

AWARD OF HIS MAJESTY THE KING OF ITALY WITH
REGARD TO THE BOUNDARY BETWEEN THE COLONY
OF BRITISH GUIANA AND THE UNITED STATES OF BRAZIL.
GIVEN AT ROME, JUNE 6, 1904^{1 2}

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

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

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

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

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

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

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

That the effective possession of a part of a region, although it may be held to confer a right to the acquisition of the sovereignty of the whole of a region which constitutes a single organic whole, cannot confer a right to the acquisition

¹ *Parliamentary Paper*, Brazil No. 1 (1904).

² *British and Foreign State Papers*, Vol. XCIX, p. 930.

of the whole of a region which, either owing to its size or to its physical configuration, cannot be deemed to be a single organic whole *de facto*:

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

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

That the arbitral Judgment of the 3rd October, 1899,¹ delivered by the Anglo-American Tribunal, which, when deciding the boundary between Great Britain and Venezuela, adjudged to the former the territory which constitutes the subject of the present dispute, cannot be cited against Brazil, which was unaffected by that Judgment;

That, however, the right of the British State as the successor to Holland, to whom the Colony belonged, is based on the exercise of rights of jurisdiction by the Dutch West India Company, which, furnished with sovereign powers by the Dutch Government, performed acts of sovereign authority over certain places in the zone under discussion, regulating the commerce carried on for a long time there by the Dutch, submitting it to discipline, subjecting it to the orders of the Governor of the Colony, and obtaining from the natives a partial recognition of the power of that official;

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

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

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

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

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

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

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

For these reasons, We decide:—

¹ *Ibid.*, Vol. XCII, p. 160.

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

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

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

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

GIVEN at Rome on the 6th June, 1904.

VICTOR EMMANUEL.
