PRINCIPLES OF INTERNATIONAL LAW IN THE BRITISH GUIANA-VENEZUELAN BOUNDARY CONTROVERSY, 1841-1897, WITH REFERENCE TO THE ACQUISITION OF TERRITORY AND TO THE MONROE DOCTRINE

PRINCIPLES OF INTERNATIONAL LAW IN THE BRITISH GUIANA-VENEZUELAN BOUNDARY CONTROVERSY, 1841-1897, WITH REFERENCE TO THE ACQUISITION OF TERRITORY AND TO THE MONROE DOCTRINE

By

CLAUDE BYRAM CROSS

Bachelor of Arts

Oklahoma Agricultural and Mechanical College

Stillwater, Oklahoma

1940

Submitted to the Department of Political Science

Oklahoma Agricultural and Mechanical College

In Partial Fulfillment of the Requirements

for the Degree of

MASTER OF ARTS

1949

APPROVED BY:

G B Hawkins
Chairman, Thesis Committee

P R Olgesby
Member of the Thesis Committee

G B Hawkins
Head of the Department

O. C. McIntosh
Dean of the Graduate School

PREFACE

This thesis is a study of the principles of international law which have to do with the acquisition of territory. The scope of this study has been restricted to the application of these principles in the British Guiana-Venezuelan boundary controversy. The principle of the Monroe doctrine of the United States, and its relation to this dispute and the law of nations are necessarily included.

It is the intention of the author, to show that the principles of international law, involved in this study, have to do with the historical background of the general area in which the dispute was centered. The symbolic acts of the individual nations concerned and their general practices of territorial acquisition, as set forth in a study by A. S. Keller, O. J. Lissitzyn, and Frederick J. Mann, entitled "Creation of Rights of Sovereignty through Symbolic Acts, 1400-1800," have formed the basis for the conclusions of the author in regard to the adjudication of this dispute.

I now wish to acknowledge my sincere appreciation to Professor Roscoe R. Oglesby of the Political Science Department of Oklahoma Agricultural and Mechanical College, for his patience, counsel, and guidance in the preparation of this work.

I am also indebted to Dr. Glen E. Hawkins, Head of the Department of Political Science, Oklahoma Agricultural and Mechanical College, and to the other members of his staff for their guidance and assistance, which has enabled me to further evaluate the many forces of political

science used by the nations involved in the Venezuelan Controversy.

Finally, I wish to thank the University of Illinois and the University of Missouri for making available certain primary source materials which formed the foundation in the facts of this thesis.

C. D. C.

VENEZUELAN–BRITISH GUIANA*
BOUNDARY DISPUTE

* Henry James, Richard Olney and his Public Service,
Map opposite p. 95

TABLE OF CONTENTS

HISTORICAL REVIEW OF THE BRITISH GUIANA-VENEZUELAN BOUNDARY CONTROVERSY, 1841-1897

Considerations of morality do not often affect the relations between nations. More often, political power is the determining factor in points at issue. Boundary disputes present the fullest opportunities for nations to use political power to gain their ends. The stronger nations attempt to avoid the arbitration courts, where the award may conceivably not be to their advantage. The weaker nations strive by all means to present the dispute at hand to such a court; to prevent the stronger nation from using force against them and to gain an equitable decision.

One of these unhappy national boundary disputes, between the kingdom of Great Britain and the South American republic of Venezuela, involving the boundary-line separating Venezuela from the English colony of British Guiana, which adjoins Venezuela on the east, illustrates the truth of the above paragraph.[1]

The declaration of independence in 1810 by Venezuela from Spain; the subsequent forming of the old Colombian federal union, recognized by the United States in 1822; and the final formation of the Venezuelan Republic in 1836, with immediate recognition by the United States and other powers, followed belatedly with formal recognition by Spain in 1845, did not give Venezuela a definite boundary. Spain's recognition consisted of ceding to Venezuela by treaty the territory which as an

---

[1] Grover Cleveland, The Venezuelan Boundary Controversy, pp. 1-3.

independent republic Venezuela had actually owned and occupied since 1810. Neither in this treaty nor in any other mention of the republic, were its boundaries described with more definiteness than as being "the same as those which marked the ancient vice-royalty and captaincy-general of New Granada and Venezuela in the year 1810."[2]

Great Britain gained its title to the colony of Guiana from Holland in 1814, by a treaty in which the territory was described as "the Cape of Good Hope and the establishments of Demerara, Essequibo, and Berbice."[3] No boundaries of those settlements or "establishments" were given in the treaty, nor does it appear that any such boundaries were ever defined to the date of the dispute.

Since both British Guiana and Venezuela lacked definite boundaries at the time of possession by both Great Britain and Venezuela, recourse to the ancient Spanish and Dutch records appeared to offer a solution to this difficulty between two friendly nations. These ancient records of the Dutch and Spanish were indefinite and confusing. Too, most of the disputed territory lay in the little known back areas two to four hundred miles inland from Demerara.[4]

In 1840 England sent an engineer named Sir Robert Schomburgk to run a boundary line between the two countries. The existence of this survey was first noted by Senor A. Fortique, the Venezuelan minister

---

[2] General G. Blanco, Letter to Earl Granville, December 30, 1884, Parliamentary Papers, vol. XCVII, C. 7972, p. 323.

[3] British and Foreign State Papers, vol. II, 1814, Convention Between the Netherlands and Great Britain, August 13, 1814, pp. 370-378.

[4] George L. Burr, United States Commission on the Boundary Between Venezuela and British Guiana, vol. I, pp. 354-406.

to Great Britain, on October 5, 1841. In a note to Lord Aberdeen, Principal Secretary of State for Foreign Affairs, he reminded him that a proposal made by Venezuela on the 28th of January, 1841, for joint action in the matter of fixing a divisional boundary still awaited the action of Great Britain, he wrote the following:

> The Honorable Earl of Aberdeen may now judge of the surprise of the Government of Venezuela upon learning that in the territory of the Republic a sentry-box has been erected upon which the British flag has been raised. The Venezuelan Government is in ignorance of the origin and purport of these proceedings, and hopes that they may receive some satisfactory explanation of this action. In the meantime the undersigned, in compliance with the instructions communicated to him, urges upon the Honorable Earl of Aberdeen the necessity of entering into a treaty of boundaries as a previous step to the fixation of limits, and begs to ask for an answer to the above mentioned communication of January 28.[5]

Lord Aberdeen in his reply stated that the Schomburgk survey demarcation was merely a survey of preliminary nature to be used as a basis for further discussion between the two governments. He also denied the establishment of any sentry boxes along the survey line, but did admit that Sir Robert Schomburgk planted boundary posts along the line. This note of October 21, 1841, of Lord Aberdeen, further proposed that should a treaty be necessary for setting up a satisfactory boundary, the treaty should follow rather than precede the operation of the survey.[6]

The posts set up by the Schomburgk survey were removed in 1842, after the Venezuelan government insisted upon their removal. The removal of the posts quieted matters down for a time. However, in 1844, the

---

[5] Cleveland, op. cit., pp. 5-6.

[6] Ibid., p. 7.

Venezuelan minister again proposed that the two countries make arrangements for settling their boundary difficulties and concluded his note with the claim by Venezuela to all territory lying west of the Essequibo River. This claim was considered by most authorities as being extravagant and a diplomatic error, since Venezuela, instead of showing a desire to negotiate, gave that opportunity to Great Britain. Great Britain's reply to this note was a proffer of a boundary which would be satisfactory to Great Britain and which was described in detail. This proposed boundary included far more than the area taken in by the Schomburgk line, but did give Venezuela certain coastal areas from the mouth of the Moroco River to the Orinoco River. This boundary line was not acceptable to Venezuela. Shortly after this exchange of notes, the Venezuelan minister died.[7]

A period of internal disorder and revolution in Venezuela, left that country for a time in no condition to pursue her desire to have a definite boundary on the east. Further, Great Britain seemed to acquiesce in allowing these negotiations to remain in abeyance.[8] During the interval from 1844 to 1876 there were some border incidents; relations became strained between the two countries. An exchange of notes in 1850 affirmed the fact that neither country would tolerate the encroachment by the other upon any of the disputed territory, and both countries firmly stated that it was not their intention to encroach.[9]

---

[7] Ibid., pp. 15-16.

[8] Grover Cleveland, Presidential Problems, pp. 186.

[9] Palmerston, Letter to Mr. Wilson, June 15, 1850, Parliamentary Papers, vol. XCVII, C. 7972, pp. 259-260.

In 1877, thirty-six years after her first attempt, Venezuela again tried to renew arbitration to settle the boundary dispute. Lord Derby, then British Foreign Minister, delayed a definite reply to the Venezuelan minister while awaiting the arrival of the Governor of British Guiana. Two years later, in May of 1879, the Venezuelan representative addressed a note to Lord Salisbury, who had succeeded Lord Derby to the post of Foreign Minister. This note mentioned the fact that the previous communication still remained unanswered and repeated the alternative proposition made by him in February, 1877, in these words:

> The boundary treaty may be based either on the acceptance of the line of strict right as shown by the records, documents, and other authoritative proofs which each party may exhibit, or on the acceptance at once by both Governments of a frontier of accomodation which shall satisfy the respective interests of the two countries.[10]

The Venezuelan minister concluded his note with the statement that should the Government of Great Britain prefer the settlement on the basis of a frontier of convenience, then some arrangement should be made to eliminate further difficulties and Venezuela would be glad to accept a demarcation which would satisfy as far as possible the interests of the Republic. Further, he stated that the discovery of gold within the disputed region gave more importance to the region and that "something will have to be done to prevent this question from pending any longer."[11]

At this time, England's most extreme claims were indicated either

---

[10]Rojas, Letter to Marquis of Salisbury, May 19, 1879, Parliamentary Papers, vol. XCVII, C. 7972, pp. 293-294.

[11]Ibid., p. 294.

by the Schomburgk line or by the line which Lord Aberdeen suggested in 1844 as a concession. Undoubtedly the Venezuelan minister expected a concession of some kind from the claims already made by Great Britain, since he had already offered to concede a portion of the claim made by Venezuela. The answer he received conceded nothing. After a delay of nearly eight months in January, 1880, Lord Salisbury, then Foreign Secretary, replied, asserting claim to a large extent of territory beyond the Schomburgk line. He also added that Great Britain would waive a portion of what she considered to be her "strict rights" if Venezuela would renew negotiations in a similar spirit.[12] Lord Salisbury proposed that Venezuela make a proposal as to the location of the boundary, thereby failing to honor the request of the Venezuelan minister. In answer to Lord Salisbury's note, on the twelfth of April, 1880, the Venezuelan minister, stated that he had received specific instructions from his government for the arrangement of the difficulty, by abandoning the ground of strict right, and concurring in the adoption for both countries of a frontier mutually convenient. He inquired also whether Her Britannic Majesty's Government was disposed as it was in 1844, to accept the mouth of the Moroco as the frontier at the coast. To this, Lord Salisbury replied that the Attorney General of British Guiana was soon expected in England and that he would prefer to delay the discussion until his arrival.[13]

---

[12] Parliamentary Papers, vol. XCVII, C. 7972, p. 295, and map opposite page 413; also Cleveland, Presidential Problems, pp. 197-198.

[13] Rojas, Letter to Lord Salisbury, dated April 12, 1880, Parliamentary Papers, vol. XCVII, C. 7972, p. 296.

The true nature of the diplomatic relations of a nation strong in political power, "Mistress of the Seas," and holder of a large colonial empire, can be seen. Where such a nation is dealing with a lesser, weaker nation, the strong nation's fiat is law.

