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QUESTION OF BOUNDARIES BETWEEN VENEZUELA AND THE TERRITORY OF
BRITISH GUYANA

Statement of His Excellency, Dr. Marcos Falcon Briceño, Minister
for External Relations of Venezuela, at the 348th meeting of
the Special Political Committee on 12 November 1962

Many will be surprised that Venezuela should have pressed for inscription on the agenda of this seventeenth session of the General Assembly of an item relating to the question of boundaries between British Guiana and Venezuela. This would, apparently, seem to relate to a matter which has already been settled. However, we do not consider that to be the case, and these are the reasons, which I now propose to adduce before this Committee.

The recent discovery of extraordinarily important historical documents enable us to be acquainted with the history of the arbitral award which, on 3 October 1899, was made at Paris regarding the question of the boundaries between British Guiana and Venezuela. This is a long and dramatic history, and I shall endeavour to trace it for you as simply as possible, and as if we were in the midst of a conversation in a big family. In this arbitral award which arose in circumstances which were clearly prejudicial to the rights of Venezuela, our country apparently lost a tremendous territory, which has never ceased to belong to us. Now, as I said, we are more closely acquainted with the exact background which led to this award. And since I am about to trace the past history of this question, I would begin by declaring that no one questioned the right of Spain to discovery and first occupancy of the New World. All nations at the time tacitly or explicitly recognized this.

When Vasco Nuñez de Balboa discovered the Pacific Ocean, you will recall that he went knee-deep into the sea and proclaimed aloud that he took possession of all the land and islands in that ocean in the name of the Kings of Spain. Today, perhaps such a proclamation would cause us to smile, but at that historic moment Balboa was engaged in a solemn act, one to which no juridical exception could be taken. The right of Spain as a discoverer and first occupant was therefore very clearly established in the international law of the time.

The territories which are known by the name of Guiana were seen for the first time by Christopher Columbus as a fluvial island, with the Orinoco and the Amazon river and the other large rivers of the region. In 1499, Alonso de Ojeda, a Spanish captain, acting on behalf of Spain, began the conquest and settlement of Venezuela. Spain did not confine itself simply to the intention to occupy, but it effectively did occupy land in Venezuela. Cities and villages were settled and established by the Spaniards.

With time, due to European rivalries because of the spread to Europe of information about the tremendous wealth to be found in the New World, problems began to arise, and the Dutch -- at the time the United Provinces were under the control of Spain -- occupied certain posts in the Essequibo and thus became established. But Spain never allowed them to expand from that particular location.

As a result of the Dutch war of independence, which ended with the Münster Treaty, signed in 1648, that is, in the mid-seventeenth century, Spain recognized that territories, locations and fortresses held by the Dutch in the East and West Indies at the time were the property of the Dutch. And it was clearly established that Dutch settlements were located in the so-called Essequibo region, that is, a great river which was considered the twin of the Orinoco River. It was clearly established then that the region between the Orinoco and the Essequibo rivers was Spanish Territory. It was known as Spanish Guiana.

Only recently, in a New York library, I found a map, which I still have, drawn in 1810. This map depicts the territory of Venezuelan Guiana and Dutch Guiana. It is a most interesting map, not only because of the date, which represents the starting point of our political history and our territorial division, but it is of interest likewise because this map was published at a time when Great Britain did not have any official ownership of any land in that area and also because the map happened to be published in London. There was no interest in extending the boundaries of the Essequibo beyond the limits actually pertaining to the Dutch.

Venezuela is Spain's successor in the territory which, until 1810, was part of the General Captainship, one which comprised a Spanish Overseas Province. When we declared our independence and won it on the battlefield and signed a treaty with Spain in 1845, it was recognized that the boundaries of the new Republic were the same boundaries as those applying to the General Captainship in 1810, that is, at the time when our political resurgence began. The territories belonging to Dutch Guiana were those which belonged to it under the recognition afforded to it by Spain under the Münster Treaty, and they extended from the right shore of the Essequibo towards the east.

I would beg representatives to bear constantly in mind the names of the Essequibo and Orinoco rivers, because these two names represent the key to this whole past history,

We personally have never had, historically or juridically speaking, the slightest doubt that this was and should be the territory of Venezuela. But Great Britain, towards the end of the sixteenth century, occupied Dutch and Spanish territories in the Americas and, after the defeat of Bonaparte in Europe, Holland, which was ruled by a brother of Napoleon who was also defeated, signed a treaty in London with Great Britain in 1814, by means of which the Dutch ceded to Great Britain a part of Dutch Guiana. That included the area from the Essequibo to the east and covered approximately 20,000 square miles. This fact should also be borne in mind.

