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[2 February 1897]

Whereas, on the 2nd day of February, 1897, a Treaty of Arbitration was concluded between Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland and the United States of Venezuela in the terms following: –

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of Venezuela, being desirous to provide for an amicable settlement of the question which has arisen between their respective Governments concerning the boundary between the Colony of British Guiana and the United States of Venezuela, having resolved to submit to arbitration the question involved, and to the end of concluding a Treaty for that purpose, have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Sir Julian Pauncefote, a Member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of Bath, and of the Most Distinguished Order of St. Michael and St. George, and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States:

And the President of the United States of Venezuela, Senor Jose Andrade, Envoy Extraordinary and Minister Plenipotentiary of Venezuela to the United States of America:

Who having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles: –

ARTICLE I

An Arbitral Tribunal shall be immediately appointed to determine the boundary-line between the Colony of British Guiana and the United States of Venezuela.

ARTICLE II

The Tribunal shall consist of five jurists; two on the part of Great Britain, nominated by the members of the Judicial Committee of Her Majesty's Privy Council, namely, the Right Honourable Baron Herschell, Knight Grand Cross of the Most Honourable Order of Bath, and the Honourable Sir Richard Henn Collins, Knight, one of the Justices of Her Britannic Majesty's Supreme Court of the Judicature; two on the part of Venezuela, nominated, one by the President of the United States of Venezuela, namely, the Honourable Melville Weston Fuller, Chief Justice of the United States of America, and one nominated by the Justices of the Supreme Court of the

United States of America, namely, the Honourable David Josiah Brewer, a Justice of the Supreme Court of the United States of America; and of a fifth jurist to be selected by the four persons so nominated, or in the event of their failure to agree within three months from the exchange of ratification of the present Treaty, to be so selected by His Majesty the King of Sweden and Norway. The jurist so selected shall be the President of the Tribunal.

In the case of death, absence, or incapacity to serve of any of the four Arbitrators above named, or in the event of any such Arbitrator omitting or declining or ceasing to act as such, another jurist of repute shall be forthwith substituted in his place. If such vacancy shall occur among those nominated on the part of Great Britain, the substitute shall be appointed by the members for the time being of the Judicial Committee of Her Majesty's Privy Council, acting by a majority, and if among those nominated on the part of Venezuela, he shall be appointed by the Justices of the Supreme Court of the United States, acting by a majority. If such vacancy shall occur in the case of the fifth Arbitrator, a substitute shall be selected in the manner herein provided for with regard to the original appointment.

ARTICLE III

The Tribunal 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-line between the Colony of British Guiana and the United States of Venezuela.

ARTICLE IV

In deciding the matters submitted, the Arbitrators shall ascertain all facts which they deem necessary to the 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 recognise 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.

ARTICLE V

The Arbitrators shall meet at Paris, within sixty days after the delivery of the printed arguments mentioned in Article VIII, and shall proceed impartially and carefully to examine and decide the questions that have been, or shall be, laid before them, as herein provided, on the part of the Governments of Her Britannic Majesty and the United States of Venezuela respectively.

Provided always that the Arbitrators may, if they shall think fit, hold their meetings, or any of them, at any other place which they may determine.

All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall name one person as its Agent to attend the Tribunal, and to represent it generally in all matters connected with the Tribunal.

ARTICLE VI

The printed Case of each of the two Parties accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other Party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding eight months from the date of the exchange of the ratifications of this Treaty.

ARTICLE VII

Within four months after the delivery on both sides of the printed Case, either Party may in like manner deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a Counter-Case, and additional documents, correspondence, and evidence, in reply to the Case, documents, correspondence, and evidence of the other Party.

If in the Case submitted to the Arbitrators either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after delivery of the Case, and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTICLE VIII

It shall be the duty of the Agent of each Party, within three months after the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a printed argument showing the points, and referring to the evidence upon which his Government relies, and either party may also support the same before the Arbitrators by oral argument of Counsel; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by Counsel upon it; but in such case the other party shall be entitled

to reply either orally or in writing, as the case may be.

ARTICLE IX

The Arbitrators may, for any cause deemed by them sufficient, enlarge either of the periods fixed in Articles VI, VII and VIII by the allowance of thirty days additional.

ARTICLE X

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy thereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States of Venezuela for his Government.

ARTICLE XI

The Arbitrators shall keep an accurate record of their proceedings, and may employ the necessary officers to assist them.

ARTICLE XII

Each Government shall pay its own Agent and provide for the proper remuneration of the Counsel appointed by it, and of the Arbitrators appointed by it or in its behalf, and for the expense of preparing and submitting its Case to the Tribunal. All other expenses connected with the Arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE XIII

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

ARTICLE XIV

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of Venezuela, by and with the Congress thereof, and the ratifications shall be exchanged in London or in Washington within six months from the date hereof.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals.

Done in duplicate, at Washington, the second day of February, one thousand eight hundred and ninety-seven.

(L.S) JULIAN PAUNCEFOTE

(L.S) JOSÉ ANDRADE

981. MESSAGE BY VENEZUELAN PRESIDENT JOAQUÍN SINFORIANO DE JESÚS CRESPO TO THE VENEZUELAN CONGRESS

[20 February 1897]

(Extract)

While the Venezuelan Government, through the patriotic and earnest efforts of its Foreign Office, was presenting and urging its rights before the Boundary Commission, the State Department at Washington, with laudable efforts, was endeavoring to secure arbitration from the British Ministry, in order to adjust with greater facility and success this unpleasant dispute of almost a century. The first official knowledge the Executive power had of the means employed to induce our powerful adversary to accept arbitration unreservedly and unconditionally, for which Venezuela had always contended, was derived from the publication of the correspondence between the Governments at Washington and London from February to June of the past year, and which, being so favorable to this republic, was sent here to be translated into Spanish and printed. Latterly this Government, through its Legation at Washington, was consulted as to a point in relation to those negotiations for arbitration. The reply of the Venezuelan Minister of Foreign Affairs, with an opinion contrary to that which was seemingly suggested on this point, arrived in Washington at the time when the answers from Great Britain were expected as to the determinate points of the arbitration.

