weak with a sense of personal dignity, and with that sense the injury is quieted.

Mr President, if I were to ask an intelligent Englishman today who had thoroughly imbibed the spirit of her great institutions, in what Great Britain's fame mostly consisted, and upon what it most depends, I think he would answer me that her glory was in the evolution of the system of the Common Law, and in the judicial tribunals which she has constituted to administer it; and not to be derived from the stricken field, so many of them the world around, where the Union Jack has been borne over vanquished foes.

As I have said, force has no place in nature or in law except as the law's executor.

Now, Mr President, we have in many lands not only attained this thing in litigation between the citizens of those lands, but we have attained it in the relations of those courts to foreign nations and to the citizens of foreign nations. It has not been long, Mr President, since the United States of America appeared as plaintiff in a British Court in a suit against a British citizen. The decision was against us. But there was not found anywhere a voice to impugn the integrity and impartiality of the decision. Is there any one of us here who, litigating with a British subject or with a Russian subject, would not go into your tribunals with absolute confidence that whatever his rights were, they would be awarded to him?

My thought is, Mr President, that the success of a general arbitration scheme turns upon the question: Is it possible to organize an international Tribunal upon that basis? The decisions of these Tribunals are looked to by writers upon international law as the sources from which they may derive information as to what the law is. That being so, clearly the value of those decisions depends upon the belief that judicial considerations have wholly entered into their determination. So it is with reference to the decision of the Prize Courts within nations. And, Mr President, if you will permit me, as a most magnificent expression of this principle upon which I have been commenting, I want to read from an English judge an expression with reference to the character of these decisions which thus enter into and become sources of international law as expressing better than I can possibly do, the relation that the judicial character of these hearings bears to it. I have a reference to Phillimore at pages 55 and 56 of the first volume.

Lord Stowell said :

“ In the case of the Swedish Convoy, in forming my judgment, I trust that it has not for a moment escaped my anxious recollection what it is that the duty of my station calls for from me : namely, not to deliver occasional and shifting opinions to serve present purposes, of particular national interests, but to administer with indifference that Justice which the law of nations holds out without distinction to independent states. Some happen to be neutral and some belligerent. The seat of judicial authority is indeed locally here and in the belligerent country according to the known law and practice of nations, but the law itself has no locality. It is the duty of the person who sits here to determine this question exactly as he would determine the same question if sitting at Stockholm, to assert no pretensions on the part of Great Britain which she would not allow to Sweden in the same circumstances, and to impose no duties on Sweden as a neutral country which she would not admit to belong to Great Britain in the same character. ”

Mr President, it has seemed to me that the purpose of this Treaty of Arbitration was to bring in just this judicial element, and to exclude the representative element which has appeared in many former arbitrations. The treaty requires that the persons are to be jurists, jurists of repute. The words “ on the part of ” do not imply any representation, as I think, of the political sovereignty, and that that is made clear, the nomination in the one case is to be by the Judicial Committee of Her Majesty’s Privy Council, and only one of the two on the part of Venezuela is even nominated by Venezuela, while the other is to be nominated by the Supreme Court of the United States. There is no Venezuelan here. This latter provision distinctly excludes the idea of representation, for when that idea is allowed, the representation is direct and equal. Venezuela then, Mr President, comes to this tribunal as to a great court. She gives to each member of it her fullest confidence, and submits her case to be judged upon the principles of international law and the rules of the treaty, and not to be compounded or compromised upon suggestions of political expediency.

Mr President, we have been subjected in the course of this argument to a vast amount of scolding. I do not think that all put together since the days of my irresponsible childhood, I have been scolded and lectured so much as we have been in this case by the Attorney General. We are told that the Printed Argument of Venezuela is narrow, and, Mr President, there is a sense in which I must admit that it is not so broad as the argument of Great Britain, because, Mr President, we have undertaken to do what we believed this Treaty required us to do in submitting an argument, namely, present a full and complete discussion of every question

of law and of fact that we thought was in the case. It is not so broad because it is particular : whereas the argument submitted by Great Britain is contained in 55 pages, without an argument on any point of the case, law or fact, and without the citation of a single legal authority.

Now, Mr President, when it is suggested here in quite a polite and friendly way by Sir Robert Reid, who does not seem to be given to scolding, that if they had known the course this argument was to take here, they might have objected to the assignments that have been given to Counsel, as if we were withholding something from them. Why, Mr President, if we had come here with protests or in the spirit of protesting and complaining, we would have lodged a protest against the British Printed Argument as having been conceived partly upon the theory that we were not to know what Great Britain's positions or authorities were until we came into this Tribunal. Who has had occasion to refer to it? What did we know about the positions that Great Britain was to take up here or by what authorities they would support them until we heard the evidence? And we are not very perfectly informed, even if we are now, until we heard his closing speech, for I shall submit to your Honors, as I go on with this discussion, that in meeting it we are somewhat fighting as those who beat the air, for upon many of these questions as to what was the status of the title in dispute after the Treaty of Münster, with all our questioning of the Counsel, we have yet arrived at no answer. Some of these things, Mr President, have been quite unpleasant. I can but think that the Attorney General was hardly aware of the scope of his words when he told my friend, General Tracy, whose position and experience at the bar, and age, and bearing of respect to everybody here, should have entitled him to kindly treatment, that he had made an argument that was not fit to be presented to the Tribunal, but might be appropriate for publication in a Venezuelan newspaper; and when he told my learned friend, Mr Soley, this morning that he had made an argument unworthy of him.

Sir Richard Webster. — I really never said one thing or the other, General. It was with reference to particular points, and nothing else.

General Harrison. — Mr President, until we heard the opening argument in the case, we had every reason to believe that any extensions beyond the old Dutch line were to be rested by Great Britain wholly upon prescription. In the opening argument, prescription was discarded, apparently, so much so, that when General Tracy came to the discussion of the question, which was a law question, the Attorney General thought it was not worth while to discuss it and it was not until we asked to be advised whether the Tribunal as well as the Counsel agreed to put it out of the case, that it was found necessary for General Tracy to proceed with the discussion.

Mr President, we were taunted with the statement that we had presented a large number of authorities. The Attorney General is a good arithmetician, and I see he counts often. He had counted the cases that

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to be summoned before it takes effect. If it takes effect it takes effect when the law takes effect — when the facts on which it depends, take effect.

Lord Russell. — It is involved, if there is *terra nullius*, and if they are in on equal rights that they might creep up on one another.

General Harrison. — My Lord, the *terra nullius* idea in such a case is absolutely excluded. It is the idea that the law divides this when they have made those settlements; it is not *terra nullius* and no other nation can possibly come in. It does not pably to a case of *terra nullius*.

Mr Justice Brewer. — Does not the idea of middle distance exclude the idea of *terra nullius*?

General Harrison. — It seems to me, whatever it may have been before the settlements once are made, when once the settlements are made, this rule of middle distance, if they are settlements which are approximately near together, as is implied, takes effect then, and excludes the idea of *terra nullius* absolutely.

Mr President, Great Britain has admitted from the beginning of her diplomatic discussion of this question Venezuela's rights to the 'beyond' of the Dutch line, and any new title put forward must be consistent with that admission, must extinguish the paramount title which she has made and upon this just and natural basis the Treaty of Washington proceeded, as I shall show, and not upon the theory that, even in 1897, there were regions of *terra nullius*, or fringe, or what not, over which one or the other might extend itself. If conditions were reversed in view of the unanimity, the unbroken chain of admission that runs through this, I must believe that, if the conditions were reversed, the Attorney Generald would have protested the right of Venezuela to bring in a controversy like this. Venezuela is too glad to be here with this controversy before this great Tribunal, and it is removed entirely beyond any consideration of mutual strength.

Mr President, I turn now to the history of the case to show that from a very early period there has been an unbroken series of admission of a common boundary and a denial of the existence of unappropriated lands. First I turn to the British Case to say that it nowhere puts forward a claim to any territory outside the concession, or cessions, or surrender, or whatever you please to call it, of the Treaty of Münster, that is not alleged to have been in the adverse possession or under the political control of the Dutch and British for more than 50 years. In other words the Treaty of Münster and prescription are the only source of title put forward in the British Case. It is claimed that this Dutch title went to the Amacura. It is claimed that it included, in some phase of it, the whole watershed of the Essequibo. Now, Mr President with such claims as those it was impossible for Great Britain to bring forward the idea of fringe or that the question depended upon occupation when she herself was by these constructive rules applied to the Treaty of Münster in which the Dutch were confirmed in their possessions and those possessions are affirmed, as they

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what she believed to be discussions of fact, as, in the Aberdeen line, when he said that for Venezuela to insist upon the Essequibo and for Great Britain to claim to the Orinoco were pretensions that neither must be supposed to have proposed to maintain. Why all this for no other reason except that the Attorney General found himself, as far as I can see, apparently, either compelled or of choice to assume an attitude in the Argument of the Case here that was wholly inconsistent with the attitude which the British Premier had taken in this discussion — he had to introduce some idea of fringe, some idea of growth and extension or *terra nullius* or some such thought as that and no thought of that kind had ever appeared in this diplomatic correspondence.

The diplomatic correspondence, as I have said, proves a common boundary from the earliest time and makes an end of the contention that there was unappropriated land, and an end of the contention that a new line can be established beyond the old boundary, of the appropriation of the territory by the one of the other. I say again that we should have had in the Case of Great Britain or in its Counter Case, somewhere, a statement and defence of this doctrine if it was to come into this case at all.

Now, Mr President, all this is in confusion up to this very moment, as I have said. I want to turn now to the official notes and diplomatic correspondence for a sketch which I will make as hastily as I possibly can in order to verify the general statements that I have made as to the course of this correspondence. I cannot read every note, I ought not to, nor all of any one that I may refer to, unless I am asked to do so, but again I say that there is not in the correspondence as far as it has been presented to this Tribunal so much as the vaguest hint or suggestion from the one side or the other that there was territory the title to which depended at any time since this discussion began, at any time since the Treaty of Münster, upon the fact of the occupation of it by the other.

Now, Mr President, I want first to say that Great Britain has presented here a good many maps, old maps, and has called the attention of the Tribunal to these maps. Now, for what purpose? Because, Mr President, those maps either show or are assumed to show a boundary. That is all. Every one of these maps, some of them coloured, some of them with lines that may or may not be intended to describe a boundary, but a long series of maps has been introduced and put forward here by Great Britain to prove that in fact when those maps were made there was in fact a common boundary.

Lord Russell. — Many of them have only boundaries in one direction and on the coast line.

General Harrison. — Yes, some of them do not carry it through from the coast or something of that kind, but that only modifies my remark and shows that each does not show a complete boundary, but each has been presented here and each has been commented upon as proof. Sir Robert Reid very candidly said —

“ We do not know how much probative effect they may have, ”

These cartographers may not have been wise about it, it is not conclusive, but they have been brought in here to show a boundary and every one thus brought forward is a separate witness to the fact that the Dutch, and not only so, but these cartographers when they undertook to make a boundary line admitted the proposition I am contending for, that there was a common boundary. They left no territories unappropriated, or wild, or *terra nullius*, or fringe; they did not draw two lines to define the Dutch and Spanish possessions there, but drew one line and these maps are brought in, some of them going back to very early times, to show there was a boundary. The use made of them is to show there was a boundary here.

Sir Richard Webster. — That is what Mr Mallet-Prevost's report says they did show, that there was a lot of territory not occupied by any nation.

General Harrison. — I do not know what Mr Mallet-Prevost's report shows. I am now speaking of the use which you made of them and the use you made of them was that they did show a boundary. That is at least an admission from the Attorney General, with whatever conclusiveness that may have, that there was a common boundary and that he resented or rejected my learned friend's discussion of the question when he intimated that any of them failed to show a boundary. I think I have at page 2203 of the Proceedings and I should like to read this, if your Honor pleases, because my note is not sufficiently complete. I do not know whether to impute it to Sir Robert Reid,

“ There is something remarkable in the concurrence of independent geographers in drawing a line from point Barima extending southwards. ”

I think that was Sir Robert Reid.

“ It is remarkable the concurrence of independent geographers. ”

Now when Sir Robert Reid said that, he was simply attempting to adduce evidence, from this concurrent testimony, of the proposition that there was a line and that testimony was that on one side of that line it was Dutch and on the other side it was Venezuelan or Spanish, because, Mr President the one goes with the other. If it was a boundary line it quite as much shows beyond it, it was intended to be Spanish as within it, it intended to be Dutch. Wherever these colored boundary lines are used one color represents Spanish and another Dutch territory, and these boundaries as far as they extend, this definition by color or otherwise, always brings the countries into a coterminous relation.

Now I will not attempt to detain the Tribunal to go through the references that I had to these maps. Bouchenroeder is 1798; you read from the margin a translation, a former Dutch post on the limits of the Spanish possessions. In Walker's map the boundary, it is said, between the Spanish Government —

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the question here is one of a line at the Amacura extending into the interior upon the general lines of Schomburgk, and a line at the Essequibo. And the dispute also involves the grounds upon which those respective lines are propounded and sustained. If, Mr President, there was some new source of title that had never been disclosed in the correspondence it was essential to the integrity of the negotiations that it should be propounded before the Arbitration is settled upon. The limits of that dispute we have found, and we insist here, that this discussion and determination here shall proceed upon those lines and determine the dispute that was submitted to this Tribunal. Mr President, proceeding with our examination of this we find that Article I provides that the Tribunal shall be immediately appointed to determine the boundary line between the colony of British Guiana and the United States of Venezuela. It then provides for the method of constituting the Tribunal and for filling vacancies. The latter clause, to the sorrow of us all, has been called into exercise, in this case, by the death of one of those first named to sit here. Now when we come to Article III we have the duties of the Tribunal pointed out. They

“shall investigate and ascertain the extent of the territories belonging to or that might lawfully be claimed by the United Netherlands or by the Kingdom of Spain respectively at the time of the acquisition by Great Britain of the Colony of British Guiana, and shall determine the boundary between the Colony of British Guiana and the United States of Venezuela”.

Now, Mr President, that clause introduces the Netherlands and Spain. It does not declare simply that they shall find the boundary between the existing claimants, but they are to ascertain the extent of the territories belonging to or that might lawfully be claimed by the Netherlands or the Kingdom of Spain at the time of this acquisition. Now, Mr President, there is a duty laid upon this commission to do that; a duty that the Tribunal cannot put off, manifestly. The duty was not laid upon the Tribunal for nothing. It was not intended that when you had laboriously gone through this long historical inquiry and had traced the title of the Netherlands and had traced the title of Spain down to 1814, a period when the titles had each a new representative, and then when you had gone through all that, to throw it to the winds.

A large part of the evidence that has been accumulated here looks to that question. The counsel have searched the records at the Hague and at Seville and at Madrid in order to set before this Tribunal as fully as they might, the story of Spanish discovery, of the Dutch war, of the Dutch settlement in Guiana, of the Treaty of Münster, and all the long story between the years 1648 and 1814.

Mr Justice Brewer. — General, would it in any way limit the scope of your argument or discussion if it was conceded that there was no such thing as *terra nullius* since 1814?

General Harrison. — I do not know that it would limit the scope of my argument that is to come. It would, your Honor, have very much limited my argument if that concession had been made in the beginning of it.

Lord Russell. — I confess that was my impression and is my clear impression of what the Attorney General and Sir Robert Reid's position was. There was an expression later by the Attorney General which you referred to, about coming in after the break, which seemed a little inconsistent with that, but I confess I think the expression was misunderstood. I do not think that could have meant an invitation to come and occupy territory occupied by Great Britain.

Sir Richard Webster. — I was misunderstood. What I referred to, when I spoke of Venezuela not coming in, was as to territory far west and there being no advance to the Schomburgk line, not in reference to, that.

Lord Russell. — I thought it referred to an earlier time but, I was wrong as to that.

Sir Richard Webster. — I did not express myself properly. That is what I meant.

General Harrison. — Well, I think this discussion as to what the Attorney General meant will involve us in some trouble and delay. Why, Mr President, he referred to the Agreement of 1850 as having put the territory, at the instance, as we suggest, of Venezuela, out of the line of occupation and wanted to know why she did not come in.

Sir Richard Webster. — This is not a question of personal controversy. I say that if my language did not convey that meaning I did not express my meaning properly, that is all. With regard to the other question I thought I had stated it pretty plainly. I do not contend that there was *terra nullius*, as my learned friend calls it, in 1814. It is entirely a different thing in 1648. I say that within our claim there was no *terra nullius* in 1814.