Five months later, September 23, 1880, the Venezuelan minister sent another note to the Foreign Minister, calling to his attention the note of April 12, 1880, which as yet had not been answered, and pointing out that since the Attorney General of British Guiana was evidently not going to arrive, the questions at hand would best be decided by themselves. In 1881, Lord Granville who had replaced Lord Salisbury, replied to both notes and rejected without explanation, the offer of the mouth of the Moroco River as the divisional boundary on the coast. This note was followed by an additional offer from the Venezuelan minister which would have extended the boundary one mile west of the mouth of the Moroco, "the maximum of all concessions which in this matter the Government of Venezuela can grant by way of friendly arrangement."[14] In view of the consideration which the past offers on the part of the Venezuelan Government had received, the Venezuelan minister in the second note suggested that in the event the British Government did not accept the new proposal for the boundary, the matter be determined on the basis of strict right. Since it would be impossible for them to agree, his government had instructed him to urge upon Great Britain the submission of the question to an arbitrator, to be chosen by both parties, to whose award both governments should submit. The reply of Lord Granville, not

---

[14]Rojas, Letter to Lord Granville, dated February 21, 1881, Parliamentary Papers, vol. XCVII, C. 7972, pp. 298-299.

made until September of 1881, rejected the second boundary proposal, offered a new boundary proposal lacking almost every feature of concession; and did not allude in any way to the Venezuelan request for arbitration.[15] The boundary proposed by Lord Granville was apparently not acceptable to the Venezuelan Government since his note was never answered. While the Venezuelan minister continually stated that the matter was under active consideration, it was found that in the same year a grant had been made by Venezuela, which included a large portion of the territory in dispute. This was a breach by Venezuela of the Agreement of 1850. Warning was summarily given to the Venezuelan Government and to the concessionaires and an official sent into the occupied district of the disputed region to "assert" the British rights.[16]

After much manoeuvering on the part of Venezuela, to get the boundary dispute before a committee of arbitration, and much manoeuvering on the part of Great Britain to avoid this, Great Britain attempted to get Venezuela so involved in the settlement of other difficulties, that the boundary dispute must be settled by and between themselves as a preliminary step to arranging for the settlement of other matters. The climax was soon reached in the statement of the Venezuelan minister that the bar to cession of a part of Venezuelan territory which was well supported as a part of Venezuelan territory, was the constitutional provision prohibiting the alienation or cession of any part of the territory

---

[15] Lord Granville, Letter to Senor de Rojas, dated September 15, 1881, Parliamentary Papers, vol. XCVII, C. 7972, pp. 299-300.

[16] Lord Salisbury, Letter of Lord Salisbury to Sir Julian Pauncefote, dated November 26, 1895, Number 190, Foreign Relations, Part I, 1895, pp. 567-576.

of the republic; however, cession as a result of arbitration would eliminate the difficulty. The reply by Great Britain on February 29, 1884, was to the effect that the constitutional bar of the Venezuelan constitution might be invoked to reject the results of arbitration, also, that should the decision be in favor of Venezuela to the full extent of their claim, "a large and important territory which has for a long period been inhabited and occupied by Her Majesty's subjects and treated as a part of the Colony of British Guiana would be severed from the Queen's dominions."[17]

At this point it is well to consider the reasoning behind the exchange of notes on the part of the two countries. First, Venezuela would gladly consent to arbitration, since she was the weaker and thus could expect more justice at the hands of an arbitration tribunal, and secondly, she would be glad to submit to arbitration in the hope that a possible war, in which she was certain to be the loser, could be avoided. Great Britain, on the other hand, by unrestricted use of her political power, could dominate and force Venezuela under the threat of war, to accede to her demands. Whereas, if she was forced to submit to arbitration, she might lose the award and, to quote Lord Granville, "a large and important territory which has for a long period of time been inhabited and occupied by Her Majesty's subjects and treated as a part of the Colony of British Guiana would be severed from the Queen's dominions."[18] Great Britain's reasoning on this matter can best be

---

[17]Lord Granville, to Colonel Mansfield, February 29, 1884, Parliamentary Papers, vol. XCVII, C. 7972, pp. 309-310.

[18]Lord Granville, loc. cit.

justified on the basis of power politics, certainly not on the grounds of morality. The disputed territory had not been treated as a part of British Guiana by Venezuela, but from Lord Granville's statement above apparently had been by Great Britain. This in itself constituted a breach of the Agreement of 1850 regarding encroachment.[19]

In 1886, Lord Salisbury, then Prime Minister of the British Government, made an announcement which was similar to a declaration that Great Britain would consider nothing on her side of the Schomburgk line as open to discussion any longer.[20] Venezuela interpreted this as implicitly sanctioning the British settlements up to the Schomburgk line. England was accused of discarding the Agreement of 1850, by which she had undertaken to avoid settling the disputed territory and Venezuela severed diplomatic relations with Great Britain in 1887. The break continued until after 1895.

In 1895, Mr. Adee reported that the British Colonial Office List and the Statesmen's Year Book had enlarged their estimates of the area of British Guiana by some 33,000 square miles between 1884 and 1886.[21]

During the period from 1890 to 1893, although diplomatic relations had been severed between the two countries, Venezuela tried more than once through representations to Great Britain to have the boundary question put to arbitration. In 1890, Senor Urbaneja attempted to renew diplomatic relations, and Great Britain laid down, as prerequisite, that Venezuela accept British title to all the territory which was within the

---

[19]Cleveland, op. cit., pp. 211; also Foreign Relations, Part I, 1395, Letter of Mr. Olney to Mr. Bayard, dated July 20, 1895, Number 804, p. 561.

[20]Parliamentary Papers, vol. XCVII, C. 7972, p. 372.

[21]Adee, to Bayard, July 24, 1895, Foreign Relations, Part I, 1895, p. 562.

Schomburgk line of 1841.[22] Senor Pulido's Memorandum to the Foreign Office of June 24, 1890, a proposal for arbitration of this dispute as well as a request to renew diplomatic relations with Great Britain, was thus refused at Lord Salisbury's direction on July 24, 1890: "Her Majesty's Government have more than once explained that they cannot consent to submit to arbitration what they regard as their indisputable title to districts in the possession of the British Colony."[23]

In all instances, the requests of Venezuela were refused. How the breach widened between the two countries is shown by the answer of the Venezuelan representative to the final rejection of arbitration by Great Britain. He regretted that this dispute must remain unsettled and subject to the serious disturbances of force and declared that Venezuela would never consent to proceedings of the nature of force being accepted as title-deeds to justify the arbitrary occupation of territory which was within the Venezuelan jurisdiction.[24]

Meanwhile since 1877, when Mr. Fish, (then United States Secretary of State), had received the first note from the Venezuelan Minister apprising him of the desire of Venezuela for settlement of this boundary dispute, the United States had been keeping a watchful eye upon the affairs to the south, between Great Britain and Venezuela. President

---

[22]Foreign Office, to Senor Urbaneja, February 13, 1890, Parliamentary Papers, vol. XCVII, C. 7972, p. 413-414.

[23]Ibid., p. 422-423.

[24]Michelena, to the Earl of Roseberry, September 29, 1893, Parliamentary Papers, vol. XCVII, C. 7972, pp. 437-442.

Cleveland said later, "The appeals of Venezuela for help stimulated by allegations of constantly increasing English pretensions, were incessantly ringing in our ears."[25]

In 1887, the Secretary of State of the United States, Mr. Bayard made a formal offer of mediation and arbitration. Lord Salisbury declined this offer on the grounds that the attitude of General Guzman Blanco precluded the submitting of this question to the arbitration of any third power and further that an additional offer of arbitration of this dispute had already been refused on these same grounds.[26] Lord Salisbury also stated at this time that he had not given up hope that the matter could be settled by recourse to direct diplomatic negotiations.[27] The direct diplomatic negotiations referred to by Lord Salisbury were first, the renewal of diplomatic relations with Venezuela, and second, as the terms of renewal, Great Britain wanted Venezuela to acknowledge that the area lying to the east of the Schomburgk line was no longer open to discussion and was now a part of British Guiana. This memorandum of Lord Salisbury of 1890 was rejected by Senor Urbaneja of Venezuela, as was an additional proposal of similar nature rejected by Great Britain in 1893.[28]

The dispute was in this stalemate in 1894, when Cleveland returned to office for the second time. In his annual message to Congress

---

[25] Ibid., p. 247.

[26] Phelps to Salisbury, February 8, 1887; Salisbury to Phelps, February 22, 1887, Parliamentary Papers, vol. XCVII, C. 7926, pp. 1,2.

[27] Ibid., loc. cit.

[28] Parliamentary Papers, vol. XCVII, C. 7972, pp. 410-444.

on December 3, 1894, Cleveland brought matters to a head as follows:

> The boundary of British Guiana still remains in dispute between Great Britain and Venezuela. Believing that its early settlement on some just basis alike honorable to both parties, is in the line of our established policy to remove from this hemisphere all causes of difference with powers beyond the sea, I shall renew the efforts heretofore made to bring about a restoration of diplomatic relations between the disputants and to induce a reference to arbitration, a resort which Great Britain so conspicuously favors in principle and respects in practice and which is earnestly sought by her weaker adversary.[29]

Following the President's message, on February 20, 1895, Congress passed a joint resolution recommending the President's suggestion of friendly arbitration to both countries.[30] Again upon the presentation of the good offices of the United States, Great Britain, through Lord Kimberly, stated that she was ready to go to arbitration as to a certain portion of the territory, but she could not consent to any departure from the Schomburgk line.[31]

These acts are the first steps of imperialism on the part of the United States in maintaining for itself a sphere of influence in this dispute. The refusal on the part of Great Britain to submit the dispute to arbitration in the face of the President's message and the resolution of Congress, made it evident that the doctrine by which the United States' sphere of influence was maintained, would soon be violated.

Mr. Richard Olney was appointed Secretary of State in June, 1895,

---

[29]Cleveland, Message of the President, December 3, 1894, House Executive Documents, 53rd Congress, Session III, 1894-1895, vol. I, p. x.

[30]United States Statutes at Large, vol. XXVIII, 53rd Congress, 1893-1895, Session III, Resolution 17, p. 971.

[31]Kimberly to Pauncefote, February 23, 1895, Parliamentary Papers, vol. XCVII, C. 7926, p. 5.

following the death of Mr. Gresham. Promptly at the request of President Cleveland, he prepared a communication for presentation to the British Government, detailing the progress and incidents of the controversy and setting forth the origin of the Monroe Doctrine, demonstrating the interest of the United States in the controversy because of its relation to that doctrine, and requesting Great Britain to join Venezuela in submitting their contested claims to the entire territory in dispute to arbitration.[32]

When Lord Salisbury received Olney's dispatch from Bayard, he delayed his reply on the grounds that it raised questions on which he must consult the law officers of the Crown before answering. Further, he disregarded the intimation with which the dispatch closed, i. e., that should Great Britain's answer not be favorable to arbitration it was the intention of the President to lay the whole subject before Congress in his next annual message.[33] Salisbury's reply was not made until a few days before the December message of the President to Congress. The reply fell into two parts, one dealing with the Monroe Doctrine, and the other with the Venezuelan boundary.[34] After receipt of Salisbury's reply, which was as demanding in manner as that of Mr. Olney to Lord Salisbury, President Cleveland carefully analyzed the reply and the refusal of Great Britain to submit that portion of the

---

[32] Cleveland, op. cit., pp. 256-261; Mr. Richard Olney, Letter to Mr. Bayard, dated July 20, 1895, Foreign Relations, Part I, 1895, pp. 545-562.

[33] Id., pp. 562.

[34] Lord Salisbury, to Sir J. Pauncefote, dated November 26, 1895, Foreign Relations, 1895, Part I, pp. 563-576.

disputed territory east of the Schomburgk line to arbitration and concluded that, whatever else it accomplished, it seemed absolutely to destroy any hope we might have entertained that, in our changed position in the controversy and upon our independent solicitation, arbitration might be conceded to us.[35]

Mr. Olney's dispatch and Lord Salisbury's reply were submitted to Congress on December 17, 1895, together with the Presidential Address. In this message after discussing the reply of Lord Salisbury, President Cleveland declared:

> Without attempting extended argument in reply to these positions it may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life, and can not become obsolete while our Republic endures. If the balance of power is justly a cause for jealous anxiety among the governments of the old world, and a subject for our absolute noninterference, none the less is an observance of the Monroe doctrine of vital concern to our people and their Government.[36]

The President further declared that from the correspondence the proposition of arbitration had been declined upon grounds which were unsatisfactory, so far as he was concerned, and then called upon the Congress of the United States to make an adequate appropriation to cover the expense of a unilateral commission of the United States to determine the true extent of the division line between the two countries and then concluded his message:

---

[35] Cleveland, op. cit., pp. 268.

[36] Grover Cleveland, Message to Congress, December 17, 1895, Foreign Relations, 1895, Part I, pp. 542-543.