At this juncture the Government was informed that on the 12th of November there had been signed in Washington by his Excellency Mr. Olney, Secretary of State of the United States, and Sir Julian Pauncefote, Ambassador of Her Britannic Majesty in Washington, a protocol with the essential bases for a treaty between Venezuela and Great Britain, which, by means of arbitration, would put an end to the old dispute between the two nations. The bases were then submitted by the Washington Government for the consideration of this Government by means of a letter to me from his Excellency Mr. Cleveland, in which he manifested the noble desire to see accepted a compact which, in his opinion, was just and advantageous.

The responsibilities of those who are intrusted with the administration of public affairs by the suffrage of the people increase and become graver when the preservation of interests closely linked with the National life is the subject to be dealt with. There is in the breast of the Chief Magistrate who has the good of the Republic at heart a struggle between the ideas of the moment and those born of a concern for the future. To study well the former and the latter, to weight the advantages and risks of the one and the other without silencing the dictates of conscience and reason, such are the duties, truly arduous, of the ruler during whose term of office has chanced to fall the settlement of an affair which, like that of the Guiana boundary question, has been growing graver – a struggle without a truce and full of lamentable incidents to the party weak to material defenses. Public opinion, to which the governing power must always listen, especially

when the territorial integrity is the subject of discussion, manifested itself so divided as to the bases proposed to Venezuela that it would have been in vain for the most expert observer to have deduced from such adversity of opinions any expression of the public sentiment.

The Government, in forming its opinion, should naturally take into consideration the conditions under which the protocol was signed and presented. One of the signers was the Secretary of State of the Nation which, fully alive to the grave consequences of its action, generously interposed in this dispute, seeking an arrangement which would at once preserve the laws of the National decorum and the continental integrity. The recourse to arbitration offered itself, and, although by no means in the manner wished for by Venezuela, was more consonant than any other with the desires manifested. The Government deemed it proper to insert in the treaty a provision that Venezuela should have a voice in the naming of the arbitral tribunal. As soon as this change was proposed its acceptance was procured. The action of the United States had produced a result the after effects of which were, from a moral point of view, indispensably subject to the effective and powerful prestige of said Nation.

The plan of settlement was presented for the consideration of Venezuela, with no proposition for co-operative participation, contrary to the sovereignty and independence of the republic; further, as the United States had conducted the negotiations according to their judgment alone, the definite acceptance of the bases will always involve for them a sort of friendly responsibility which will be in every case a guarantee of future harmony between the two nations represented by the arbitral tribunal. It is eminently just to recognize the fact that the great Republic has strenuously endeavored to conduct this matter in the most favorable way, and the result obtained represents an effort of intelligence and good will worthy of praise and thanks from us who are so intimately acquainted with the conditions of this most complicated question.

It is your duty, according to the constitutional law of the republic, to examine the treaty which the Venezuelan Minister Plenipotentiary signed in accordance with the bases referred to and the change proposed by the executive power in regard to the formation of the arbitral tribunal.

And as this is an affair of such importance involving as it does such sacred interests, I beg you that from the moment it is presented for your consideration you will postpone all other business until you shall decide upon it."

**982. REPORT OF THE UNITED STATES VENEZUELAN BORDER COMMISSION TO
THE PRESIDENT OF THE UNITED STATES, GROVER CLEVELAND**

[27 February 1897]

To the President.

Sir:

Pursuant to the act of Congress, of date December 21, 1895 (29 Stat. L., 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 Northwest, 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...

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, offering 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 fact 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 300 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 there 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. . .

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 values 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. . .

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 historical 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. . .

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 John 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 important 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 has 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 geographic 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 has 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 out 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 the 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 Thomé prior to 1600, the Dutch settlements on the Essequibo and the Pomeroon, the Spanish missions east of the Imataca 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 some one 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 the 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 facts, 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 had 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 it 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 to 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 half after the discovery of America, and at a time when, as is 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 bearing upon the question before us. In the course of such examination 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 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 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 con-

flicting 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 could 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 necessity of 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 Books*" 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 Books*" 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 this 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 Books*", 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 though it wiser to be accurate than swift, but hope within a few weeks to transmit to the State Department the completed work.

Our publications will consist of four volumes, as follows:

Vol. I. Containing this report and several historical reports.

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

Vol. III. Cartographical reports.

Vol. IV. An atlas comprising seventy six 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 Books*", five volumes.

Venezuelan documents, three 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 not only been an admirable secretary in the ordinary sense of the term, but, more than that, a wise counsel and adviser. 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 determine 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, Lon-

don, 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 today is full of arbitration as a just and proper way to settle international differences, and we can but hope that this Commission has 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.

[Signed] David J. Brewer.
 R. H. Alvey
 F.R. Coudert.
 Daniel C. Gilman.
 Andrew D. White.

983. FORMER AMERICAN SECRETARY OF STATE, MR. RICHARD OLNEY, TO FORMER AMERICAN PRESIDENT BENJAMIN HARRISON, CHIEF VENEZUELAN COUNSEL BEFORE THE ARBITRAL TRIBUNAL

[8 July 1898]

(*Extracts*)

I have yours of the 25th of June and have delayed answering only to get assurance from Washington that the last thing of record relative to the British-Venezuela Boundary Dispute in the Department of State is my letter of July 13, 1896. Mr. Criddle – Third Assistant Secretary – so writes me, and his statement accords with my own recollection. When Sir Julian and myself returned to Washington in the fall of that year, the negotiations proceeded with great activity and informal interviews of which I at least kept no memoranda. . .

But the intent of the negotiator on each side was, I am sure, in complete accord with the extract from my letter of July 13 to which you refer me. . .

[Source: Library of Congress, Richard Olney Papers. Vol. II - pp. 750-751]

984. POSTSCRIPT OF LETTER FROM FORMER AMERICAN SECRETARY OF STATE, MR. RICHARD OLNEY, TO BENJAMIN HARRISON, CHIEF VENEZUELA COUNSEL BEFORE THE ARBITRAL TRIBUNAL**[29 July 1898]**

I may add that both Mr. Storrow and myself considered it legally Impossible that there could be any adverse holding or prescription as against the agreement of 1850 – a position to which we deemed the British Government to have committed itself in the most public and emphatic manner.