General Harrison. — Mr President, it will be necessary to carry that a little further. If the Attorney General means to say that in 1814 the rights of Venezuela and Great Britain were fixed, that there was no fringe, that there was no territory into which this colony might expand itself beyond where it was, but that they were absolutely fixed by status, and that neither could enlarge its possessions by any occupation after 1814.

Lord Russell. — Subject to the question of prescription.

General Harrison. — Subject to the question of prescription, yes.

Sir Richard Webster. — I must be respectfully allowed to make one statement. The difference between us is this. My learned friend, General Harrison, is, we think, trying to put right into this clause again the word "*thereupon*" which was by consent of both parties, as the Tribunal know, deliberately stricken out. I do not say that there was in the year 1814 any territory into which any third person could possibly have come. I do say, and I have said it before, that the line was not deter-

mined and that the action of Great Britain, since 1814, has made plain where the line ought to be drawn, as of that date.

General Harrison.—Now, Mr President, I cannot understand that what Great Britain has done since, has made plain the line of 1814. Has it had any affect of enlarging the rights of Great Britain or diminishing those of Venezuela?

In other words, have I been so much asleep that in all this discussion and interrogation, back and forth, from the members of the Tribunal, with the Attorney General, that when Lord Justice Collins suggested or asked him if he meant that there was a fringe into which they might extend, or there was a region the title to which was determinable by the expansion of one or the other of the colonies — have I been so much asleep as to suppose that this question was in the case? And am I to be told that in 1814 it is agreed the status was fixed. That no advance of settlement by Great Britain and no advance of settlement by Venezuela could in any way affect the question of title? I understand the Attorney General to say he does not take that position.

Sir Richard Webster. — I am afraid that no good will be done and I suppose it is my fault, but what I say seems to be misunderstood. My learned friend, General Harrison, uses fringe in an entirely different sense from what I have used it. I did not speak of fringe as fringe? into which Great Britain could extend her territory but fringe which belonged to Great Britain by virtue of the partially developed exercise of authority as appurtenant to it, according to international law, which became hardened by what happened subsequently.

General Harrison. — I wish, Mr President, if I may address the Lord Chief Justice, we might have some understanding about this but it does not seem my Lord we can arrive at any. The Attorney General still maintains that Great Britain's rights may be enlarged after 1814 by some kind of process.

Lord Russell. — One can imagine this argument and I do not express any opinion of course —

General Harrison. — I so understand my Lord.

Lord Russell. — In 1814 there may have been an imperfect occupation or imperfect control and in the intervening period down to the present time that which was an imperfect control or occupation may have ripened into perfect control or occupation and that may have to be taken into account by the terms of this treaty.

General Harrison. — If the Attorney General adopted that, as a full definition of his claim, it would somewhat limit my argument; but I do not understand that he does and my response to that would be that no imperfect occupation gives title. If it is not perfect enough to give title it is nothing; and that if it is afterwards made perfect enough to give title it is a subsequent act of acquisition. So that this seems to me getting into a state of some confusion and I think perhaps that I shall not arrive at a more definite understanding of the Attorney General's view and as

this discussion is very largely behind me now I may be allowed to go on and let that question go by.

The President. — Yes.

General Harrison. — The view he has taken was it was a live colony, a colony growing and enlarging its dimensions since 1814, and on the other hand there was a colony that was ossified — that it was growing and that there was some region in the interior that this growing colony might appropriate by growth. If that has not been in the Case, Mr President, I say again I must have had a long sleep.

Now the Attorney General objects to the construction I was giving to this clause of the treaty and he tells you that we read it as if the word “thereupon” had been in there.

Sir Richard Webster. — Had been left in it.

General Harrison. — And if “thereupon” had been in there, he would have understood it to require that the delimitation by the Tribunal should be the line of 1814.

Sir Richard Webster. — I did not say so.

General Harrison. — Well now, Mr President, it is either the line of 1814 or you have acquired something since.

The President. — The Tribunal has taken notice of the explanation given by Sir Richard, and you can have another opinion about the same question.

General Harrison. — Yes. You either have to take the line of 1814 whether “thereupon” is in there or not, or you have to admit by this process of expansion or growth the line of 1814 may be changed, one or the other. Now as to his reference to the word “thereupon”. It is worth while to see this. I understand him to say this word was in, at the point I put it in now, as I read Article 3.

“ The Tribunal shall investigate and ascertain the extent of the territories belonging to, or that might be lawfully claimed by the United Netherlands or by the Kingdom of Spain respectively at the time of the acquisition by Great Britain of the colony of British Guiana and *thereupon* shall determine the boundary line between the Colony of British Guiana and the United States of Venezuela. ”

The Attorney General says that that word was not there. It was, Mr President, and Lord Salisbury accepted that Article of the Treaty with that word in there.

Lord Russell. — At all events, General, it is not in now.

General Harrison. — No, my Lord, but so far as the understanding of the British Government was, it was left there, and it was upon Mr Olney’s suggestion that the changed form which the Treaty had assumed after Lord Salisbury had agreed to the article with “thereupon” in, that it should be stricken out, and Lord Salisbury assented to it.

The President. — There has been this word which has been taken out and I think we have only to interpret the article as it is.

General Harrison. — Precisely; but I beg to say that I did not introduce any discussion on that subject at all. I was treating the article as it is found, and it was the Attorney General who introduced the fact of the striking out of the word as indicating the proper construction to be given to the clause.

Now, Mr President, *thereupon* or *no thereupon*, this Tribunal must find that which I have said. If it was not in when that is found, is not it a fair construction of this treaty to say that, with “thereupon” *in* or “thereupon” *out*, that after you have found this thing, the only departure or deviation from that troublesome thing that you have been sent in pursuit of, namely the Dutch Spanish line, is expected to be found in the Treaty itself? Is not that the fair, legal, construction that, when you have concluded this difficult task and have found, as I suppose you shall, declare the Spanish line of right in 1814, to have been at a certain place, where are you to go for authority not to establish this line — especially in view of this correspondence to which I have been calling attention — that it was upon that line that Great Britain rested herself and that we find this provision grows out of that claim. Now when you have been required to do that do you not conclusively look, and look alone, to the Treaty itself to find the exceptions that, apply to that line, and how far you may depart from it?

The President. — According to Article 3 the Spanish line is in 1814 and this line is founded on the line of 1648. That is your opinion, I think. Can you perhaps help the Tribunal to define and to fix the Dutch-Spanish line of 1648?

General Harrison. — That is exactly my purpose to try and help the Tribunal. I have been trying to settle and to get out of this fog of claims about *terra nullius* and fringe, and this power of expansion that because, say, one tree had a better lift into the sun than another, and was growing, that it had a right to some more territory than another did — I have been wanting to get rid of that and to put these governments where they were. Now I shall come to consider what was the Dutch line of right, what was the line of 1814, and when I consider that, it will lead me to go back to the Dutch title, to discuss conquest and the Treaty of Münster and to see how far in that interval any prescription has applied.

I may give you right now, fully, my position upon the subject. It is that the Treaty of Münster limited the Dutch to their possessions; that it was a conquest; that they themselves declared it to be so; that it was in fact so: that it was done in war; that it could not extinguish Spanish claims beyond the line of conquest; that the rules of international law define conquest; that the Treaty of Münster confirmed those possessions; and *that* the Dutch could get nothing beyond that (and I shall discuss what “that” means) except by prescription under this rule of the Treaty. That is our view; now we turn and find :

“ In deciding the matters submitted the Arbitrators shall ascertain all facts which they deem necessary to a decision of the controversy — ”

that is a wide scope as to an enquiry of fact —

“ and shall be governed by the following Rules which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case. ”

Now, Mr President, we find here just what we would expect to find when, under article III, you were required to find the old line; that if that old line is not to be the line of our decree that some specification will be introduced as to the particulars in which you may depart from that old line and we have in Rule (a) that —

“ Adverse holding or prescription during a period of 50 years shall make a good title. ”

As we have agreed now, in the light of the correspondence that was brought out, and put in since we assembled, that applied to the whole Dutch period, 50 years, adverse holding shall make a good title. If the Dutch, crossing the line of right at any time into Spanish territory, made an occupation and held it for 50 years under such terms as the writers upon prescription require it to be held, a title is made. If, since 1814, Great Britain, before the signing of the Treaty, has crossed the line of Venezuelan right and has made an occupation and maintained it under the principles applicable to prescription for 50 years, that gives her a right so that we have the specification that we would have anticipated if there was to be any departure. If the “ thereupon ” is out, we want a specification as to what is to be done. We have the specification, and not only that but we have a specification, Mr President, that absolutely puts out of the case, as it seems to me, the thought that these commissioners, negotiating this Treaty, ever thought of a one day occupation or a ten days occupation for getting the ancient line of right as you should find it to be.

Then —

“ The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law and on any principles of international law which the Arbitrators may deem to be applicable to the case, ”

and which is no more than to repeat the body of Article 4, in which it is said the following rules are to be taken as applicable to the case, and by such principles of international law not inconsistent therewith, as may apply to the case.

Now, Mr President, what use is sought to be made of that Rule (a)? It is general in its scope; it is only to say that those special rules that we

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have prescribed here (a) and (c) are not to be taken as embodying any of the principles of international law that might otherwise be applicable to the case. But Mr President what is the case to which they are to be applied? It is the dispute, is it not? It is the controversy. It is not academic principles that are introduced here. What principles of international law can be applied in this case to a dispute between the two parties which is defined and in which each has brought forward its title. To say, here, that this was intended to introduce this rule that I have been controverting — and if it is introduced it extends to the period after 1814 just as well as before, it does not limit it after 1814 any more than any other sections of the Treaty are limited — the Attorney General would read it that if you find after 1814 that here is some territory which is unoccupied, to which Venezuela has not a title, you may enter in and appropriate it at any time up to the very day of the formation of the Treaty, as the Counter Case says.

Now I want to read to the Tribunal the position that is taken in the Case and Counter Case of Great Britain upon this subject. In the Counter Case at page 107 it is said :

“ The contention that the British claims cannot in law have anything in the history of the present century to support them, is not correct. In the first place it is clear that by virtue of Article IV, Rule (a) of the Treaty of Arbitration, Great Britain is entitled to retain whatever territory has been held by her, or has been subject to her exclusive political control for a period of fifty years, although there sult might be to give to Great Britain territory which had never been Dutch, and might even conceivably have at one time been Spanish. Moreover, there has been nothing to prevent the extension of British settlement and control, if the regions into which such extension was made were at the time lying vacant. Territory added to the British Colony by such extension cannot be awarded to Venezuela however recent the British possession may have been. ”

And at page 113 and page 114 we have this further statement :

“ The Fifty Year rule, Article IV, Rule (a), adopted by the Treaty — ”

Sir Richard Webster. — Of course I do not mind any passage being read, but in every case the proposition that is being combatted is stated at the head. I do not want my learned friend to read it but I call the attention of the Tribunal to it. It is in reference to those propositions that this argument is written.

General Harrison. — My attention is called to a supposed omission in my reading that may and properly ought to have some effect.

The President. — Yes, but I ask you to continue your reading.

General Harrison. —

“ With regard to the period since 1850 — ”

Lord Russell. — The president has invited you not to be led aside, but to go on with your reading.

The President. — Yes, what you had begun on page 107.

General Harrison. — Mr President, I was only disposed to be led aside lest the suggestion of the Attorney General might indicate that I had omitted something that was necessary to the construction and proper understanding of what I was reading :

“ The Fifty Year rule, Article IV, Rule (a), adopted by the Treaty under which this Arbitration is held, lays down that adverse holding or prescription for that period shall make a good title; and it is true that any occupation by Great Britain since 1847 cannot of itself confer a valid title to territory which may be adjudged to have belonged by right to Venezuela ”.

1847 being the end of the Fifty Year period. I resume :

“ But no question of adverse holding or prescription can arise except where one Power has occupied territory by right belonging to the other; and, except in such cases, present possession, however recent, cannot be disturbed. Great Britain denies that her present occupation (extending to the Schomburgk line) does in fact include any greater extent of territory than was occupied or politically controlled by the Dutch and by Great Britain since her succession to the Dutch title. The only change has been that in the last fifteen or twenty years her occupation of the outlying districts has been marked by more complete political administration. But even if that were not so Her Majesty's Government would be entitled to retain the whole territory up to the Schomburgk line on the simple ground that at the date of the Treaty of Arbitration they were in possession and that the territory in question cannot be shown to have ever belonged either to Spain or Venezuela. ”

Now, Mr President, that is the position taken in the Counter Case by Great Britain. I proceed now from that point with the discussion of this Treaty and I ask the Tribunal whether in view of this diplomatic correspondence through which I have gone, and which as I have said, is bearing not only in one direction but particularly in this as to what the meaning of all this was, as it was put into the Treaty; that it was intended to introduce that Mr Olney, representing Venezuela in the discussion, or Sir Julian Pauncefote or Lord Salisbury, ever for one moment believed that they were introducing a rule here that was to give effect to any

advance of occupation by Great Britain after the year 1814. I submit that such a construction of it is to introduce something wholly new into the negotiation, is to introduce something never so much as hinted at up to the time of this Counter Case, coming in, and the very fact of the novelty of the claim and that it never had appeared before, is enough to bring it under suspicion, and when we consider all the facts under which this treaty was negotiated, to suppose that under the cover of these general words they were introducing any admission that any part of this territory might be taken up either by new or what is said to be a more complete occupation of Great Britain after that time.

Now, Mr President, we find Rules (a) and (c) according to the Attorney General proceed upon the same footing, both allow, as he tells us, a prior title. Rule (c) does so by its own terms and I am not inviting into the discussion whether a prescriptive title does or does not necessarily require the party setting it up to admit a prior title, I do not enter into that discussion, but upon the Attorney General's construction of it the two apply to the same state of the case, viz : a case where a prior title is established. Rule (a) says that if one or the other nation establishes a prior title it shall not be taken from her by the occupation of the other unless that occupation has been adverse and has been maintained uninterruptedly for fifty years. Now Rule (c) which deals with the same situation of a prior title admitted, is supposed to say, by the Attorney General, you may confirm title by reason of an occupation of one day.

Mr President, such a construction of documents or clauses in the same instrument, of sections, I think, as the Chief Justice suggested, whether it was in reference to this I am not sure — they are *in pari materia* and so strictly *in pari materia* here that they relate each to the case where a prior title is established. There are two methods provided, it is supposed, for dealing with the question of title. Now suppose we take Rule (a) and read it and put Rule (c) at the end of it, as a proviso, and how do we have it? Paraphrasing both I should say that Rule (a) says where territory of one party is found to be in the occupation of another that other shall not be permitted to retain it unless he can show that he has been in the adverse possession of it for fifty years. If I were to write out those terms I should say notoriously, publicly, under a claim of right and with notice to the owner of the title, *provided* in Rule (c) that, if at any time, in any case, a citizen of either country is found to be in the occupation of territory belonging to the other, even if that occupation has only lasted one day the Tribunal is given the liberty to confirm it.

Now, Mr President, could anything more clearly show that in dealing with this question of an established title this Arbitration Treaty has just two things in thought : that dominion, national sovereignty over territory, shall only be acquired as against one having a good title, and in the determination of the line between Spain and the Netherlands found to have had a good title — shall only prevail to dispossess that title in the event that it has lasted for fifty years and has been accompanied with all those strict

requirements which both municipal and international law require to make a good prescription. Put that and we see just where these two rules come in.

We have the germination of them in this correspondence. Lord Salisbury put forward two cases, a case where the title had been undisputed for many generations and another case of temporary occupancy that might be an occupancy of a week or a day or a month — an occupancy which he did not pretend could affect the title and that was to be provided for in the Treaty and then according to his correspondence, and according to his own proposition when he proposed a commission, the finding of the Spanish — Netherlands line was to be had and as he said in his proposition for a commission

“ upon the basis of that report the line between Great Britain and Venezuela is to be drawn. ”

That was his proposition. Those were the two cases which he suggested needed to be guarded against and provided for; and those two cases are provided for and when they are provided for, Mr President, I respectfully submit that the delimitation upon the Spanish-Dutch right, the exception, the deviations that may be made from the line of 1814, are completely exhausted, and the whole sum of the Treaty is you are to find the line of right of 1814, as between the Netherlands and Spain, and when you have found that you may deflect it wherever a perfect prescription has been shown, and you are given liberty to deal with the cases of the individual settlers who may have gone in, upon principles of equity.

