

INTERNATIONAL COURT OF JUSTICE

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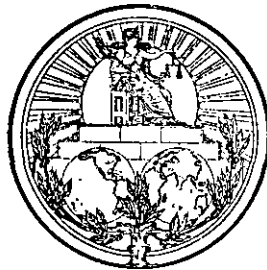
PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

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ANTARCTICA CASES

(UNITED KINGDOM *v.* ARGENTINA;  
UNITED KINGDOM *v.* CHILE)

ORDERS OF MARCH 16th, 1956: REMOVAL FROM THE LIST



COUR INTERNATIONALE DE JUSTICE

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MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

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AFFAIRES RELATIVES A  
L'ANTARCTIQUE

(ROYAUME-UNI c. ARGENTINE ;  
ROYAUME-UNI c. CHILI)

ORDONNANCES DU 16 MARS 1956 : RADIATION DU RÔLE



Journal of the Royal Society of Medicine

Volume 41, No. 1, 1948

THE  
JOURNAL OF THE  
ROYAL SOCIETY OF MEDICINE  
PUBLISHED WEEKLY  
BY THE SOCIETY'S PUBLISHERS  
H. K. LEECH, LTD., 21, BEDFORD SQUARE, LONDON, W.C.1

PRINTED IN THE NETHERLANDS

PART I

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APPLICATION INSTITUTING PROCEEDINGS  
AND PLEADINGS

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PREMIÈRE PARTIE

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REQUÊTE INTRODUCTIVE D'INSTANCE  
ET PIÈCES DE LA PROCÉDURE ÉCRITE

SECTION A.—APPLICATIONS  
INSTITUTING PROCEEDINGS

1. APPLICATION INSTITUTING PROCEEDINGS AGAINST  
THE ARGENTINE REPUBLIC

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THE AGENT FOR THE GOVERNMENT OF THE UNITED  
KINGDOM TO THE REGISTRAR OF THE INTERNATIONAL  
COURT OF JUSTICE AT THE HAGUE

FOREIGN OFFICE,

LONDON, S.W.1.

May, 1955.

Sir,

I have the honour to refer to Article 40 (1) of the Statute of the International Court of Justice and Article 32 (2) of the Rules of Court and, by direction of Her Majesty's Principal Secretary of State for Foreign Affairs, to submit an Application instituting proceedings in the name of the United Kingdom of Great Britain and Northern Ireland against the Republic of Argentina in the following case<sup>1</sup>.

2. Differences have existed between the Governments of the United Kingdom and of the Republic of Argentina for a number of years, concerning pretensions advanced by the Republic in 1925, and at various dates thereafter, to the sovereignty of certain Antarctic and sub-Antarctic territories which belong to the United Kingdom under prior, long-standing, and well-established legal titles, dating from, at latest, the period 1775-1843. The territories in dispute between the two countries form part of the Falkland Islands Dependencies, consisting of already existing British possessions, which (following on a long series of analogous enactments—see paragraph 13 below) were proclaimed as such and formally placed under the administration of the Government of the Colony of the Falkland Islands by Royal Letters Patent of July 21, 1908.

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<sup>1</sup> It results from the present Application that the United Kingdom Government accepts the jurisdiction of the Court in respect of the questions hereby submitted to it, and in particular that of the title to sovereignty over the islands and lands of the Falkland Islands Dependencies. The present Application does not constitute a submission to the jurisdiction of the Court in any other respect, or as regards the title to sovereignty over any territory outside the Dependencies.

These Letters Patent, the full text of which is set out in Annex 1 (No. 1) to the present Application, specified as the principal territories included within the Dependencies the territories known as South Georgia, the South Orkneys, the South Shetlands and the Sandwich Islands, and the territory known as Graham Land. There were also other territories, such as Coats Land. Further Letters Patent of March 28, 1917 (Annex 1, No. 2), were issued for the purpose of clarifying the extent of the Antarctic mainland together with its coastal archipelagos which were comprised within the designation "territory of Graham Land" used in the earlier Letters Patent. Under the supplemental Letters Patent of 1917, the Dependencies were finally defined to include—

"all islands and territories whatsoever between the 20th degree of West longitude and the 50th degree of West longitude which are situated south of the 50th parallel of South latitude; and all islands and territories whatsoever between the 50th degree West longitude and the 80th degree of West longitude which are situated south of the 58th parallel of South latitude".

The territories of the Dependencies, as so defined in the Letters Patent of 1908 and 1917, which had long been British possessions, have for many years been utilised and administered by the Falkland Islands Government effectively, openly and, until modern times, without any objection from the Republic of Argentina, which facts are conclusively shown in paragraphs 6 to 25 below <sup>2</sup>.

3. Notwithstanding the United Kingdom's open assumption, and long-standing and peaceful exercise of sovereignty over the territories concerned, and the clear and precise delimitation of the Falkland Islands Dependencies in the above-mentioned Letters Patent, the Government of the Republic of Argentina formulated pretensions in 1925 to the South Orkneys, in 1927 to South Georgia as well as to the South Orkneys, and in or about 1937 to *all* the territories of the Falkland Islands Dependencies. Subsequently, the Republic of Argentina, in a notice of claim deposited on Deception Island (South Shetlands) in January, 1942, and in a Note addressed to the United Kingdom Government on February 15, 1943, defined her pretensions in the area south of latitude 60° South as covering all Antarctic lands and dependencies between longitudes 25° and 68° 34' West. This westerly limit was later extended by a decree of September 2, 1946, to longitude 74° West. Thus, the pretensions which Argentina has from time to time formulated to territories in the Falkland Islands Dependencies

<sup>2</sup> It will be understood that although, for reason of convenience, the territories to which the present Application relates were constituted Dependencies of the Falkland Islands for administrative purposes, the British *title* to them is a separate and independent one, which in no way derives from or depends on the title to the Falkland Islands themselves.

appear to cover South Georgia and the South Sandwich Islands as well as the islands and lands situated between  $25^{\circ}$  and  $68^{\circ} 34'$  West and south of latitude  $60^{\circ}$  South.