[Source: Library of Congress, Benjamin Harrison MSS., Volume 172, No. 37502-03]

985. EXTRACT FROM THE STATE OF THE UNION ADDRESS BY PRESIDENT WILLIAM McKINLEY TO THE UNITED STATES CONGRESS**[December 5, 1898]**

The arbitral tribunal appointed under the treaty of February 2, 1897, between Great Britain and Venezuela, to determine the boundary line between the latter and the colony of British Guiana, is to convene at Paris during the present month. It is a source of much gratification to this Government to see the friendly resort of arbitration applied to the settlement of this controversy, not alone because of the earnest part we have had in bringing about the result, but also because the two members named on behalf of Venezuela, Mr. Chief Justice Fuller and Mr. Justice Brewer, chosen from our highest court, appropriately testify the continuing interest we feel in the definitive adjustment of the question according to the strictest rules of justice. The British members, Lord Herschell and Sir Richard Collins, are jurists of no less exalted repute, while the fifth member and president of the tribunal, M. F. De Martens, has earned a world-wide reputation as an authority upon international law. . .

986. FORMER AMERICAN SECRETARY OF STATE, MR. RICHARD OLNEY, TO SIR JULIAN PAUNCEFOTE, BRITISH AMBASSADOR IN WASHINGTON**[24 May 1899]**

(Extracts)

As regards the publication in the diplomatic correspondence of my letter to you of October 29, 1896, marked "Strictly Personal", my feeling is that it ought not to be so used. . .

Further – entre nous entirely – being inquired of last summer on behalf of Venezuela respecting diplomatic correspondence preceding the Treaty – I replied that my letter to you of July 13,

1896, was the last thing of record. I did not so reply until I had first written Mr. Cridler (6/28, 1898), Third Assistant Secretary of State, and received from him an assurance to the effect made after an examination on the State Department files. The Counsel for Venezuela have unquestionably been banking on that statement of Mr. Cridler's and my own ever since and would be both surprised and irritated, and perhaps justly so, if now confronted with a writing they had been led to believe did not exist.

[*Source: Library of Congress, Richard Olney Papers. Vol. 85, No. 15058-15059]*

987. SIR RICHARD WEBSTER, CHIEF BRITISH COUNSEL BEFORE THE ARBITRAL TRIBUNAL, TO LORD SALISBURY, BRITISH PRIME MINISTER AND SECRETARY OF STATE FOR FOREIGN AFFAIRS

[19 July 1899]

Paris, 19th July, 1899.

(Extract)

. . . I was however anxious to obtain the guidance and approval of yourself and Mr. Chamberlain in the event of questions being put to me by members of the Tribunal. I do not propose to make any concession. 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 Arbitrator know our view of the position.

[*Source: Christ Church College (Oxford). Cecil Papers. Special Correspondence. Box: Webster]*

988. TEXT OF THE DECISION AGREED UPON UNANIMOUSLY IN PARIS BY THE ARBITRAL TRIBUNAL DECIDING UPON THE BOUNDARY BETWEEN VENEZUELA AND BRITISH GUIANA

[3 October 1899]

[The following text was read by Dr. Frederic de Martens, the Chairman of the Arbitral Tribunal, at its closing session in Paris, France, at 12.05 p.m. on 3 October 1899.]

The undersigned, by these presents, give and publish our decision determining and judging, touching and concerning, the questions that have been submitted to us by said arbitration; and, in conformity with said arbitration, we decide, declare, and pronounce definitely that the line of frontier of the colony of British Guiana and the United States of Venezuela is as follows:

Starting on the coast at Point Playa, the frontier shall follow a straight line to the confluence of the Barima and the Maruima, thence following the thalweg of the latter to its source. Thence it shall proceed to the confluence of the Haiowa and the Amakuru; thence following

the thalweg of the Amakuru to its source in the Plain of Imataka; thence in a southwesterly direction along the highest ridge of the Imataka Mountains to the site the source at the Barima and the principal chain of the Imataka Mountains; thence in a southeast direction to the source or the Acarabisi.

Following the thalweg of the Acarabisi to the Cuyuni, the northern bank of which it shall follow in a westerly direction to the confluence of the Cuyuni and the Vanamu; thence along the thalweg of the Vanamu to its westernmost source; thence in a straight line to the summit of Mount Roraima; thence to the source of the Cotinga.

From this point the frontier shall follow the thalweg of the Cotinga to its confluence with the Takutu; thence along the thalweg of the Takutu to its source; thence in a straight line to the most western point of the Akarai Mountains, the highest ridge of which it shall follow to the source of the Corentin, otherwise called the Cutari River, whence it will follow the course of the river.

It is stipulated that the frontier hereby delimited reserves and in no way prejudices questions actually existing or that may hereafter arise between Great Britain and the Republic of Brazil, or between the Republic of Brazil and Venezuela. In fixing the above delimitation, the arbitrators consider and decide that, in time at peace, the Rivers Amakura and Barima shall be open to navigation by the merchant shipping of all nations, due reserve being made with regard to equitable regulations and the payment of light dues and other like imposts, on condition that the dues levied by Venezuela and British Guiana on ships traversing the parts of those rivers owned by them respectively shall be imposed in accordance with the same tariff on Venezuelan and British vessels. These tariffs are not to exceed those of all other countries. The award proceeds also upon the condition that neither Venezuela nor British Guiana shall impose any customs duty on goods carried in vessels, ships or boats passing through these rivers, such customs being levied only on goods landed upon Venezuelan territory or on the territory of Great Britain respectively.