There is as to the line but one exception. Let us conceive what is involved. If Lord Salisbury had intended after proposing, as I have read in this letter, a Tribunal that should find the line of 1814, all the facts connected with it, and this writing in his despatch that

“ upon the basis of that report ”

the countries should agree upon a line, and if they could not agree upon a line, a Commission was appointed to make a line on the basis of that report as to what the line of 1814 was, reserving simply the question as to these settlers whose fortunes might be affected and who had gone in there. Mr President, I do not believe that it can be thought by anyone who will carefully examine this Treaty that the scheme of it was other than this, that Great Britain should have what she acquired by conquest and cession from the Dutch; that there was no basis upon which she could rightfully have any more, that what was left, all that was left, when there had been assigned to Great Britain what she had taken under the treaty of cession in 1814, the rest was Venezuelan and that was the line of right of 1814. Then comes in this. We have made some extensions here, then take your fifty years' prescription.

It was first said sixty years — Lord Salisbury said many generations, — Mr Olney said, “ Take two ” which is not very many; then it is said sixty years,

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and finally it is agreed at fifty. And this private correspondence which is put in from Sir Julian Pauncefote tries to reduce it to thirty, but Mr Olney objects, because, he said, that that will bring it after the date of the Agreement of 1850 and there ought not to be any confusion in regard to that matter. It would open the way for you to say that the Agreement of 1850 was put out of the way and abrogated by establishing thirty years and I think that that agreement ought to be left to stand and whatever the Tribunal may think of it there ought to be nothing said about it in the Treaty, and no period ought to be named that can be a basis of argument before the Tribunal that the Agreement of 1850 has been modified.

Chief Justice Fuller. — You see it is thirty-six years from 1814 to 1850. The fifty years would run before 1814 and it would run after 1814. It seems to me, although of course I have not made up my mind definitely on this, that having started prior to 1814 it might lap over — the letter is plain enough; it is thirty-six years from 1814 to 1850 and if thirty years was put in then the Agreement of 1850 might cut no figure.

General Harrison. — It was exactly on that ground that Mr Olney in that negotiation met the proposition of Sir Julian Pauncefote. The Agreement of 1850 was one that figured in the case especially in relation to this very prescriptive period as you will see. If fifty years was taken from 1897 that carried it back to 1847 so that they would have that date and the British occupation under this as early as 1847 —

Lord Russell. — You seem to lose sight of the fact, General, that these clauses are mutual and that Spain could equally invoke fifty years prescription.

General Harrison. — I beg your Lordship's pardon if I have been stating it in only, one way because, as Mr Olney said in one of these despatches, this has the mutual form; but the fact that Great Britain insists upon it and Venezuela does not want it, would seem to indicate it was a rule that only one of the parties might want to use. Therefore, while I beg your Lordship's pardon for stating it in that way, that is the practical effect of it. It carried it back to 1847. Now the Agreement of 1850 then comes in by which, as we claim, a mutual occupation of the territory resulted, a joint jurisdiction in which neither any longer held adversely but held with the consent of the other and that, of course, by the rules of international law cut off prescription and this debate about the period, if it could be made thirty years, would have carried it back to 1867 and might have given opportunity to show that the Agreement of 1850 does not figure in this.

But, Mr President, that is a divergence. Here is the treaty and all the diplomatic correspondence leading up to it. The terms of the treaty itself, the periods fixed here, the letter of Lord Salisbury to which I have referred, saying that the report as to the line shall be on the basis of the finding of this Spanish title, three times it is said in that letter, the letter in which he first proposes this mixed commission to which I have already referred and I will not read it again.

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“ come in to these Christian schools and live about the missions.”

Mr President, there is more that I might say about that but I forbear and press on to another topic.

May I indulge in a little resumé. I have undertaken to show a superior title in Spain, and that the Dutch title was derived by conquest and by cession. I have undertaken to show that the whole course of the diplomatic correspondence ran on that line and that all of these vague suggestions about a right to expand and that sort of thing had no place here, that the delimitation which had been made between the nations before this Tribunal was organized must be on the basis of those prior titles which I have discussed, modified only by one thing and that is by prescription or by exclusive political control for fifty years. That is the theory on which this all went.

Now, Mr President, there never was, as far as I know, any Dutch claim in any Dutch document, that in 1648 the Dutch were in occupation of the Barima and Amakuru. Gravesande spoke of some rumour of a post there, but manifestly that had relation to the shelter that Beekman had put up there at a period subsequent to 1648 — it was nearly a hundred years after this shelter was put up that Gravesande wrote. Now the first appearance in the correspondence of any claim of a Dutch fort in the Barima at the time of the Treaty of Münster is in Schomburgk's talk. I want to say a word or two about that. It has been so thoroughly explained by Mr Mallet-Prevost, and all the evidence laid before you, that it may be a work of supererogation to do that, but the proposition to be maintained is that there was a firm military occupation there at the date of this Treaty by the Dutch — I affirm that it is a thing impossible to believe in view of the evidence. So far as the evidence goes we hear of one man and one man only and he a Indian captive named Andres who pretends to have seen a Dutchman there or a Dutch fort. Now that was repeated a great many times. One Spanish authority told it to another, and the audiencia here had an account of it and the generalissimo there had an account of it, and they all communicated it to the Court of Spain, and, as I think Sir Robert said, there were eight witnesses — I will not say that he said eight independent witnesses, but eight witnesses to that transaction. Now, Mr President, I could multiply witnesses pretty fast. I do not know how many people are in this room or how long it would take me to run round and tell them all one thing, but I could make witnesses very rapidly if that made witnesses.

Here I am talking to lawyers and jurists who want to know what information a man had and not parrot-like reports of what somebody else has said. I say that is the truth of this. We know that they were there, that they were there for a temporary purpose and we know just what brought them there. It was because Spaniards had attacked Tobago and been guilty of some cruelties there. They gathered from where

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mitation fixed by this Award shall be subject and without prejudice to any question now existing or which may arise to be determined between the government of Her Britannic Majesty and the Republic of Brazil or between the latter Republic and the United States of Venezuela.

In fixing the above delimitation the Arbitrators consider and decide that in times of peace the Rivers Amakuru and Barima shall be open to navigation by the merchant ships of all nations subject to all just regulations and to the payment of light or other like dues *Provided that* the dues charged by the Republic of Venezuela and Government of the Colony of British Guiana in respect of the passage of vessels along the portions of such rivers respectively owned by them shall be charged as the same rates upon the vessels of Venezuela and Great Britain such rates being no higher than those charged to any other nation *Provided also that* no customs duties shall be chargeable either by the Republic of Venezuela or by the Colony of British Guiana in respect of goods carried on board ships, vessels or boats passing along the said rivers, but customs duties shall only be chargeable in respect of goods landed in the territory of Venezuela or Great Britain respectively.

Executed and published in duplicate by us in Paris this 3rd day of October A. D. 1899. ”

F. DE MARTENS.

RUSSELL OF KILLOWEN.

R. HENN COLLINS.

MELVILL WESTON FULLER.

DAVID J. BREWER.

Mr Martin read the Award in French.

The President. — The English copies will be handed to the Agent of Her Britannic Majesty's Government, and the others to Agent of the United States of Venezuela.

Gentlemen, after more than three months of hard work we come to the end of our labours. Amongst the different duties of a President of a Tribunal or International Conference the most sweet and pleasant is to thank and to express thanks to all who have helped the Tribunal to come to the end of its work. So we, the members of this Tribunal, must feel deeply thankful to the Agents of both contending Powers who have been always very kind in assisting our work during all this time. Our special thanks we owe to the Counsel of both Powers, who in their most eloquent speeches with great wisdom and ability have put before the Tribunal all the arguments, all the facts, all the documents, which are more than 2650 in number, and thanks to that oral argument the Tribunal has been able to have a clear view of whole case put before them.

At the same time it is our duty to thank also the Secretaries who

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In May 1817, however, the rebel troops collected the missionaries at Caruachi, and then massacred them. The General in command had intended to take the missionaries to Tupuquen and Tumeremo, which were described as the outermost in the Eastern district.

The natural consequence of this action was the rapid decay of the Mission villages, and the territory relapsed into a state of barbarism.

10 In 1840 Mr. R. H. Schomburgk was employed by the British Government to survey the boundaries of British Guiana. He laid down a line which commenced at the mouth of the Amakuru, followed that river to its source in the Imataka
15 Mountains, thence followed the crest of that ridge to the sources of the Acarabisi Creek, and descended that creek to the Cuyuni, which it followed to its source in Mount Roraima.

Schomburgk Line.

This line, which is clearly defined in his
20 reports and shown on two of the original maps drawn by him, possesses advantages in point of physical features, but would have given to Venezuela a large tract of territory north and west of the Cuyuni which was never occupied
25 by the Spanish Missions, which was, on the other hand, formally claimed by the Dutch, and to which Great Britain is now entitled as part of British Guiana.

In 1841 negotiations were commenced between
30 Great Britain and Venezuela for a settlement of the boundary, and it became evident that a great divergence of views existed as to its proper position. An offer of considerable concessions by Lord Aberdeen received no answer from the
35 Venezuelan Government.

From 1850 to 1886 the British Government, in consequence of an arrangement made with Venezuela in the former year, discouraged settlement in the disputed territory; but, in 1886, the
40 Venezuelan Government having ceased to observe this arrangement, Her Majesty's Government declared itself no longer bound by it. At the present time the officials of Great Britain and Venezuela respectively occupy stations up to the
45 Schomburgk line on each side.

It will be found that the following conclusions are established by the accompanying Case:—

1. That prior to 1796 the Dutch, and, since

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- Indians who had fled from the Spanish possessions. Upon the protest of the Postholder, they gave him a certificate that they only came to claim their own Indians. It appeared afterwards, upon an inquiry by the Spanish Government held in consequence of the Dutch Remonstrance (presently to be mentioned), that they had only been directed by the Spanish Commandant to go as far as the mouths of the Orinoco. In reporting upon the matter to his Government, the Commandant drew attention to the circumstance that the authority given by him had been exceeded, and, in proof of it, inclosed the passport which he had given to the master of the boat. In the same Report he states that in the vast Province of Guiana all the coast was occupied by foreigners, and there only remained to the Spaniards "the mouth of the Orinoco in one corner as an outlet to the sea." He stated that the Dutch often followed their fugitive slaves actually into the Orinoco, knowing that the Spaniards were 49 leagues from the mouth.
- In the same year rumours, which afterwards proved to be false, had reached Essequibo that the Postholder at Arinda, high up the Essequibo, had been murdered, as was alleged, by Spaniards. It was also reported that new Missions, held by a strong force, were being formed upon and near the Cuyuni, above the Post which the Dutch had re-established in that river.

In consequence of these proceedings a strong Remonstrance referring in detail to all the grievances of the Dutch Colony was addressed by the States-General to the Court of Spain, and delivered by the Dutch Ambassador about the end of August, 1769.

This Remonstrance commenced with a specific claim to the whole basin of the Essequibo and Cuyuni, stating that from time almost immemorial the Dutch had been in possession not only of the aforesaid River Essequibo and of several rivers and creeks which flow into the sea along the coast, but also of all branches and streams which fall into the same River Essequibo, and more particularly of the most northerly arm of the same river, called the Cuyuni.

This claim the Spanish Government never denied and never rebutted; and an immediate

IV, p. 9. (1769.)

IV, p. 55. (1769.)

IV, pp. 29-32. (1769.)

IV, p. 72. (1770.)

IV, p. 73. (1770.)

IV, p. 74. (1770.)

IV, pp. 7, 14. (1769.)

IV, p. 3. (1769.)

Dutch Remonstrance of 1769.
IV, pp. 29-32. (1769.)

Spanish Inquiry.

- IV, p. 47. (1769.) inquiry by the Commandant of Guayana, into the actions complained of in the Remonstrance was ordered by the King.
- IV, pp. 47-67. (1769.) As regards the rumours of an attack upon the Post at Arinda and the building of a fort near the Cuyuni, depositions were made in the course of the inquiry by four missionaries (two of high standing) and two laymen, each of which contained the following passages :—
- IV, pp. 48, 51, 55, 58. (1769.) “That the declarant does not know nor has he ever heard that the Spaniards have built a fort in the Cuyuni or in its neighbourhood with many or with few soldiers, but he is persuaded that M. de Gravesande has imagined as such the two Missions or villages of Indians that the Catalonian Capuchins founded in the years 1757 and 1761 on the north bank of the River Yuruary, an affluent of the Cuyuni, and at a distance of 70 leagues from the destroyed Post of the Dutch, and the foundation that he has for thus believing is that we have no other establishments in that part.
- * * * *
- IV, pp. 49, 52, 55, 59. (1769.) “That neither has he any knowledge of the murder of the officer of the lodge Arinda towards the upper part of the Essequibo, nor even of its existence, and that it seems incredible to the declarant that the Spaniards of the Orinoco or the Indians of our obedience and acquaintance should have committed this homicide, for besides the distance and country between Orinoco and that spot being considerable and unknown to us, we have never heard speak of such murder, and this is the first time we have heard the lodge Arinda mentioned.”
- The depositions of the missionaries contained also the following statement :—
- “Which (*i.e.*, the Post Arinda) being situated, as Gravesande states, towards the upper part of the River Essequibo is inaccessible to us and our Indians because the Colony of Essequibo lies between the said upper parts and our villages so as to stop the way.”
- The depositions of the laymen also contained the following passage :—
- IV, pp. 62, 65. (1769.) “That the declarant does not know nor has ever heard that Spaniards have built a fort on the Cuyuni or in its vicinity, with many or few troops, for in that part we have no other settlements than the two Missions or villages of Indians, Guazapati and Cavallapi, which the Catalonian Capuchin Fathers founded in the years 1757 and 1761 on the northern bank of the River Yuruari, an affluent of the Cuyuni, and at the distance of 70 leagues from the demolished Dutch lodge.”
- In reply to the complaints made in the Remonstrance of disturbance to “the fishing rights in

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- sequence of his survey diplomatic discussion of the boundary question arose between the Governments of Great Britain and Venezuela. VII, p. 71. (1841.)
- Schomburgk arrived in the Colony early in 5 1841, and on the 19th April left Georgetown to commence the work of the survey on the north-west of the Colony. On this journey he first surveyed the mouth of the Waini, and then proceeded to Kumaka on the Aruka, where the Chief of the Warows, who considered themselves 10 under British protection, produced the staff of office given to him by the British Government seven years before. On the 13th May he went to the mouth of the Barima and fixed a boundary-mark there and another at the mouth of the 15 Amakuru. No Venezuelans were settled nearer than Kuriapo, a station in the Orinoco at the mouth of the Carapo Channel.
- Returning to his depôt at Aruka, Schomburgk then crossed the Yarakita portage and descended 20 the Amakuru for a short distance, visiting an Arawak settlement at Assekuru, where the Chieftain, who used the Creole Dutch speech, complained of the conduct of the Venezuelans in carrying off his people as slaves to Kuriapo and elsewhere. Schomburgk informed him that the 25 British Government claimed the right bank of the Amakuru as their boundary, and gave him for his protection a written protest, in which that boundary was definitely claimed.
- 30 He surveyed the Amakuru up-stream for some distance. In returning, he engraved the Queen's initials on a tree at the junction of the Yarakita with the Amakuru and continued his route to the mouth of the latter river, and thence to Kumaka.
- 35 After a stay of some weeks at the depôt, he continued the ascent of the Barima and its tributary the Koriabo as far as Manari, from which he went overland to the Barama, whence he struck the path through the forest to the Cuyuni, 40 came down the Acarabisi, the right bank of which he recommended as the boundary, into the Cuyuni, and returned down that river to Georgetown. He then completed and transmitted to England two maps of the north- 45 western part of the Colony, indicating the line which, is known by his name, and which he recommended to the British Government as the result of his survey.
- On his next journey, starting on the 23rd December, 1841, and proceeding past the British VII, pp. 18-46. (1842.)

Annex 120

Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the Government of her Britannic Majesty (1898), p. 144

The third of these maps was prepared by Mr. Stanford in 1875, and published in 1876. It was prepared at the instance of the Colonial authorities, and had upon it the following note—

(3.) Stanford's

Atlas, p. 41.

- 5 NOTE.—“*The boundaries indicated on this map are those laid down by the late Sir Robert Schomburgk, who was engaged in exploring the Colony during the years 1835 to 1839 under the direction of the Royal Geographical Society. But the boundaries*
- 10 *thus laid down between Brazil on the one side and Venezuela on the other and the Colony of British Guiana must not be taken as authoritative, as they have never been adjusted by the respective Govern-*
- 15 *ments: And an engagement subsists between the Governments of Great Britain and Venezuela by which neither is at liberty to encroach upon or occupy territory claimed by both.*”

- On all these three maps, Mahlmann's, Brown and Sawkins', and Mr. Stanford's, a boundary-
- 20 line is indicated similar to that shewn in Schomburgk's Sketch Map of 1839, though not altogether identical with it. Owing however to the differences in the delineation of the physical features, the distribution of territory differs from
- 25 that shown in Schomburgk's Sketch Map of 1839.