In 1814 Venezuela, like the other Spanish countries on the continent, was in the midst of its war for independence. Our difficulties with Great Britain did not become intense, for Great Britain, too, was occupied with other things in Europe. But in 1839 the Government of Great Britain commissioned a German naturalist, Robert Schomburgk, to go to Guiana and draft a map of that area. This Commissioner of Great Britain, Mr. Robert Schomburgk, did not simply draft a map covering the historically recognized boundaries of British Guiana, that is, that part which had been ceded by the Dutch to the British, but went far into Venezuelan territory in his draft. He not only drafted a map but even on the land itself he put up markers to delineate this boundary in a way which was tantamount to effecting an occupation.

In a country such as ours, the impact of these events were tremendous and caused great effervescence and agitation. But what could we do? We were a small country; we were weary from a lengthy war and internal dissensions; at the time we hardly numbered 2 million inhabitants; our country was poverty-stricken and we were confronted by a very powerful nation -- in fact, the first Great Power of the world at the time. All we could do as a civilized nation was to search for peaceful means to settle the problem which we faced.

And then in 1841, Venezuela sent to London a distinguished jurist and diplomat, Dr. Fortique, to discuss the matter with the British Foreign Office, a matter which we considered a very serious and disagreeable problem. There was a series of exchanges of notes: and, finally, after this, Lord Aberdeen, who was the Head of the Foreign Office, declared that these markers or posts represented only an exploration; they were not to be construed as a claim of rights, since there could be no such claims to those territories.

Finally, the British Government agreed to remove these markers, these posts, these flags. But it continued to harbour the idea that it might expand into our territory and this was demonstrated by history.

At that time, in 1841, our special envoy to London was proposing that we should resolve this vexatious problem of the boundaries by means of a treaty. This led to nothing. He even suggested that a certain concession might be made. Lord Aberdeen proposed another boundary which began at the mouth of another river, the Río Moruca, where there had been some establishments of subjects of the Crown. We agreed to this in a spirit of conciliation, governed by our desire to defend ourselves in this peaceable way against any future greed that might be manifested by the British Crown.

Between 1840 and 1850 there were some incursions into our territory which were repelled, just as in colonial times, and in most cases they were turned back in a peaceable way.

In Caracas and in the rest of the country, insistent rumours were rife to the effect that Great Britain intended to occupy all of Venezuelan Guiana. The British Chargé d'Affaires in Caracas, Mr. Belford H. Wilson, signed, by an exchange of notes, an agreement with our Government to the effect that so long as there was a dispute over the territory to which the British Government laid claim and which Venezuela considered its own, there would be no incursions from the one side or the other. We agreed to this document. We placed our confidence in this agreement because a man who was closely linked by friendship to Venezuela was involved. Mr. Belford H. Wilson had been a close friend of Simon Bolivar, his aide-de-camp who had accompanied him until his death. But some time later the problems recurred for there were new incursions and new claims on the part of Great Britain over the disputed territory.

In the 1880's it happened that rich gold deposits were discovered in the Yuruari region. In March 1886 a map was published in London in which the territory of Guiana appeared as belonging wholly to the British and in December of the same year, that is, a few months later, another map was published in which the territory became far more extensive, always towards the Venezuelan region in the west. The claim extended as far as the mouth of the Orinoco. This area was very significant and important then, not only because of the gold deposits but also because the mouth of the Orinoco was at the time of very

great strategic and economic importance. The Orinoco, together with the Río Negro, the Amazon and the Río de la Plata constitute the biggest water basin, the largest, most extensive water basin of the entire world.

There, in Punta Barima, the British planted a flag to proclaim their possession of this territory, and this naturally caused great indignation throughout the country. New protests led finally to a severance of diplomatic relations between Venezuela and Great Britain in 1887. Throughout these discussions the positions were the following: first, we asked that a treaty be signed to provide a peaceful settlement of the question of boundaries; secondly, we requested arbitration. The British consistently refused to settle the matter by means of arbitration.

The matter became extremely acute. As I said earlier, what could we as a small country hope to do when confronted with British claims. All we could do was to seek the assistance of our brothers in Latin America, of the Pope, and of the United States.