(Signed) F. DE MARTENS
 MELVILLE WESTON FULLER
 DAVID J. BREWER
 RUSSELL of Kn.
 R. HENN COLLINS

989. BOUNDARY BETWEEN THE COLONY OF BRITISH GUIANA AND THE UNITED STATES OF VENEZUELA. AWARD OF THE TRIBUNAL UNDER ARTICLE I OF THE TREATY OF ARBITRATION SIGNED AT WASHINGTON ON THE 2ND FEBRUARY, 1897 BETWEEN GREAT BRITAIN AND THE UNITED STATES OF VENEZUELA, DATED THE 3RD OCTOBER, 1899

[3 October 1899]

Whereas, on the 2nd day of February, 1897, a Treaty of Arbitration was concluded between Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland and the United States of Venezuela in the terms following: —

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of Venezuela, being desirous to provide for an amicable settlement of the question which has arisen between their respective Governments concerning the boundary between the Colony of British Guiana and the United States of Venezuela, having resolved to submit to arbitration the question involved, and to the end of concluding a Treaty for that purpose, have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Sir Julian Pauncefote, a Member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of Bath, and of the Most Distinguished Order of St. Michael and St. George, and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States:

And the President of the United States of Venezuela, Senor Jose Andrade, Envoy Extraordinary and Minister Plenipotentiary of Venezuela to the United States of America:

Who having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles: –

ARTICLE I

An Arbitral Tribunal shall be immediately appointed to determine the boundary-line between the Colony of British Guiana and the United States of Venezuela.

ARTICLE II

The Tribunal shall consist of five jurists; two on the part of Great Britain, nominated by the members of the Judicial Committee of Her Majesty's Privy Council, namely, the Right Honourable Baron Herschell, Knight Grand Cross of the Most Honourable Order of Bath, and the Honourable Sir Richard Henn Collins, Knight, one of the Justices of Her Britannic Majesty's Supreme Court of the Judicature; two on the part of Venezuela, nominated, one by the President of the United States of Venezuela, namely, the Honourable Melville Weston Fuller, Chief Justice of the United States of America, and one nominated by the Justices of the Supreme Court of the United States of America, namely, the Honourable David Josiah Brewer, a Justice of the Supreme Court of the United States of America; and of a fifth jurist to be selected by the four persons so nominated, or in the event of their failure to agree within three months from the exchange of ratification of the present Treaty, to be so selected by His Majesty the King of Sweden and Norway. The jurist so selected shall be the President of the Tribunal.

In the case of death, absence, or incapacity to serve of any of the four Arbitrators above named, or in the event of any such Arbitrator omitting or declining or ceasing to act as such, another jurist of repute shall be forthwith substituted in his place. If such vacancy shall occur among those nominated on the part of Great Britain, the substitute shall be appointed by the members for the time being of the Judicial Committee of Her Majesty's Privy Council, acting by a majority, and if among those nominated on the part of Venezuela, he shall be appointed by the Justices of the Supreme Court of the United States, acting by a majority. If such vacancy shall occur in the case of the fifth Arbitrator, a substitute shall be selected in the manner herein provided for with regard to the original appointment.

ARTICLE III

The Tribunal 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-line between the Colony of British Guiana and the United States of Venezuela.

ARTICLE IV

In deciding the matters submitted, the Arbitrators shall ascertain all facts which they deem necessary to the 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 recognise 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.

ARTICLE V

The Arbitrators shall meet at Paris, within sixty days after the delivery of the printed arguments mentioned in Article VIII, and shall proceed impartially and carefully to examine and decide the questions that have been, or shall be, laid before them, as herein provided, on the part of the Governments of Her Britannic Majesty and the United States of Venezuela respectively.

Provided always that the Arbitrators may, if they shall think fit, hold their meetings, or any of them, at any other place which they may determine.

All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall name one person as its Agent to attend the Tribunal, and to represent it generally in all matters connected with the Tribunal.

ARTICLE VI

The printed Case of each of the two Parties accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other Party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding eight months from the date of the exchange of the ratifications of this Treaty.

ARTICLE VII

Within four months after the delivery on both sides of the printed Case, either Party may in like manner deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a Counter-Case, and additional documents, correspondence, and evidence, in reply to the Case, documents, correspondence, and evidence of the other Party.

If in the Case submitted to the Arbitrators either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after delivery of the Case, and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTICLE VIII

It shall be the duty of the Agent of each Party, within three months after the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a printed argument showing the points, and referring to the evidence upon which his Government relies, and either party may also support the same before the Arbitrators by oral argument of Counsel; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by Counsel upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE IX

The Arbitrators may, for any cause deemed by them sufficient, enlarge either of the periods fixed in Articles VI, VII and VIII by the allowance of thirty days additional.

ARTICLE X

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy thereof shall be delivered to the Agent of Great

Britain for his Government, and the other copy shall be delivered to the Agent of the United States of Venezuela for his Government.

ARTICLE XI

The Arbitrators shall keep an accurate record of their proceedings, and may employ the necessary officers to assist them.

ARTICLE XII

Each Government shall pay its own Agent and provide for the proper remuneration of the Counsel appointed by it, and of the Arbitrators appointed by it or in its behalf, and for the expense of preparing and submitting its Case to the Tribunal. All other expenses connected with the Arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE XIII

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

ARTICLE XIV

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of Venezuela, by and with the Congress thereof, and the ratifications shall be exchanged in London or in Washington within six months from the date hereof.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals.

Done in duplicate, at Washington, the second day of February, one thousand eight hundred and ninety-seven.

(L.S) JULIAN PAUNCEFOTE

(L.S) JOSÉ ANDRADE

AND WHEREAS the said Treaty was duly ratified, and the ratifications were duly exchanged in Washington on the 14th day of June, 1897, in conformity with the said Treaty;

AND WHEREAS since the date of the said Treaty, and before the arbitration thereby contemplated had been entered upon, the said Right Honourable Baron Herschell departed this life;

AND WHEREAS the Right Honourable Charles Baron Russell, of Killowen, Lord Chief Justice of England, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, has, conformably to the terms of the said Treaty, been duly nominated by the members of Her Majesty's Privy Council to act under the said Treaty in the place and stead of the late

Baron Herschell;

AND WHEREAS the said four Arbitrators, namely: the said Right Honourable Lord Russell of Killowen, the Right Honourable Sir Richard Henn Collins, the Honourable Melville Weston Fuller, and the Honourable David Josiah Brewer, have, conformably to the terms of the said Treaty, selected His Excellency Frederic de Martens, Privy Councillor, Permanent Member of the Council of the Ministry of Foreign Affairs of Russia, LL.D of the Universities of Cambridge and Edinburgh, to be the fifth Arbitrator;