- When the British Government was about to issue the Proclamation of 21st October, 1886, their attention was called to the boundary-line upon Mr. Stanford's Map of 1875 above
- 30 mentioned. As the line so drawn did not correspond with the real Schomburgk line, the map was altered so as to show the real line traced by Sir Robert Schomburgk, and the note upon the map was erased.

Correction of line on Stanford's Map.

- 35 In the same year the publication of the copy of Hebert's Map above referred to took place, on which the Schomburgk line is shown.

Atlas, p. 42.

Atlas, pp. 38, 39.

- The Venezuelan Government were aware of the position of the boundary posts erected by
- 40 Schomburgk, and made remonstrances to Her Majesty's Government upon the subject.

Knowledge by Venezuelan Government of Schomburgk Line.

VII, pp. 73, 74. (1841.)

- The line proposed by Lord Aberdeen in 1844, from the source of the Acarabisi to its junction with the Cuyuni and then along the Cuyuni to
- 45 its source, corresponded with the line proposed by Schomburgk for that part of the frontier.

VII, p. 90. (1844.)

From that time up to 1877 no definite

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Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the United States of Venezuela (1898), Vol. I, p. 14

1.—ORINOCO DELTA REGION.

Orinoco Delta
Region.

The first of these tracts, which for convenience may be called the *Orinoco Delta Region*, includes a portion of the lower drainage basin of the Orinoco, and a great part of its delta. It is bounded on the north and west by the Orinoco itself; on the south by a range of hills or mountains, to different parts of which have been applied the designations "Piacoa mountains" and "Imataca mountains"; on the east it is separated from the second of the four tracts above mentioned; first, by a wet savanna difficult to traverse; and, further inland, by a tract of white sand, miles in length, white almost as the driven snow, hot and dazzling to the eyes, difficult and even painful to travel over.

Points of special
importance.

The points to be especially noted in connection with this tract are: 1st, its essential unity or indivisibility, geographically speaking; and 2d, the importance of Barima as a point from which the entire Orinoco system may be controlled.

1ST. GEOGRAPHIC UNITY OF THE ORINOCO DELTA REGION.

Geographic
Unity of Orinoco
Delta Region.

A glance at the nature and extent of the Orinoco river and of its delta will make this apparent.

The Orinoco, except for the Amazon the greatest river of South America, and one of the world's great rivers, after flowing for miles 1,500 through a region of large precipitation, discharges its waters through a mighty, forest-clad delta. The area of this delta is about 12,000 square miles; and its coast line is fully 250 miles long. Through this delta the Orinoco discharges its waters by an uncounted number of channels, estimated at 150; of which three or four may be navigated by craft of considerable size. The main or "Ship's Mouth," that which alone is available for large steamers, and that which to-

Annex 122

Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the United States of Venezuela (1898), Vol. I, pp. 35-36

III.—HISTORICAL SKETCH SHOWING BASIS OF SPAIN'S ORIGINAL TITLE TO GUIANA AND OF VENEZUELA'S TITLE TO THE DISPUTED TERRITORY.

Spain first discovered the New World, first explored its continents; first discovered, explored, possessed and settled Guiana; and first firmly established herself in that province as its sole and lawful owner.

1.—DISCOVERY AND EXPLORATION.

The discovery of the New World by Spain, and her admitted right to be regarded as the first explorer of its continents, rests upon the following facts: Early discoveries and explorations.

Columbus on his third voyage, coasting the southern shore of Trinidad, saw to the southward, on August 1, 1498, the main land which formed part of the delta of the Orinoco. The volume of fresh water was such that he wrote it must come from a land of "infinite" extent. In 1499 his lieutenants coasted the entire line from Surinam to Panama, sailing up the estuaries of the Essequibo and the Orinoco; and on this voyage the name of *Venezuela*, or "Little Venice," was given to the mainland, in consequence of the Indian dwellings, which they found constructed over the water and swampy lands. In 1500 Pinzon discovered the Amazon, and coasted the shore to the Orinoco, where he took in a cargo of Brazil wood. Other discoverers, Spanish and Portuguese, pushed south along the Brazilian coast. In 1519-1520, Magellan, a Portuguese in the service of Spain, sent by Charles V, touched at or near the Bay of Rio de Janeiro, followed down the coast, passed through the strait which now bears his name, went up the west

Early discoveries and explorations.

coast a considerable distance, and then crossed the Pacific to the Moluccas.

Meantime in 1513, Balboa, crossing the Isthmus of Darien, discovered the Pacific: this was followed by many Spanish expeditions to the Pacific coast, touching from Chili to upper California, so that, by 1535 or 1540, the west shore of America was known from upper California to Cape Horn, and its outlines were shown with respectable accuracy on maps.*

This was the work of Spain, by innumerable expeditions helped out at a few points by Portuguese navigators; and thus, within forty or fifty years from Columbus' first voyage, the nation which sent him had not only discovered the existence of the two Americas, but had explored and made known their entire coast line from Labrador, round Cape Horn, at least to upper California.†

2.—SETTLEMENT AND POSSESSION.

Spain followed exploration by settlement and effective possession.

The work of Spain did not stop with the discovery and exploration of America. This was at once followed by settlement; and, with regard to nearly all of South America, it was followed also by the formal taking and effective keeping of possession. The following facts will serve to support this statement:

Early charters.

Ferdinand granted colonizing charters before his death in 1516. Charles V followed with a considerable number of them from 1520 onward. Settlements were made at Cumaná by Ojeda and by the missionaries of Las Casas in 1520; these settlements were often devastated by the Indians; nevertheless they were renewed, and Cumaná is one of the most ancient cities on the continent.

Cumaná settled.

In 1528 the Emperor made a large colonization con-

* Winsor (J.) *Narrative and Critical History*. Boston, ii, 177, vii, 889.

† Same, ii, 242.

‡ Fiske, ii, 459.

Annex 123

Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the United States of Venezuela (1898), Vol. I, pp. 54-55

DERIVATION OF DUTCH-BRITISH TITLE.

Dutch West India Company charter, 1621.

1621, been chartered by the States-General of the United Netherlands.*

The nature of the charter, and the extent of territory assigned to the operations of the Company, will appear from the following extract taken from the charter :

“ We, therefore, being moved by many different and pregnant considerations, have, after mature deliberation of the Council and for very pressing causes, decided that the navigation, trade, and

*[The United Provinces] were republics, they were the freest lands in the world, but they were anything but democracies. The governing body was, indeed, differently constituted in the different provinces. In Friesland and Groningen the provincial States were chosen by something closely approaching popular election. In some of the other provinces the nobility, and in one the clergy, enjoyed a greater or less degree of representation. But for the most part the provincial Estates consisted of deputies who represented the magistracies of the cities.

“The municipal councils were, then, in most cases the ultimate authority ; and these were, under some limitations, self-electing. Friesland and Groningen excepted, nowhere, virtually, was there any provision for popular representation. The city council chose all the officers of the city, and sent, to represent it in the provincial States, most commonly one or two burgomasters, several councillors, and the pensionary or the secretary. The number of persons deputed might be greater or smaller, for in any case each city had but one vote. The States of the province of Holland may best be selected as an illustration. . . . That body consisted of nineteen members ; the nobility of the province formed one and were represented by one of their number ; and the others were the eighteen chief towns, each represented in the manner already mentioned. The pensionary or advocate of the province presided over their deliberations and arranged their business. Their meetings took place at the Hague. Through this assembly the sovereign powers of the province were exercised, but it should not be forgotten that the sovereignty itself resided in the nineteen members, and not in their deputies ; and many of the most important matters of deliberation were subjected, as we shall see, to enormous delays, because the deputies in the provincial States must refer them to their principals, the city councils.

“The seven provinces were independent and sovereign States, but the loose union in which they were joined had as its organ an assembly long familiar in the affairs of Europe under the title of ‘ The High and Mighty Lords the Lords States General of the United Netherlands.’ This assembly was not a sovereign legislative and executive body ; rather was it a permanent congress of ambassadors, deputed by the provincial States to represent them in deliberations at the Hague upon common affairs, but with little power of concluding, save with the unanimous consent of the assemblies which deputed them, and of the city magistracies and other ultimate repositories of sovereignty which deputed those

commerce in the West Indies, Africa, and other countries hereafter enumerated, shall henceforth not be carried on otherwise than with the common united strength of the merchants and inhabitants of these lands, and that to this end there shall be established a General Company which, on account of our great love for the common welfare, and in order to preserve the inhabitants of these lands in full prosperity, we shall maintain and strengthen with our assistance, favour and help, so far as the present state and condition of this country will in any way allow, and which we shall furnish with a proper Charter, and endow with the privileges and exemptions hereafter enumerated, to wit :

Dutch West India Company charter, 1621.

I.

That for a period of twenty-four years no native or inhabitant of this country shall be permitted, except in the name of this United Company, either from the United Netherlands or from any place outside them, to sail upon or to trade with the coasts and lands of Africa, from the Tropic of Cancer to the Cape of Good Hope, nor with the countries of America and the West Indies, beginning from the southern extremity of Newfoundland through the Straits of Magellan, Le Maire, and other straits and channels lying thereabouts, to the Strait of Anjan, neither on the North nor on the South Seas, nor with any of the islands situated either on the one side or the other, or between them both; nor with the Australian and southern lands extending and lying between the two meridians, reaching in the east to the Cape of Good Hope, and in the west to the east end of New Guinea, inclusive.”*

Pursuant to the terms of this charter, the Company became at once vested with whatever rights the States-General may have had in Guiana. The trade to that

Company vested with all Dutch rights to Guiana.

assemblies. Each province fixed the form of its representation to suit itself, since the voting was by provinces. A general council of State also existed.” (Jameson (J. F.) Willem Usselinx; *in Amer. Hist. Assn. Papers*. New York, 1887, vol. 2, No. 3, pp. 23-25.)

This was meant as an outline of the condition of things at the beginning of the seventeenth century, when the Stadhouderate was temporarily in eclipse. With the addition of that dignity, whose functions, though less important, were not wholly unlike those of the American Presidency, it is substantially correct for the whole history of the republic. (Note by Professor Burr; U. S. Commission Report, ii, 4.)

*Appendix to Case, ii, pp. 1-3.

Annex 124

Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the United States of Venezuela (1898), Vol. I, pp. 71-75

Zeeland Chamber of the Company voted not to abandon it,* and the trade was therefore continued.

Still the Essequibo did not pay; and on April 16, 1637, there was again discussion in the Zeeland Chamber as to its profitableness; and the matter was referred to the Committee on Commerce.†

Unprofitableness
of Essequibo and
its demoralized
condition.

On August 17, 1637, the Zeeland Chamber adopted the following resolution:

Inasmuch as Jan van der Goes had written from Essequibo that he, with all the folk who were there with him, was minded to come home by the first ship, it was some time ago resolved to send thither in the place of the said Van der Goes, by the ship *de Jager*, Cornelis Pietersz. Hose; and on account of the great demoralization of the folk and their wish to come home, it is resolved that they shall be allowed to come home, and the colony provided anew with five-and-twenty other respectable persons, from whom the Company may receive more service and more edifying withal. And Confraters Lonissen and Van Pere are by a majority vote made a committee to engage the aforesaid persons, being requested to look for the discreetest persons, so far as shall be possible.‡

Thus did this Dutch trading post in the Essequibo continue oscillating between life and death during the few years which preceded the Treaty of Munster. During all of those years it was a trading post and nothing more; § its sole article of commerce was annatto dye; ¶ and the Dutch occupation, such as it was, was limited exclusively to the Island of Kykoveral. ¶

The Treaty of Munster of January 30, 1648, ended

* On the report of Messrs. de Moor and Eltsdyck, after speaking with Van der Goes, it was resolved not to abandon the colony at Essequibo. [Appendix to Case, ii, 19; see, also, note 2 on same page.]

† The Committee on Commerce and Finance was instructed to inspect and determine whether the trade to Essequibo is profitable to the Company or not, in order at an early day to make report, so as to know whether the wares for which they ask shall be ordered made or not. [Appendix to Case, ii, 20.]

‡ Appendix to Case, ii, 20.

§ Appendix to Case, ii, 27.

¶ U. S. Commission, Report, ii, 104-108, 110-112.

¶ That its center, if not its sole seat, was the island at the junction of Mazaruni and Cuyuni is, however, made nearly certain by several con

Treaty of Munster. the war between Spain and the revolted Netherlands. By Article V of that Treaty the Netherlands obtained from Spain a title to what they at that time held upon the coasts of America. That treaty fixed the boundary of Dutch dominion at that time. British rights to-day, so far as the territory in dispute is concerned, are what Dutch rights were two hundred and fifty years ago—no more.

The following is a translation of Articles V and VI of the Treaty of Munster :

V.—The navigation and trade to the East and West Indies, shall be kept up according, and conformably to the grants made or to be made for that effect ; for the security whereof the present treaty shall serve, and the Ratification thereof on both sides, which shall be obtained : and in the said treaty shall be comprehended all potentates, nations, and people, with whom the said Lords the States, or members of the East and West-India Companies in their name, within the limits of their said grants, or in friendship and alliance. And each one, that is to say, the said Lords the King and States respectively, shall remain in possession of and enjoy such lordships, towns, castles, fortresses, commerce and countries of the East and West Indies, as well as of Brazil, and on the coasts of Asia, Africa and America respectively, as the said Lords the King and States respectively hold and possess, in this being specially comprised the spots and places which the Portuguese since the year 1641, have taken from the said Lords the States and occupied ; comprising also the spots and places which the said Lords the States hereafter without infraction of the present treaty shall come to conquer and possess. And the directors of the East and West India Companies of the United Provinces, as also the servants and officers high and low, the soldiers and seamen actually in the service of either of the said Companies, or such as have been in their service, as also such

siderations. In the first place, there is found nowhere in later records any tradition of another site or of a removal. In 1764 the Zeeland Chamber declared to the States-General that "from all old time" the fort had been at this place. Again, the island was the only natural stronghold of its sort. It was, moreover, probably suggested by a prior occupation—an occupation leaving a tangible inheritance in solid stone walls which to the end were utilized in the Dutch constructions here, and which in part remain to this day. [U. S. Commission, Report, i, 185.]

EARLY DUTCH RELATIONS WITH GUIANA.

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who in this country or within the district of the said two companies, continue yet out of the service, but who may be employed afterwards, shall be and remain to be free and unmolested in all the countries under the obedience of the said Lord the King in Europe; and may sail, traffic and resort, like all the other inhabitants of the countries of the said Lords and States. Moreover it has been agreed and stipulated, That the Spaniards shall keep their navigation to the East Indies, in the same manner they hold it at present, without being at liberty to go further; and the inhabitants of those Low Countries shall not frequent the places which the Castilians have in the East Indies.

Treaty of Munster.

VI.—And as to the West Indies, the subjects and inhabitants of the kingdoms, provinces and lands of the said Lords, the King and States respectively, shall forbear sailing to, and trading in any of the harbours, places, forts, lodgments or castles, and all others possessed by the one or the other party, viz. the subjects of the said Lord the King shall not sail to, or trade in those held and possessed by the said Lords and States, nor the subjects of the said Lords and States sail to or trade in those held and possessed by the said Lord the King. And among the places held by the said Lords the States, shall be comprehended the places in Brazil, which the Portuguese took out of the hands of the States, and have been in possession of ever since the year 1641, as also all the other places which they possess at present, so long as they shall continue in the hands of the said Portuguese, anything contained in the preceding article notwithstanding.

The effect of this treaty was twofold: on the one hand it conferred upon the Dutch a title to territory which before belonged to Spain: on the other hand it constituted an engagement on the part of the Netherlands that, as against Spain, and at the cost of Spain, the Dutch would acquire nothing more than they then possessed.

Effect of Treaty.

It will serve to define and narrow the issues which subsequent events present, if, before proceeding to their consideration, the result of the examination thus far be repeated in a few words.

At the date of the Treaty of Munster the situation was briefly this :

Situation at date of Treaty of Munster.

Situation at date
of Treaty of Mun-
ster.

Spain had discovered and explored America: she had discovered, explored, taken possession of, and settled Guiana: she held undisputed control of the Orinoco and of that coveted interior whose famed wealth had been the cause of so many foreign expeditions uselessly undertaken, and of so much blood uselessly spilt: the key to that interior was in her hands—alone: into the great interior Cuyuni Mazaruni basin she had pushed her roads and extended her conquests; and the entrance—the only entrance—to it, over the gentle rolling savannas of the Orinoco, was in her keeping: the Essequibo itself she had settled, cultivated, fortified: for the moment she had left its mouth unoccupied, thus permitting the Dutch to trade there: upon the restoration of peace she gave them a title to territory which up to that time they had held as mere trespassers.