4. South of latitude  $60^{\circ}$  South, the western limit of Argentina's pretensions, as given in the above-mentioned decree of September 2, 1946, is longitude  $74^{\circ}$  West ; whereas the western limit of the Falkland Islands Dependencies is  $6^{\circ}$  further to the west at longitude  $80^{\circ}$  West. The United Kingdom's present Application does not, therefore, relate to the areas of the Falkland Islands Dependencies between longitudes  $74^{\circ}$  and  $80^{\circ}$  West, which lie outside the declared limits of Argentina's pretensions. Similarly, the eastern limit of Argentina's pretensions, as stated in Argentina's above-mentioned notice of claim, and diplomatic Note of February 15, 1943, is longitude  $25^{\circ}$  West, whereas the eastern limit of the Falkland Islands Dependencies is  $5^{\circ}$  further to the East at longitude  $20^{\circ}$  West. The United Kingdom's present Application does not, therefore, relate to the areas of the Falkland Islands Dependencies between  $25^{\circ}$  and  $20^{\circ}$  West, which lie outside the declared limits of Argentina's pretensions. It follows that the United Kingdom's complaint in the present Application relates to the pretensions of Argentina to the sovereignty of the islands and lands of the Falkland Islands Dependencies which lie between longitudes  $25^{\circ}$  and  $74^{\circ}$  West and to the southwards of latitude  $60^{\circ}$  South. A map depicting the territories to which the United Kingdom's present Application relates is attached as Annex 2. As this map shows, the principal territories in dispute between the United Kingdom and Argentina in the present case are the South Sandwich Islands, South Georgia, the South Orkneys, South Shetlands, and Graham Land together with its coastal archipelagos. There is also Coats Land, to which (at Vahsel Bay) the Argentine Government has, during the last few weeks, sent an expedition.

5. The main facts relative to the United Kingdom's titles to the sovereignty of the Falkland Islands Dependencies and the territories comprised in it, and to the violation of her sovereignty by the Republic of Argentina, are set out in paragraphs 6-33 below<sup>3</sup>. The United Kingdom Government considers that the facts stated in the present Application suffice to establish conclusively both the United Kingdom's title to sovereignty, and the violation of that

<sup>3</sup> The description of the origin of the British titles and of their subsequent consolidation by occupation, user, administration and other means appropriate to the circumstances of the territories, as contained in paragraphs 6-25 and 30-31 hereof, are substantially identical with the corresponding passages in the Application which the United Kingdom Government is making concurrently with the present one, complaining of violations of its sovereignty over the same area, on the part of the Republic of Chile.

sovereignty by the Republic of Argentina. The United Kingdom Government reserves the right, however, to amplify in its pleadings its exposition of the relevant facts, and to furnish further proof of both these matters.

### **Origins of the British Titles, Historic Discoveries and Acts of Annexation by British Nationals in the Period 1675-1843**

6. The British title to the territories concerned goes back to a number of dates varying from, at latest, 1775 to 1843. The first discovery of any of the islands or lands of the Falkland Islands Dependencies may well have been that of *South Georgia* in 1675 by the British merchant Anthony de la Roche. This group of islands was rediscovered in 1775 by the great English navigator Captain, James Cook, R.N. On January 17 of that year he landed at three places on the island, took possession of it formally in the name of King George III and called it South Georgia in honour of the King.

7. Captain Cook also discovered the *South Sandwich Islands* in 1775. Sailing eastwards from South Georgia, he sighted first a small group of islands which he called the Clerke Rocks after the name of his lieutenant, and then, on January 31, a larger group which he called the Sandwich Land after the First Lord of the British Admiralty of that date.

8. The *South Shetland Islands* were discovered by the English sea captain William Smith on February 18, 1819. Revisiting the islands in October of the same year, he landed, planted the British flag and formally took possession of the group in the name of King George III, calling it New South Britain—(this was afterwards changed to South Shetlands, named after the Shetlands Islands, north of Scotland). A few months later, Edwards Bransfield, R.N., accompanied by William Smith, proceeded again to the islands and made a survey of the whole group. On January 16, 1820, he landed on the largest island (King George Island) in the centre of the group and took possession formally in the name of King George IV. After a voyage south-westwards between the South Shetlands and Graham Land, to which further reference is made in paragraph 10 below, he returned to the South Shetland Islands. On February 4 he landed on the most easterly island of the group, taking possession formally in the King's name and calling the island Clarence Island in honour of the Duke of Clarence, the brother of the King.

9. The *South Orkney Islands* (named after another Scottish group) were discovered by the British sealing captain, George Powell, on December 6, 1821. On the following day he landed



on the largest of the islands, took possession of it formally in the name of King George IV and called it Coronation Island in honour of the King's Coronation.

10. *Graham Land*, the northern extremity of the Antarctic continent, was first discovered on January 30, 1820, by E. Bransfield, R.N., in the course of the voyage of exploration south-westwards from the South Shetlands which was mentioned in paragraph 8 above. He sighted, in hazy weather, the outline of parts of the Antarctic mainland and one or two coastal islands. He named the land Trinity Land in compliment to the Board of Trinity House (the British institution responsible for pilotage and maritime lights), and he named two of the coastal islands, Hope Island and Tower Island, respectively. He also traced the outline of the Antarctic mainland and coastal islands, as he had seen them, on the chart which he drew of the South Shetlands and forwarded to the British Admiralty. Soon afterwards, further sightings of the Antarctic peninsula or its coastal islands were reported by British and American sealers, by the Russian navigator Admiral Bellinghausen, and by the French navigator, Captain D'Urville, but the first sighting was that of E. Bransfield, R.N. In 1829, Captain H. Foster, R.N., in H.M.S. *Chanticleer*, effected a landing on one of the coastal islands, Hoseason Island off West Graham Land, and deposited there a copper cylinder in which was a document taking possession in the name of King George IV. On February 21, 1832, the British sealing captain, John Biscoe, landed on an island of the Palmer Archipelago, believing it to be part of the mainland, and took possession formally in the name of King William IV, calling the territory Graham Land, by which name the peninsula is known to-day, in honour of Sir James Graham, then First Lord of the British Admiralty. On January 6, 1843, Captain J. C. Ross, R.N., commanding H.M.S. *Erebus* and H.M.S. *Terror*, penetrated into a gulf on the eastern side of the peninsula and landed on a coastal island. He named the gulf Erebus and Terror Gulf, and the island James Ross Island, and took possession of the island together with its "contiguous lands" for the British Crown.