> When such a report is made and accepted it will in my opinion be the duty of the United States to resist by every means in its power as a willful aggression upon its rights and interests the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela.
>
> In making these recommendations I am fully alive to the responsibility incurred, and keenly realize all the consequences that may follow.[37]

The recommendations of the President were acted upon immediately by the Congress. December 21, 1895, a law was passed by Congress authorizing the President to appoint a commission "to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana," and at this time it also made ample appropriation to meet the expenses of the commission.[38] On the first of January, 1896, President Cleveland appointed a commission of five citizens to the boundary commission, selected on the basis of fitness for the job at hand, and they started upon their work.[39]

The commission utilized the assistance of the Secretary of State in gaining the cooperation of the two governments concerned, and through this assistance, received the fullest cooperation in the location of all documents and maps necessary for the commission to reach a decision.[40]

In February, 1896, the question of submitting the boundary dispute to mutual arbitration again came between the United States and Great

---

[37] Ibid., p. 545.

[38] United States Statutes at Large, 54th Congress, 1895-1897, vol. XXIX, p. 1.

[39] George L. Burr, United States Commission on Boundary Between Venezuela and British Guiana, vol. I, p. 7.

[40] Ibid., pp. 8-9.

Britain. Wherein Great Britain temporarily attempted to exclude from arbitration "settlements" of British subjects, to which Venezuela should abandon her claim prior to the formulating of any plans or the signing of any treaty providing for arbitration. Lord Salisbury on March 3, 1896, in his reply to a note from Mr. Bayard said:

> The communications which have already passed between Her Majesty's Government and that of the United States have made you acquainted with the desire of Her Majesty's Government to bring the difference between themselves and the republic of Venezuela to an equitable settlement. They therefore readily concur in the suggestion that negotiations for this purpose should be opened at Washington without unnecessary delay. I have accordingly empowered Sir Julian Pauncefote to discuss the question either with the representative of Venezuela or with the Government of the United States acting as the friend of Venezuela.[41]

Upon the receipt of this communication, Mr. Olney and Sir Julian Pauncefote commenced work on a treaty of arbitration.

The insistence of Great Britain upon title to the territory east of the Schomburgk line was no longer an issue in preparing the treaty of arbitration. Great Britain agreed to submit the entire area to arbitration. However, she still insisted that English settlers long in occupancy of any of the territory in controversy, supposing it to be under British dominion, should have their rights scrupulously considered.

Any difficulty that might arise out of the attention to the settlements made by British subjects was easily settled by the agreement that adverse holding or prescription during a period of fifty years should make a good title, and that the arbitrators might deem exclusive

---

[41] Lord Salisbury, Letter to Mr. Bayard of March 3, 1896, British and Foreign State Papers, 1895-1896, vol. XXCVIII, p. 1247.

political control of a district, as well as actual settlement, sufficient to constitute adverse holding or to make a title by prescription.[42] By adverse holding or to make title by prescription, in accordance with J. B. Moore, International Law Digest: "adverse holding, occupation of land contrary to possession of title, and as under the title of prescription gives title only so far as it creates a presumption, equivalent to proof that a title exists, derived from higher sources," and further, "it destroys title because it creates a like presumption that the former title has been transferred or abandoned. The presumption of title by prescription is valid until met by a stronger proof of ownership, i. e., discovery and occupation."[43]

In November of 1896, Mr. Olney addressed a letter to the United States Boundary Commission, wherein he said that the United States and Great Britain were in entire accord as to the provisions of a proposed treaty between Great Britain and Venezuela. The treaty was so just and fair as respects both parties that he could not conceive of its not being approved by the Venezuelan President and Congress. In view of these conditions he suggested a suspension of the work of the commission. The treaty was signed by the representatives of Great Britain and Venezuela on the second day of February, 1896. No part of the territory in dispute was reserved from the arbitration it created.[44]

---

[42] Cleveland, op. cit. p. 275; Mr. Olney, Letter to Sir Julian Pauncefote, dated July 13, 1896, Foreign Relations, 1896, pp. 253-254.

[43] Moore, International Law Digest, vol. I, p. 293.

[44] Cleveland, op. cit., p. 276

After so long a struggle culminating in her outright declaration of title to all territory lying east of the Schomburgk line, and after her refusal to submit that part of the disputed area to arbitration Great Britain's sudden capitulation to the demands of a lesser power, the United States, requires explanation. A reason is to be found in the international relations of Great Britain with Germany at this time.

In South Africa a crisis was rapidly heading up over the question of the Transvaal. Kaiser Wilhelm II of Germany, having dropped Bismarck, was addressing himself energetically to the development of naval power and to colonial expansion. On January 2, 1896, Jameson's raid occurred, in which a handful of British subjects invaded the Transvaal for the purpose of stirring up a rising of the "Uitlanders" against the Boer State. It collapsed miserably. The next morning the German Kaiser deliberately published a telegram to Kruger, the Boer President:

> I express to you my sincere congratulations that without appealing to the help of friendly powers you and your people have succeeded in repelling with your own forces the armed bands which had broken into your country and in maintaining the independence of your country against foreign aggression.[45]

The effect on England of Cleveland's Venzuela message was mild compared with the shock to the British Empire that followed the publication of the Kaiser's message, which Langer terms one of the greatest blunders in the history of modern diplomacy.[46] England now found herself alone in a world of enemies. There was no nation to whom she could turn for

---

[45] J. L. Garvin, The Life of Joseph Chamberlain, vol. III, p. 92.

[46] W. L. Langer, The Diplomacy of Imperialism, vol. I, pp. 234-254.

aid. Joseph Chamberlain, Secretary for Colonial Affairs, urged the Prime Minister on January 4, 1896, to make a naval demonstration against Germany coupled with a declaration against interference in South Africa, and to make serious effort to come to terms with America.[47] From that time, according to S. F. Bemis, in his book, "A Diplomatic History of the United States":

> Great Britain's foreign policy took a different direction, toward conciliating disputants and building up allies and friends against the new menace, that of a German colonial and naval power which might combine with England's rivals on the Continent to upset the British Empire. It would have been the height of folly to add to that hostile group the United States, with whom so recently all diplomatic issues had been liquidated.

and again:

> From the day of the Kruger telegram Great Britain's American policy has clung steadily to the path of conciliation, of friendship, of possible alliance. 48

This then is the underlying reason for the submission to arbitration of the Venezuelan boundary controversy.

The award regarding the boundary was made by the arbitration tribunal on October 3, 1899, which roughly conformed to Lord Aberdeen's proffered modifications of the Schomburgk line.[49]

The real accomplishment of the Venezuelan Controversy and its final arbitration, is not to be measured as only a settlement of a boundary, even though, the boundary was settled and a possible war in the Western Hemisphere was avoided. While the avoidance of war was one of the chief

---

[47] Garvin, op. cit., p. 95.

[48] S. F. Bemis, A Diplomatic History of the United States, pp. 420-421.

[49] McKinley, President's Message, December 5, 1899, Foreign Relations, 1899, p. XXXII.

items of concern to President Cleveland we have in his own words his basic reason for intervention in this dispute:

> It is certainly strange that any intelligent person, professing information on public affairs, could fail to see that when we aggressively interposed in this controversy it was because it was necessary in order to assert and vindicate a principle distinctively American, and in the maintenance of which the people and Government of the United States were profoundly concerned. It was because this principle was endangered, and because those charged with administrative responsibility would not abandon or neglect it, that our Government interposed to prevent any further colonization of American soil by a European nation.[50]

The insistance of Cleveland and his Secretary of State, Richard Olney, to have the British Guiana-Venezuelan Boundary Controversy arbitrated resulted in the acceptance by other nations of one of the basic foreign policies of the United States, the Monroe doctrine.

This doctrine had not been accepted by foreign nations as a continuing policy of the United States, prior to this time. The United States had been a comparatively weak and new nation and had been isolated from the nations of Europe by her geographic position. This dispute forced a more general acceptance of the "loose-construction" theory of the Monroe doctrine.

---

[50] Cleveland, op. cit., p. 279.

POINTS AT ISSUE WITH RESPECT TO INTERNATIONAL LAW AS FOUND IN THE BRITISH GUIANA-VENEZUELAN BOUNDARY CONTROVERSY

The dispute as to the proper boundary between Venezuela and British Guiana had lasted for more than fifty years, when Great Britain and Venezuela at last were able to arrive at a mutual agreement for its arbitration. The dispute involved several points which must be considered with respect to international law. These points of international law have to do with the acquisition of territory: discovery and occupation, prescription, cession, and conquest.

The claims of Great Britain for her colony, British Guiana, were summarized by Sir Robert Schomburgk in his Memorandum to the Colonial Office, dated November 30, 1841, as follows:

> We must premise before we enter into any actual discussion which point ought to form the western limit of the present colony of British Guiana, that the territory, which comprises the former Colonies of Demerara, Essequibo, and Berbice, was an appurtenance of the States-General of the United Provinces of the Netherlands. Having been previously conquered by the British in 1781 under Sir George Rodney, and in 1796 under General White, it was restored at the peace of Amiens in 1802 to their original possessors, the Dutch, who formed the Batavian Republic. On the recommencement of hostilities in 1803, Demerara and Essequibo surrendered on the 19th September, and Berbice on the 26th September, to the British forces under General Greenfield and Commodore Sir Samuel Hood, since which time it remained in British possession, and was ultimately ceded to Great Britain by an Additional Article to a Convention between that power and the United Netherlands, signed at London upon the 13th August, 1814. Great Britain from the moment these Colonies were ceded to her, had therefore the same claim to the terminus of the boundary of that part of the American Continent as when it had been under the dominion of the House of Orange, who were acknowledged Sovereigns for more than two centuries.[1]

---

[1] Robert Schomburgk, Memorandum to the Colonial Office, November 30, 1841, Parliamentary Papers, vol. XCVII, C. 7972, p. 235.

This exerpt of the Memorandum of Sir Robert Schomburgk, relative to the claims of Great Britain, shows that the claims that Great Britain advanced to maintain her ownership of the disputed territory were in order, conquest, prescription, and cession. Great Britain's rights to the disputed area could conceivably stem first from her conquest of the Colonies of Demerara, Essequibo, and Berbice, in 1781; and again in 1796, with military occupancy until 1802, and finally in military occupancy from 1803 until 1814, at which time the occupied area was ceded to her by an additional article to the treaty of 1814 between the Netherlands and Great Britain. Since conquest is a valid mode of acquisition of territory if the conquered territory is effectively reduced to possession and annexed by the conquering state.[2]

Great Britain finally gained this colony of British Guiana from the Netherlands by convention, i. e., cession. Then Great Britain was entitled to all the rights of prescription which had been held by the Dutch prior to this convention of 1814. The Island of Palmas case with Max Huber as the Sole Arbitrator, held that the United States could receive no more claim to the Island of Palmas than that which the cessors, Spain, had had in the past prior to ceding that Island to the United States.[3] As shown above, Great Britain gained not only title to the "settlements of Demerara, Essequibo, and Berbice," by cession, but also gained such prescriptive rights to sovereignty over this territory as had been held by the Dutch.[4] Thus it is necessary

---

[2] Hackworth, Digest of International Law, vol. I, p. 427, Eastern Greenland Case.

[3] Ibid., vol. V, p. 215-216.

[4] British and Foreign State Papers, vol.II, 1814-1815, p. 377.

to turn to the claims of the Dutch to determine the full extent of the claims of Great Britain.

The American Boundary Commission believed that neither in the early trading expeditions to Guiana nor in the first projects for its colonization was there to be found in the Dutch records, a claim to any definite territory there. The most that is anywhere urged is that this region was not yet occupied by the Spaniards or the Portuguese, and was therefore open to trade or settlement.[5] This fact is borne out by Schomburgk's quotation from J. de Laet, "Beschryvingen van West Indien," as follows:

> So early as 1580 the Dutch navigated the Orinoco, and settlements were attempted on such parts as were not occupied by the Spaniards, and the States-General privileged in 1581 certain individuals to trade to these settlements exclusively.[6]

This quotation shows the application of the doctrine of prescription by the Dutch. Keller, Lissitzyn, and Mann state "that it is not without good reason that certain Dutch publicists early in the seventeenth century revived an old principle of effective occupation, as being necessary for the acquisition of sovereignty over new lands."[7] Burr also quotes J. de Laet as follows:

> According to Jan Laet (writing in 1625), a charter was granted by the States-General to a Dutch colony in the Corentyne, probably that known to us from Spanish records as existing there in 1613. De Laet's mention of it shows that the territory specified in it included aught else than that river itself.[8]

---

[5] Burr, U. S. Commission on Boundary Between Venezuela and British Guiana, vol. I, p. 354.