The extent of the
grant.

The extent of this grant cannot be difficult to define: the entire Dutch colony, if indeed it might be dignified by such a name, consisted of a body of two or three dozen unmarried employés of the West India Company, housed in a fort on a small island, and engaged in traffic with the Indians for the dyes of the forest: at the time when the treaty was signed, they were not cultivating an acre of land.* This and an establishment on the Berbice were the only Dutch settlements in Guiana in 1648. Neither then, nor at any time prior thereto, had the Dutch occupied or settled a foot of ground west of their Essequibo post.†

* *The only other avocation mentioned is that of fishing: one Jan van Opstall, an employé of the Company in Essequibo, in 1644, complained of the loss of a finger while fishing for the Company, and asked compensation, but the Company could not find this in the contract. The fishing was probably for the food supply of the post—as often later.* [U. S. Commission, Report, i, 192.]

† Such as it was, the post on the Essequibo remained in 1648, as it had always been, the westernmost establishment of the Dutch on this coast, and was now, with the exception of Berbice, their only Guiana colony. [U. S. Commission, Report, i, 193.]

VI.—HISTORY OF THE ESSEQUIBO DUTCH POST. 1648-1674.

The charter of the Dutch West India Company having expired in 1645, was in 1647 renewed for 25 years more.*

Dutch West India Charter renewed 1647.

But the West India Company was not founded for the sake of Guiana: that region always constituted its most insignificant field.† Its main business was privateering.‡ The peace with Spain therefore took from it its principal source of revenue; and the company, after the peace of Westphalia (Treaty of Munster), found itself in great danger of coming to an end.§

Privateering, the Company's principal source of revenue.

The care of the Essequibo post was in the hands of the Zeeland Chamber of the Company, and for some years they struggled along hardly keeping their heads above water. The hope of recovering Brazil sustained them; but when that hope was gone, the company was driven to desperate expedients to keep the trade of Essequibo alive.

Discouragement of the Company.

* In thinking the charter "reaffirmed in 1637" the English Blue Book is in error. Granted for 24 years, it did not expire till 1645. Even then it was not at once renewed, for its friends sought strenuously the consolidation of the West India Company with the East, whose charter had also just run out. It was not until July 4, 1647, that the States-General promulgated the intelligence that on March 20 preceding they had prolonged for another quarter-century the charter of the West India Company. The limits were unchanged, and are not restated. [U. S. Commission, Report, i, 102.]

† Note by Prof. Burr.—Even of their colonies it was by no means the chief. New Netherland by actual figures grew as much in five years as Essequibo in a hundred.

‡ Reprisals on Spanish commerce were the great object of the West India Company. . . . The Spanish prizes, taken by the chartered privateers, on a single occasion in 1628, were almost eighty-fold more valuable than the whole amount of exports from New Netherlands for the four preceding years.—[Bancroft (G.) History of the United States, 4th ed., Boston, 1889, ii, 277-278.]

§ With the conclusion of a lasting peace with Spain and with the renewal for another quarter century of the Dutch West India Company's charter, one might look for a rapid colonial development. But the company was now robbed of the privateering which had been its leading source of revenue, and bankrupted by the long and fruitless struggle for Brazil. [U. S. Commission, Report, i, 193.]

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Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the United States of Venezuela (1898), Vol. I, p. 163

XIII.—HISTORY OF BRITISH OCCUPATION. 1803-1850.

The British military occupation in Essequibo continued from 1803 to 1814. In the latter year, on August 13, the Dutch, by the Treaty of London, formally ceded to Great Britain "the establishments of Demerara, Essequibo and Berbice."*

Cession of "Demerara, Essequibo and Berbice to Great Britain.

On July 21, 1831, these three rivers were united into a single colony under the name of British Guiana.†

Union of the three.

In the meantime, Venezuela on July 5, 1811, declared its independence from Spain. In 1819 it became merged with New Granada, under the name of "Republic of Colombia." In 1830 it assumed a separate existence under the name of "Republic of Venezuela;" and finally, on March 30, 1845, its independence was formally recognized by Spain.‡

Venezuelan independence.

* His Britannic Majesty engages to restore to the Prince Sovereign of the United Provinces of the Netherlands, within the time which shall be specified herebelow, the colonies, factories and establishments of which Holland was in possession at the beginning of the late war, that is to say, on the 1st of January 1803, in the seas and continents of America, Africa and Asia, with the exception of the Cape of Good Hope and of the establishments of Demerara, Essequibo and Berbice, which the High Contracting Parties reserve the right to dispose of by a supplementary convention which shall be adjusted at once in conformity with the mutual interests of both parties. [Appendix to Case, iii, 44.]

† Appendix to Case, iii, 315; also Rodway (J.) History of British Guiana. 8^o, Georgetown, 1893. ii, 284.

‡ "ARTICLE I. H. C. Majesty, making use of the power vested in her by decree of the Cortes Generales of the Kingdom, of 4th of December, 1836, renounces for herself, her heirs and successors the sovereignty, rights and action which she has upon the American territory known under the old name of Captaincy General of Venezuela, now Republic of Venezuela.

"ARTICLE II. In consequence of this renunciation and cession H. M. recognizes the Republic of Venezuela as a free, sovereign and independent nation, composed of the provinces and territories mentioned in her Con-

Annex 126

Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the United States of Venezuela (1898), Vol. I, p. 179

**XIV.—HISTORY OF BRITISH OCCUPATION.
1850—1896.**

In view of the fifty year rule [Art. IV, Rule (a)] adopted by the present treaty, the expansion of British occupation subsequent to 1847 can have no effect upon the determination of the boundary line. Rule (c), however, is as follows :

Fifty year clause

“(c) In determining the boundary-line, if territory of one Party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the Tribunal, require.”

In order that the tribunal may be able to apply this rule, it becomes necessary to place it in possession of the facts connected with the recent occupation of a part of the disputed territory, by Great Britain. The beginning of that occupation dates, on the coast, only from 1884 (twelve years prior to the signing of the treaty), and, in the interior, only from 1880, or later, (not more than sixteen years prior to the present treaty).

Beginning of
British occupation,
1880 and 1884.

Prior to those dates, British settlement was still what it had been in 1850. Since those dates, all persons who have ventured into the disputed territory have gone there in the face of distinct warnings from both governments. They have, with open eyes, assumed all the risks involved; and, so far as the Venezuelan Government is concerned, it does not consider that they are entitled to any consideration.

Recent settle-
ments made in face
of warnings.

The history of recent British occupation is so intimately connected with the history of the gold industry,

Gold industry.

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Boundary between the Colony of British Guiana and the United States of Venezuela, The Case of the United States of Venezuela (1898), Vol. I, pp. 220-221

Successful negotiations initiated by the United States in 1896.

negotiations which resulted in the present treaty were initiated. In those negotiations the United States, with the consent of the two interested governments, took an active part.

The objections of the British Government to submit to arbitration the entire territory in dispute had been stated by Lord Salisbury in his instructions to Sir Julian Pauncefote, dated November 26, 1895, to be that British settlements had gradually spread over the country and that Her Majesty's Government could not, in justice to the inhabitants, offer to surrender such settlements to foreign rule.

The question of British settlements having thus been recognized, from the first, as the sole stumbling block, the discussion in the subsequent negotiations was directed to that point.

Present treaty of arbitration.

The Treaty of Washington of February 2, 1897, is the result.

XVII.—CONCLUSION.

The United States of Venezuela, upon the evidence herewith submitted, and upon that referred to, claim that the following propositions of fact have been fully established :

Propositions of
fact.

1. Spain was the first nation to discover South America, to explore it, and to take formal possession of it.

2. Spain was the first nation to discover and explore Guiana.

3. Spain was the first nation to establish settlements on the Orinoco and Essequibo rivers, and in the eastern parts of Guiana ; and the first and only nation to take formal possession of, and to occupy, Guiana *as a whole*.

4. For more than a century after discovering Guiana, Spain maintained exclusive possession of the entire region between the Orinoco and the Amazon ; held it ; and exercised exclusive political control over it : she expelled and excluded other nations from it ; and otherwise asserted her sovereignty over it.

5. Apart from this general control of Guiana *as a whole*, Spain, from early in the 16th century, and before any other nation had attempted to gain a foothold therein, exercised a special and exclusive control over the Orinoco and Essequibo rivers, and over all the territory adjacent thereto ; and, as late at least as 1615, was maintaining a colony on the Essequibo river.

6. The Dutch were subjects of the King of Spain, and in 1581 revolted against him.

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and the interior, that barrier will be the boundary between the two. Propositions of law.

13. A nation is bound to faithfully observe its treaty engagements ; and no acts committed by it in violation of such engagements can be made the basis of title, especially as against the nation with whom such treaty was concluded.

14. Rule (a) under Article IV of the present treaty is :

“ Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.”

Venezuela has accepted this rule, but she submits and will claim that *time* is but one of many elements essential to create title by prescription. Prescription to be effective against nations, as against individuals, must be bona-fide, public, notorious, adverse, exclusive, peaceful, continuous, uncontested, and maintained under a claim of right. Rule (a) fixes 50 years as the *period* of prescription, but leaves its other elements unimpaired.

In conclusion, Venezuela invokes the judgment of Judgment invoked.
this high Tribunal to the following effect :

1. Spain's discovery of America gave her the right to reduce to possession the countries discovered ; and pending the exercise of that right, during a reasonable period, no other nation had a right, without the consent of Spain, to acquire such countries.

2. Spain having discovered Guiana, and having, within a reasonable time thereafter, under a claim of sovereignty, and earlier than any other nation or people, occupied said province as a whole by the establishment

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river, gave them a right to the soil, nor sovereignty **Judgment invoked** over the territory occupied.

6. The Dutch not having come as occupants of *terra nullius*, but as mere trespassers on territory belonging to Spain, no valid title to the land occupied by them in the Essequibo river vested in them until, by the Treaty of Munster, Spain released and confirmed to them the possession of such land.

7. The Dutch having come to the Essequibo as disseizers, and the Treaty of Munster having released and confirmed to them only such places as they then actually held and possessed, the territory thus released and confirmed was limited to such land only as was in fact then physically occupied by them.

8. The places actually occupied by the Dutch in the river Essequibo at the date of the Treaty of Munster having been limited to the island subsequently known as Kykoveral, the Treaty of Munster released and confirmed to them the title to that island only and the right of free ingress thereto and egress therefrom by way of the Essequibo river itself.

9. The region bounded on the north by the Imataca mountains; on the east by the Blue mountains, by the lowest falls of the Cuyuni and Mazaruni rivers, and by the Ayangcanna mountains; on the south by the Ayangcanna and Pacaraima mountains; and on the west by the divide separating the waters of the Caroni and Orinoco rivers from the waters of the Cuyuni and Mazaruni rivers, being a geographical and political unit; and a part of said region having, during the latter part of the 16th century, during all of the 17th and 18th centuries, and during the 19th century up to the time when Venezuela became vested therewith, been physi-

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upper courses of the Amakuru and Barima Rivers.

The watersheds respectively between the Barima, the Waini, the Moruka, the Pomeroun, the Supenaam, and the Lower Essequibo are low and ill-defined.

British Counter-Case, App., p. 403.

Immediately south of the Imataka Range, more or less parallel to that range and to each other, flowing mainly from west to east, are the Cuyuni and the Massaruni, separated by a watershed of irregularly scattered mountains. The Essequibo, on the other hand, flows mainly from south to north, and almost at right angles to the united stream of the Cuyuni and Massaruni.

15 The Venezuelan propositions as to the four regions will now be dealt with in detail.

The Four Regions.

The so-called "Orinoco Delta Region," according to the Venezuelan Case, extends eastward as far as the watershed dividing the Waini from the Moruka, thus including the basins of the Amakuru, Barima, and Waini Rivers.

The "Orinoco Delta Region."

The Venezuelan arguments are: (1) that "into the Orinoco, at and above Barima Point, flow various streams, the Barima, Amacura," and others; (2) that there exists a "set of conditions which converts the Lower Barima and the Mora Passage into a veritable Orinoco mouth;" and (3) that "also intimately connected with the Lower Orinoco is the Waini, a river which empties into the ocean, in part through its own mouth, but in part also through the same Mora Passage and the Barima River." so that "the Waini, with the region through which it flows, constitutes a part of the great Orinoco Delta."

Venezuelan Case, p. 15.

Venezuelan Case, p. 15.

Venezuelan Case, p. 16.

The British reply is: (1) that the Amakuru and Barima are not tributaries of the Orinoco, but are, in fact, independent rivers; (2) that the conception of the Lower Barima and the Mora Passage as a mouth of the Orinoco is entirely at variance with the facts, and is founded only on erroneous mapping; and (3) that the inclusion of the Waini in the system of the Orinoco is in contradiction to physical facts.

45 A first glance at a map—fancifully drawn and coloured as at p. 1 of the Atlas delivered with the Venezuelan Case—may give

Trend of Rivers.

the impression that the Amakuru and the Barima, especially because of the north-west trend of the lower part of their course, belong to the Orinoco system.

It can be clearly shown from the origin of this north-west trend that these rivers have, in fact, no connection with the Orinoco system.

Each of the Rivers Pomeroon, Waini, Barima, and Amakuru runs for a certain distance in a direction at right angles to the line of the coast, but, before reaching the sea, turns very decidedly in a north-westerly direction and runs for a considerable distance parallel to the coast before entering the Atlantic. The cause of this peculiarity is that the great equatorial current from the African coast, streaming across towards South America, meets the stream from the Amazon and, helped by the trade-wind, drives it up in a north-west direction along the coast of South America, carrying with it the sand and detritus from the rivers which it passes in its course. The deposit of this sand and detritus has built up between the Essequibo and the Orinoco an alluvial tract outside the original coast-line, which was situate where these rivers first turn somewhat west from north. Thus the true course of the rivers above mentioned is at right angles to the coast, but their lower course has been blocked and gradually turned more and more north and west, till, in the case of the Barima and the Amakuru, they might be supposed by a person unacquainted with the physical history of this coast, to run into the estuary of the Orinoco.

It is also requisite to explain, in some detail, the true nature of the Mora Passage, or Mora-whana, and, incidentally, of the other smaller water channels, or, as these are locally called, "itabos," which connect some of the rivers of that part of the world.

An itabo, as the word is used in the North-west district, is a water-channel connecting two rivers. These itabos are confined to the swampy alluvial tracts, the drainage of which is carried by countless small and obscure creeks into the main rivers. Where two of these small creeks rise in the same central swamp, but run the one to one main river, the other to another, the Indians are able in the wet season to push their canoes through the swamp from the head of

British Counter-Case, App., p. 403.

British App. VII, p. 243.
West Indian Pilot, 1883, I, p. 11.
British Counter-Case, App., p. 403.

Formation of Itabos.

British Counter-Case, App., pp. 404, 409.

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CHAPTER XVII.

This Chapter deals with Chapter XVII of the Venezuelan Case, pp. 221-236,
entitled—

“ CONCLUSION.”

5 Although the various propositions of law and fact, put forward in the Venezuelan Case, have been dealt with in this Counter-Case, it will be well, even at the risk of repetition, to deal *seriatim* with the conclusions in the order in
10 which they are stated in the Venezuelan Case, Chapter XVII.

1. That Spain was the first to discover South America is admitted, but her exploration of it was very limited, and it cannot at the present day be
15 properly suggested that any possession taken by her entitled her to possession of the whole continent.

2. It is admitted that Spain was the first nation to discover Guiana.

20 It is untrue that except to a very limited extent she explored that country. All the important explorations in that part of the territory now called Guiana were made by the English and Dutch.

25 Discovery and exploration, unless followed by possession within a reasonable time, are insufficient to give title.

3. It is admitted that Spain was the first nation to establish a settlement on the River Orinoco.

30 It is untrue that she ever established a settlement on the River Essequibo, or in the eastern parts of Guiana; at no time did she take formal possession of and occupy Guiana as a whole; the acts of the Dutch and the Spaniards wholly
35 rebut any such contention.

1. Spain was the first nation to discover South America, to explore it, and to take formal possession of it.

2. Spain was the first nation to discover and explore Guiana.

3. Spain was the first nation to establish settlements on the Orinoco and Essequibo Rivers, and in the eastern parts of Guiana; and the first and only nation to take formal possession of, and to occupy, Guiana *as a whole*.

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of the United Netherlands, or any act of the United States of Venezuela as the successor of Spain, should be disregarded.