11. The first discoveries of South Georgia, the South Sandwich Islands, the South Orkneys, the South Shetlands, and Graham Land were thus all made by British nationals—a fact reflected in the names given to these territories by which they have been known, and have figured in maps and charts, ever since. The same applies to Coats Land, as to which see paragraph 14 below. Some discoveries of particular parts of these principal groups of territory were made by explorers or seamen of other nationalities; but the initial discoveries of all five principal groups were British. There were no Spanish or Argentine discoveries. Furthermore, during this early period in Antarctic history from 1678 to 1843,

acts of annexation were performed in the name of the British Crown at places ashore within all the principal groups except the South Sandwich Islands, where, frequently, the local conditions render landing impossible. On the other hand, during this period no acts of annexation were performed in any of the territories concerned on behalf of any other State.

12. The facts stated in paragraphs 6 to 11 above show that from very early dates varying between 1775 and 1843, Great Britain possessed, on the basis of discovery, accompanied by a formal claim in the name of the British Crown, an original root of title to all the territories concerned.

### **Display of British Sovereignty in or in regard to the Falkland Islands Dependencies in the Period 1843 to July 21, 1908**

13. In pursuance of a British Act of Parliament (6 Victoria, Chapter 13—British and Foreign State Papers, Volume 31, page 1211), Royal Letters Patent were issued on June 23, 1843, making provision for the government of the "Settlements in the Falkland Islands and their Dependencies" (Annex 1 hereto, No. 3). Supplemental Letters Patent were issued on April 28, 1876, making further provision for the government of the "Settlements in the Falkland Islands and their Dependencies". On February 25, 1892, fresh Letters Patent were issued by which the Government of the "Settlements in the Falkland Islands and their Dependencies" was designated as the Government of a Crown Colony (British and Foreign State Papers, Volume 84, page 262). Similarly, the Commission issued to the new Governor in November, 1847 (Annex 1 hereto, No. 4), and the ten succeeding Commissions to Governors issued between that date and 1908, were in the form of an appointment covering "the Falkland Islands and their Dependencies". Again, numerous laws passed by the Falkland Islands Government during the period 1843-July 21, 1908, were made for "the Falkland Islands and their Dependencies"<sup>4</sup>. The particular territories comprised in the "Dependencies of the Falkland Islands" were not named in the various Letters Patent, Governor's Commissions, or laws of the Falkland Islands Government. The Colonial Office Year Book, however, began in 1887 to specify South Georgia as one of the Dependencies. There had been comparatively little whaling and similar activity in the Antarctic in the middle of the nineteenth century, but from 1892 onwards whaling, sealing and scientific exploration began to revive. This renewed activity called for a corresponding exercise of State authority in the Antarctic and led very soon to special

<sup>4</sup> As regards the nature of the connexion between the Falklands Islands and the Dependencies, see footnote 2 to paragraph 2 above.

provision being made by Great Britain for the government of the five principal territories as Dependencies of the Falkland Islands and to their formal constitution as the Falkland Islands Dependencies.

14. The Antarctic revival in the area now in dispute began with the voyage of four Scottish vessels in 1892 to the eastern side of Graham Land and the Weddell Sea for whaling and sealing. In the same year a Norwegian whaling expedition which went to the Weddell Sea, called at the South Orkneys, and further Norwegian expeditions in 1893 and 1894 visited the South Shetlands and Graham Land. In 1897 and 1901 respectively, Belgian and Swedish scientific expeditions went to the South Shetlands-Graham Land area, and in 1902 they were followed by a Scottish scientific expedition under Dr. W. S. Bruce in the s.s. *Scotia*. Dr. Bruce established a meteorological station at Laurie Island in the South Orkneys in 1903, the working of which was entrusted to the Argentine meteorological office in the following year. He spent the Antarctic winter of 1903 at Laurie Island and in 1904, after revisiting Laurie Island to land the Argentine meteorologists, he penetrated deep into the Weddell Sea, discovering *Coats Land* (named after a Scottish supporter of the expedition) which is now the eastern frontier of the Falkland Islands Dependencies on the Antarctic continent.

15. In 1904 the Norwegian whaling expert, Captain Larsen, formed a company in Buenos Aires, the *Compania Argentina de Pesca*, for the purpose of whaling in the Antarctic and established a shore whaling station at South Georgia. In 1905, a Chilean company, the *South Georgia Exploration Company*, financed by British subjects in Chile, was granted a mining and grazing lease of South Georgia by the Governor of the Falkland Islands and proceeded there, only to find Captain Larsen's *Compania Argentina de Pesca* already in occupation of the best site for a base. Meanwhile, the Captain had applied through the British Legation in Buenos Aires to the British Government in London for a whaling licence for South Georgia. The British Government, learning that another licence had previously been granted by the Governor, despatched H.M.S. *Sappho* to South Georgia to investigate the situation on the spot. The result was that a whaling licence was granted by the Governor to the Argentine company, and the Chilean company then abandoned its project. In the same year, 1905, Norwegian whalers visited South Georgia and the South Shetlands, taking with them the first whale-factory ship employed in the Antarctic. In connexion with this enterprise, the Norwegian Government addressed an inquiry to the British Government concerning the sovereignty of territories in the area between longitude 35° and 80° West and latitudes 45° and 65° South, *i.e.*,

in the area covering South Georgia, the South Shetlands, the South Orkneys and the northern part of Graham Land. The British Government replied that the South Shetlands were not international but were British possessions as were also South Georgia, the South Orkneys and Graham Land (the South Sandwich Islands lie outside the area of the Norwegian inquiry) and that Norwegian whalers should apply to the Governor of the Falkland Islands for any facilities that they might need.