[6] Schomburgk, op. cit., p. 235. (Quotes from J. de Laet, Beschryvingen West Indien, p. 591.)

[7] Keller, Lissitzyn, Mann, Creation of Rights of Sovereignty through Symbolic Acts, 1400-1800, p. 141.

[8] Burr, loc. cit.

In 1621, there was conferred upon the Dutch West India Company (1621-1674) by charter a monopoly of trade on all the coasts of America, with authority to promote the settlement of fruitful and uninhabited districts; no specific mention was made either of Guiana or of any other stretch of territory, the only limits named being the extreme points of America, Newfoundland, the Strait of Magellan, and the Straits now known as Bering's Strait.[9] Mr. Burr's final conclusions regarding the early claims of the Dutch West India Company as shown by the original Dutch papers were:

> That neither in any charter of the Dutch West India Company nor in any reaffirmation or extension of any charter is there mention of the Orinoco as a limit; that in none of the published legislation on behalf of the company is the Orinoco made a boundary of territorial right, or possession, or jurisdiction; and in the final charter of 1674, the Orinoco is excluded from the territorial possessions of the company.[10]

The above statement of Burr refutes the allegations of the British Blue Book, Venezuela Number One, which was that the Dutch West India Company had had the Orinoco River of British Guiana as their boundary at one time, when the colony was in possession of the Dutch.[11] Schomburgk also made the same assertion, to wit, that the Dutch had had the Orinoco River as one of their early boundaries.[12] However, the study of Burr showed that in the original records there was no such claim. Burr further stated that by the Dutch grant of 1649, the Orinoco was mentioned

---

[9] Ibid., p. 100.

[10] Ibid., p. 110.

[11] Parliamentary Papers, vol. XCVII, C. 7972, pp. 1-473.

[12] Schomburgk, op. cit., p. 235.

"not as the last Dutch outpost, rather as the first Spanish outpost."[13]

His final conclusion in regard to the Dutch West India Company was:

> From the terms of these grants may unquestionably be inferred the assumption by the Dutch Government of a right to plant colonies, either directly or through the West India Company, in the district known as the Wild Coast. There is, however, in none of them anything to suggest that this was counted exclusively a Dutch right; nor is there in them any claim of sovereignty over this coast as a whole.[14]

The Dutch acknowledged that the Spanish were in and about the area of the "Wild Coast". In a report of the Dutch West India Company in 1633, a remonstrance to the States-General states:

> From New Spain eastward the whole coast of Incanata, Honduras, and Terra Firma (as the Spaniards call it) to beyond Trinidad is all occupied by Spaniards, and not only the coasts but also the islands; except next to these, the regions of Guiana, which we call the Wild Coast; this coast and divers rivers are yet unsettled and inhabited by free savages, and in these regions are many products which might be advantageously brought hither. But what of it? These nations are so barbarous and have so few wants that all the trade which exists there can easily be carried on with two or three ships a year, and be maintained with trifling capital. This region is bounded by the great river of the Amazons, which also is not free from occupation by Spaniards, as our people have experienced to their damage.[15]

This statement indicated that the settlement of this area was not necessarily peaceful at all times. The attitude of the Dutch at the time of 1659 was well expressed in a small article quoted by Mr. Burr from Steeman's, "Waer is dit Landt Guiana gelegen?":

> Where is this land Guiana situated? This land is situated between the great rivers Amazon and Orinoco. Has this land its own government, or have the Spaniards and Portuguese

---

[13] Burr, op. cit., p. 108.

[14] Ibid., p. 117.

[15] Ibid., p. 356.

> anything to say there? This land has its own kings and governments; neither Spanish nor Portuguese has anything to say there ..... they do not even come thither, inasmuch as the Guianese are mortal foes of the Spanish and Portuguese nations.

This small tract cited by Burr shows that while the Dutch did not consider the Spanish or the Portuguese to have claim to the territory of Guiana, they also did not think they, themselves, had claim to it. The government and Guianese referred to in this article meant the Indians native to the "Wild Coast" or Guiana.[16]

There is adequate evidence in the charters of the Dutch West India Company to substantiate the right of the Dutch to plant colonies freely on the coast of Guiana, from the Amazon to the Orinoco, but there was no exclusive right thus to colonize Guiana. No protests at any time against the similar attempts made by the English and the French were lodged by the Dutch.[17]

In 1674, the old West India Company was dissolved. The charter given by the States-General to its successor granted, not as before the entire coast of America, but on the American mainland only "the places of Essequibo and Pomeroon." Berbice and Surinam remained Dutch possessions, though not now granted to the West India Company. In short, this new charter did not define the boundaries of its authority, and it was a long time before even the Pomeroon was opened to settlement. The Pomeroon settlement was made only after careful investigation by the Zeeland Chamber* as to the past history of the colony.[18]

---

[16] Ibid., p. 359.

[17] Ibid., p. 360.

[18] Extracts from the Dutch Archives, U. S. Commission on the Boundary Between Venezuela and British Guiana, vol. II, pp. 175-180.

* Zeeland Chamber: The governing body of the Province of Zeeland, which was one of the provinces of the United Estates of the Netherlands.

This colony was destroyed by the French with the aid of the Carib Indians in 1689, and was not later reopened for settlement, but a post of three men and a flag was left there to retain possession. No reference however, was made as to a frontier.[19]

It is noteworthy that a letter to Pieter van der Heeden Resen from the West India Company, of the Dutch Archives showed that in 1714 while the new West India Company had control over the trade to and with the Orinoco-Trinidad area, the Dutch also recognized that the Spaniards were in control there.[20] This letter indicated that the Spaniards had control of the River Orinoco and the Island of Trinidad. The letter to Pieter van der Heyden Resen, also stated "still it also lies within the charter of the Company, where nobody had the right to trade except the Company and those to whom the Company gives permission to do so ....."[21]

Further evidence of the definiteness of the territory to which the West India Company under the Zeeland Chamber, had possession was shown by the Essequibo Commander's letter of July 20, 1746, to the West India Company office located in the province of Zeeland, in the Netherlands:

> .....it is my duty to give you information that the post-holder of Macupo and Moruca came here day before yesterday to let me know that a nation of Indians from up the Orinoco

---

19 Burr, op. cit., p. 361.

20 West India Company (Zeeland Chamber Archives), Letter to Pieter van der Heyden Resen, Commander of the Colony of the Rio Essequibo, May 14, 1714, Extracts from the Dutch Archives, U. S. Commission on the Boundary Between Venezuela and British Guiana, vol.II, pp. 240-241.

21 Ibid., p. 241.

> has come down and attacked the Caribs subject to us in the river of Waini.....And because I must for weighty reasons suspect that those Indians were sent by the Spaniards of Cumana, I have ordered him to investigate the matter as far as practible, and have expressly forbidden him to set foot on the Spanish territory.....not even below the river Waini. .....C. Finet,.....from the Cuyuni, has also informed me that the report of the Caribs made some months ago, is true, namely, that the Spanish have established a mission up in this river, and have built a small fort there. .....I would not have the least difficulty in driving them out.....but such a step being one of great consequence, I dare not take the responsibility, especially as the frontier-line there is unknown to me.[22]

Here in this statement above is further evidence that there was constant difficulty between the Spaniards and the Dutch in their occupation of the Wild Coast. These difficulties were occasioned by the Spanish attempting to stop the slave trade of the Dutch in the interior of the disputed area, not primarily the attempt by either to gain new footholds in territorial acquisition.[23] While the above quotation seems to indicate that the Carib Indians mentioned above were subject to the Dutch, this does not necessarily imply that all Carib Indians were Dutch subjects or under their control, since these Indians were of nomadic type and this tribe was prevalent throughout all of the disputed area. There were many tribes of Caribs in the region.[24] In December, 1746, further statements and letters by Governor Storm van Gravesande, as well as in March, 1747, showed that the boundary between the Dutch and Spanish was still unknown and that no documents regarding these boundaries were to be found

---

[22] Ibid., p. 306.

[23] Parliamentary Papers, vol. XCVII, C. 7972, pp. 118-119.

[24] Ibid., C. 8106, pp. 281-291.

in the archives of the colony.[25] The Zeeland Chamber continually sought a definite delineation of the boundary between their colony and the Spanish on the West, but were unable to gain anything definite through the years to 1758. The Spanish during that time continued to advance toward the Dutch settlements with their missions: -- much to the consternation of the Zeeland Chamber and Governor Storm van Gravesande.[26] Since all pleas for a definite boundary had left the colony with no boundary but those of Guiana, there was little else for the Governor to do, but accept the situation. In 1758, the Spanish made a raid and destroyed a post on the Cuyuni River which the Dutch had planted there in 1754, this post was not the Orinoco boundary, but the boundary set forth in the Map of D'Anville, which the Essequibo Governor in a letter to the Spanish Governor, claimed for the Dutch.[27] Following this raid into the Cuyuni, the Zeeland Chamber drafted a remonstrance to the Court of Spain and made in that document no claim to the boundary of D'Anville's map. It affirmed only its immemorial possession of the Essequibo and all its branches, and hence its surprise at being disturbed on the Cuyuni.[28] At this time, the Governor laid claim to all of the Cuyuni River. The Zeeland Chamber wanted to get all the facts regarding this claim as well as the grounds for extending the boundary of the colony toward the Orinoco as far as the Barima river.[29] It was ten

---

[25] Extracts from the Dutch Archives, op. cit., p. 311.

[26] Ibid., pp. 347, 348, 357, 358, 428-433.

[27] Ibid., pp. 377, 378.

[28] Ibid., pp. 383-386.

[29] Ibid., p. 388.

years before the remonstrance was completed and presented by the States-General to the Court of Spain. Meanwhile Spanish aggressions had not ceased. This completed remonstrance did not ask that a boundary be laid down by proper authority, but assumed that such a boundary existed and set forth the limits of Dutch territory, but the Dutch remonstrance did not refute the right of the Spanish to be present in or along the Cuyuni River.[30] Further, reference is made to two new posts set up by the Spaniards as being so near to the Dutch territory, which were a little above the Dutch post on the Cuyuni and were evidently in Spanish territory. At this time also, the Dutch in the remonstrance set forth that the territory of the Dutch extended from the river Marowyn, at the east, "to beyond the river Waini, not far from the south of the river Orinoco, according to the existing maps thereof, particularly that of M. D'Anville, reckoned for its accuracy as one of the best."[31] These are the only documents of the Dutch in their correspondence with Spain suggesting the exact location or general location of the Guiana boundary. These claims were never answered by Spain, and never brought up again by Holland. Spanish aggression continued in Guiana, but was secondary to the continual grievance of the harboring of Dutch run-away slaves by the Spanish. This matter was finally adjusted in 1791, with the conclusion of a cartel which provided for the reciprocal return of such fugitives. No mention was made of territorial claims in the diplomatic convention or in the correspondence attending its arrangement.[32]

---

[30] Ibid., loc. cit.

[31] Ibid., pp. 457-462, 466-475.

[32] Burr, op. cit., pp. 372-373.

The question of the Guiana boundary does not seem to have appeared again in Holland until the close of 1801, with the advent of the Congress of Amiens. The colonies of Guiana, which since 1796, had been in the hands of the British, were about to be restored to the Dutch; and the Dutch Council of the American Colonies were secretly to send an envoy to the Congress of Amiens and to advise the Dutch representative there in regard to colonial affairs.[33] The instructions to this envoy were: to obtain a precise definition of the boundary of one or the other of the possessions, either the Spanish or the Dutch, and this definition was to be by "the eastern bank of the Orinoco or by the river Barima."[34] On reaching Amiens, the envoy, seeing that in view of the certain opposition of the British, it would be unwise to mention the Guiana boundary, advised the Council of the Colonies of this fact and recommended that the matter be turned over to the Dutch ambassador at Madrid. (His recommendation for the boundary was fifteen or twenty Dutch miles below--west of - -Barima, and if not there, then at Moriam, and, if this should not go, then, in order to eliminate all future question and difficulties, to pay therefor a certain sum, i. e., to buy the land to Barima river.)[35] The Council of the Colonies seem to have accepted the recommendation without protest and the boundary was not mentioned further. Burr stated that he had examined all letters during this period of the Dutch Ambassador at Madrid and it seemed that the plan was not carried out. The speedy reopening of the European war and the loss of the colonies again to the

---

[33] Extracts from the Dutch Archives, op. cit., pp. 639-643.