It is obvious that the investigation of the extent of territory which might at the date of the acquisition of the Colony of British Guiana by Great Britain be lawfully claimed by the United Netherlands or the Kingdom of Spain is not in itself sufficient to enable the Tribunal to determine the boundary-line.

The action of Great Britain and Venezuela during the present century not only reflects great light upon the question as to the boundary between the Dutch and Spanish territory, but also is of great importance in ascertaining the rights of the two nations under the Rules contained in Article IV of the Treaty. It is clear that possession during this century may confer a title under the Rules laid down in Article IV.

The Rules which are formulated in Article IV for the guidance of the Tribunal are as follows :

Rule (a) "adverse holding or prescription during a period of 50 years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding, or to make title by prescription."

This rule prescribes that when once the period of fifty years is established all further discussion ends, whatever may have been the origin of the possession, and that exclusive political control may for this purpose constitute possession.

A further direction contained in Rule (b), Article IV, is as follows :—

"The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever, valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing Rule."

This direction was given in order to prevent any attempt to exclude the general principles of international law applicable to the case.

One of these principles is, that possession by one nation, however recent, confers a good title unless a superior title is shown by some other nation; and the application of this principle is not excluded by the previous rule that fifty years

adverse holding or prescription confers an absolute title.

Lastly, it is provided by Rule (c) that "in determining the boundary-line, if territory of one party be found by the Tribunal to have 5 been at the date of this Treaty in the occupation of the subjects or citizens of the other party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the 10 opinion of the Tribunal, require."

This Rule is not intended to override the previous Rules, but it contemplates the case of the subjects or citizens of one nation being at the date of the Treaty in the occupation of 15 territory which would belong to the other if the boundary-line otherwise ascertained was alone to be considered by the Arbitrators.

It enables the Tribunal to deal with every question likely to arise, and, in determining the 20 boundary, to take into account as a matter of equity the fact that territory which would otherwise be awarded to one of the Powers is occupied by subjects or citizens of the other, and to arrange for suitable compensation or adjustment. 25

The proposals which have from time to time been made in the diplomatic correspondence for an adjustment of the difference between Great Britain and Venezuela should not be taken into consideration by the Arbitrators in coming 30 to a decision upon the boundary-line. They do not constitute any admission of right on the one side or the other, but were put forward as suggested adjustments or compromises between the two Governments, in which claims of right were 35 not insisted upon. It would tend to prevent any nation making proposals, for the purpose of avoiding either war or the necessity of arbitration, if such proposals, in the event of arbitration, could be used against the Govern- 40 ment by which they had been made.

Argument for Venezuela.

Venezuelan
Counter-Case,
p. 116.

At the root of the whole case, as presented on behalf of Venezuela, there lies the contention that Spain, by virtue of the Papal Bull of 1493, or by virtue of the first discovery of America 45 and the establishment of a settlement at Santo Thomé, became entitled to the whole territory lying between the Rivers Orinoco and Amazon and the Atlantic.

[1878]

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Boundary between the Colony of British Guiana and the United States of Venezuela, The Printed Argument on behalf of the United States of Venezuela (1898), Vol. I, pp. 21-22

TREATY OF ARBITRATION.

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lands respectively at the date in question? The Tribunal is not here to engage in an academic discussion; it is constituted to determine the boundary between Venezuela and British Guiana. By the agreement of the contending parties, its inquiry is to be directed to investigating and ascertaining the extent of the territories of each as they existed at the date when Great Britain acquired British Guiana. It surely could not be the intention of the Treaty that the Arbitrators, having solemnly reached a true line upon the basis laid down by the Treaty for the determination of a boundary, namely, the extent of the respective territories in 1814, were thereupon to cast aside the result of their deliberations, to reject the true line so ascertained, and to make a fresh start on the basis of some other date which is nowhere suggested by the Treaty. To hold otherwise would be to contend that this august Tribunal was directed in terms by the Treaty constituting it to reach an express conclusion which was not to be a conclusion; to determine a true boundary line which was not to be a boundary line; to consider, by "investigating and ascertaining," a state of facts expressly defined, which had been no sooner considered than it was to be thrown aside as unworthy of consideration.

Notwithstanding this provision, formulated in language as plain as could be devised, the British Counter-Case takes the position (pp. 107-8) that, under Rule (a) of the Treaty, which provides that adverse holding for fifty years may make a good title,

"Great Britain is entitled to retain whatever territory has been held by her, or has been subject to her exclusive political control, for a period of fifty years, although the result might be to give to Great Britain territory which had never been Dutch, and might even conceivably have at one time been Spanish."

In support of this claim the British Case has offered an immense mass of evidence, comprising an entire volume of its Appendix, covering the history of the British colony since 1814, and has devoted Part II of the chapter on political control to "British Administration." (B. C., pp. 99-112.)

If Rule (a) had been intended to apply to the period of British occupation or of British rule since 1814, why was the Tribunal of Arbitration expressly required "to investigate and ascertain the extent of the territories belonging to, or that might lawfully be claimed, by the United Netherlands or by the Kingdom of Spain respectively at the time of the acquisition by Great Britain of the Colony of British Guiana?"

If no distinction is to be made in their effect upon the boundary question between acts belonging to the Dutch period and acts belonging to the British period, why was the Tribunal expressly instructed to direct its attention to the conditions existing at the time of the British acquisition, and not to the conditions existing at any other time? Under the theory of the British Counter-Case, the Tribunal is to give precisely the same consideration to what happened after this date as to what happened before, and the insertion of the fundamental instruction in the Treaty for the guidance of the Arbitrators is a meaningless string of words, to be rejected by the the Tribunal as utterly vain and purposeless.

It is not believed that the Tribunal will find itself able to adopt any such interpretation of the Treaty. That concise instrument was not drawn with the intention that its clauses and paragraphs should be regarded as mere verbiage, destitute of meaning and purpose. When it laid down in so many words that the extent of the territories was to be investigated and ascertained as it existed at a certain date, it meant that it should be investigated and ascertained as of that date. When it prescribed that date in its rule of investigation and ascertainment, it did not intend to prescribe as the rule of investigation and ascertainment some other date, namely, the date of the Treaty, the only date to which the investigation and ascertainment, under the contention of the British Counter-Case, can be referred.

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Boundary between the Colony of British Guiana and the United States of Venezuela, The Printed Argument on behalf of the United States of Venezuela (1898), Vol. I, pp. 32-57

ritory had subsequently been occupied by the subjects or citizens of the other.

5. THE POSITION ADOPTED BY GREAT BRITAIN IN THE COUNTER-CASE.

Finally, the foregoing contention is expressly admitted in the British Counter-Case. At page 114 her position is stated as follows:

“Great Britain denies that her present occupation (extending to the Schomburgk line) does in fact include any greater extent of territory than was occupied or politically controlled by the Dutch and by Great Britain since her succession to the Dutch title.”

This important admission of the British Case shows the reason why Great Britain was willing to take the line of 1814 as the boundary to be fixed and to eliminate any acts subsequent to that date from the controversy, except as provided in Rule (c) That Great Britain should have agreed to the establishment of the line of 1814 was quite reasonable, in view of the fact that she does not *now* put forward any prescription based upon the extension by her of that line. It was not claimed in the diplomatic correspondence that led up to the Treaty, nor is it claimed in the British Case that Great Britain extended the line of Dutch occupation to any territory that she might now prescribe for under Rule (a) of the Treaty. It was also well known to Great Britain that the Agreement of 1850 cut off any possible claim by her to such a prescription. The British settlers, in whose behalf Lord Salisbury's solicitude was excited, had not entered the disputed territory before 1880, and, so far as their case might be regarded as matter of international consideration, it was provided for in Rule (c). It was because, as Great Britain herself states, her present occupation, meaning thereby her occupation not only up to the date of the Treaty, but up to the very filing of the Case, does not include any greater extent of territory than the Dutch occupied at the time of the cession. This is the fundamental fact in the interpretation of this clause of the Treaty—that British occupation of the present

day extends no farther than the Dutch occupation which preceded it. Upon that statement, made solemnly in her own Case, Great Britain stands or falls. The fact once admitted that the present occupation is not in excess of the occupation of 1814, no reason can be shown for admitting evidence as to occupation since that date.

IV. THE THREE RULES OF THE TREATY.

The Treaty, having stated the general subject-matter of the arbitration as being the determination of the boundary line in accordance with the extent of the territories of Spain and the Netherlands respectively in 1814, proceeds to lay down three Rules, which, as well as the appropriate principles of international law not inconsistent with such Rules, are to govern the decision of the Arbitrators. Article IV is as follows:—

“ In deciding the matters submitted, the Arbitrators shall ascertain all facts which they deem necessary to a decision of the controversy, and shall be governed by the following Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to be applicable to the case :

RULES.

“(a) Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.

“(b) The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing rule.

“(c) In determining the boundary-line, if territory of one party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the Tribunal, require.”

RULE (a)**1. ADVERSE HOLDING—DURATION AND CHARACTER.**

Rule (a), in reference to adverse holding, is as follows:

“ Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.”

The subject of inquiry having been broadly laid down in Article III of the Treaty, namely, that the Arbitrators are to “ investigate and ascertain the extent of the territories belonging to, or that might lawfully be claimed by, the United Netherlands or by the Kingdom of Spain respectively at the time of the acquisition by Great Britain of the Colony of British Guiana,” certain rules are added, which are to be followed by the Arbitrators in conducting this investigation and ascertainment. The rules do not change the subject of inquiry as thus broadly laid down, but serve as a guide to the Arbitrators in conducting the inquiry. That inquiry is as to the extent of the territories of the two parties in 1814. Manifestly, the subordinate rule cannot, by specifying certain applications of the principle of adverse holding, reverse the fundamental definition of the subject-matter of the arbitration, and be construed as enlarging the field of inquiry thus defined, because the date named in the primary definition is not repeated in the rule itself. Such an interpretation would nullify the fundamental basis of the Treaty.

Inquiry as to the facts constituting, or claimed as constituting, an adverse holding, within the meaning of the Treaty, must therefore be limited to matters occurring prior to 1814.

The term “ adverse holding ” means a naked holding or possession, by which title may be acquired, adversely or in opposition to the holder of the prior title. Of course a claim of adverse holding presupposes a prior title, as is admitted by the British Counter-Case, where the principle is thus stated at page 114:

“ But no question of adverse holding or prescription can arise except where one Power has occupied territory by right belonging to the other.”

A plea of adverse holding is, therefore, an admission of the existence of a superior title, and the burden rests upon the claimant to show an adverse holding sufficient to establish a title.

The adverse holder must show actual settlement or exclusive political control for fifty years, but no specific requirement is prescribed in proving the anterior title. This is left to be determined by general principles of law.

“ Adverse holding ” is in general used of individuals and as bearing on the ownership of land under the municipal law of the State of whose territory it forms a part. In the Treaty, however, it is used of States and as bearing upon the title or right of sovereignty of a State in and to its territory. One relates to private title, or ownership of the fee; the other to public title, or dominion over the territory.

The foundation of title by adverse holding is the actual possession of land. The fact of possession is the determining fact in the creation of title. In the case of individuals, the fact of possession is one readily comprehended and recognized. In the case of States, it is a much more complex and difficult question. States do not act through individuals, but through governments. The acts of individual subjects of a State are not the acts of the State. The declarations of individuals are not the declarations of the State. The evidence of possession as to adverse holding is, therefore, not the same in the case of States as in the case of individuals. So also with the effect of adverse holding. The condition of private ownership, which expresses the relation of an individual to his land as the effect of adverse holding, is replaced by the condition of dominion or sovereignty, which expresses the relation of the State to its territory. In the case of States, the fact of possession must, therefore, be determined with reference to this effect of creating public title, that is to say, sovereignty or dominion; while, in the case of individuals, it is

determined only with reference to the effect of creating private title or ownership.

In view of the fact that the question presented in this arbitration is a question not as to individuals, but as to States, with all that the distinction implies, the first point to be determined is: In seeking to establish the public title of a State by adverse holding what acts are to be deemed the equivalent of possession in the case of individuals?

The first requisite, which lies at the foundation of the whole subject, is that the act, whatever it is, must be a national act. The party here seeking to acquire title is the State. The possession must, therefore, be the possession of the State.

When the subjects or citizens of one State enter the territory of another and make settlements there, their acts are those of mere private individuals. Unless expressly authorized, or adopted by the State itself, to which they belong, they remain nothing more than private and individual acts. No claim of adverse holding can be made on behalf of the State, for the State itself has not entered. The act of entry must be a national act, in order to be the foundation of public title.

The settlement of persons associated together upon unoccupied territory of a foreign State is a matter of frequent occurrence; yet no claim could be made that such settlement operated, no matter how long it might last, to transfer the dominion of the land upon which they settled to the State of which they had been and might continue to be the subjects. A claim of adverse holding, to be made by a State, must be based on public acts of possession and control. It must in some way have the stamp of authority from the sovereign, either by holding under grants from him or by declarations made by him. Unless it is so defined as an act of sovereignty, it cannot become the basis of adverse holding to establish a sovereign's title.

The act must also be done under a claim of right, and a claim not only on the part of the individuals, but on the part of the sov-

ereign who seeks to take advantage of their acts. This principle lies at the bottom of all adverse holding. Unless the adverse holder enters under a claim of ownership he does not oust the prior holder. He is understood to hold under the prior owner. The claim must, therefore, be a claim of territorial sovereignty, for nothing less would lay the foundation of public title, and it must be a claim made by the sovereign himself, because no one but the sovereign can assert such a claim. The claim, as a claim of the sovereign, must be open and notorious. No State can be permitted to send its subjects into the unoccupied territory of another State, to establish themselves there, and then, after a long time has elapsed, to assert that their entry was made by its direction and under a claim of right on its part which no one ever heard of before. The holding can only be computed from the time when the State makes the open claim. What may have been done before that time goes for naught.

Nor is it enough that the act shall be in its inception an act of the intruding sovereign and made under a claim of right on his part. It must continue to be the act of the sovereign. The community so formed in the territory of another by which public title is attempted to be created must be controlled and governed by the State which claims the benefit of the intrusion. It must be not only a public act of the intruding State in the beginning, but it must continue to be such a public act. It can only keep this character as long as the intruding sovereign maintains political control over the territory thus occupied. Political control, therefore, is an indispensable accompaniment of all adverse holding by which public title is to be created.

The political control, moreover, must be a political control over the territory to which the claim extends. It is not sufficient that it should be merely the control of subjects as subjects who happen to be in the territory. It must be a territorial control; or, in other words, a control of all persons within the territory. A control of, or jurisdiction over, the persons merely

of subjects, as subjects, even within the territory, is a personal control or jurisdiction. It is not a territorial control. Nothing less than a territorial control is sufficient to establish this form of title.

The term "adverse holding" is a term familiar to English jurisprudence, and its application is subject to well-defined principles. As used in Rule (a), it has, in addition, certain express qualifications, to be found in the text of the Rule itself. These qualifications do not affect the general principles above referred to, which are inherent in the meaning of the term. They operate as specific restrictions or definitions in the application, in the present proceeding, of the term as generally understood.

In this proceeding, as already stated, the question involved is not one of private title, or ownership of the fee, but of public title, or dominion over the territory. It is chiefly on account of this distinction that the necessity arises for the express qualifications of the term "adverse holding" in the Treaty.

These express qualifications relate to two facts; **FIRST**, *The Period of Duration of the holding or possession*; **SECOND**, *Its Character*.

First; In the case where individual title to land is created by adverse holding, the period of duration of the holding necessary to make title is prescribed by the municipal law of the State within whose territory the land lies, either by statute or otherwise. There being no fixed rule prescribing such a period in international law, which regulates international controversies, it became necessary to assume a period which should have the effect of creating title, and this period was fixed by agreement in the Treaty, for the purposes of this arbitration, at fifty years.

Second; The possession of an adverse holder, where the question involved is one of public title, must be evidenced by actual settlement.

In the case of an individual claiming under an adverse possession, possession must be evidenced by actual occupation. As the

claim of the adverse holder is a claim to disseize him who has the possession, the burden is upon him to establish an occupation which amounts to an actual ouster. The mere performance of acts which are no indication of ownership and which are done on sufferance is not an ouster and does not constitute adverse possession.

With stronger reason does the same principle hold in the case of States. The burden here is upon the intruding State to show possession by positive and actual occupation of the soil itself. This can only be accomplished by settlement.

This principle is recognized in terms by Rule (a) of the Treaty, which says that "the Arbitrators *may* deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding." The meaning of this paragraph is clear. It is that actual settlement of a district is a necessary condition to constitute adverse holding; but it states that, apart from the rule of law and for the purposes of this investigation, the Tribunal may, in its discretion, take into consideration another condition as well as the legal one of actual settlement.