16. In view of these developments, the Falkland Islands Government promulgated a whaling ordinance in 1906 (Ordinance No. 3 of 1906) by which the taking of whales without licence was made unlawful, and a royalty was made payable in respect of each whale caught under licence from that Government. It was further considered desirable, in view of the increasing importance of the five principal territories as whaling and sealing bases, to make specific provision for their government and to make more specific provision for their government as dependencies of the Falkland Islands. Accordingly, on July 21, 1908, as recited in paragraph 2 above, South Georgia, the South Orkneys, the South Shetlands, the Sandwich Islands and the territory of Graham Land were by Royal Letters Patent formally constituted Dependencies of the Colony of the Falkland Islands and placed under its government. Under these Letters Patent (Annex I hereto, No. 1) it was provided that :—

- (a) the Governor of the Colony should be the Governor also of the Dependencies and be invested with the same powers of government and legislation in respect of them as he should from time to time possess in the Colony ;
- (b) the Executive Council of the Colony should act also as the Executive Council of the Dependencies ;
- (c) the Governor should have, and be deemed always to have had, power by and with the advice and consent of the Legislative Council of the Colony, to make laws for the peace, order and good government of the Dependencies ;
- (d) the Governor should have, and be deemed always to have had, power to make grants and dispositions of land within the Dependencies in the name of the Crown.

The definition of the lands comprised in the Falkland Islands Dependencies, as mentioned in paragraph 2 above, was afterwards amended by Letters Patent of March 28, 1917, so as to include explicitly all islands and territories situated between longitudes 20° and 50° West, and south of latitude 50° South ; and all islands and territories situated between longitudes 50° and 80° West, and

south of latitude 58° South. The lines of longitude and latitude laid down in these Letters Patent as defining the territories comprised within the Falkland Islands Dependencies are indicated in red on the map exhibited as Annex 2 of this Application <sup>5</sup>.

**Display of British Sovereignty in or in Regard to the Dependencies  
in the Period July 21, 1908-September 22, 1938**

17. Great Britain's title to the islands and territories of the Dependencies was thus formally confirmed and defined by the issue of the Letters Patent of 1908 and 1917, but, as has been shown, it did not originate in or depend on these Letters Patent, and had been in existence for many decades previously. This title was now consolidated and maintained by a further effective display and exercise of British sovereignty. In pursuance of the authority contained in the Letters Patent of 1908, a Falkland Islands Ordinance was promulgated in that year under which the Governor in Council was empowered to declare any law passed for the Colony to be applicable also in the Dependencies so far as might be appropriate to their circumstances. Under this principal Ordinance numerous laws were either made or made applicable to the Dependencies by the Governor in Council, covering *inter alia* the administration of civil and criminal justice, marriage, testacy and intestacy, &c., and constituting a full and sufficient corpus of laws for those territories, having regard to their particular circumstances.

18. Especially important are the laws made by the Falkland Islands Government for whaling and sealing, which provide convincing proof of the effectiveness of Great Britain's display and exercise of sovereignty in the Dependencies. In 1908 the whaling Ordinance of 1906 referred to in paragraph 16 above was repealed, and replaced by a new Ordinance. This principal whaling Ordinance of 1908, as amended by later Ordinances, together with the Regulations made under it, established a detailed and comprehensive code of whaling law for the Dependencies, as can be seen from the summary of the whaling laws in force in the Dependencies in 1920 which is contained in the report of an official committee presented to the British Parliament in that year (Command Paper No. 657). The relevant extract from this report is annexed to this Application (Annex 1 hereto, No. 5). It shows that one of the chief objects of the legislation was the conservation of stocks by regulating the number and tonnage of whaling vessels, the number of whaling licences, the number of whales to be taken by each licence-holder, by protecting whale calves and by other measures. Analogous, if

<sup>5</sup> Reference is again made to footnote 2 to paragraph 2.

somewhat less elaborate, laws were introduced in 1909 for the regulation of sealing in the Dependencies. These laws made it unlawful to take seals in the Dependencies without a licence, gave authority for the issue of licences, and provided for the creation of a close season and of seal reserves.

19. The above-mentioned whaling and sealing laws were actively and extensively applied in the Dependencies. For whaling-licence purposes, as appears from the summary of laws given in Annex 1, No. 5, the Dependencies were divided into four units—South Georgia, the South Shetlands together with Graham Land, the South Orkneys and South Sandwich Islands.

(1) *In the case of South Georgia*, the Buenos Aires company mentioned in paragraph 15 above, the Compañia Argentina de Pesca, was granted a lease of 500 acres of land at an annual rent of £250 for 21 years from January 1, 1906, and obtained an additional lease of land in 1909. Seven other companies, four Norwegian and three British, were granted whaling leases between 1908 and 1911 on terms similar to those given to the Argentine company. Applications for further leases in South Georgia were refused in order to conserve whale stocks. The whaling companies concerned, in addition to their leases, were required to take out whaling licences for South Georgia which were renewable annually. In 1910 the Argentine Company took out, in addition, a sealing licence, and after that year South Georgia was divided into four areas for sealing purposes, three being let out on licence each year and the fourth being left vacant as a seal reserve. An additional place was made into a seal reserve in 1918.