In 1895, when the President of the United States was Grover Cleveland and the Secretary of State was Richard Olney, there was tremendous interest in the United States in what was taking place between Venezuela and British Guiana; between Venezuela and the Government of Great Britain, which no longer had diplomatic relations. It was felt that, in spite of all our conciliatory spirit, no practical conclusion could be reached, nor was there any expectation of such a conclusion, and we were fearful lest British claims would continue to grow and Heaven only knew how far they would reach, and we pressed the United States, therefore, to take a position, assume a role in this situation.

There is a very well known note, one which is a landmark in the history of this matter, sent by Secretary of State Olney to the United States Ambassador in London, who was Mr. Bayard. In this note, after having given him a rather thorough and accurate account of the history of British claims to what were Venezuelan rights, Olney said inter alia the following: We should study briefly another aspect of the matter, viz. the undefined claims of Great Britain

and the various attempts which have been made to reach a settlement by arbitration during the dispute and the role played, heretofore, by the United States in this matter. As has been said, Schomburgk's exploration of the line was immediately followed by a protest from Venezuela and by conduct by Great Britain which could be justly interpreted as a disavowal of that line. ... The matter should be subjected to arbitration but preferably not with a European Power as arbitrator, in view of the experience we have already had in America, but rather with an American Power.

But General Harrison, who acted as our representative at the time of the award, declared that the European countries were not prepared to have any American country save the United States act as arbitrator, or even to act as a member of an arbitration court.

Mr. Olney stated: Through frequent intercession of good offices at the request of Venezuela, through its constant endeavour to re-establish diplomatic relations between the two countries, through the offer of its services as arbitrator, through the expression of a growing concern whenever informed of new acts of aggression by Great Britain in Venezuelan territory, the Government of the United States has demonstrated to Great Britain and to the world that this is a dispute which affects its honour and its interests and it cannot view the continuation of this dispute with indifference.

This famous note, which President Cleveland called "the twenty-inch gun note" because it was an extremely vigorous note and led to the famous statement made by President Cleveland before the Congress in 1895, had the following sequel.

Lord Salisbury replied several months later, not admitting the views set forth by Olney in connexion with the Munroe Doctrine.

In 1895, President Cleveland spoke before Congress in a very well-known message in which he, among other things, asked Congress to appoint a commission which would check on-the-spot what exactly were the boundaries between British Guiana and Venezuela, adding that if he became convinced that the Venezuelan boundaries were historically those which we claimed, and if this was inferred from this investigation, then the United States would not permit Great Britain to test us beyond these boundaries.

It is well to recall that this gave rise to an extremely grave situation and that the United States was on the verge of going to war with Great Britain. In the opinion of renowned historians, it was in this emergency that the United States became a world Power.

Great Britain had very serious problems in Europe, for most disturbing events had taken place in South Africa and Transvaal. Captain Jameson had penetrated into Transvaal and the Boers of German descent, led by President Kruger,

repelled this raid. The next day there was a cable from the Kaiser congratulating Kruger for having defeated the intruders and thrown them back. The Kaiser said that this had been done without any need to have recourse to "one's friends" -- meaning, of course, the Germany of that time.

Great Britain was, of course, very concerned because a new Power -- a naval Power -- was appearing on the scene. It therefore proved desirable to settle this outstanding problem with the United States.

Of course, there were many people who sought peace and this was true in Great Britain also; but many wished war. Theodore Roosevelt, for instance, said that he considered that, since there was a faction which wanted peace, it was necessary for war to take place.

There followed a rapprochement between Great Britain and the United States. Negotiations were undertaken on a different basis, negotiations relating to the boundaries between British Guiana and Venezuela. The inside story of these negotiations is well known to us. There is a letter sent by President Cleveland, written after the matter had apparently been resolved, in which he asked Secretary of State Olney what had actually occurred. In his reply there are a number of references which are of vital importance to our own case.

The representatives of the British Government repeatedly objected to having arbitration cover their disputed territory -- that is, the Schomburgk line towards the east. In their view, it should not be subject to discussion. Yet we consider this to be part of our territory.

In 1896 a series of conversations were initiated between the United States and Great Britain regarding the boundaries with Venezuela, and in February 1897 an arbitral Treaty was signed. In this Treaty, rules were laid down to be followed by the arbitrators in settling this boundary problem.

We have always maintained that we observed this arbitral Treaty, in spite of the fact that Venezuela played a very small role in the groundwork for the Treaty and its actual drafting -- these negotiations took place first in London and were then transferred to Washington for reasons which I shall recount later.