In so far as actual settlement is concerned, therefore, the Treaty is affirmative of the general rule of law. It is to be noted, however, that in defining what shall constitute the test of adverse holding by States—what, in other words, shall correspond to possession in the case of adverse holding by individuals—the Treaty has employed not loose and general phrases, but phrases that are emphatic, well defined and specific. It is not mere possession that will be sufficient, it is not even mere use and enjoyment, but settlement, a thing very different from possession or from use and enjoyment. Nor is it mere settlement that is required; it must be actual settlement, and actual settlement of a district. It would be difficult to find language more precise and exact. Each and all of these terms is to be given full force and effect in determining the merits of any claim of adverse holding.

Even in the case of individual proprietors, acts are often allowed upon the land which the proprietor does not choose to consider a trespass. Much more is this the case with reference to individual strangers in the territory of a State. In most countries, even those which are most completely settled and organized, foreigners are allowed to go and come at will. So long as they keep the peace and do not violate the law, they are not molested in any way; they travel, they hunt, they fish, they pursue their runaway cattle over the border, they trade, in many States they even buy land and build houses, till the soil, and use its natural products, or they may settle as mere squatters, without being disturbed or proceeded against by the State. If this is true of countries that are settled, much more is it true of countries where, although held under a perfect and undisputed title, no settlements have yet been made. The fact that individuals are suffered to do these acts, that they are tacitly allowed this use and enjoyment of the territory, indicates no such territorial possession as to make them adverse holders, as the subjects of a foreign State. Not only this, but a foreign State may itself, through its agents, do many of these acts within the territory of another State, as the acts themselves involve no claim of sovereignty, as well as private individuals, and no significance can be attached to the fact that they perform such acts. A Government may engage in trade, in which case its property so engaged in trade in a foreign country comes under the same rules as that of private individuals (The *Charkieh*, L. R. IV, Adm. & Ecc. 59, 1873). Or it may delegate a certain portion of governmental authority to a private trading corporation which may engage in trade in a foreign country. The acts of such a trading corporation which it performs on sufferance in the territory of another do not constitute possession in any sense, nor can it claim an adverse holding by reason of such acts.

2. SETTLEMENT, AS BASIS FOR ADVERSE HOLDING.

Such possession, under the general rules of law, can only be evidenced by settlement, accompanied by the exercise on the part of the sovereign claiming to hold adversely, of political control under a claim of right, and this principle is recognized by the Treaty.

The *first* question to be considered is what is meant by "settlement."

First; "Settlement" implies *fixity of abode*. It implies the creation of dwellings. Mere transit over a territory will not create it. Travelling, exploring, voyaging with whatever object, whether for hunting or for any other purpose, is not settlement. Trading in the heart of a country, however extensive or however regularly pursued, is not settlement. Still less is trading by water. The casual use and enjoyment of natural products is not settlement. The pursuit of runaway slaves or of cattle is not settlement. None of these acts, even though by their frequency they may develop into habitual practices, has any bearing upon the question of settlement. The only act that can constitute settlement is the establishment of fixed abodes.

Secondly; the idea of settlement involves the establishment of abodes by persons in more or less considerable numbers. It means at least *the nucleus of a permanent population*; persons whose homes and occupations are at that point, and who form what may have some claim at least to being called a community.

A whaling ship voyaging to the Pacific leaves one of its crew on the Galapagos Islands, where he remains for a year or two before another ship takes him off. The whaler does not constitute a settlement.

John Sutton goes to live for a few months on the shell-bank at Waini, where he trades with the Indians (B. C., VI, p. 128). Sutton does not constitute a settlement.

The boy William Kendal, a servant of Father Cullen, at the Santa Rosa Mission, runs away and lives for a dozen years with

the Indians on the Auka, and marries a daughter of one of the head men, and is discovered there, after this long absence, by some one who chances to pass that way (B. C., VII, p. 238). But Kendal does not constitute a settlement.

“A Dutchman had been eight years domiciled in the River Aguirre,” and this fact is thought worthy of being stated in the British Case (p. 48), although the Aguirre is undisputed Venezuelan territory, which even the wildest claims either of Great Britain or the Netherlands have never called in question. But the fact of the Dutchman being so domiciled does not constitute the Aguirre a Dutch settlement.

Thirdly; settlement implies, necessarily, the *establishment of homes* by inhabitants—dwellers. The designation of a trading agent to remain at some point for purposes of traffic in an unsettled part of a neighbor's territory does not constitute settlement, though he builds a cabin and occupies it and derives his sustenance from the cultivation of the soil. The Dutch post in Cuyuni, the only post which they ever established in the disputed territory west of Moruca, had, therefore, no elements of a settlement.

Still less does the mere erection of a building for shelter, to be occupied from time to time by such an agent, or by traders or hunters generally, as occasion may arise, fulfil the requirements of this term. Thus, the shelter which Beekman erected in Barima, even if it had been used, which the evidence fails to show, would have had no claim to be called a settlement.

In support of this proposition we quote from the British Counter-Case (p. 44), the language of Queen Elizabeth, in reply to the complaint of the Spanish Ambassador respecting the expedition of Sir Francis Drake, in 1580:

“Besides Her Majesty does not understand why her subjects and those of other Princes are prohibited from the Indies, which she could not persuade herself are the rightful property of Spain by donation of the Pope of Rome, in whom she acknowledged no prerogative in matters of this

kind, much less authority to bind Princes who owe him no obedience, or to make that New World as it were a fief for the Spaniard and clothe him with possession: and that only on the ground that Spaniards have touched here and there, have erected shelters, have given names to a river or promontory; acts which cannot confer property."

A trading agent's cabin, whether temporary or permanent, may be dignified by the name of a "post," and its occupant may be called a "*Postholder*," although, as a matter of fact, the Dutch called him merely an "*Outlier*." But whatever else such post may be called, it cannot be called a settlement. A settlement may grow up in the neighborhood of such a post, by the building of dwellings and their occupation by those who till the soil, or gather its products, or conduct trading or other enterprises from that point. But the post by itself is not a settlement.

Fourthly; a settlement, as already stated, to be the basis of adverse holding, *must be subject to the political control of the sovereign who claims as an adverse holder*. If the settlement is detached from such control, if there is nothing to show that his laws and his government extend over it, and extend over it as a portion of his territory, so that they apply to all persons within the limits of the settlement, whether subjects or foreigners, it is not a settlement within the meaning of the law governing adverse holding.

Much more strongly does this restriction upon settlement as a foundation for adverse holding apply in a case where the State claiming as an adverse holder not only fails to assume the government of the settlement, but expressly disavows it. Thus, when the Colonial authorities of Essequibo, in 1766, on account of the disturbances which Dutchmen from Surinam had created in Barima, forbade colonists to settle there, it precluded itself from any advantage which it might otherwise have acquired. Under its own law, the act of its subjects was illegal, and while the law remained in force the Dutch sovereign could not derive any dominion from the act.

Similarly, in 1850, when Great Britain entered into an agreement with Venezuela not to occupy the territory in dispute, it became illegal for British subjects to settle in the territory. So long as that agreement remained in force, Great Britain could not take advantage of such a settlement as an adverse holder, because by her own treaty she had expressly prohibited and rendered illegal such an act.

Fifthly; The settlement must be actual. In the case of individuals, the phrase "actual possession" is used in opposition to "constructive possession." Thus, while one who holds adversely, under documentary title defining his holding by metes and bounds, is only in actual occupation of a part of the land covered by his deed, he is held to be constructively in occupation of the whole.

In the case of States, "actual settlement" is used in contradistinction to "constructive settlement," that is to say, the constructive extension of the settlement beyond the localities of actual settlement. The object of the Treaty in using the word "actual" is to exclude, once and for all, all loose and vague claims to extend the effect of such adverse holding beyond the localities actually settled. No constructive extension of the term, such as is recognized in the case of individual possession can be admitted. In order that a district may be claimed, the district must be actually settled. A settlement at the mouth or on the lower banks of a river cannot be extended constructively to include the headwaters of the river or its upper banks. It is not an actual settlement of that district. No claim of adverse holding can be allowed as to any locality unless it is shown, to the satisfaction of the Arbitrators, that actual settlement was made at that locality.

To sum up; in order to fulfil the effective conditions of adverse holding under the head of settlement, as to any particular locality, it is necessary that inhabitants in greater or less numbers should have adopted that locality as a fixed place of abode, and should have established there, their homes and occupations with a certain degree of permanence; that they should be under a recognized

and actual political control; and, finally, no such claim can be established beyond the area of actual settlement. To make a good title under the Treaty, adverse holding must be peaceable and not by force. No holding by force, against the protest of the State whose territory has been seized, will ever ripen into a title by prescription. As between individuals the bringing of an action arrests the running of the statute. There is no tribunal to which an injured State can appeal to recover the territory of which it has been deprived by force. Its maintained protest has the same effect to arrest the maturing of the title by prescription as the bringing of an action by an individual.

3. EXCLUSIVE POLITICAL CONTROL.

We have seen that, both by the Treaty and by the general principles of law, the essential test of adverse holding, in the case of States, is actual settlement; that the settlement must be a national act, and that it must be under the national control. Without such control settlement cannot lay the foundation of adverse holding. It remains to consider how and how far, under the Treaty, political control of itself may operate to establish a claim of adverse holding without settlement.

Here a broad distinction is taken by the terms of the Treaty. While the reference to actual settlement is mandatory, the reference to political control apart from settlement is merely permissive. The language of the Rule is:

“The Arbitrators *may* deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding.”

The obvious force of this distinction between settlement and political control as tests of the effectiveness of an adverse holding to create a title is that, while the Arbitrators are to be concluded by the fact of actual settlement, they are not necessarily to be concluded by the fact of political control, unaccompanied by settlement. They are to examine the attendant circumstances and conditions surrounding such control, if they find it, and

are to accord to the claim such weight as they may deem just, having in consideration all these circumstances and conditions. Exclusive political control is by no means a final test. It may be found to exist, but it does not on that account necessarily lay the foundation of title. If, for example, such control rests on the exercise of force, in the face of the protest of a weaker Power holding the prior title, it could have, and should have, but little significance in determining the question of adverse holding. All the circumstances surrounding the claim are to be considered and weighed by the Arbitrators, and it is only to have the effect and significance to which it is entitled by a just and equitable consideration of all the facts of the case. To entitle it, however, to be considered at all by the Arbitrators, it must, in the terms of the Treaty, be "exclusive political control of a district."

The language referring to control is not loose and inexact any more than the language referring to settlement. It is not mere influence, or alliance, or superiority, or leadership, that is required, but control—a very different thing from all the others. Nor is it mere control. It must be political control; and more than that, it must be exclusive political control, and exclusive political control of a district. Only if it fulfils all these requirements can it be the subject of consideration by the Tribunal at all; and if it fulfils these requirements, it is then for the Arbitrators to determine how far they will consider it.

It is necessary to define at the outset the terms which constitute this remarkably precise and exact phrase of the Treaty.

"*Political control*" means the exercise of sovereignty over a territory, through political or governmental administration.

"*Political control of a district*" means the actual exercise of sovereignty over that district, through political or governmental administration.

"*Exclusive political control of a district*" means such an exercise of sovereignty over that district to the exclusion of all other sovereignty.

First; Political control must be in the exercise of sovereignty.

The question which is being here considered is the question how far an adverse holding based upon political control may operate to the extinguishment of a prior title and the ousting of its holder. The title in question, as has been repeatedly suggested, is not the private title of an individual who owns the fee, but the public title of the State to the territory of which it is sovereign. The claim of adverse holding presupposes the existence of a prior title, and in the present case a prior public title of the sovereign existing in all its completeness. The question is what form of political control shall be sufficient to create a title adversely to this previously existing title of the sovereign.

Obviously, the first consideration is that the political control which is to constitute such an adverse holding must be a control that is maintained in the exercise of a like relation, namely, the relation of sovereignty. In this manner of creating a title adversely, nothing less than acts which are both in intention and in the nature of the acts themselves acts of sovereignty can displace a previously existing sovereignty. It is against the title of a sovereign, formally asserted and maintained, that the claim of adverse holding is now sought to be enforced. Clearly, no acts can lay the foundation of an effective holding unless made in pursuance of an equally definite assertion of sovereignty. A claim of sovereignty, therefore, made openly and notoriously, is the first requisite to fulfil the necessary conditions.

Secondly; the acts themselves must be such as necessarily imply sovereignty and, what is more, territorial sovereignty. As has been already pointed out, individual foreigners are allowed, according to the customs of most countries, a large latitude of action in the country in which they may for any purpose sojourn. The fact that such foreign individuals are also agents of a foreign government does not cut them off from the liberty of action which is allowed to foreigners generally. The doing of an act in another's territory by such an agent, even an act which may be in

the execution of some official function or duty, carries with it no necessary implication of sovereignty. The fact that in doing an act, which a private individual would equally be allowed to do, he is performing an official duty does not alter the character of the act as an act habitually permitted by the territorial sovereign to be done. The latter does not view the official person sojourning upon his domain in any other light than that in which he views all other sojourners. Such a sojourner may be acting officially with respect to his own Government, but he is not acting officially with respect to the Government of the territory. Consequently, no implication can be drawn from his acts.

The facts above stated are important, because it is precisely of acts of the character described that the British Case on political control is made up. As a matter of fact, there was no such thing as political control exercised by the Dutch in the territory in dispute. Individual Dutchmen were, however, allowed a considerable liberty of movement by the Spanish authorities, and whether these individual Dutchmen were merely private traders or were the officials or employees of the Dutch West India Company made no difference to the King of Spain.

These facts were all the more striking in this particular case by reason of the peculiar character of the Dutch West India Company as a company at the same time engaged in mercantile trading and in the government or management of a trading colony. A trading company clothed, as was this corporation, on the one hand, with certain delegated powers of government to run a colony and, on the other, occupied with the question of trade and trade profits as a private corporation, stands in a peculiar condition. It is in great danger of mixing up its two functions. It may, for instance, have a certain territorial scope for its trade, which of course does not imply sovereignty in any sense. It may thus extend its trade on its neighbor's territory. It also regulates the trade of its colonists, who are quasi-subjects; and it regulates their trade not only in the colony, but out of the colony,

and particularly it regulates their competition outside of the colony with its own trade outside. It uses its powers of government to back up its functions of trade. The consequence is that it exercises a personal jurisdiction over its subjects on foreign territory in connection with matters of trade more extensive than that which Governments ordinarily attempt to exercise. Having begun with matters of trade, it extends this regulation and jurisdiction to other matters, and it is all the more ready to do this in that the colonial character of its enterprise gives it large powers and supervision over the persons and occupations of its colonists.

Thus, the West India Company, through the Colonial authorities, was in the habit of sending its employees, who were chiefly old negro slaves, to trade in the neighboring wilderness with the Indians. It also had Dutch employees who did the same business. These employees were likewise sometimes used to pursue and capture runaway slaves, as they would cattle, upon foreign territory and to bring them back.

There was also a class of employees, a degree higher in the official scale than the roving traders or outrunners. These were called *Outliers*, a name which is generally translated in the evidence, *Postholders*. An *outlier* was sent to a certain point to look after the trade at that point, to give information of the movements of runaways and capture them if possible, and to keep the Colonial authorities informed generally of what was going on.

There is really only one case, that of the post in Cuyuni, which has any material bearing upon the boundary dispute, and nothing in the nature of sovereignty could be attributed to the Outlier who was stationed there.

The Colonial authorities also maintained close supervision over the colonists. Regulations and laws were made which the colonists were obliged to observe, not only in the colony itself, but when they went into the adjoining territory of Spain. This personal jurisdiction over the Dutch colonists was not an exercise of sovereignty over the territory in question, because it related

solely to Dutch subjects and followed them wherever they went. There is not an instance in this whole controversy of the exercise, or attempted exercise, west of Moruca, of any control over anybody but Dutchmen.

Thirdly; Political control requires that there should be an actual exercise of sovereignty through the medium of government.

While it may not be necessary that the government should be of an elaborate or highly organized type, sovereignty must actually be exercised through governmental agents. This does not mean that they must necessarily be the ordinary civil agents of government. Political control may be exercised by military as well as by civil agents, but sovereignty must be actually exercised by agents, and these agents must be governmental agents. Unless government officers are actually and effectively controlling a district there is no political control of that district within the meaning of this rule of the Treaty.