AND WHEREAS the said Arbitrators have duly entered upon the said arbitration, and have duly heard and considered the oral and written arguments of the Counsel representing respectively Her Majesty the Queen and the United States of Venezuela, and have impartially and carefully examined the questions laid before them, and have investigated and ascertained 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:

Now, we the undersigned Arbitrators do hereby make and publish our decision, determination, and Award of, upon and concerning the questions submitted to us by the said Treaty of Arbitration, and do hereby, conformably to the said Treaty of Arbitration, finally decide, award, and determine that the boundary-line between the Colony of British Guiana and the United States of Venezuela is as follows –

Starting from the coast at Point Playa, the line of boundary shall run in a straight line to the River Barima at its junction with the River Mururuma, and thence along the mid-stream of the latter river to its source, and from that point to the junction of the River Haiowa with the Amakura, and thence along the mid-stream of the Amakura to its source in the Imataka Ridge, and thence in a south-westerly direction along the highest ridge of the spur of the Imataka Mountains to the highest point of the main range of such Imataka Mountains opposite to the source of the Barima, and thence along the main ridge in a south-easterly direction of the Imataka Mountains to the source of the Acarabisi, and thence along the mid-stream of the Acarabisi to the Cuyuni, and thence along the northern bank of the River Cuyuni westward to its junction with the Wenamu, and thence along the mid-stream of the Wenamu to its westernmost source, and thence in a direct line to the summit of Mount Roraima, and from Mount Roraima to the source of the Cotinga, and along the mid-stream of that river to its junction with the Takutu, and thence along the mid-stream of the Takutu to its source, and thence in a straight line to the westernmost point of the Akarai Mountains, and thence along the ridge of the Akarai Mountains to the source of the Corentin called the Cutara River:

Provided always that the line of delimitation fixed by this Award shall be subject and without prejudice to any questions 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 Amakura 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 the Government of the Colony of British Guiana in respect to the passage of vessels along the portions of such rivers respectively owned by them shall be charged at 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 and Great Britain respectively.

Executed and published in duplicate by us in Paris this 3rd day of October, A.D. 1899.

(Signed) F. DE MARTENS
 MELVILLE WESTON FULLER
 DAVID J. BREWER
 RUSSELL of Kn.
 R. HENN COLLINS

990. SEÑOR JOSÉ M. DE ROJAS, VENEZUELAN AGENT BEFORE THE ARBITRAL TRIBUNAL, TO GEN. J. CALCAÑO MATHIEU, VENEZUELAN MINISTER OF FOREIGN AFFAIRS

[4 October 1899]

(Extract)

Things happened in this away. The English arbiters demanded the line of Schomburgk. Mr. de Martens, contrary to all hope, was ready to adhere to the extraordinary British aspiration. The American arbiters receiving the news of the President's resolution, were resolutely opposed to it and they decided to protest publicly against such a verdict. There was a great discussion among the judges; Mr. de Martens proposed as a transaction to the American judges, to consent to a modification on the coastal line so that the Delta del Orinoco should belong exclusively to Venezuela if they accepted the rest. To this they agreed as a duty of conscience; considering the gravity of the case, it would have been worse to allow under protest to strip the Orinoco from Venezuela.

This is the unanimity of which Mr. de Martens was so proud in his speech. The behaviour of Mr. de Martens has been an inexplicable surprise for me, but as I not used to judging other people's actions without having evidence to support my belief, I abstain from judging him. Let it be said that what happened between Mr. de Martens and the American arbiters did not happen in my presence, but was told to me by a reliable source. What we will never be able to know is the reason that Mr. de Martens had to act in such a way. Maybe the revolutionary condition of our country has contributed in some away.

[*Source: Ministry of Foreign Relations, Caracas. Gran Bretaña. Tomo. XLI, pp. 49-50*]

991. LORD RUSSELL, CHIEF BRITISH JUDGE, TO LORD SALISBURY, BRITISH PRIME MINISTER AND SECRETARY OF STATE FOR FOREIGN AFFAIRS

[7 October 1899]

(*Extract*).

He (de Martens) instead of applying that principle rigidly and fearlessly seemed to cast about for lines of compromise and to think that it was his duty above all else, to secure, if he could, a unanimous award. I am sorry to be obliged further to say that he intimated to L. J. Collins in a private interview, while urging a reduction of the British claims, that if we did not reduce them he might be obliged in order to secure the adhesion of the Venezuelan Arbitrators to agree on a line which might not be just to Great Britain. I have no doubt he spoke in an opposite sense to the Venezuelan arbitrators, and fear of possibly a much worse line was the inducement to them to assent to the award in its present shape. However, this may be, I need not say the revelation of Mr. de Martens' state of mind most disquieting.

[*Source: Christ Church College (Oxford). Cecil Papers. Vol. A/94. Doc. No. 2*]

992. SEVERO MALLET-PREVOST, VENEZUELAN COUNSEL BEFORE THE ARBITRAL TRIBUNAL, TO PROFESSOR GEORGE I. BURR

[26 October 1899]

(*Extract*)

The decision was forced upon our Arbitrators, and, in strict confidence, I have no hesitation in saying to you that the British Arbitrators were not swayed by any considerations of right or justice and that the Russian Arbitrator was probably induced to take the stand which he took by considerations entirely foreign to the question. I know this will whet your appetite, but I can do nothing more just at present. The result is in my opinion a blow to Arbitration.

[*Source: Cornell University (Ithaca, New York, USA), George Lincoln Burr Papers. Box 5*]

993. US PRESIDENT WILLIAM McKINLEY'S ANNUAL STATE OF THE UNION MESSAGE TO CONGRESS

[5 December 1899]

(*Extract*)

The International Commission of Arbitration, appointed under the Anglo-Venezuelan treaty of 1897, rendered an award on October 3 last, whereby the boundary line between Venezuela and British Guiana is determined, thus ending a controversy which has existed for the greater part of the century. The award, as to which the arbitrators were unanimous, while not meeting the extreme contention of either party, gives to Great Britain a large share of the interior territory in dispute and to Venezuela the entire mouth of the Orinoco, including Barima Point and the Caribbean littoral for some distance to the eastward. The decision appears to be equally satisfac-

tory to both parties. . .