Now, in the 1897 Treaty the arbitrators were two British judges, two United States judges, and the arbiter, properly speaking, was the Russian Professor de Martens. Venezuela was absent from all this; all that it achieved was the right to appoint one of the arbiters, Judge Fuller, Chief Justice of the United States Supreme Court.

We had great respect for Fuller and Brewer, who were the two American judges, but it was felt -- and this was an extreme example -- that if the United States judge, Fuller, could not act, his replacement would be appointed not by Venezuela but by the Supreme Court of the United States.

Olney and the British Ambassador to Washington held almost daily conversations regarding the settling of the boundaries between Venezuela and British Guiana. There was no longer the situation of 1895, when the fiery message from President Cleveland gave rise to such a situation and such a public outcry that the two countries were on the verge of war. The situation was now quite different. The two countries were enjoying very friendly and cordial relations.

I venture this as a personal opinion, for this arbitral treaty is a document which, in any other circumstances, would not have been signed by Venezuela. Joseph Chamberlain, Prime Minister and Foreign Minister of Great Britain, himself, declared that this was an instrument which should not be signed by Venezuela -- and this was a widespread view in Caracas. But Venezuela was in such desperate straits and so desperately anxious to get out of this situation that it signed this instrument in the hope that the rules of law embodied therein would be respected by the arbitrators. But as we shall see, subsequently, this did not turn out to be the case.

In a letter of 27 December 1899, datelined Boston, Richard Olney wrote to former President Cleveland and said inter alia the following: I shall read this out in English for that is the original version:

(continued in English)

"On the subject of Venezuela, I am reminded that the biography or autobiography of Lord Playfair with his correspondence has been published and that it contains letters from himself, Chamberlain and Bayard on our Venezuelan intervention. Mr. Endicott, who spoke to me on the subject, characterised the publication as indiscreet. I suppose you remember the episode ... I shall get the book ..."

(continued in Spanish)

Lord Playfair, a British political figure who was married to a very distinguished United States lady, did much to improve relations between the two countries and he was greatly assisted in this by the fact that he was married to an American lady.

I was very interested in this reference "I suppose you remember the episode" in the letter and I think I have found the explanation. I am familiar with Lord Playfair's book but the reference to the episode is not there as it appears in this letter. This is not a truly serious point possibly but it does demonstrate how Great Britain claimed that what it called its "settlements" in British Guiana gave it the title of ownership over these territories purely and simply. This is a very curious point. No one disputed Spain's right of

first occupancy and discovery, and the rules of law which were recognized by the Dutch and the British for Manhattan, but when we come to arbitration then these rules of law which were part of the body of international law which applied at that time were rules which were disavowed during the discussions which led to the arbitral treaty.

I do not propose to relate the history of this particular episode. I will leave it to the Secretary of State Olney to do this. This is contained in a letter which he sent to ex-President Cleveland from Boston in reply to a series of questions put to him by the former President, who at that time had in mind giving a lecture in Princeton relating to the whole problem of the boundaries between British Guiana and Venezuela:

(continued in English)

"I note your inquiry about the Venezuelan boundary arbitration affair: So much of the negotiation took place in the course of personal interviews between Sir Julian and myself" ...

[Sir Julian Pauncefote was the British Ambassador to Washington during the days when the 1897 Arbitral Treaty was being negotiated.] "but I cannot always easily recall the order of events. In general the matter lies in my mind in this way. The term 'settlements' was first used in Lord Salisbury's letter of November 26, 1895" [This is Lord Salisbury's letter in which he replied to Bayard's transmittal of the vigorous note sent by Secretary of State Olney.] "towards the close of which he spoke of the gradual spread over the country of British settlements are intimated that under no circumstances would Great Britain submit to arbitration any claim which would affect them.

"After your special message to Congress the first attempts at negotiation were between Mr. Chamberlain and Lord Playfair, on the one side, and Mr. Bayard, on the other. One suggestion of Mr. Bayard, you will remember, was that the United States should call a general conference of the great European Powers over the Monroe Doctrine. It did not take

us long to sit on that proposition. Pretty soon I found Mr. Chamberlain writing Mr. Bayard to the effect that he, Bayard, presumably acting for me, had committed the United States to the suggestion that there could be an arbitration of the boundary which should be exclusive of what was called 'British settlements'.

"That led to a note to Mr. Bayard stating quite emphatically that the United States would not consent to anything of the sort and instructing him to bring the communication to the notice of Mr. Chamberlain. Mr. Chamberlain thereupon withdrew from the whole affair declaring, as I recollect with some positiveness, that it was idle to expect any result from negotiations through those channels. About the same time, we concluded that negotiations had better be transferred to Washington to which suggestion Lord Salisbury acceded with cheerfulness."