[34] Ibid., p. 644.

[35] Ibid., pp. 646-647.

British in 1803, soon put further action out of the question.[36]

Before making any conclusion the British claims which they had from conquest, cession, and with cession from the Dutch, prescription; it is necessary to consider the claims which Venezuela had to the disputed area.

The claims to the disputed territory by Venezuela were based upon the claim which Spain had there in the Guiana Region. Venezuela declared her independence in 1810, and was recognized by Spain in 1845, where Spain ceded to Venezuela by treaty, the territory which as an independent republic, she had had possession of since 1810.[37]

The only Spanish settlement on the Orinoco or east of it which was indicated in Dutch records before the eighteenth century was that of Santo Thome.[38] The detailed accounts of voyages made by Cabeliau in 1598,[39] and in 1637 by Cusiel,[40] indicated that at least the Dutch had no knowledge of other Spanish occupation in this region beside Santo Thome. The Spanish did not spread their Indian missions of the Catalonian Capuchins until almost the middle of the eighteenth century. On July 20, 1746, Governor Storm van Gravesande wrote to the Dutch West India Company, on the word of an Essequibo trader, confirming a report received some months earlier from the Caribs (an Indian tribe of the Guiana region), that the Spanish had established a mission up the Cuyuni, and had built a fort there and were making brick with the intention

---

[36] Burr, op. cit., p. 374.

[37] Parliamentary Papers, vol. XCVII, C. 7972, p. 323.

[38] Extracts from the Dutch Archives, op. cit., pp. 26, 30, 54, 77, 81.

[39] Ibid., pp. 13-22.

[40] Ibid., pp. 77, 83-95

of building another mission and fort further down the river toward Essequibo. In March, 1747, this matter was mentioned again. Governor Storm van Gravesande said that the Spaniards had not yet moved any missions or forts further down as they had intended, according to the trader Finet, but were cruelly mistreating the Caribs who were subject to the Dutch rule.[41]

On learning of the activities of the Spanish in the Cuyuni area, the West India Company asked the Essequibo Governor for an accurate chart of the colony. The Governor made and sent two maps which were alike in all respects, the first map was lost en route to the company and the second map was dated August 9, 1748, ...though not completed or sent until late in 1749.[42] In the letter which accompanied the map, the Essequibo Governor said of the Spanish missions:

> Having written to the Governor of Cumana, that, if the design of founding a mission on the river Cuyuni were persisted in, I should be obliged forcibly to oppose it, he replied to me that such was without his knowledge (not the founding of the new, but the site) and that it should not be progressed with; and, in reality, nothing has been done in the matter. On the map, you will find the site marked, as also that of the one already established. For six months I have seen no Indians from that side, so that I do not accurately know now how matters go on there.[43]

A few months later Governor Storm van Gravesande visited Holland, and there in person, complained to the Company of the Spaniards, who were fortifying themselves everywhere.[44] Storm van Gravesande also at this time submitted a sketch of the Guiana colony, which, he declared, was

---

[41] Ibid., pp. 306, 308, 322.

[42] Burr, op. cit., p. 379.

[43] Extracts from the Dutch Archives, op. cit., p. 327.

drawn up by the Spaniards themselves. This map was undoubtedly the one Storm copied from that of the Jesuits and showed the location of two missions of the Spanish, one marked "new missions" and the other marked "missions of the Capuchins."[45] These are located, one at the junction of the Cuyuni river and the other up this tributary marked Mejou north of the point where it joins the Cuyuni river.

Storm van Gravesande in a letter of 1754, wrote:

> You will certainly recollect that I had the honor some years ago to inform you that they (the Spaniards) had located a mission on the creek Mejou, which flows into the Cuyuni, whereupon you did me the honor to command that I must try to hinder it, but without appearing therein. I do not discuss the reasons which induced you to command this secrecy, when that mission was so absolutely and indisputably in our territory; but before I was honored with that order I had written to the Governor of Cumana and made my complaint, requesting that he would cause that mission to remove from there, and adding that I should otherwise be compelled though unwillingly, to use means which would certainly be disagreeable to him. This had the desired effect, for I received a very polite reply, and not only was that mission actually withdrawn, but one of its ecclesiastics was even sent hitherwith the assurance that this had been done unwittingly.[46]

Acting Governor Spoors, who had been so designated by Governor Storm van Gravesande to act during his absence to visit Holland, also mentioned these missions, but took a different view as to the territory involved. He wrote, "I am instructed that they are decidedly nearer to the Spanish than to our territory." As for "a new mission close by here", which Storm at his departure had advised him that the Spaniards were beginning to construct, Spoors carefully checked its location

---

[45]Burr, op. cit., p. 379; also for Map, see Parliamentary Papers, vol. XCVII, C. 7972-1 Map Number 5, opposite page 312.

[46]Extracts from the Dutch Archives, op. cit., p. 348.

through a colonist who had gone there and was assured that it was being constructed in a certain little river called the Imataca, situated far off the Orinoco region, and Spoors considered that this was far outside his concern. Six months later, Spoors advised the Company on the word of a trader, that in the month of January, the Carib nation had made a raid upon three Spanish missions and had murdered four or five priests. Storm van Gravesande had hardly returned to the colony before he had to report that the Caribs had lately overrun two Spanish missions and murdered everyone there.[47] In 1754 a Dutchman resident in Orinoco, writing to warn the Essequibo colony of a planned Spanish raid, declared that the project "comes from nowhere but from the priests here in Orinoco, for in the year 1751 they informed the King, when the Caribs here in Orinoco raided and burned the missions, "and that Dutchman incited them to the mischief.[48]

This covers the evidence of the Dutch records as to the Spanish missions existing prior to 1754. The Spanish records concerning the missions were essentially the same for this period as those of the Dutch, according to Burr.[49]

In July of 1769, Fray Benito de la Carriga, Prefect of the Capuchin Missions of the Lower Orinoco, wrote concerning the activities of the Dutch to the King of Spain:

> .....the Dutch always have compelled me to be very vigilant like my predecessors, to prevent the injuries they cause to our missions.

---

[47] Parliamentary Papers, vol. XCVII, C. 8106, p. 95-96.

[48] Extracts from the Dutch Archives, op. cit., pp. 344, 345.

[49] Burr, op. cit., pp. 382-406.

> The practice of those foreigners is now, as always, to penetrate to the interior of this province in order to kidnap and enslave Indians, your Majesty's vassals, and take them to their colony; their practice is common as it is authorized by the Governor of Essequibo, and thus I understand it from the licenses and passports which the said Governor gives, under his own hand, to the persons leaving the Colony for this traffic of enslaving Indians, until, without respect, they enter our Missions.
>
> .....in the year(17) 58 I informed the Commandant of the fort of Guayana that in the River Cuyuni, under the guise of a post, there were two Dutch families settled, with a house and plantations. He sent a detachment to apprehend them. And among other papers he found upon them a document or patent of the Governor, containing instructions for the post-holder, etc.
>
> There were inlike manner other Dutch families settled very high up in the Cuyuni, close to the mouth of the Curumo, not far distant from the Mission of Cavallapi.
>
> From this I infer, how much they are endeavouring to procure new sites, and thereby allege possession, and cause a row in time, if a stop be not put to them, for they now imagine they hold as theirs the River Cuyuni, as is proved by the patent of orders issued to the post-holder of the Cuyuni, when before, their guards did not go beyond its mouth.[50]

From these remarks of Fray Benito de la Garriga, the real mission of the Spanish and the location of the Spanish missions can be seen. Their chief directing motive in mission location was to wage an unceasing campaign against the Dutch traffic in slaves. Of course, their method to be most effective, was to control the water routes inland since travel overland in the thick, heavy jungle was almost impossible and very seldom used. The only effective method was to bar the rivers and to thus keep out the Dutch traders with their gewgaws and rum.[51]

---

[50] Parliamentary Papers, vol. XCVII, C. 7072, pp. 118-119.

[51] Burr, op. cit., pp. 388-394.

The Dutch seem to have been completely unaware of any occupation by the Spaniards in the coast region between the Orinoco and the Moruca rivers, save that involved in the Orinoco-Essequibo trade, which in the last half of the eighteenth century passed wholly into their hands.[52] They were informed of the raids of the Spanish, which took momentary possession of the areas, such as the post on the Moruca. There was no record in the Dutch papers regarding any attempt at occupation of the territory overrun by the Spaniards. In the upper Essequibo river, the only Spanish aggression to be noted was that complained of by the Arinda postholder in 1756. No Spanish claim of any formal sort, or of official nature, as to the boundary in Guiana was discovered by Burr in his search of the Dutch Archives. Once or twice, in communication from the Spanish authorities of the Orinoco to the Dutch governors of Essequibo, a claim was implied or asserted; such as in 1734, when Don Carlos de Sucre wrote of his intent to expell the Swedes from the Barima River, should they attempt to colonize in that vicinity.[53] Again, in 1758, when the Governor of Cumana, in reply to the Dutch governor's demand for the restitution of the men seized with the Cuyuni post, answered that they had been found "on an island in the river called Cuyuni, which is, with its dependencies, a part of the domains of his Catholic Majesty."[54] More often the Spanish claims came to the Dutch through rumors or hearsay. Only the one of the Governor of Cumana had the form of an official utterance.[55]

---

[52] Ibid., pp. 210-211.

[53] Extracts from the Dutch Archives, op. cit., pp. 258, 259.

[54] Parliamentary Papers, vol. XCVII, C. 7972, pp. 103, 104.

[55] Burr, op. cit., pp. 405-406.

As set forth above, the Venezuelan claim to their part of the disputed territory was primarily based on those claims gained by Venezuela from Spain when she became an independent republic in 1810. Those claims were found to be in order, occupation, cession (since Spain ceded to Venezuela all of the territories which she had actually owned and possessed since her independence by treaty in 1845), and with cession, those occupation rights which Spain had had in this territory.[56]

In order to evaluate properly the claims of each of the countries, consideration should be given to the normal practice of colonization and of laying claim to foreign lands by these countries.

The Dutch Colonization practice should first be considered. Such practices as they used will reflect to the advantage or disadvantage of Great Britain. The Dutch appeared as very late comers on the South American scene and realized that the prior discoveries of the Spanish and Portuguese with their conquests there precluded any hope of acquiring lands by the usual method of taking formal possession. The Dutch realized that military conquest alone would give them rights to trade and sovereignity in this portion of the New World.[57] However, in the case of the Wild Coast, which was between the settlements of the Spanish and the Portuguese. The Dutch settled in the region that was not yet occupied by either. The Dutch emphasized that this region since it was not occupied, was therefore open to trade and settlement.[58] The general

---

[56] Hackworth, loc. cit.

[57] Keller, Lissitzyn, and Mann, Creation of Rights of Sovereignty Through Symbolic Acts, 1400-1800, p. 137.

[58] Burr, op. cit., p. 354.

Dutch practice as shown by Keller, Lissitzyn, and Mann was: where a native population in a savage condition was found, "a form of purchase, 'treaty of alliance', or a 'protectorate' was used. These devices assumed no real sovereignty in the native government party to these acts, and in effect were symbolic acts of possession."[59] The remarks of Burr regarding the Dutch practices of territorial acquisition are sustained by the analysis of Keller, Lissitzyn, and Mann:

> The appropriation of vast territories during the previous century by the Spanish and Portuguese effectively prevented the Dutch from acquiring titles by right of having taken formal possession; it was not without good reason that certain of the Dutch publicists early in the seventeenth century revived an old principle, that of effective occupation, as being necessary for the acquisition of sovereignty over newly discovered lands.
>
> The evidence will show that the Dutch, when they discovered such lands, followed the time honored practice of other nations; in America, where they had purposely forbidden their chartered company to acquire new lands, they naturally adopted other devices, such as fictive settlement and purchase, or, as in the East Indies, concluded "treaties" with the native tribes. All of these procedures may be generally regarded, from this evidence, as symbolic acts for the acquisition of lands previously unpossessed by a people having an international status.[60]

The Spanish practice in regard to the acquisition of newly discovered lands made full use of the symbolic acts of possession according to Keller, Lissitzyn, and Mann, as shown by their statement:

> It was the uniform practice of Spanish explorers to have a public scrivner or notary draw up written testimony of the taking of possession, and have the same signed by numerous witnesses whenever possible. These acts greatly differed in length and in degree of formality, but they were considered as necessary trustworthy evidence of the performance of the requisite ceremony.