(2) *In the case of the South Shetlands and Graham Land*, a licence to take whales in their territorial waters was granted to a Chilean company in 1907, and a similar licence was granted in 1908 to a Newfoundland company. By the season of 1912-13, there were 12 factory ships and 32 catchers of various companies working in the South Shetlands area, all holding licences from the Falkland Islands Government. In 1912 a Norwegian company, the Hektor Whaling Company, was granted a 21 years' lease of a site on Deception Island for a whaling station but, in the absence of other suitable sites, the remaining companies operated with factory ships moored at Deception Island or, occasionally, at King George Island. From that date, whaling companies operated in the territorial waters of the South Shetlands and Graham Land under licence

from the Falkland Islands Government every year without interruption, even during the first world war, until 1930, when developments in pelagic whaling led them to conduct their operations on the high seas. Activity in these two territories has been practically confined to whaling, although one sealing licence was issued in 1913 with respect to Graham Land.

(3) *In the case of the South Orkneys*, the first whaling licence was granted in 1908 to the Newfoundland Steam Whaling Company. Other companies applied for licences, and in the 1914-15 season four Norwegian companies were granted licences. Whaling ceased during the remainder of the first world war, but in 1920 a Norwegian company, the A/S Tönsberg Hvalfangeri, was granted a lease of 500 acres on Signy Island for a shore whaling station. A further whaling lease for the South Orkneys was granted in 1925 but by 1930 pelagic whaling had made it unnecessary for whalers to conduct their operations in territorial waters, and applications for licences ceased. One sealing licence was also issued for the South Orkneys in 1913.

(4) *In the case of the South Sandwich Islands*, where access to the land is extremely difficult, whaling activity has been less frequent. In 1912, six Norwegian companies took out licences from the Falkland Islands Government, and in 1927 the Tönsberg Company applied for and obtained a licence. In addition, a sealing licence was granted in 1910 for the South Sandwich Islands to the Argentine company, the *Compania Argentina de Pesca*.

20. British sovereignty has also been displayed and exercised in the Dependencies through magistrates commissioned by the Falkland Islands Government.

(i) As early as 1909, a resident magistrate was sent to *South Georgia*, and there has been a British administration in that group continuously since that date. Customs and police officers were added to the magistrate's staff, and in 1912 a post office was established at Grytviken. By 1925, the Government buildings included offices, a wireless station and a marine laboratory in addition to dwelling houses.

(ii) The *South Shetlands* and *Graham Land*, as mentioned in paragraph 18 above, have been treated as a single unit for the purpose of the whale fishery, a single licence being granted to cover both these territories. The whaling companies normally made their base first at Deception Island in the South Shetlands. If the season was favourable, they moved southwards through

the Bransfield Strait and established a forward base in the Palmer Archipelago either in the Melchior Islands or at Port Lockroy. But Port Foster at Deception Island is the most convenient starting point for operations in the Bransfield Strait and off Graham Land, and it was accordingly made by law a "port of entry" for shipping visiting the area. A resident British magistrate was sent to Port Foster every summer season from 1910 to 1930, and this official exercised jurisdiction over all whaling vessels operating in the waters either of the South Shetlands or of Graham Land and its coastal islands. From 1912 to 1930 a post office was maintained by the magistrate at Port Foster.

(iii) At the *South Orkneys* whaling activity was somewhat less frequent than at South Georgia and the South Shetlands, with the result that the visits of British magistrates were correspondingly less regular. But in 1913 a Customs Officer spent two months in the islands supervising the observance of the whaling laws, while a special Whaling Officer spent about three months there both in 1914 and 1915. Next, the South Georgia magistrate went to Signy Island in 1921 to inspect the site which the Tönsberg Hvalfangeri Company proposed to lease, and in the following year a Whaling Officer spent three months at Signy to ensure that the terms of the lease and the whaling laws were carried out by the company. In the three seasons 1925-26, 1926-27 and 1927-28, a Whaling Officer again spent three months in the South Orkneys. In 1928 the Governor of the Falkland Islands himself visited Signy Island to inspect the area leased to the Tönsberg Hvalfangeri Company.

(iv) The comparatively slight whaling activity at the almost inaccessible *South Sandwich Islands* has called for very little exercise of administrative authority at the islands themselves<sup>6</sup>.

21. The cessation of certain facilities and activities after 1930 came about as follows. The introduction between 1925 and 1930 of pelagic whaling with large whale factory ships, enabled the whaling companies to conduct their operations on the high seas without the use of bases ashore or in coastal waters. The result was that after 1930 the companies, in order to avoid payment of the licence fees imposed by the Falkland Islands Government, ceased to take out licences for operating from bases in the various Dependencies—(licences continued to be taken out by the companies with permanent bases in South Georgia). But, although

<sup>6</sup> Coats Land (see paragraphs 14 and 15 above) is also not discussed here in any further detail only very recent Argentine action having brought this territory into question (see paragraph 4 above).



in consequence there was some diminution in the administrative activity of the Falkland Islands Government with regard to the whaling vessels themselves, British State activity in the Dependencies continued in full force and without interruption in the period between 1930 and the outbreak of the second world war. During this period, the Dependencies were extensively visited and surveyed by the vessels of the *Discovery Committee*, an official body responsible to the Secretary of State for the Colonies. As early as 1917, proposals had been made for a thorough investigation into the economic resources of the Dependencies, and a Committee had been set up to report on the preservation of the whaling industry, the possibilities of developing other industries, and the needs of scientific research. Following the presentation of this Committee's report to the United Kingdom Parliament in 1920, a permanent Committee known as the *Discovery Committee* was established in 1923 under the direction of the Secretary of State for the Colonies. The principal function of this Committee, under its terms of reference, was to conduct research into the economic resources of the Antarctic and sub-Antarctic regions, with special reference to the Falkland Islands Dependencies. But its functions also included coastal surveys and general scientific research into the oceanography, weather and ice conditions and flora and fauna of the Antarctic and sub-Antarctic regions. Between 1925 and 1939 the Committee's research ships, *Discovery I* (one commission), *Discovery II* (five commissions) and *William Scoresby* (seven commissions) made very extensive investigations of the Dependencies. Numerous voyages among the principal territories of the Dependencies were made by these ships on each commission, and detailed surveys were made of their coasts and coastal waters. As a result, the Dependencies during this period were covered literally by a network of patrols undertaken by the *Discovery Committee*. The main focus of the Committee's research was on the natural history of whales, the most important economic resource of the Dependencies, and especially intensive observations were made on the whaling grounds of South Georgia, the South Shetlands and Graham Land. But the Committee also collected very extensive information on the hydrography and biology of the Dependencies, on the navigation and charting of their waters, and on Antarctic ice and ice-navigation. A large and important body of scientific material has been published by the Committee in the 27 volumes of "*Discovery Reports*", and its research on the natural history of whales is admitted by expert opinion to have made a vital contribution towards the effective solving of the international problem of the conservation of whale fisheries.