(continued in Spanish)

Thus, through an error committed by the United States Ambassador during his conversations with Chamberlain but which demonstrates historically the persistent claim of Great Britain that the settlements should not be included in the arbitration and the opposition of the United States to this stand during these conversations. As a result, then, of this episode these conversations were transferred to Washington.

In February 1897, the arbitral instrument was signed. Throughout this, no Venezuelan played any role, as I pointed out earlier. We had a confidential agent in Paris at the time, Dr. Jose Maria de Rojas, who was fully acquainted with these problems, and as our representatives we retained Benjamin Harrison, former President of the United States, and Mr. Severo Mallet Prevost, who was a New York lawyer.

The commission appointed by Congress to study the question of boundaries had had as its secretary Mr. Severo Mallet Prevost, and that was why Venezuela selected him as one of its legal advisers when the matter came up for arbitration. The arbitrators met in Paris. One of those appointed by the British Government died and he was replaced by Lord Russell. These were the arbiters who signed the arbitral award.

In Venezuela and the United States the arbitral award was carefully noted. The first conclusion came from a cursory reading is that there is no justification or reason for it. There was no explanation as to why the boundaries were set as they were. It was impossible, historically, to do this. Venezuela was clearly a victim and had been despoiled. For us this arbitral award has no validity. No one can give validity to something which never existed. That is our thesis.

I said that relatively recently we came upon some historical documents which have made it possible for us to reconstruct the inner history of this arbitral award. Mr. Severo Mallet Prevost related many years later this history, to be published after his death, which occurred in 1948. It was in 1949 that we became acquainted with this extraordinary posthumous document, in a way a document which was to clear the conscience of Mr. Prevost, and that is why he sought to have all this written down.

Some of those who deal with the matter claim that this was the first time that he mentioned the question, but that is not true. He referred to it very often and there is a letter of Mr. Olney -- if one reads between the lines -- in which he declares that Mr. Mallet Prevost, who had recently arrived from Paris, wished to speak with him so as to recount to him what had exactly happened and why things had happened as they had. These words "why things had happened as they had" encompassed all the mysterious aspects of this matter.

There was also a letter from President Harrison to one of his friends, a few days after the arbitral award, which says "I shall tell you, but not in writing, what occurred and this will greatly surprise you. Our confidential agent, Dr. Rojas, divined something of this. He realized that we had been despoiled. He knew exactly where the boundaries of Venezuela lay. He had no doubt that these existed between the Orinoco and the Essequibo", the two rivers which are so significant in this case and whose names I beg you to recall.

Mr. Mallet Prevost has left a written memorandum which is so important and significant that I cannot refrain from reading it:

"When all the speeches had been concluded in the month of August or early September the court adjourned so as to allow the arbitrators to confer and render their decision. Several days passed while we anxiously waited but one afternoon I received a message from Justice Brewer saying that he and Chief Justice Fuller would like to speak with me and asking me to meet them at once at their hotel. I immediately went there.

When I was shown into the apartment where the two American arbitrators were waiting for me, Justice Brewer arose and said quite excitedly: 'Mallet-Prevost, it is useless any longer to keep up this farce pretending that we are judges and that you are counsel. The Chief and I have decided to disclose to you confidentially just what has passed. Martens has been to see us. [and I should parenthetically say this -- de Martens was a well-known figure in the past century, one of the great arbitration lawyers, a professor of international law, a doctor honoris causa of the Universities of Oxford and Edinburgh, and at this time de Martens was an adviser of the Russian Foreign Ministry] He informs us that Russell and Collins are ready to decide in favour of the Schomburgk Line [the line drawn quite arbitrarily by this German geographer, a line which was then taken up as an indisputable line by the British] which starting from Point Barima on the coast would give Great Britain the control of the main mouth of the Orinoco; that if we insist on starting the line on the coast at the Moruca river [this river, which was for the first time mentioned by Lord Aberdeen as a possible boundary and which we accepted, but we are not discussing this now] he will side with the British and approve the

Schomburgk Line as the true boundary.' 'However', he added that, 'he, Martens, is anxious to have a unanimous decision; and if we will agree to accept the line which he proposes he will secure the acquiescence of Lord Russell and Lord Collins and so make the decision unanimous.' What Martens then proposed was that the line on the coast should start at some distance southeast of Point Barima so as to give Venezuela control of the Orinoco mouth; and that the line should connect with the Schomburgk Line at some distance in the interior leaving to Venezuela the control of the Orinoco mouth and some 5,000 square miles of territory around that mouth.