**994. FORMER AMERICAN SECRETARY OF STATE, MR. RICHARD OLNEY, TO
PRESIDENT GROVER CLEVELAND**

[27 December 1899]

(*Extract*)

I have not seen you since the award in the Venezuelan Boundary Case. Upon his return to New York Mr. Mallet-Prevost, Venezuela's junior counsel, was anxious to tell me how the thing went and why it went as it did. On one of my New York visits I asked him to dine – with the result that he consumed less food than time and that feast was not so much a flow of solid or liquid refreshment as of intense wrath and bitterness of soul at the course and decision of the Arbitral Tribunal. I refrain from going into particulars because no doubt you have already heard them from some other source. The worst result to be feared, apparently, is not the loss of territory to Venezuela but the general discrediting of the cause of arbitration. According to my informant, both the Chief Justice and Brewer are down on arbitration as a mode of settling international disputes unless some new safeguarding of the rights of parties can be provided. Ex-Secretary John W. Foster, with whom I dined here the other day, said Fuller and Brewer had come home pretty sick of arbitration.

[Source: Library of Congress, *Richard Olney Papers*. Vol. 12; pp. 455-457]

**995. LETTER FROM FORMER AMERICAN PRESIDENT BENJAMIN HARRISON TO
WILLIAM E. DODGE, NEW YORK BUSINESSMAN**

[15 January 1900]

(*Extract*)

As to Lord Russell's advice that a judicial spirit be exercised in these matters I have only to say that neither he nor his British associates practiced that good doctrine. I could tell but will not write, some incidents that would surprise you. . .

In controversies between individuals the English courts are conspicuously fair and independent, but when it comes to a question of extending the domain of Great Britain and especially when gold fields are involved it is too much to hope. The decision in the Venezuela case, as a compromise, gave to Venezuela the strategic points but robbed her of a great deal of territory which I do not question would have been given to her by an impartial judicial Tribunal.

[Source: Library of Congress, *Benjamin Harrison. MSS.*, vol. 176, No. 38134-35]

996. LETTER FROM FORMER PRESIDENT GROVER CLEVELAND TO FORMER AMERICAN SECRETARY OF STATE, MR. RICHARD OLNEY
[3 March 1901]

(*Extract*)

Princeton, March 3, 1901.

In reviewing the subject I am surprised to find how mean and hoggish Great Britain really acted; and I like old Mr. Salisbury much less than I did. I have had Mallet Prevost here and am glad to find that Venezuela did pretty well in the arbitration after all, but what a disgusting story he told about the way the award was reached.

[Source: Library of Congress, Grover Cleveland Papers. Vol. 357, fol. 38.199]

997. TREATY AND DECLARATION BETWEEN GREAT BRITAIN AND BRAZIL, FOR REFERRING TO ARBITRATION THE QUESTION OF THE BOUNDARY BETWEEN BRAZIL AND BRITISH GUIANA, SIGNED AT LONDON, 6 NOVEMBER 1901

[6 November 1901]

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, and the President of the United States of Brazil, being desirous to provide for an amicable settlement of the question which has arisen between their respective Governments concerning the boundary between the Colony of British Guiana and the United States of Brazil, have resolved to submit to arbitration the question involved, and, to the end of concluding a Treaty for that purpose, have appointed as their respective Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, the Most Honourable Henry Charles Keith Petty Fitz-Maurice, Marquess of Lansdowne, Earl Wycombe, Viscount Cain and Cainstone, and Lord Wycombe, Baron of Chipping Wycombe, Baron Nairne, Earl of Kerry, and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw, and Dunkerron, a Peer of the United Kingdom of Great Britain and Ireland, a Member of His Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, etc., His Majesty's Principal Secretary of State for Foreign Affairs ;

And the President of the United States of Brazil, Senhor Joaquim Aurelio Nabuco de Araujo, Envoy Extraordinary and Minister Plenipotentiary of Brazil to His Britannic Majesty;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles: —

Art. I. His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, and the President of the United States of Brazil, agree to invite His Majesty the King of Italy to decide as Arbitrator the question as to the above-mentioned boundary.

II. The territory in dispute between the Colony of British Guiana and the United States of Brazil shall be taken to be the territory lying between the Takutu and the Cotinga and a line

drawn from the source of the Cotinga eastward following the watershed to a point near Mount Ayangcanna, thence in a south-easterly direction, still following the general direction of the watershed, as far as the hill called Annai, thence by the nearest tributary to the Rupununi, up that river to its source, and from that point crossing to the source of the Takutu.

III. The Arbitrator shall be requested to investigate and ascertain the extent of the territory which, whether the whole or a part of the zone described in the preceding Article, may lawfully be claimed by either of the High Contracting Parties, and to determine the boundary line between the Colony of British Guiana and the United States of Brazil.

IV. In deciding the question submitted, the Arbitrator shall ascertain all facts which he deems necessary to a decision of the controversy, and shall be governed by such principles of international law as he shall determine to be applicable to the case.

V. The printed Case of each of the two Parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to the Arbitrator, and to the Government of the other Party, within a period not exceeding twelve months from the date of the exchange of the ratifications of this Treaty.

VI. Within six months after the Case shall have been delivered in the manner provided in the preceding Article, either Party may in like manner deliver in duplicate to the Arbitrator and to the Government of the other Party a Counter-Case and additional documents, correspondence, and evidence in reply to the Case, documents, correspondence, and evidence as presented by the other Party.

If in the Case or Counter-Case submitted to the Arbitrator either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Arbitrator, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within forty days after the delivery of the Case or Counter-Case, and the original or copy so requested shall be delivered as soon as may be within a period not exceeding forty days after the receipt of notice.

VII. Within four months after the expiration of the time fixed for the delivery of the Counter-Case on both sides, each Party shall deliver in duplicate to the Arbitrator and to the Government of the other Party a printed Argument showing the points and referring to the evidence upon which each Government relies; and the Arbitrator may, if he desires any further elucidation with regard to any point in the Argument of either Party, require a further written or printed statement or argument upon it; but in such case the other Party shall be entitled to reply by means of a similar written or printed statement or argument.