The definition given above requires that the control be exercised over the territory as territory, and upon all persons within it, whether subjects or foreigners. The control which is exercised only over subjects sojourning within a given territory is not political control over that territory. It is merely a personal control over subjects irrespective of territorial control. If it appears as to this territory in dispute, that one Power exercised control over all persons within the territory, and that the other did not, the first alone exercised political control over the territory. The performance of acts connected with trade in the territory has of itself no significance, because it is no indication of political control; but the exclusion of persons, and especially of persons other than subjects, from the performance of such acts of trade is an indication of political control. It is not necessary in order to political control that this right of exclusion shall be exercised at all times and in all places any more than it is necessary in order to assert political control over the territory of any civilized State that the Government should exclude foreigners or

refuse to allow them to trade there. But if it does exclude them, and they assent to the exclusion, it is an assertion on the one part and an admission on the other of territorial sovereignty and political control in the Government that exercises the right of exclusion.

Of course in an unsettled territory there will be far less to indicate political control than in a settled territory. But that cannot affect the question of title. If political control is to be proved in such a territory, the acts which indicate it will doubtless be less numerous and less extensive than in fully organized districts containing a settled population. The tests of political control in such a district are the actual exercise of a right to exclude foreigners therefrom, and to control the actions of foreigners as well as subjects therein. The apprehension of foreigners for violations of governmental regulations in such territory is an act of great significance. On the other hand, the fact that a sovereign issues regulations as to acts of his own subjects in a territory does not constitute an exercise of political control therein, especially when he has no governmental agencies to enforce such regulations, and when, as a matter of fact, such regulations are not enforced by him.

The enforcing of governmental regulations in an unsettled territory is not necessarily in the hands of civil officers. It is enough that it is in the hands of governmental officers. The distinction between the military police and civil police does not by any means universally exist even in civilized countries, and in wild and unsettled colonies it is almost wholly obliterated. The exercise of control may therefore be in the hands of military officers, coast guard officers and the like, as well as in the hands of civil police. They are agents of the government charged with the duty of enforcing the regulations of the government, and they have the ability to enforce them and do, in fact, enforce them.

The question further arises in a country in the unsettled parts of America as to whether control is exercised over the Indians, and in what such control consists.

The territory in question, during the greater part of its history, while Spain asserted over it the rights of a sovereign and while it was the resort of Spaniards in great numbers for the purpose of trading with the Indians, gold seeking, hunting and other purposes, was in large part unsettled. A considerable part of the forests which covered it was traversed at will by roving tribes of Indians, who, like many others of their race, had no regular abode. They were the natives of the soil, the aborigines who, under the principles which have universally governed the relations of the civilized settler and the native American, remained in the territory on sufferance without political rights and with only such liberty of action and movement as the dominant race saw fit to allow.

Whatever may be assumed to be the meaning of the Treaty as to exclusive political control over a district, certainly the relations of the Government setting up a claim of such control over these roving bands of Indians could have no bearing upon the question. The claim is made in the British Case and dwelt on at considerable length that, from time to time, the colonists of Essequibo entered into various agreements with some of these tribes and exercised some influence over their predatory occupations and over the choice of their chiefs; but such interference and influence, could not, from the nature of things, constitute a political control. In the first place, the tribes were wandering inhabitants of the forest, and could not be said to belong to any particular district. In the second place, the tribes of Indians had not, and could not have, any political status. Still less could they have any international status. International law deals only with civilized States and their relations, and a question of disputed sovereignty arising between two such States can be in nowise affected by the attitude which some particular band of Indians, from considerations of fear, convenience, or temporary interest, may assume towards some particular colonists. The natives certainly had no political control over a district them-

selves. Still less could the acquisition of influence over them be construed as transmitting through them a political control, which they did not, and could not, themselves possess. Influence over and alliance with the Indians does not amount to political control.

Fourthly; In order to create adverse holding of a district, the political control must be exercised over the district. As with the question of settlement, so with the question of political control; whatever may be its significance, it can only extend over the territory where it is actually exercised. No control exercised only within a part of a district can be extended constructively over the whole district. The establishment even of complete forms of government, fully equipped with all governmental machinery, at one point, although constituting the exercise of political control at that point, cannot be construed to extend any further than the limits of the control actually exercised. No claim of adverse holding at any locality, based on political control, can be allowed, unless the Arbitrators are satisfied that political control was exercised throughout the locality. It follows that, under the Treaty, no claims can be sustained on the ground of the exercise of political control to territories of vague and ill-defined boundaries, where there is no area that can be ascertained specifically over which the political control is exercised.

Fifthly; Political control must be exclusive. In order to have significance in this proceeding, as the equivalent of adverse holding, political control, or the exercise of sovereignty through political or governmental administration, must be to the exclusion, during the entire period, of all other sovereignty or control. No acts or classes of acts which are equally performed in the territory in question by both parties can have any bearing upon the claim of adverse holding. The exercise of control in the locality, during the period, by the party holding the anterior title puts an end to the claim as to that locality.

The above principles apply equally to prescription. Prescription is that operation of law by which title is established: (1) by lapse of time, where the title, although its origin is unknown, has been held so long that the memory of man runneth not to the contrary, or, in other words, where the foundation of the title is lost in the mists of antiquity; (2) where, by lapse of time, a wrongful possession comes to have the force of a rightful title.

The first meaning obviously has no application here. In the second meaning, "prescription" is synonymous with "adverse holding," and is governed by the same rules.

RULE (b)

The effect to be given to general principles of international law in the determination of the true boundary line is thus stated in Rule (b) of the Treaty:

"The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing rule." [Rule a].

The only class of rights and claims referred to in the present controversy are the territorial rights and claims of the parties to this Treaty, in so far as they affect the primary question which the Arbitrators are directed by the Treaty to decide. The Arbitrators are to recognize and give effect to all such territorial rights and claims resting on:

(a); any ground whatever valid according to international law, and

(b); any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of Rule (a).

As the Treaty at the outset prescribes the date as of which the extent of the territories of the respective parties is to be determined, the clause now under consideration must be read in con-

nection with that statement. As in the case of Rule (a), it is only as determining the question of the boundary of 1814 that these territorial rights and claims are to be considered, for it is clearly not the intention of the Treaty that the three subsidiary Rules should extend the limits of the subject matter of the controversy beyond the date fixed by Article III, except in so far as said Rules direct the consideration of a different date.

Under Rule (b), the Tribunal is directed to recognize as valid any title which is valid under the rules of international law, except in so far as Rule (a) may establish a different principle.

The only claim of title which has so far been specifically referred to by the Treaty is title under an adverse holding, which can never be an original title. Rule (b) admits the proof of original titles, and directs the Tribunal to consider any claim of title, including, of course, such original titles as they may deem valid under international law and not in contravention of Rule (a). It also introduces such rules of international law as may be used to define the terms "adverse holding" or "prescription."

The original title under which the whole territory in dispute is claimed by Venezuela is the title by which the whole of Guiana from the Orinoco to the Amazon was originally held by Spain. Under the principles of international law, discovery accompanied by intention to acquire possession creates an inchoate title. Where this inchoate title is followed by occupation, consisting of acts of military or political control, explorations, surveys, establishment of trading posts, grants of land to subjects, charters and other acts indicative of possession or control, the title by discovery becomes complete. The original title of Spain, which Venezuela as a party to this controversy now sets up, is a title by a perfected discovery, and the principles of law governing the establishment of such a title are to be applied in the present case.

The original title of the Dutch, on the other hand, to the "Establishment of Essequibo" is a title based upon conquest from Spain and the cession of the territory by Spain to the

Netherlands under the Treaty of Munster; and the validity of such titles and the extent to which they are to be established are matters to be determined by the Arbitrators who, in making their determination, are to be governed by the principles of international law that may be applicable to the case. The only express proviso which is attached to the application of these principles is that they shall not be in contravention of Rule (a). Where a title is sought to be established as against an original title, on the basis of adverse holding, no claim can be considered unless its duration is for the period of fifty years, and unless it fulfils in other respects the requirements of that Rule and of the general rules of international law.

RULE (c)

The adjustment of the relations between the territorial sovereign and subjects of the other party who may be found in occupation of the territory of such sovereign is covered by Rule (c) of the Treaty, which is as follows:

“In determining the boundary-line, if territory of one party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the Tribunal, require.”

This Rule recognizes the fact that when the territories of each party shall have been ascertained by the defining of the true boundary line, it might be found that the subjects or citizens of one party were at the date of the treaty actually settled upon territory thus ascertained to belong to the other. The question would then arise how, with the greatest fairness both to the State in whose territory such settlers were found and to the settlers themselves, an adjustment should be made of the relations between the two; and it was accordingly provided in the Treaty that the Tribunal should itself finally adjust these relations, upon considerations of reason, justice, the principles of international law and the equities of the particular case.

It is not stated by the Treaty what form of adjustment, if any, is to be adopted by the Arbitrators in carrying out the provisions of Rule (c). The whole matter is left to their judgment and discretion. It is clearly contemplated by the Rule that some provision shall be made to settle the relations of both parties, but that, as far as the status of the territory upon which such cases arise is concerned, the territory having once been fixed by the determination of the boundary line, the existence of such cases as are referred to in Rule (c) cannot cause any modification of the line. The case only arises, in fact, where the subjects or citizens of one State are found in the territory of the other, as determined by the fixing of the boundary line, and the language of the Rule in itself negatives the idea that the fact of their settlement there shall alter the political status of the territory.

That this is the correct interpretation of the Rule is confirmed by the provisions of Rule (a). Under Rule (a), it is provided that adverse holding shall only be established by settlement or exclusive political control for fifty years. If it were the intention of Rule (c) that the occupation therein referred to should have the effect of deflecting the boundary line, then Rule (a) would become meaningless, and the possession of fifty years would be no better than the possession of yesterday. Such a construction of the Treaty would virtually read the fifty-year provision entirely out of it. It would, in substance have the effect of saying that where the subjects or citizens of one party were found in the territory of the other party that fact of itself should put an end to its status as the territory of such other party—a conclusion which is obviously untenable.

That such is the meaning of the Rule is further confirmed by the negotiations which led up to it. The proposition was originally made by Lord Salisbury that while the line was to be determined by the Commission as of the date of 1814, no territory should be included as Venezuelan which was found in the occupa-

Annex 135

Boundary between the Colony of British Guiana and the United States of Venezuela, The Printed Argument on behalf of the United States of Venezuela (1898), Vol. II, p. 719

CHAPTER XVIII.

NATIONAL SECURITY.

We summarize here the conclusions which we have thus far reached.

1. That Spain discovered Guiana and, by a first and timely settlement of a part for the whole, perfected her title to the whole of the geographical unit known as Guiana.

2. That, if Spain's discoveries, settlements and armed expeditions are held to be inadequate to complete her title to the whole of Guiana, they are certainly effective as to all of the disputed territory.

3. That even if Spain's inchoate title had not been perfected when the Dutch occupied the mouth of the Essequibo, she had not abandoned that region in fact, and no presumption of an abandonment had then arisen; and the Dutch entry—even if a peaceful one—was premature and wrongful.

4. That, in fact, the Dutch entry at Essequibo was not an attempt to appropriate lands believed to be open to peaceful settlement, but was an act of war—the forcible appropriation, in war, of territory known to be claimed by Spain, and as to which Spain's purpose to hold and to settle was well known.

5. That, by the Treaty of Munster, the Dutch title by conquest to the places then actually possessed by them in Guiana, was confirmed by cession from Spain.

6. That the treaty involved the concession that what was not given to the Dutch was retained by Spain, and that, when the limits of the Dutch possessions were marked, the territory beyond—to the north and west—was Spain's territory.

7. That, at the date of the Treaty of Munster, the Dutch were not in the possession of any part of the disputed territory.

Annex 136

Boundary between the Colony of British Guiana and the United States of Venezuela, The Printed Argument on behalf of the United States of Venezuela (1898), Vol. II, pp. xvii-xix

the gift of the Dominion of America and other places made to the two crowns.

To the same end, it is claimed that only acquisitive prescription is applicable to nations, and in no manner free prescription. Because of this, and for the reason that the Treaty of Munster did not authorize Holland to conquer territory in Guiana that Spain deemed to be hers, and because that document prohibited either of the two parties selling and trafficking in the places possessed by the other, including therein those taken from Holland in Brazil by the Portuguese; it has been deduced that such prohibition has always been in force, and that in consequence thereof the Dutch could not, without violating it, occupy places that were not among those ceded to them by the Treaty of Munster, that is to say, Kykoveral and the mouth of the Essequibo.

Those arguments may have so much more effect, in view of Rule (a) of the Treaty of Arbitration, which does not impose upon the judges the obligation of considering exclusive political control of a district or its effective colonization as equivalent to prescription, but gives them permission to do so. Of this permission they will or will not make use, according to the reasons which one or the other party may present to them. Those here set forth may incline them not to make use of this permission.

Prescription is subject to certain conditions; one of them should be applicable to the case here. For example, it cannot take place with regard to the sea, as was sustained by Great Britain in the question of the fur seals of Bering Sea; neither can it have the effect of relieving the fulfillment of obligations of a perpetual character agreed upon in treaties; much less, when in addition to what is contained in the Treaty of Munster, there exists that of Utrecht of 1713, in which the following was agreed upon:

“On the contrary, that the Spanish Dominions in the West Indies may be preserved whole and entire, the Queen of Great Britain engages that she will endeavor, and give assistance to the Spaniards, that the ancient

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limits of their dominions in the West Indies be restored and settled as they stood in the time of the aforesaid Catholic King, Charles II; and if it shall appear that they have in any manner, or under any pretense, been broken into, and lessened in any part since the death of the aforesaid Catholic King, Charles II." [That was in 1700.]

to which may be added that by the Treaty of October 28, 1790, it was agreed between Spain and England [Article VI.] that "with respect to the Eastern and Western Coasts of South America, and to the islands adjacent, that no settlement shall be formed hereafter, by the respective Subjects, in such parts of those Coasts as are situated, to the South of the parts of the same Coasts, and of the Islands adjacent, which are already occupied by Spain; provided that the same respective Subjects shall retain the liberty of landing on the Coasts and Islands so situated, for the purpose of their Fishery and erecting their huts, and other temporary buildings, serving only for these purposes."

According to the first of these articles the Dutch were prevented from making acquisitions in Guiana that should alter the *status quo* of 1700; and in case of their doing so, England should aid Spain in re-establishing things to their former status.

In conformity with the second, England, or her subjects, were prohibited from forming settlements on the coast to the Southward of the Orinoco, occupied as it was by Spain; a prohibition which must have been in force since 1796, when Great Britain captured the Dutch colonies in Guiana and retained them except for a brief interval between 1802 and 1803. ⁽¹⁾

As we are now speaking of prescription, it would be well to bear in mind the argument employed in the Venezuelan Case on page 229. It reads as follows:

"Venezuela has accepted this rule, but she submits and will claim that *time* is but one of many elements essential to create title by prescription. Prescription to be effective against nations, as against individuals, must be *bona fide*, public, notorious, adverse, exclusive, peaceful, continuous.

⁽¹⁾ We believe this corroborates the proposition of law set forth in the Venezuelan Case under No. 13, page 229.

uncontested, and maintained under a claim of right. Rule (a) fixes fifty years as the *period* of prescription, but leaves the other elements unimpaired."

It would be well to enumerate in that connection each and every one of the protests of Venezuela, and other acts of herself and of Spain which are opposed to the application of the rule.

The same may likewise be observed with regard to what is written on page 236 of the said Case, which contains this argument;

"The present occupation by British subjects and persons under British protection having been effected subsequent to 1860, in the interior, and subsequent to 1884 on the coast, and having been undertaken after due warning from the Venezuelan Government that titles thus sought to be acquired would not be recognized by it, and after notice from the British Government that persons so entering into said territory must do so at their own peril, said subject and persons may be regarded by Venezuela as mere trespassers, and Venezuela is under no obligation to recognize any British titles which such subjects or persons may have acquired to lands situate within said territory."

The British Case contains the following statement:

"The Venezuelan Government were aware of the position of the boundary posts erected by Schomburgk, and made remonstrances to Her Majesty's Government upon the subject."

It would not have been improper to add, that not alone did Venezuela protest against the placing of the posts, but also secured an order for their removal, together with the declaration that they did not signify any act of jurisdiction, being merely a preliminary step subject to future discussion between the two Governments. Further than this, the British line does not pass through Barima, but through the Amacuro, a river situated to the west of the other. Until 1886 the Republic had no notice of such a line, and even then not because Great Britain informed her of it. It was the Governor of British Guiana who mentioned it in the reply given by his secretary to the Venezuelan Commissioners, Dr. Jesus Muñoz Tebar and General Santiago Rodill, through the Consul of this country in Georgetown on January 8, 1887.