22. In addition, a large-scale expedition, the *British Graham Land Expedition*, visited the southern parts of the Falkland Islands Dependencies in 1934-37 to make land investigations. Reaching Deception Island late in 1934, the expedition proceeded to Port Lockroy in the Palmer Archipelago in January 1935. Shortly afterwards, a base was established and occupied further south, and from there various sledge and plane journeys were made which threw much fresh light on the geography of the area. In February, 1936, the expedition moved still further to the south to Marguerite Bay and established a base on the Debenham Islands. From there, important sledge journeys were made across Graham Land to the east coast and far southwards into King George VI Sound. Numerous reconnaissance flights were carried out, and the expedition ascertained conclusively for the first time that Graham Land is attached to the Antarctic mainland.

23. Other examples of the display of British sovereignty in or in regard to the Dependencies during the period July 21, 1908-September 22, 1938, are mentioned in the three next succeeding paragraphs of this Application dealing with the recognition of the British claims by Norway, Argentina and Chile. Still further examples could be cited. The facts given in paragraphs 16-22 above and in paragraph 24 below, however, are by themselves sufficient to establish conclusively a continuous and peaceful display of British sovereignty in and in regard to the territories of the Dependencies during the period July 21, 1908-September 22, 1938, which is that reviewed in the present section.

#### **Recognition of the British Claims by Norway, Argentina and Chile after the Issue of the Letters Patent of July 21, 1908**

24.—(1) The existence of British claims, not only to South Georgia but to other territories in Antarctic and sub-Antarctic regions was known in *Norway* before the formal constitution of the five principal territories as Dependencies of the Falkland Islands by the Letters Patent of 1908. The Norwegian Government, as stated in paragraph 15 above, addressed an enquiry to Great Britain in 1905 concerning the sovereignty of the territories situated between 35° and 80° West, and was informed in reply that South Georgia, the South Orkneys, the South Shetlands and Graham Land were British possessions. When Norway made a further enquiry in 1907, Great Britain reasserted her claim. Norway, neither then nor after the issue of the Letters Patent of 1908, made any protest or reservation against the assertion and exercise of British sovereignty over

the Dependencies. At the same time numerous Norwegian whaling companies took out British licences and otherwise complied with the laws of the Falkland Islands Government. These facts establish by implication Norway's recognition of British sovereignty over the Dependencies in or about 1908. This implication is completely confirmed by the Norwegian Proclamation of January 14, 1939, in which the western boundary of Norway's own Antarctic claim was defined by a line coinciding with the eastern boundary of the Falkland Islands Dependencies. It was further expressly stated in the Proclamation that the area named the Falkland Islands Dependencies had been brought under Great Britain's dominion in 1908.

(2) The existence of British claims to at least some of the Dependencies was also well known in *Argentina* before the issue of the Letters Patent of 1908. It has been mentioned above (paragraph 15) that as early as 1906 an Argentine company, the *Compania Argentina de Pesca*, took out a British lease of land in South Georgia for 21 years. *Indeed, it was the then Director of Armaments of the Argentine Ministry of Marine who, in his capacity as technical adviser to the company, visited the British Legation in Buenos Aires to apply for the lease.* In the same year Great Britain, in order to remove any possible misconception as to the legal basis on which operation of the meteorological station on Laurie Island in the South Orkneys had been transferred to the Argentine Meteorological Office (see paragraph 14 above), addressed a note to the Argentine Government emphasising that the islands were a British possession. This reservation of the British sovereignty over the South Orkneys was repeated to Argentina in January 1907. Shortly afterwards, when Chile proposed to Argentina the negotiation of a treaty dividing between the two countries "the islands and the American Antarctic continents", the Argentine Foreign Minister, in rejecting the proposal, said expressly that "Chile ought to know that England claimed all these lands". In 1908, after the issue of the Letters Patent formally constituting the Falkland Islands Dependencies, the Argentine Foreign Minister asked to be informed of the terms of the British "declaration". Accordingly, the British Minister in Buenos Aires in a note of February 20, 1909, transmitted to the Argentine Foreign Minister a copy of the *Falkland Islands Gazette* containing the text of the Letters Patent. The Argentine Foreign Minister replied in a note of March 18, 1909:—

"I have the pleasure of acknowledging the receipt of your Note dated the 20th of February last with which you were good enough to forward a publication called *Falkland Islands Gazette* containing a Decree by which the 'South Orkneys' are declared a dependency of the 'Falkland Islands'.

While thanking you for this attention, I am happy to renew to you the assurances of my high consideration."

The British Minister, in communicating this reply to the British Foreign Office, commented that he concluded from its terms that "Argentine Government do not dispute the rights of Great Britain over the South Orkneys". *A fortiori* it is to be concluded from the terms of her reply that in 1909 Argentina did not dispute the British title to South Georgia, the South Sandwich Islands, the South Shetlands and Graham Land, which territories were also covered by the communication sent to the Argentine Government, but were not mentioned in the Argentine reply<sup>7</sup>. Three years later, negotiations were begun for the cession by Great Britain to Argentina, of the South Orkneys in return for a Legation site in Buenos Aires and on condition of respecting any existing British whaling rights. By 1914, the final text of a treaty of cession had been agreed between the two countries but, on a change of Government in Argentina, the new Government declined on financial grounds to complete the transaction. The terms of this draft treaty provide further evidence of Argentina's recognition of the British title of the South Orkneys at this time, *notwithstanding the presence of the Argentine meteorological station on Laurie Island*. Again, Argentina made no protests or reservations against the issue of the British Letters Patent of 1917. Nor did she make any protests or reservations against the promulgation of British Laws for the Dependencies, nor against the application of those laws to the Argentine company, the *Compania Argentina de Pesca*, and to other foreign companies. Nor did she make any protests or reservations against the exercise of authority by British magistrates in the several territories of the Falkland Islands Dependencies and, in particular, in the South Orkneys, South Shetlands and Graham Land. These facts establish beyond question that at this period Argentina recognised British sovereignty over the Dependencies.