VIII. The Arbitrator may, for any cause deemed by him sufficient, extend the periods fixed by Articles V, VI, and VII, or any of them, by the allowance of thirty days additional.

IX. The High Contracting Parties agree to request that the decision of the Arbitrator may, if possible, be made within six months of the delivery of the Argument on both sides.

They further agree to request that the decision may be made in writing, dated, and signed, and that it may be in duplicate; one copy to be handed to the Representative of Great Britain for his Government, and the other copy to be handed to the Representative of the United States of Brazil for his Government.

X. The High Contracting Parties engage to accept the decision pronounced by the Arbitrator as a full, perfect, and final settlement of the question referred to him.

XI. The High Contracting Parties agree that the Indians and other persons living in any portion of the disputed territory, which may by the award of the Arbitrator be assigned either to the Colony of British Guiana or to the United States of Brazil shall, within eighteen months of the date of the award, have the option of removing into the territory of Brazil or of the Colony, as the case may be, themselves, their families, and their movable property, and of freely disposing of their immovable property, and the said High Contracting Parties reciprocally undertake to grant every facility for the exercise of such option.

XII. Each Government shall provide for the expense of preparing and submitting its Case. Any expenses connected with the arbitral proceedings shall be defrayed by the two Parties in equal moieties.

XIII. The present Treaty, when duly ratified, shall come into force immediately after the exchange of ratifications, which shall take place in the city of Rio de Janeiro within four months from this date, or sooner if possible.

IN FAITH WHEREOF WE, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals.

DONE in duplicate at London, the 6th day of November, 1901.

[Legal Seal] LANSDOWNE.

[Legal Seal] Joaquim NABUCO.

DECLARATION

The Plenipotentiaries on signing the foregoing Treaty declare, as part and complement of it and subject to the ratification of the same, that the High Contracting Parties adopt as the frontier between the Colony of British Guiana and the United States of Brazil the watershed line between the Amazon basin and the basins of the Corentyne and the Essequibo from the source of the Corentyne to that of the Rupununi, or of the Takutu, or to a point between them, according to the decision of the Arbitrator.

[Legal Seal] LANSDOWNE

[Legal Seal] Joaquim NABUCO

998. AWARD OF HIS MAJESTY THE KING OF ITALY WITH REGARD TO THE BOUNDARY BETWEEN THE COLONY OF BRITISH GUIANA AND THE UNITED STATES OF BRAZIL. GIVEN AT ROME, JUNE 6, 1904

[6 June 1904]

Détermination de l'étendue du territoire qui peut être à bon droit réclamée par quelqu'une des deux Parties, et fixation de la ligne frontière entre la colonie de la Guyane anglaise et des Etats-

Unis du Brésil—Application à l'affaire de certains principes du droit international régissant l'acquisition de la souveraineté sur un territoire *nullius*.*

We, Victor Emmanuel, by the grace of God and the will of the people, King of Italy, Arbitrator in the matter of deciding the question of the frontier between British Guiana and Brazil.

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, and the President of the United States of Brazil, having, in the Treaty concluded between them in London on the 6th November, 1901, decided to invite Us as Arbitrator, to settle the question of the frontier of British Guiana and Brazil, We have accepted the task of defining the limits of the frontier.

The High Contending Parties having undertaken, in the above-mentioned Treaty which was ratified at Rio de Janeiro on the 28th January, 1902, to accept our arbitral decision as a complete, perfect, and definitive settlement of the question referred to Us, We, wishing to act in a manner corresponding to the trust reposed in Us by the said Parties, have examined carefully all the memoranda and all the documents produced to Us, and have weighed and duly considered the reasons on which each of the High Contracting Parties founds its claim.

Having taken due note of everything, We have considered: —

That the discovery of new channels of trade in regions not belonging to any State cannot by itself be held to confer an effective right to the acquisition of the sovereignty of the said regions by the State whose subjects the persons who in their private capacity make the discovery may happen to be;

That to acquire the sovereignty of regions which are not in the dominion of any State, it is indispensable that the occupation be effected in the name of the State which intends to acquire the sovereignty of those regions;

That the occupation cannot be held to be carried out except by effective, uninterrupted, and permanent possession being taken in the name of the State, and that a simple affirmation of rights of sovereignty or a manifest intention to render the occupation effective cannot suffice;

That the effective possession of a part of a region, although it may be held to confer a right to the acquisition of the sovereignty of the whole of a region which constitutes a single organic whole, cannot confer a right to the acquisition of the whole of a region which, either owing to its size or to its physical configuration, cannot be deemed to be a single organic whole *de facto*:

That consequently, all things duly considered, it cannot be held that Portugal in the first instance, and Brazil subsequently have effectively taken possession of all the territory in dispute, but that it can only be recognized that they have possession of some places in the same, and have there exercised their sovereign rights.

On the other hand, We have had under our consideration —

That the arbitral Judgment of the 3rd October, 1899, delivered by the Anglo-American Tribunal, which, when deciding the boundary between Great Britain and Venezuela, adjudged to the former the territory which constitutes the subject of the present dispute, cannot be cited against Brazil, which was unaffected by that Judgment;

That, however, the right of the British State as the successor to Holland, to whom the Colony belonged, is based on the exercise of rights of jurisdiction by the Dutch West India Company, which, furnished with sovereign powers by the Dutch Government, performed acts of sovereign authority over certain places in the zone under discussion, regulating the commerce carried on

for a long time there by the Dutch, submitting it to discipline, subjecting it to the orders of the Governor of the Colony, and obtaining from the natives a partial recognition of the power of that official;

That like acts of authority and jurisdiction over traders and native tribes were afterwards continued in the name of British sovereignty when Great Britain came into possession of the Colony belonging to the Dutch;

That such effective assertion of rights of sovereign jurisdiction was gradually developed and not contradicted, and, by degrees, became accepted even by the independent native tribes who inhabited these regions, who could not be considered as included in the effective dominion of Portuguese, and later on of Brazilian, sovereignty;

That in virtue of this successive development of jurisdiction and authority the acquisition of sovereignty on the part of Holland first, and Great Britain afterwards, was effected over a certain part of the territory in dispute;

That it does not appear from the documents produced to Us, which have been weighed and duly considered, that there are historical and legal claims on which to found thoroughly determined and well-defined rights of sovereignty in favour of either of the contending Powers over the whole territory in dispute, but only over certain portions of the same;

That not even the limit of the zone of territory over which the right of sovereignty of one or of the other of the two Parties may be held to be established can be fixed with precision;

That it cannot either be decided with certainty whether the right of Brazil or of Great Britain is the stronger.