[I should add here that approximately 50,000 square miles were involved; we got 5,000 square miles, according to this procedure, and the remaining 45,000 square miles were to become the property of British Guiana.]

"That is what Martens has proposed. The Chief and I are of the opinion that the boundary on the coast should start at the Muruca River. The question for us to decide is as to whether we shall agree to Martens' proposal or whether we shall file dissenting opinions. Under these circumstances, the Chief and I have decided that we must consult you, and I now state to you that we are prepared to follow whichever of the two courses you wish us to do.' From what Justice Brewer had just said, and from the change which we had all noticed in Lord Collins, I became convinced and still believe [Mallet-Prevost continues] that during Martens' visit to England a deal had been concluded between Russia and Great Britain to decide the case along the lines suggested by Martens and that pressure to that end had in some way been exerted on Collins to follow that course. I naturally felt that the responsibility which I was asked to shoulder was greater than I alone could bear. I so stated to the two arbitrators and I asked for permission to consult General Harrison. This they gave and I immediately went to General Harrison's apartment to confer on this subject with him.

After disclosing to General Harrison what had just passed he rose in indignation and, pacing the floor, described the action of Great Britain and Russia in terms which it is needless for me to repeat. His first reaction was to ask Fuller and Brewer to file dissenting opinions, but, after cooling down and considering the matter from a practical standpoint, he said:

'Mallet-Prevost, if it should ever be known that we had it in our power to save for Venezuela the mouth of the Orinoco and failed to do so we should never be forgiven. What Martens proposes is iniquitous but I see nothing for Fuller and Brewer to do but to agree.'

I concurred with General Harrison and so advised Chief Justice Fuller and Justice Brewer. The decision which was accordingly rendered was unanimous but while it gave to Venezuela the most important strategic point at issue, it was unjust to Venezuela and deprived her of very extensive and important territory to which, in my opinion, Great Britain had not the shadow of a right."

The revelations made by Mr. Mallet-Prevost caused considerable upheaval. The magazine which published this document -- the American Journal of International Law -- is one which enjoyed and continues to enjoy justified prestige.

The memorandum had been published by an old associate of Mallet-Prevost -- perhaps the only survivor of a history which ended approximately in 1899. I am referring to Judge Otto Schoenrich who is 88 years of age, who lives in the United States, and who is a practising member of a New York law firm. What had been put into writing by Mallet-Prevost coincided with the general opinion that the award had been the product of a political compromise, which was confirmed later in an editorial comment published in the same American Journal of International Law. Mallet-Prevost simply reveals now what he could not reveal in 1899, that is to say, the way in which such an agreement was reached.

The truth is that this was not the first time that Mallet-Prevost referred to the matter. During the course of a luncheon with Olney -- and we shall refer to this later -- he recounted this history in a general outline and I personally do not have the slightest doubt that, as in all history, diligent investigators will bring out exactly what happened as it happened.

This Mallet-Prevost evaluation was refuted in the American Journal of International Law in an editorial comment written by Mr. William Cullens Dennis; this refutation referred to an article published by Mr. Clifton J. Child in the same American Journal of International Law, declaring that Mallet-Prevost had submitted a number of details which were not part of the statements which he and Harrison had made in 1899. Of course, in 1899 these gentlemen could not recount the true history or say the truth. In private letters to friends, Harrison declared, and I made this point earlier: I shall tell you but not in writing exactly what happened. They did not wish to disclose the true mystery which, for various reasons, surrounded this arbitral award.

When Mallet-Prevost returned to New York in 1899, that is shortly after the handing down of the award in Paris, he met in that city with the former United States Secretary of State, Mr. Olney, and Mr. Olney referred to this interview in a letter addressed to Cleveland. He said:

(Continued in English)

"I have not seen you since the award in the Venezuela Boundary case. Upon his return to New York, Mr. Mallet-Prevost, Venezuela's junior counsel, was anxious to tell me how the thing went and why it went as it did. On one

of my New York visits I asked him to dine -- with the result that he consumed less food than time and that the feast was not so much a flow of solid or liquid refreshment as of intense wrath and bitterness of soul at the course and decision of the arbitral tribunal. I refrain from going into particulars because no doubt you have already heard them from some other source. The worst result to be feared apparently is not the loss of territory to Venezuela, but the general discrediting of the cause of arbitration. According to my informant, both the Chief Justice and Brewer are down on arbitration as a mode of settling international disputes unless some safeguarding of the rights of parties can be provided. Ex-Secretary John W. Foster, with whom I dined here the other day, said Fuller and Brewer had come home pretty sick of arbitration."