---

[59] Keller, Lissitzyn, and Mann, op. cit., p. 140.

[60] Ibid., p. 141.

> The extent of the territory covered by a single formal act was rarely if ever specified with precision. Balboa and Davila took possession of the Pacific Ocean and of all the islands and lands in and adjoining it, while Davila in addition specified lands in which the waters fall into the South Sea, thus introducing the idea of the watershed.[61]

There was no evidence according to Keller, Wissitayn, and Mann, to show that the international rights taken by the performance of these symbolic acts were to be anything other than that of dominion. Further they stated that in all of the records of discovery and exploration of Spain, no single mention was made of any additional requirement, other than the symbolic acts, to perfect this right.[62]

The above practices of the two countries Holland and Spain, whose initial discoveries and early colonization efforts were considered to be the basic elements of the claims of the disputants, i.e., Great Britain and Venezuela; showed that the claims of the Spanish initially rested on an inchoate title to the area of the Wild Coast; they also showed that the claims of the Dutch rested upon the basis of prescription, i. e., presumed abandonment of any inchoate claim by Spain. Settlement by the Dutch of the disputed territory was used to make a valid title.

The points of international law brought forth in this boundary dispute must be considered in the prospective of the law of nations as understood at the time of the actual dispute and not as understood at the time of the settlement of the dispute or any later date, although the law has remained the same in all respects.[63]

---

61 Ibid., pp. 42-43.

62 Ibid., pp. 44-45

63 Moore, International Law Digest, vol. 1, p. 259, quotation from M. Upshur, Secretary of State, to Mr. Everett, October 9, 1843.

The basic point of the Spanish (Venezuelan) claim to the disputed area of the Wild Coast was that of discovery, which gave the Spanish an inchoate title to the whole area from the Amazon river and thence to the west. In the Island of Palmas case, Max Huber, stated that "discovery as such, i. e., the mere fact of seeing land, without any act, even symbolical, of taking possession, involved ipso jure territorial sovereignty and not merely an inchoate title." He went on further to say that this ipso jure sovereignty was a jus ad rem, which was to be eventually completed by the actual taking possession within a reasonable time.[64] This is affirmed by the quotation from Vattel by Moore as follows:

> Discovery alone is not enough to give dominion and jurisdiction to the sovereign or government of the nation to which the discoverer belongs, such discovery must be followed by possession. .....Thus navigators going on voyages of discovery, furnished with a commission from their sovereign, and meeting with islands or other lands in a desert state, have taken possession of them in the name of their nation, and this title has been usually respected, provided it was soon after followed by a real possession.[65]

While it would seem that the author has given an extension to the claims of Spain, in considering that they might first have had the title of discovery to the disputed area, the proof of the existence of this inchoate title can be found in the writings of J. de Laet quoted by Schomburgk above, wherein he said in 1625, "settlements were attempted on such parts as were not occupied by the Spaniards." And again in a quotation from Burr regarding the acknowledgements of the Dutch, above, "From New Spain eastward the whole coast of Incanata, Honduras, and

---

[64] Hackworth, Digest of International Law, vol. 1, p. 398.

[65] Moore, op. cit., p. 260.

Terra Firma (as the Spaniards call it) to beyond Trinidad is all occupied by the Spaniards, - - -except- -the regions of the Wild Coast." From these writings it is evident that the Spanish had not fulfilled the necessary second part of their title claim to discovery. It is also evident that the Spanish had discovered the Wild Coast before the Dutch since they were there at the time of the arrival of the Dutch, i. e., before the Dutch.

In further support to the Dutch claim of settlement, Moore quotes from Dana's Wheaton, Elements of International Law, Part II, as follows:

> Title by settlement, like title by discovery, is of itself an imperfect title, and its validity will be conditional upon the territory being vacant at the time of the settlement, either as having never been occupied, or as having been abandoned by the previous occupant. In the former case, it resolves itself into title by occupation; in the latter, the consent of the previous occupant is either expressed by some convention, or presumed from the possession remaining undisputed.....The last settlement, when confirmed by certain prescription, may found a good title.[66]

The foregoing evidence of international law as to the basic claims of Spain and Holland, is construed by the author to mean that while the Spanish had the original title of discovery to the disputed area, their failure to complete the requirements of settlement and to take actual possession constituted abandonment, thereby giving validity to the basic claim for the Dutch. For the case of abandonment to the whole area of the Wild Coast, i. e., Guiana, on the part of Spain, the evidence above has shown that the settlement on Barima Point of the Santo Thome mission by the Spanish had validated their initial claim of discovery to that

---

66 Moore, op. cit., p. 262.

portion of the disputed area. Hackworth said:

> Jurists seem to be in agreement that an intention to abandon must clearly appear but that this intention need not be expressed and may be gathered from the circumstances surrounding the supposed withdrawal of state authority.[67]

The remainder of the disputed area in the interior and elsewhere can be shown to have been in part settled by the missions of the Spanish.

The question concerning the length of time necessary to make a valid title under the prescriptive provisions of international law was settled in the treaty of arbitration signed by Great Britain and Venezuela on February 2, 1897. The treaty provided in this instance:

> 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.[68]

In reference to the above quotation from the treaty of arbitration referring to a valid title for either party in this dispute, the derivative nature of prescription as compared with the original nature of settlement or occupation should be considered. Hackworth said that "occupation is usually - - though not necessarily - - - associated with the discovery of the territory in question by the occupying state."[69] As concerns prescription, he quotes Chief Justice Fuller in the case of Louisiana versus Mississippi:

> The question is one of boundary, and this court has many times held that, as between the States of the Union, long acquiescence in the assertion of a particular boundary and the exercise of dominion and sovereignty over the territory within it, should be accepted as conclusive, whatever the international rule might be

---

[67] Hackworth, op. cit., p. 442.

[68] Moore, History and Digest of the International Arbitrations to which the United States Has Been a Party, vol. V, pp. 5017-5018.

[69] Hackworth, op. cit., p. 401.

> in respect of the acquisition by prescription of large tracts of country claimed by both.[70]

Moore quotes Mr. Upshur, Secretary of State, to Mr. Everett, October 9, 1843, regarding prescription as follows:

> It gives title only so far as it creats a presumption, equivalent to proof, that a title exists, derived from higher sources; it destroys title only because it creates a like presumption that, whatever the title may have been, it has been transferred or abandoned. It creates a presumption is conclusive only until it is met by counter-proof, or a stronger counter-presumption.[71]

It can be seen from the above quotations that in international law, prescription for title has as one of its basic elements, the existence and abandonment of a prior title. This fact makes prescription a derivative means of acquisition of territorial sovereignty. If no previous title existed, then the settlement of a territory would be considered under original means of acquisition since the possessor would have the first title to the territory by means of occupation, though occupation does not necessarily entail discovery as well. "Occupation is an original, as distinguished from a derivative, mode of acquisition of territory. It involves the intentional appropriation by a state of territory not under the sovereignty of any other state."[72]

Since occupation is an original mode of acquisition, it takes precedence over prescription as constituting a valid title to territory. The claims to the disputed area by Venezuela through cession of the claims of Spain, should have had precedence over the claims of Great

---

[70] Ibid., p. 432.

[71] Moore, International Law Digest, vol. I, p. 293.

[72] Hackworth, op. cit., p. 401.

Britain through cession of Dutch claims, in determining the metes and bounds of the territory of Venezuela in the disputed area. The line of occupation of the Spanish missions in the disputed area should have been the furthest extent of the Venezuelan claims, in as much as there was no attempt on the part of either the Dutch or the Spanish to follow up the temporary advantages gained by the various raids made by each upon the other during the early days of settlement and occupation.

The consideration of the conquests of the Dutch colony by the British shows that, with the exception of the last conquest in 1803 and the ultimate cession of the Dutch colony to Great Britain in 1814 with military occupation and control throughout this period, as stated by Hyde:

> If, the vanquished enemy is a state, or a country whose exclusive rights as sovereign over the territory concerned have been respected, the conqueror is not, at least at the present time, regarded as deriving rights of sovereignty from the military achievement. Although the victor may be able to bring about a transfer of such rights by some appropriate action, the bare possession of the requisite power does not suffice to effect a change.[73]

In addition to the above, in each of the conquests referred to, Great Britain returned to the Dutch that which she had conquered, viz., "the settlements of Essequibo, Demerara, and Berbice," which was the title that Great Britain ultimately gained from the treaty of 1814 by cession, and which placed the claims of Great Britain firmly on the doctrine of prescription in international law as to the bounds of her territory in British Guiana.

---

[73] Hyde, International Law, vol. I, 2nd edition, p. 357.

In accordance with the treaty of arbitration, the International Commission of Arbitration, appointed under the Anglo-Venezuelan treaty of 1897, rendered an award on October 3, 1899, whereby the boundary line between Venezuela and British Guiana was determined. The award, in which the arbitrators were unanimous, did not meet the extreme claims of either party, yet it gave to Great Britain a large share of the interior territory in dispute and gave to Venezuela the entire mouth of the Orinoco, including Barima Point and the Caribbean littoral for some distance to the east. This award generally concurred with the proffered modifications to the Schomburgk line made by Lord Aberdeen, and settled a dispute which had plagued these two countries for almost sixty years.[74]

---

[74] President McKinley, President's Message, December 5, 1899, Foreign Relations, 1899, p. XXII.

THE MONROE DOCTRINE AND ITS RELATION TO THE BRITISH GUIANA-VENEZUELAN BOUNDARY CONTROVERSY

The assertion that this dispute regarding the boundary between British Guiana and Venezuela was contra the traditional policy of the United States, viz. encroachment by foreign powers upon any of the territory of the Western Hemisphere, is voiced in Olney's letter communicating the views of the President of the United States, in regard to the Venezuelan Controversy, to Lord Salisbury, of Great Britain, dated July 20, 1895. In this letter Mr. Olney says:

> To the territorial controversy between Great Britain and the Republic of Venezuela, thus briefly outlined, the United States has not been and, indeed, in view of its traditional policy, could not be indifferent.

and again:

> That America is in no part open to colonization, though the proposition was not universally admitted at the time of its first enunciation, has long been universally conceded. We are now concerned, therefore, only with that other practical application of the Monroe doctrine the disregard of which is to be deemed an act of unfriendliness towards the United States. .....It does not justify any attempt on our part to change the established form of government of any American state or to prevent the people of such state from altering that form according to their own will and pleasure. The rule in question has but a single purpose and object. It is that no European power or combination of European powers shall forcibly deprive an American state of the right and power of self-government and of shaping for itself its own political fortunes and destinies.[1]

These quotations from Olney set forth the interpretation by the United States of the Message of President Monroe of December 2, 1823. The first quotation shows that the United States regarded the acts of Great

---

[1] Mr. Olney, Letter to Mr. Bayard, dated July 20, 1895, Foreign Relations, 1895, Part I, pp. 545-556.

Britain in the controversy subject to question under the policy of the Monroe doctrine; the second quotation, that the United States considered any disregard of the Monroe doctrine by a foreign power as an unfriendly act.

In his letter of July 20, 1895, Olney identifies the policy of the Monroe doctrine as a part of the accepted public law of the United States. Great Britain is given credit for the inspiration of the announcement by President Monroe of this doctrine and also for unqualified adherence to this rule which "has never been withdrawn."[2]

The historical past of the Monroe doctrine shows that though it has never been formally accepted by the Congress of the United States, it has been used time and again as a definite part of the foreign policy of the United States. Olney says:

> It is manifest that, if a rule has been openly and uniformly declared and acted upon by the executive branch of Government for more than seventy years without express repudiation by Congress, it must be conclusively presumed to have its sanction.[3]

The Secretary of State in this letter to Salisbury emphasized the great distance separating Europe from any American state. Because of this distance, he said, Europe's problems were peculiar by their very location to Europe, and America was not interested in them and should not be bothered with them; and there were analogous problems peculiar to America, with which Europe should not be bothered. It is of note that the warning of President Cleveland as to the intentions of the United States, which he expressed in his address to Congress of

---

[2] Olney, loc. cit.

[3] Olney, loc. cit.