In this condition of affairs, since it is our duty to fix the line of frontier between the dominions of the two Powers, We have come to the conclusion that, in the present state of the geographical knowledge of the region, it is not possible to divide the contested territory into two parts equal as regards extent and value, but that it is necessary that it should be divided in accordance with the lines traced by nature, and that the preference should be given to a frontier which, while clearly defined throughout its whole course, the better lends itself to a fair decision of the disputed territory.

For these reasons, We decide: –

The frontier between British Guiana and Brazil is fixed by the line leaving Mount Yakontipu; it follows eastwards the watershed as far as the source of the Ireng (Mahu); it follows the downward course of that river as far as its confluence with the Takutu; it follows the upward course of the Takutu as far as its source, where it joins again the line of frontier determined in the Declaration annexed to the Treaty of Arbitration concluded in London by the High Contending Parties on the 6th November, 1901.

In virtue of this declaration every part of the zone in dispute which is to the east of the line of frontier shall belong to Great Britain, and every part which is to the west shall belong to Brazil.

The frontier along the Ireng (Mahu) and Takutu is fixed at the “thalweg” and the said rivers shall be open to the free navigation of both conterminous States.

Wherever the watercourse may be divided into more than one branch, the frontier shall follow the “thalweg” of the most eastern branch.

GIVEN at Rome on the 6th June, 1904.

VICTOR EMMANUEL

[**Translation: Determination of the extent of territory which may be rightfully claimed by any of the two Parties, and fixing the boundary line between the colony of British Guiana and the United States of Brazil – Application to the case of some principles of international law governing the acquisition of sovereignty over a territory owned by no one.]*

999. AGREEMENT BETWEEN THE BRITISH AND VENEZUELAN BOUNDARY COMMISSIONERS WITH REGARD TO THE MAP OF THE BOUNDARY

[10 January 1905]

(Published as Sessional Paper No. 266 of the Combined Court [of British Guiana], Annual Session, 1905)

In the City of Georgetown, Capital of the Colony of British Guiana, on the tenth (10th) day of the month of January 1905, met together Harry Innes Perkins, Companion of the Imperial Service Order of His Majesty King Edward VII, and Senior Commissioner of the Boundary Commission of the Colony with the Republic of Venezuela; Charles Wilgress Anderson, Second Commissioner of the same Colony; Doctor Abraham Tirado, Civil Engineer of the United States of Venezuela and Chief of the Boundary Commission between that Republic and the Colony of British Guiana; and Doctor Elias Toro, Surgeon Doctor of the Illustrious Central University of Venezuela, and Second Commissioner on behalf of that aforesaid Republic, with the object of stating in this Agreement the results of their work in the demarcation of the Boundary between the territories, and

1st. Whereas the credentials which authorise them as lawful Representatives of their respective Governments have been regularly presented and accepted in conformity with the powers thereby conferred, and

2nd. Whereas the journey has been accomplished from the Akarabisi River to Roraima Mountain, and all the Astronomical, Geodesical, and Topographical observations at all the most important points along the Boundary line, as laid down by the Arbitral Award given in Paris on 3rd October, 1899, were taken during the same journey; and

3rd. Whereas the special instructions given to both Commissioners impose upon them for sake of greater clearness, the necessity of stating on a General Map of the Boundary, the results of the work done whereon can be seen all the details; and

4th. Whereas both Governments ought to possess authentic documents of like tenure which set forth their respective rights in the territory which has been demarcated, they agree and declare: – 1st. That they regard this Agreement as having a perfectly official character with respect to the acts and rights of both Governments in the territory demarcated; that they accept the points mentioned below as correct, the result of the mean of the observations and calculations made by both Commissioners together or separately, as follows:—

N. Latitude

Longitude W. of
Greenwich

Akarabisi River Head	7° 08' 27.7"	60° 20' 51.1"
Akarabisi River Mouth	6° 55' 47.1"	60° 22' 01.7"
Camp No. 3	6° 55' 28.9"	60° 39' 12.8"
Camp No. 4 Awatabaru	6° 47' 04.8"	60° 46' 36.3"
Ekereku River Mouth	6° 43' 02.8"	60° 56' 23.7"
Wenamu River Mouth	6° 42' 40.9"	61° 08' 00.7"
Pathawaru, Wenamu River	6° 26' 02.3"	61° 07' 54.1"
Arawai Fall	6° 19' 36.5"	61° 09' 22.1"
Tshuau Village	6° 11' 45.8"	61° 07' 22.1"
Kuru Falls	6° 03' 42.5"	61° 16' 46.6"
Dead Man's Camp	5° 58' 06"	61° 22' 55.7"
Westernmost source	5° 56' 55.4"	61° 23' 24.7"
Paruima River Camp	5° 51' 01.7"	61° 03' 08.1"
Kamarang River Camp	5° 43' 27.2"	61° 04' 13.5"
Arriwa Matai	5° 36' 35"	61° 21' 15.3"
Yuranni River	5° 11' 00"	60° 58' 36.5"
Kamaiwawong Village	5° 06' 11.1"	60° 47' 45.3"
Boundary Mark Mt. Roraima	5° 10' 09.6"	60° 45' 58.2"

2nd. That the two maps mentioned in this Agreement, signed by both Commissioners, are exactly the same, one for the Government of His Britannic Majesty, and the other for that of Venezuela, containing all the enumerated details related to the demarcation, with the clear specification of the Boundary line according with the Arbitral Award of Paris.

3rd. That they sign in their own handwriting four copies of this Agreement, two in the English and two in the Spanish language, to be delivered one copy in each language, to their respective Governments.

(Signed) C. Wilgress Anderson (Signed) Elias Toro
Junior Boundary Commissioner