(Continued in Spanish)

Now, an exceptionally important witness, Mr. Benjamin Harrison, an ex-President of the United States, a man whose public and private conduct and life are well known, a man of outstanding character, endowed with a very great sense of his responsibility had this to say -- and his words were very harsh: however, I cannot but cite these words here. Referring to the British judges, Mr. Harrison wrote the following:

(Continued in English)

"The British judges were as always aggressive advocates -- rather than judges. Law is nothing to a British judge, it seems, when it is a matter of extending British dominion."

(Continued in Spanish)

And on his return to the United States on 12 December 1899, Mr. Harrison in a private and confidential letter wrote the following:

"My experience in Paris last summer developed in my mind some very grave difficulties in the way of a satisfactory arbitration of international disputes, and more particularly of American questions. The European governments decline absolutely to allow that any American state except the United States is competent to furnish an umpire or even one of several disinterested members of a court. The result is that the ultimate decision of every American question is in the hands of a European umpire. The diplomatic habits and purposes of the great European governments are wholly out of line with ours ...

"The seizure and appropriation of the territories of weak nations is a practice to which all of them are committed, and our Central and South American States can hardly secure fair treatment ...

"In the Venezuelan case I thought the Tribunal was constituted upon a judicial, and not a representative, basis and I made the strongest appeal I ever addressed to a court for the determination of the questions before the Tribunal, in a purely judicial spirit. It was an utter failure ...

"The British Judges were almost as distinctly partisan as the British Counsel. That there should be, upon such Tribunal, representatives, is an anomaly and an outrage ...

"If the findings of an arbitration Tribunal are to be influenced by the votes and private arguments of the representatives of the two nations and their decisions are not to establish the right but to enforce compromises, then arbitration can never be an institution. It will remain as it has been a mere expedient".

(continued in Spanish)

On another occasion, in January 1900, Harrison wrote:

(continued in English)

"As to Lord Russell's advice that a judicial spirit be exercised in these matters I have only to say that neither he nor his British associates practiced that good doctrine. I could tell but will not write, some incidents that would surprise you. I believe that it is possible to an American Judge, and perhaps to Judges of some other nations, to exercise that judicial spirit in international controversies; but I do not believe it is possible to an Englishman ...

"In controversies between individuals the English courts are conspicuously fair and independent, but when it comes to a question of extending the domain of Great Britain and especially when gold fields are involved it is too much to hope. The decision in the Venezuelan case, as a compromise, gave to Venezuela the strategic points but robbed her of a great deal of territory which I do not question would have been given to her by an impartial judicial Tribunal. The modern European idea is that there is nothing illegal or even immoral in the appropriation of territories of weaker states."

(continued in Spanish)

The evidence and the testimony which I have quoted, particularly that coming from the former President of the United States, Benjamin Harrison, are, it seems to me sufficient to place this issue in its proper context and to assess it properly. Viewing it in retrospect, there was no arbitral award, properly speaking. There was a settlement. There was a political compromise. And by means of this decision, the three judges who held a majority disposed of Venezuelan territory; for the two British judges were not, as Harrison declares, acting as judges. They were acting as government representatives, as advocates rather than as judges.

All of these acts involved the destiny of a country and involved depriving that country of one of the important attributes of sovereignty: its territory. No Venezuelan was present. All this took place in the Quay d'Orsay in Paris, and our confidential agent, a distinguished man in my country, was no doubt, roaming around in the hallways trying to glean some bits of information about what was taking place inside. This is the distressing and dramatic story of what took place during these negotiations in Paris.

Moreover, never did a powerful nation, such as Great Britain, deal with another country in a more insolent fashion. There was no way in which the deepest feelings of the Venezuelans could have been more wounded and offended, and the way in which the matter was handled was calculated to bring this about. Our national pride was deeply wounded in this truly unfortunate hour, and we hope and expect that this situation will be redressed.

The whole history which I have recounted to you exists as factual history. It is traced in many documents. Some are old and extremely well known, but they were not taken into account at the time the arbitral award was handed down, and it is to be found also in other documents which have come to light since then.