December 17, 1895, was also given Great Britain in Olney's letter.[4]

The reasons for the initial assertion of the Monroe doctrine are found in George Washington's Farewell Address. The doctrine, reasserted by Olney, shows the growth of the United States and its increase in stature:

> Today the United States is practically sovereign on this continent, and its fiat is law upon the subjects to which it confines its interposition. Why? It is not because of the pure friendship or good will felt for it. It is not because of its high character as a civilized state, nor because wisdom and justice and equity are the invariable characteristics of the dealings of the United States. It is because, in addition to all other grounds, its infinite resources combined with its isolated position render it master of the situation and practically invulnerable as against any or all other powers.
>
> All the advantages of this superiority are at once imperiled if the principle be admitted that European powers may convert American states into colonies or provinces of their own. .....That one power was permitted to do could not be denied another, and it is not inconceivable that the struggle now going on for the acquisition of Africa might be transferred to South America. .....The disastrous consequences to the United States of such a condition of things are obvious. .....Our only real rivals in peace as well as enemies in war would be found located at our very doors.[5]

In the above statement Olney has shown the true reason for the concept of the Monroe doctrine, viz., that the people of the United States wished to enjoy the freedom which they had had in the past without the necessity of maintaining large forces under arms for their protection, and wished to continue to have the South American continent free from any European domination, other than that which had existed at the time of the

---

[4] Ibid., p. 555-557.

[5] Ibid., p. 558.

declaration of the Monroe doctrine.[6] The United States considered this area as a part of its sphere of influence. To this doctrine must also be attributed the freedom of the United States from the complexities of petty hatreds and intrigues that were practiced by the European nations. For the United States to abandon this policy, regardless of its past experience, would have been to renounce a policy which had been an easy defense against foreign aggression. This security was a great source of internal progress and prosperity to the United States.[7]

The application of the doctrine to the British Guiana-Venezuelan boundary controversy showed that though this dispute related to a boundary line, since it was between states, it implied that political control was to be lost by one party and to be gained by the other. The area concerned in this dispute involved the mouth of one of the larger rivers of South America, the Orinoco, and thus since it was the route of travel to the interior, it became a point of major significance for through its navigation the interior of South America could be developed and explored by its possessor, as well as colonized and controlled.

Olney expands the view that in this instance if Great Britain was indeed herself a South American state, like Brazil or any other, then under those conditions of course, there was no legitimate ground for the United States to intervene in this dispute and to insist upon arbitration of the boundary. He stated that if this view were to be adopted, "then the Monroe doctrine would be too valueless to be worth asserting." And again: ".....Great Britain as a South American state

---

[6] Hyde, International Law, vol. I, 2nd edition, p. 311.

[7] Olney, op. cit., p. 559.

is to be entirely differentiated from Great Britain generally; if--the question must be settled by force, then only the force of British Guiana should be used and perhaps Venezuela would not object to that procedure either." The point here expressed, if it were valid in fact, would have left an open door to all the nations of Europe to become colonisers of South America.[8]

The view was seriously taken that Great Britain was not a South American state within the scope of the Monroe doctrine, and if she was acquiring Venezuelan territory to add to her colony of British Guiana, she was extending her influence in the American sphere of influence. The means was not of any great importance; whether her influence was extended through new colonization (direct violation of the Monroe doctrine) or by the expansion of old territory, the result was the same and both were held by Olney, with approval by President Cleveland, to be essentially the same, i. e., violations of the Monroe doctrine, direct and indirect, respectively.[9] Mr. Olney was careful at this point to indicate that since neither Great Britain nor Venezuela had at this time been verified in their claims for the disputed territory, the United States could not take sides. Further, that the United States was within its right to demand to have truth determined since it was entitled to resent and resist any sequestration of Venezuelan soil by Great Britain. If the United States was without the right to know what was going on and to have determined what the exact status of Great Britain was in regard

---

[8] Ibid., p. 559.

[9] Ibid., p. 560.

to the territory of Venezuela, then its right to protest such aggression, if aggression was found, should have been dismissed.[10]

These were the views of Mr. Olney, Secretary of State, regarding the relevance of the Monroe doctrine in the boundary controversy. President Cleveland was entirely in accord with Mr. Olney's views concerning the Monroe doctrine as was shown by his letter of July 7, 1895:

> I read your deliverance on Venezuelan affairs the day you left it with me. It's the best thing of the kind I have ever read and it leads to a conclusion that one cannot escape if he tries.....that is, if there is anything of the Monroe doctrine at all. You show there is a great deal of that and place it, I think, on better and more defensible ground than any of your predecessors.....or mine.[11]

The answer to Mr. Olney's letter was not prepared until November 26, 1895, by Lord Salisbury. In his reply, he dealt with the points brought out by Mr. Olney relative to the Monroe doctrine and in a later communication discussed the points concerning the controversy of the boundary itself; both of these dispatches were forwarded to Sir Julian Pauncefote at Washington, D. C. for transmittal to Mr. Olney, on the same day.

Lord Salisbury's reply refuted Mr. Olney's statement that "the Monroe doctrine is a part of American public law" and a part of international law, by saying:

> .....But international law is founded on the general consent of nations; and no statesman, however eminent, and no nation, however powerful, are competent to insert into the code of international law a novel principle which was never recognized before, and which has not since been accepted by the Government of any other country.[12]

---

[10] Ibid., p. 560.

[11] Cleveland, Letter to Mr. Richard Olney, dated July 7, 1895, Reproduced in Henry James, Richard Olney and His Public Service, pp. 110-111.

[12] Salisbury, Letter to Sir Julian Pauncefote, dated November 26, 1895, Foreign Relations, 1895, Part I, p. 566.

He further stated that this policy or doctrine had never before been advanced on behalf of the United States in any written communication addressed to the Government of another nation, although it had been generally adopted and assumed as true by many eminent writers and politicians in the United States. He deemed that this doctrine had largely influenced the Government of the United States in its foreign affairs, and quoted Mr. Clayton, Secretary of State under President Taylor, as expressly stating that the Administration had not adopted the policy of the Monroe doctrine. Mr. Olney was accused of making in his letter notable developments in the doctrine of President Monroe. Salisbury's letter reviewed the basic points: that America was no longer to be looked upon as a field for European colonization; and secondly, that Europe was not to attempt to extend its political system to America, or to control the political condition of any of the American communities, which had recently declared their independence.[13] Lord Salisbury developed the idea that the Monroe doctrine had fallen into disuse and was no longer consistent with the purposes for which it was propounded since those exigencies no longer themselves existed:

> The dangers against which President Monroe thought it right to guard were not as imaginary as they would seem at the present day. The formation of the Holy Alliance; the Congresses of Laybach and Verona; the invasion of Spain by France for the purpose of forcing upon the Spanish people a form of government which seemed likely to disappear, unless it was sustained by external aid, were incidents fresh in the mind of President Monroe when he penned his celebrated Message. ..... The dangers which were apprehended by President Monroe have no relation to the state of things in which we live at the present. .....But the circumstances with which President Monroe was dealing, and those to which the present American Government is addressing itself, have very few features in common.[14]

---

[13] Ibid., pp. 563, 564.

[14] Ibid., p. 565.

Lord Salisbury continued to make his demands upon the lesser, weaker power, the United States. He showed that the boundary controversy itself, since it was not a question of colonization, and since Great Britain was not forcing "system upon Venezuela and was not concerning herself in any way with the nature of the political institutions under which the Venezuelans may prefer to live,"[15] was not amenable to such a doctrine, even though it should exist. "It is a controversy with which the United States have no apparent practical concern."[16] Again in clear and simple language, he explained away the interests of the United States when he said:

> The disputed frontier of Venezuela has nothing to do with any of the questions dealt with by President Monroe. It is not a question of the colonization by a European Power of any portion of America. It is not a question of the imposition upon the communities of South America of any system of government devised in Europe. It is simply the determination of the frontier of a British possession, which belonged to the Throne of England long before the Republic of Venezuela came into existence.[17]

The above quotation indicates the desire on the part of Lord Salisbury to direct the novice in power politics. He wished to lead the United States away from the dangerous and intriguing game in which, by refusal now to demand some sort of a settlement from Great Britain, the United States would disclaim any sphere of influence or policy of non-colonization as expressed by President Monroe.[18]

---

[15] Ibid., p. 565

[16] Moore, International Law Digest, vol. VI, p. 561

[17] Moore, loc. cit.

[18] Hyde, loc. cit.

The next point by Lord Salisbury was that President Monroe did not desire to assert a protectorate over Mexico, or over either the states of Central or South America, since such a claim would have imposed the responsibility upon the United States of answering for their conduct as well as responsibility for controlling it. This point was followed by the allegation, that since the Government of the United States would not undertake to control the conduct of these communities, then it could not undertake to protect them from the consequences attached to any misconduct of which they might be guilty towards other nations.[19] Mr. Olney specifically deemed such inference from his principles of the Monroe doctrine.[20] In conclusion, he stated that the theory of the Monroe doctrine was sound, but in no manner did Lord Salisbury wish his remarks to be construed that the British Government accepted it; that international law was the general law of nations and was not to be added to or amended by the unilateral decree of one nation - - consequently the Monroe doctrine was not a part of the code of international law. Further, the United States did have the right to interpose in any controversy in which their rights were involved, but did not have the right to affirm as a universal proposition, in regard to a number of independent States - - for whom it assumed no responsibility - - that its interests were necessarily concerned in their affairs merely because these states were situated in the Western Hemisphere.[21] Lord Salisbury's final remarks expressed the

---

[19] Ibid., p. 565.

[20] Olney, op. cit., p. 554.

[21] Salisbury, op. cit., p. 567.

complete repudiation of Mr. Olney's letter as follows:

> But they are not prepared to admit that the recognition of that expediency is clothed with the sanction which belongs to a doctrine of international law. They are not prepared to admit that the interests of the United States are necessarily concerned in every frontier dispute which may arise between any two of the States who possess dominion in the Western Hemisphere; and still less can they accept the doctrine that the United States are entitled to claim that the process of arbitration shall be applied to any demand for the surrender of territory which one of those States may make against another.[22]

This reply of Lord Salisbury arrived too late for President Cleveland to make a suitable report to The Congress of the United States in his Annual Message of December 3; but he mentioned in that address, that upon receipt of the reply of Great Britain, he would make a special report to Congress of the situation as it existed in regard to the boundary dispute.[23]

President Cleveland's Special Report to Congress of December 17, 1895, was a direct reply to the dispatch of Lord Salisbury and of course a refutation of his arguments set forth in support of non-interference on the part of the United States. In reply to the assertion that the doctrine of President Monroe was generally inapplicable "to the state of things in which we live at the present day," President Cleveland said:

> It may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life, and can not become obsolete while our Republic endures. If the balance of power is justly a cause for jealous anxiety among the governments of the old world, and a subject for our

---

[22] Ibid., p. 567.

[23] Grover Cleveland, President's Message, December 3, 1895, Foreign Relations, 1895, Part I, p. XXVIII.

> absolute noninterference, none the less is an observance of the Monroe doctrine of vital concern to our people and their Government.[24]

President Cleveland alluded to the taking of a part or parts of the territory of one of the neighboring Republics against its will and said that it would be difficult for him to understand why, with such acquisition, the same European Government would not force its own system of government upon that territory, which was directly against the doctrine of President Monroe.

Full emphasis was placed upon the existence of the Monroe doctrine as a part of the code of international law by President Cleveland when he said:

> It may not have been admitted in so many words to the code of international law, but since in international councils every nation is entitled to the rights belonging to it, if the enforcement of the Monroe doctrine is something we may justly claim it has its place in the code of international law as certainly and as securely as if it were specifically mentioned .....The Monroe doctrine finds its recognition in those principles of international law which are based upon the theory that every nation shall have its rights protected and its just claims enforced.[25]

In showing the soundness of this policy, with regard to the United States exercising these rights of intervention on the behalf of the neighboring Republics, he indicated that in these instances, the United States was acting as the next friend of the Republic concerned before the law of nations as well as in the interests of the safety of the United States. From these facts it naturally followed that the United States did have the right of inquiry as to the legality of extensions of the

---

[24] Grover Cleveland, Message to Congress, December 17, 1895, Foreign Relations, 1895, Part I, p. 542-543.

[25] Ibid., p. 543.

territory of Great Britain in this boundary dispute, and also as to the right of insistence on the part of the United States upon arbitration of this dispute as a proper means of settling the question, which would prevent this dispute from leading to a war.