(3) The existence of British claims at least to some of the Dependencies was equally known in *Chile*, even before the issue of the Letters Patent of 1908. Three years earlier, in 1905, a Chilean company, as stated in paragraph 15 above, applied for a British lease of

<sup>7</sup> It seems clear in fact that Argentine interest at that date hardly extended beyond the South Orkneys, where the Argentine meteorological station was situated.

land in South Georgia from the Falkland Islands Government. In 1907, another Chilean company, the Sociedad Ballenera de Magallanes of Punta Arenas, took out a British whaling licence of the South Shetlands and Graham Land. In the same year, when Chile invited Argentina to negotiate a division of "the islands and American Antarctic continents", she was expressly warned by Argentina that "England claimed all these lands". Neither then nor after the issue of the Letters Patent of 1908 or of 1917 did Chile make any protest or reservation against the assertion and exercise of British sovereignty over the Dependencies. She maintained a Consular Officer in the Falkland Islands, but at no time did she make any representations either to the Government of Great Britain or to the Falkland Islands Government in regard to the Letters Patent, or to the promulgation of British laws for the Dependencies, or to the application of those laws to the Chilean company, the Sociedad Ballenera de Magallanes, and to other foreign companies. Nor did she make any protests or reservations against the exercise of authority by British magistrates in the several territories of the Falkland Islands Dependencies and, in particular, in the South Shetlands and Graham Land. All these facts establish beyond question that at this period Chile recognised British sovereignty over the Dependencies.

25. The facts recited in the three immediately preceding subparagraphs show conclusively that, during the years at the beginning of the present century, when Great Britain was confirming and consolidating her ancient titles to the Dependencies, Norway, the State principally interested in Antarctic whaling, and Argentine and Chile, made no reservations in regard to Great Britain's display and exercise of State activity in those territories. They further show that these three States in fact recognised Great Britain's sovereignty over the Dependencies. Nor did any other State during this period make any reservations or enter any protests against the British claims.

#### **Origin and Development of Argentina's Pretensions to the Islands and Lands of the Falkland Islands Dependencies and Attempted Usurpation of British Sovereignty over these Territories**

26. Argentina, as related in paragraph 24 (2) above, was left in no doubt by Great Britain that the transfer to the Argentine Meteorological Office in 1903 of the meteorological station previously established on Laurie Island in the South Orkneys by a British expedition did not also involve the transfer to Argentina of the

sovereignty either of the South Orkneys group or of Laurie Island itself. Argentina, as was also related in paragraph 24 (2), was fully aware in 1908 of the British claims to the several territories of the Falkland Islands Dependencies, and during the first part of the present century showed by her acts that she recognised Great Britain's sovereignty.

27. Notwithstanding this, the Argentine Government in 1925 embarked upon a course of action by which it has progressively, and it would seem deliberately, sought to encroach upon the Falkland Islands Dependencies, with a view to ousting the British Crown from its sovereignty, and to replacing it by a pretended Argentine sovereignty. In that year, on the erection by Argentina of a wireless station at the observatory on Laurie Island, a Note was addressed to the Argentine Government drawing its attention to the fact that under the relevant International Telegraph Conventions, the call sign would have to be applied for through the British Government. The Argentine Government replied that, with regard to wireless stations constructed on Argentine territory, it would act in accordance with the Conventions. In view of the equivocal nature of this reply, a further Note was addressed to the Argentine Government on April 14, 1926, emphasising Great Britain's undoubted rights to the sovereignty of the islands and pointing out the absence of any previous notice of claim on the part of Argentina. No answer was returned by Argentina and, on the wireless station being put into operation in 1927 without reference to the British Government, the latter learned from the International Telegraph Bureau at Berne that the call signal had been applied for by Argentina in terms implying an assumption of Argentine sovereignty over the South Orkneys. Great Britain having objected to this action in a Note of September 8, 1927, Argentina replied in a Note of January 20, 1928, that she herself laid claim to the South Orkneys on the ground, apart from pretended "inalienable rights", of an alleged first occupation constantly maintained. (This may be contrasted with the Argentine attitude about the South Orkneys in 1909, described in paragraph 24 (2) above—and as regards the pretended Argentine "first occupation", see paragraph 14 above.) At the same time, however, the Argentine Government in an accompanying memorandum showed itself conscious of the weakness of its position by suggesting the reopening of the negotiations for the exchange of the islands against the grant of a Legation site in Buenos Aires (see paragraph 24 (2) above). Meanwhile, the Argentine Government in 1927 had also represented to the International Postal Bureau at Berne that Argentine territorial jurisdiction extended *de jure* and *de facto* over both the South Orkneys and South Georgia. On this statement being contested by Great Britain in an aide-mémoire of December 17,

1927, the Argentine Government replied that, as regards the South Orkneys, it formally reaffirmed its previous claim. Accordingly, Great Britain took steps in 1928 to notify the International Postal Bureau that both the South Orkneys and South Georgia were included in the Falkland Islands Dependencies and were represented in Postal Union matters by the British Postmaster-General.