Some will ask "Why after so many years, does Venezuela raise this whole matter?". We raised it in 1950, after having been apprised of the Mallet Prevost memorandum. Between 1950 and 1958, we in Venezuela were ruled by a dictatorial Government, which was not sensitive about this problem nor unduly concerned about it.

The Caracas Press devoted a great deal of attention to the Mallet Prevost memorandum, which was reprinted in all the newspapers in Venezuela. In view of this, a reservation was filed in 1950 at the meeting of foreign ministers held at Washington -- I believe it was the fourth such meeting. And then in 1954, another reservation was put on record.

Replying to my own query, namely, why is the matter being raised now, it was because earlier we were not acquainted with the inner history of this award. We did not know exactly how things had taken place. Certainly we knew that we had been robbed, but the Venezuela of 1899 and the Venezuela of many years thereafter was a country which was poverty-stricken, which had been ravaged by civil war. While the arbitral award was being handed down in Venezuela on 3 October, in Venezuela a revolution was taking place which was very near Caracas, the capital of our country. At these moments -- in 1899, I think I can say for this is an historical fact -- Venezuela was virtually without a Government. Naturally, that is our fault, not the fault of Great Britain, but I am trying to depict the atmosphere which prevailed at the time these various events were taking place.

In view of all the facts I have adduced, all the information I have given you and the many other points which I could raise but would rather summarize the problem, to claim that Venezuela is compelled to consider the results of the arbitral court as a full, final and definitive settlement of all the questions put before us by the arbitration court would be preposterous. This would have been appropriate if the arbitrators had acted in accordance with the terms of the arbitration treaty. The arbitral award had, necessarily, to be consonant with the rules of law established in the 1897 Treaty. But this did not prove to be the case. It is quite clear that was not so, and that is why Venezuela in its desire to settle this thorny issue in a friendly and definitive way has considered it appropriate and desirable to explain the reasons for which it cannot recognize the validity of an arbitral award which had no legal foundation, one handed down in the circumstances which I have just recounted. All this is in line with international doctrine which does not recognize arbitral awards when these are taken or reached in circumstances such as those which I have just described.

I could quote from any number of opinions of renowned jurists, specialists in international law, but I shall refrain from doing this. I shall quote only from the opinion of one very well-known professor of international law. I have in mind Professor Oppenheim, who is very well known in the United Kingdom and who for many years was a professor of international law at Cambridge University and who, no doubt, will carry great weight with our British friends. I feel sure that his opinion as an international jurist will prove very forceful. In the London 1952 edition of his work "International Law", page 23, this distinguished professor said:

"... it is obvious that an arbitral award is only binding provided that the arbitrators have in every way fulfilled their duty as umpires," -- the same point was made by Harrison -- "and have been able to arrive at their award in perfect independence. Should they have been bribed, or not have followed their instructions," -- the instructions referred to are the instructions which, in our case, were laid down in the 1897 Treaty and which were not followed -- "should their award have been given under the influence of coercion of any kind ... the award would have no binding force whatever."

I have given the history of this issue involving the boundaries between British Guiana and Venezuela; I have set forth the political, historical and juridical reasons for which Venezuela cannot consider the 1897 arbitral judgement to constitute a final and definitive settlement of the boundary issues between it and British Guiana; I have declared that Venezuela respects and observes each and every one of the provisions of the 1897 arbitration treaty; I have depicted how, in the 1899 arbitral judgement, the norms of law embodied in that treaty were disregarded and violated. Venezuela is not asking that this Committee pass on the question of substance; Venezuela has brought the matter before the United Nations, not to seek a decision on the substance of the matter, but rather so as to inform the world of the powerful reasons which compel us not to recognize the 1899 arbitral judgement as a final and definitive settlement of its dispute with the United Kingdom regarding the territory of British Guiana of which we were despoiled.

Today, Venezuela has proof and evidence of the arbitrary and extra-legal way in which the matter was settled by the 1899 arbitral judgement, and the existence of the United Nations Charter enables us to act in circumstances which are very different from the circumstances which prevailed in the last century. All we seek to find is a friendly solution to the problem with the United Kingdom, a country with which we have very friendly and cordial relations.

Venezuela also wishes to reaffirm its support of independence for British Guiana and, for this reason, we hope that in the conversations which we seek to have with the United Kingdom in the quest for a pacific settlement of this dispute the representatives of the Government of British Guiana will also participate fully. We hope that these conversations can take place in an atmosphere of friendship. This is our most fervent desire as Venezuelans.