President Cleveland states that the reply of Lord Salisbury to the note of Mr. Olney was not satisfactory to him; it was in fact quite disappointing, that the appeal of the United States to the justice and magnanimity of one of the great powers of the world regarding its relations with a power so weak and small had produced no better result.[26]

In the conclusion of his address to Congress, President Cleveland said that there could be no doubt as to the course left open to the United States and then said:

> .....the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana. .....I suggest that the Congress make an adequate appropriation for the expenses of a Commission, to be appointed by the Executive, who shall make the necessary investigation and report the matter with the least possible delay. When such a report is made and accepted it will in my opinion be the duty of the United States to resist by every means in its power as a willful aggression upon its rights and interests the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela.
>
> In making these recommendations, I am fully alive to the responsibilities incurred, and keenly realize all the consequences that may follow.[27]

In the above quotation, President Cleveland showed that it was the intention of the United States to protect its own safety, by preventing the

---

[26] Ibid., p. 544

[27] Ibid., p. 545

acquisition by a non-American state of American territory which did not of legal right belong to that non-American state, even if this policy under the Monroe doctrine required that the United States resort to war. Cleveland's objections were not primarily based upon the fact that this particular piece of territory in the dispute between Venezuela and Great Britain was essential, but rather on the principle which, if permitted in this instance, would give precedent to other non-American nations to sequester other territory in the Western Hemisphere. This sequestration of territory would in time put the intrigues and troubles of Europe at the very door of the United States.

The views of the participants in the discussion of the Monroe doctrine are at variance concerning its relation to international law. Mr. Olney said that it was a part of American public law; though he inferred that it might be construed as having some validity in international law on the grounds as shown in his note:

> That there are circumstances under which a nation may justly interpose in a controversy to which two or more other nations are the direct and immediate parties is an admitted canon of international law. The doctrine is ordinarily expressed in terms of the most general character and is perhaps incapable of more specific statement. It is declared in substance that a nation may avail itself of this right whenever what is done or proposed by any of the parties primarily concerned is a serious and direct menace to its own integrity, tranquillity, or welfare. .....We are concerned at this time, however, not so much with the general rule as with a form of it which is peculiarly and distinctively American. Washington, in the solemn admonitions of the Farewell Address, explicitly warned his countrymen against entanglements with the politics or the controversies of European powers.[28]

Lord Salisbury said that the Monroe doctrine could not be considered as a part of the code of international law, since it was a unilateral

---

[28] Olney, op. cit., p. 553

decree and did not have the consent or agreement of the members of the community of nations. He did, however, agree that a state had the right to intervene in situations where its own rights were affected or menaced within reasonable limits, as was shown when he said:

> The Government of the United States is not entitled to affirm as a universal proposition, with reference to a number of independent States for whose conduct it assumes no responsibility, that its interests are necessarily concerned in whatever may befall those States simply because they are situated in the Western Hemisphere.[29]

and again, "The United States have a right, like any other nation, to interpose in any controversy by which their own interests are affected; and they are the judge whether those interests are touched."[30]

These pronouncements of the three statesman regarding the Monroe doctrine can all be verified by instances in international law which support the two main divergent views, i. e., those of Cleveland and Olney on the one hand and those of Salisbury on the other. The solution to these views can be found in the address of Elihu Root, before the American Society of International Law on April 22, 1914, as follows:

> The doctrine is not international law, but it rests upon the right of self-protection, and that right is recognized by international law. The right is a necessary corollary of independent sovereignty. It is well understood that the exercise of the right of self-protection may and frequently does extend in its effect beyond the limits of the territorial jurisdiction of the state exercising it. .....the.....principle which underlies the Monroe doctrine.....(is).....the right of every sovereign state to protect itself by preventing a condition of affairs in which it will be too late to protect itself.
>
> As the Monroe doctrine neither asserts nor involves any right of control by the United States over any American nation, it imposes upon the United States no duty towards European Powers

---

[29] Salisbury, op. cit., p. 566

[30] Ibid., loc. cit.

> to exercise such a control. It does not call upon the United States to collect debts or coerce conduct or redress wrongs or revenge injuries.
>
> Since the Monroe doctrine is a declaration based upon this nation's right of self-protection, it cannot be transmuted into a joint or common declaration by American states or any number of them.[31]

Olney most accurately summed up the case for the United States in this dispute. Olney's viewpoint on the Monroe doctrine as well as that of Elihu Root indicates the trend of interpretation of this doctrine as it has applied to the United States in its foreign policy.

As to the use of the Monroe doctrine in the Venezuelan boundary dispute and its application in international law, the conclusion is that this doctrine did not need to be founded upon a technical legal right of international law, but was founded as a policy of great importance to the United States.[32] The zeal of the statesmen of the United States in upholding the policy of the Monroe doctrine in this boundary dispute contributed to a great degree to the conceptions of the Monroe doctrine accepted by the nations of the world. Historically the British Guiana-Venezuelan dispute can be pointed to as an important incident in the shaping of the present foreign policy of the United States.

---

[31] Hackworth, Digest of International Law, vol V, p. 440.

[32] Ibid., p. 436.

CONCLUSIONS

The historical review of the Venezuelan boundary dispute traced the difficulties and entanglements which existed in the diplomatic relations incident to arriving at a mutual agreement for the settlement of this dispute by arbitration. The urgent plea of the small country of Venezuela for justice by an impartial tribunal of arbitration would have fallen upon deaf ears, had not the best interests of self-protection for the United States been threatened by the policy of economic imperialism in regard to the territory lying between the Essequibo and Orinoco rivers.

An analysis of the diplomatic exchanges and the offers of mediation by a third power, to avert an international catastrophe, indicates the absence of morality in these diplomatic relations and the reliance upon power politics by aggressor nations, to gain imperialistic ends. The true picture of diplomatic relations as shown in this boundary dispute, is that, where imperialism is used by one country as its dominant foreign policy, the best means of stopping such a policy and the tribute exacted by it from its neighbors, is the pursuance of a policy of counter-imperialism by a power of comparable strength to the aggressor. However, in the case of this dispute, the counter-imperialism policy of the United States was supplemented by the two-front nature of the economic imperialism of Great Britain.

The final conclusion that may be made from this review of this controversy, is that, as a result of being involved on two fronts in imperialism, and of being countered in each instance by a policy of counter-imperialism, Great Britain was forced to concede the demands of

the United States for the arbitration of the boundary controversy, thereby creating the more general acceptance of the "loose-construction" theory of the Monroe doctrine.

The aspects of international law, in the second chapter, presented the basic elements found to exist in most boundary disputes, viz., discovery and occupation, prescription, cession, and conquest. It has been shown that in the settlement of this boundary dispute according to the doctrines of international law, the determining factors as to the weight of the evidence adduced, rested first: with the utilization of the law of nations as it existed at the time of the actual dispute; secondly, with the determination of the character of the claims of each of the disputants to the area in question; and thirdly, with the evaluation of the claims as to precedence in accordance with international law for the making of a decision and an award. In the instance of this dispute, the arbitration commission, was also governed by a special set of rules concerning prescription, which rules were drawn to suit the individual needs of this case in regard to the length of time of occupancy necessary to constitute a valid title.

This chapter has emphasized the importance of the performance or omission of the symbolic acts of sovereignty upon discovery and occupancy of new lands, whose inhabitants did not have a sovereign status in international law. In this dispute, the award should have granted first consideration to the Spanish (Venezuelan) claims, since their normal practice of taking possession conferred upon such territories as they had held the original mode of acquisition of territory, which in this case was discovery and occupation. The omission of those

symbolic acts of possession and sovereignty by the Dutch (Great Britain), deprived them of any but a prescriptive, or derivative claim to the disputed area, prescription. This chapter also indicated that it has long been the custom of international law not to permit the cession of title to any more territory, than the cessor had at the time of cession. Further, the fact that conquest, by the law of nations does not make a valid title without ultimate cession to the victor by the vanquished, of the sovereignty of the territory concerned, has been considered as eliminating any title which Great Britain might have alleged under her acts of 1781 and 1796. This chapter concluded that the arbitration commission should have given precedence to the claims in accordance with the order of the modes of the acquisition of territory, i. e., the original claims of the Spanish (Venezuelan) first, and the prescriptive claims of the Dutch (Great Britain) last.

The final chapter dealt with the interpretation of the Monroe doctrine in regard to this boundary dispute. The conclusion of the author in regard to the various views expressed on the applicability of the Monroe doctrine, is that the Monroe doctrine is and was at the time of the dispute, as essential to the self-protection of the United States as the balance of power concept cited by Salisbury, was to the safety of England and Europe. The divergent views of the statesmen concerned with its interpretation brought out the basic element of the Monroe doctrine, that while it was not a part of the code of international law, it was a basic part of our foreign policy and American public law. Olney's remarks in regard to his interpretation of this doctrine indicated the

trend of our present day concept. The acceptance of the arbitration proposed under the auspices of the Monroe doctrine and the policy of self-protection of international law by Great Britain, developed the immunity of the Western Hemisphere to the aggression of non-American states.

BIBLIOGRAPHY

Aspinall, Sir A. The Pocket Guide to the West Indies. London: The Methuen Press and Company, 1939.

Bemis, S. F. A Diplomatic History of the United States. New York: Henry Holt and Company, 1938.

Cleveland, G. The Venezuelan Boundary Dispute. Princeton: Princeton University Press, 1913.

Cleveland, G. Presidential Problems. New York: The Century Company, 1904.

Dennis, A. L. P. Adventures in American Diplomacy, 1896-1906. New York: E. P. Dutton and Company, 1928.

Garvin, J. L. The Life of Joseph Chamberlain, vol. III. London: Macmillin and Company, Limited, 1934.

Hackworth, G. H. Digest of International Law, vols. I, II, V, VI. Washington: Government Printing Office, 1940.

Hyde, C. C. International Law Chiefly as Interpreted and Applied by the United States, vol. I. Boston: Little, Brown and Company, 1947.

James, H. Richard Olney and His Public Service. Cambridge: Riverside Press, 1923.

Keller, A. S., Lissitzyn, O. J., Mann, F. J. Creation of Rights of Sovereignty through Symbolic Acts, 1400-1800. New York: Columbia University Press, 1938.

Langer, W. L. The Diplomacy of Imperialism, vol. I. London: Alfred A. Knopf, 1935.

Moore, J. B. History and Digest of the International Arbitrations to Which the United States Has Been a Party, vol. V. Washington: Government Printing Office, 1898.

Moore, J. B. International Law Digest, vol. I, V, VI. Washington: Government Printing Office, 1906.

Platt, R. R., Wright, J. K., Weaver, J. C., Fairchild, J. E. The European Possessions in the Caribbean Area. New York: American Geographical Society, 1941.

Waldeck, J. B. M. Jungle Journey. New York: Viking Press, 1946.

Accounts and Papers, vol. LXL, State Papers, Parliamentary Papers, 1896 vol. XCVII. London: Harrison and Sons, 1896.

British and Foreign State Papers, 1814-1815, Piccadilly: James Ridgeway and Sons, 1839.

British and Foreign State Papers, 1894-1895. London: Harrison and Sons, 1895.

British and Foreign State Papers, 1895-1896. London: Harrison and Sons, 1896.

British and Foreign State Papers, 1896-1897. London: Harrison and Sons, 1897.

British Empire Exhibition. British Guiana. London: Harrison and Sons, 1924.

Foreign Relations of the United States, Part I, II, 1895. Washington: Government Printing Office 1896.

Foreign Relations of the United States, 1896. Washington: Government Printing Office, 1897.

Foreign Relations of the United States, 1897. Washington: Government Printing Office, 1898.

Foreign Relations of the United States, 1899. Washington: Government Printing Office, 1901.

United States Commission on the Boundary Between Venezuela and British Guiana, vol. I, II. Washington: Government Printing Office, 1897.

United States Statutes at Large, 53rd Congress, Session III, 1893-1895. Washington: Government Printing Office, 1896.

House Executive Documents, 3rd Session, 53rd Congress, 1894-1895, vol. I. Washington: Government Printing Office, 1896.

United States Statutes at Large, 54th Congress, 1895-1897, vol. XXIX. Washington: Government Printing Office, 1896.

TYPED BY: FLOREINE E. ADAMS