28. On June 1, 1937, the Argentine Ambassador in London drew the attention of the Foreign Office to a statement by the British Minister of Agriculture and Fisheries at the inaugural session of the Whaling Conference, to the effect that the Dependencies were under the jurisdiction of the Falkland Islands Government, and he reserved the rights claimed by Argentina over them. The Ambassador's *démarche* was the first intimation of an Argentine claim not merely to South Georgia and the South Orkneys *but to all the territories of the Falkland Islands Dependencies*. The progressive and deliberate character of the Argentine invasion of British rights in thus evident. The British Foreign Secretary, while joining in an agreed statement that the character and purpose of the Whaling Conference had nothing to do with questions of jurisdiction, made an express declaration that the Argentine reservation could not in any way affect British rights to the Falkland Islands Dependencies. That Argentina had now enlarged her pretensions to include all the Dependencies was, however, confirmed by an express reservation to that effect on September 22, 1938, made by the Argentine President when promulgating Argentina's ratification of the various postal conventions concluded at Cairo on March 20, 1934, which the United Kingdom had signed on behalf of the Falkland Islands and their Dependencies.

### **Rejection of the Argentine Pretensions by the United Kingdom and Continued Display of British Sovereignty up to the Present Time**

29. The methods (of which some account has just been given) by which Argentina sought between 1925 and 1938 to advance pretensions to the sovereignty of the Falkland Islands Dependencies were not those to be expected of a State already having sovereignty, and relying upon prior and well-established legal titles. They were rather those of a State seeking gradually to manœuvre another State out of its possession and rights. Instead of actively displaying

and exercising its authority in and in regard to the territories of the Dependencies in accordance with their circumstances, the Argentine Government merely attempted by diplomatic moves to throw doubt upon the existing British titles. Thus, in the first quarter of the present century, when the territorial waters of the Dependencies were the base of operations of several whaling companies of different nationalities, Argentina took no measures (as a prudent *sovereign* would have done, or sought to do) to regulate these activities, or to conserve the stocks of the principal economic resource of the territories concerned. Nor in 1927, although she was a Member of the League of Nations and had recently formulated pretensions to the South Orkneys and South Georgia, did Argentina take any part in the Whaling Conference convened at Geneva in that year under the auspices of the League, which, if she had had sovereignty over these territories, she might be expected to have done. Nor did she voice any objection to the fact that the United Kingdom took a leading part in that conference in its capacity as the State responsible for the regulation of whaling in the Falkland Islands Dependencies. It was only in 1937 that Argentina first participated in an international whaling conference and contested the United Kingdom's right to represent the whaling interests of the Dependencies. During the whole period up to 1938 Argentine interests in the Dependencies consisted in actual practice of a meteorological station in the South Orkneys, taken over (but not on a basis of sovereignty) by the permission and at the invitation of the British Government (see paragraphs 14 and 24 (2) above), and an Argentine whaling company operating in South Georgia continuously under leases and licences issued by the British Crown as sovereign of the Dependencies (see paragraphs 15 and 19 (1) above). On the other hand, Great Britain during this period, as related in paragraphs 13-25 above, displayed and exercised her authority in and in regard to the Dependencies according to their circumstances. During all this period, up to 1938, Great Britain alone undertook the responsibilities of sovereignty and performed the functions of a State in and in regard to the several territories of the Dependencies. It is not, therefore, to be wondered at that, as indicated above, the British Government rejected all Argentina's pretensions to the territories of the Dependencies and continued to assert its own titles to them.

30. After the outbreak of the second world war, in 1939, the United Kingdom Government was occupied in the North and South Atlantic in dealing with attacks by Axis naval forces on Allied and Neutral sea-borne trade ; and in March, 1941, dispatched



H.M.S. *Queen of Bermuda* to the South Shetlands to destroy oil tanks and stocks of oil left on Deception Island by the Hektor Whaling Company, one of the companies holding a lease of land on that island from the British Crown. This measure, which was taken to deny the use of the oil tanks and fuel stocks to Axis raiders, constituted a most significant display and exercise of British sovereignty over the South Shetlands. In January, 1943, another British warship, H.M.S. *Carnarvon Castle*, was dispatched to the South Orkneys and South Shetlands, to examine the anchorages in those territories for any signs of use by enemy raiders, and to investigate Press reports of purported acts of sovereignty at Deception Island by the Argentine naval transport *Primero de Mayo*. H.M.S. *Carnarvon Castle* landed a party at Deception Island in the South Shetlands on January 8, and there obliterated from the walls of the Hektor Whaling Company's factory the national colours of Argentina, which appeared to have been painted on them recently by the *Primero de Mayo*, and also removed the Argentine notice of claim mentioned in paragraph 3 above. A writ was at the same time affixed to the building proclaiming that the company's lease had lapsed and that the building was the property of the British Government. The warship then proceeded to the South Orkneys, and on February 8 landed a party on Signy Island, which erected flagstaffs carrying the Union Jack. The following day the vessel called at the meteorological station on Laurie Island and exchanged courtesies with the Argentine staff. Meanwhile the Argentine Government was notified of the visit of H.M.S. *Carnarvon Castle* to Deception Island, and was informed that the United Kingdom Government had no intention of allowing the British title to the island to be usurped by Argentina. Soon afterwards the *Primero de Mayo* was reported to be departing again for the Falkland Islands Dependencies, and to have two Chilean naval officers on board. The Republic of Chile having also formulated pretensions to the South Shetlands and Graham Land, the British Ambassador in Santiago made representations to the Chilean Government in regard to these officers. He was informed that they were sailing in the Argentine ship merely as observers, and that the Chilean Government had itself protested against Argentine attempts to establish a claim to Deception Island <sup>8</sup>.

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<sup>8</sup> It will be observed that both these States had now started to lay claim to the same British territories (see separate Application respecting Chile)—a circumstance that can hardly fail to reflect adversely both on the motives and the validity of both sets of claims.

31. The United Kingdom Government, in view of the apparent intention of Argentina and Chile to disregard British territorial rights in the South Orkneys, South Shetlands and Graham Land, dispatched H.M.S. *William Scoresby* and S.S. *Fitzroy* to those territories at the end of January, 1944. These ships visited the mainland and coastal islands of Graham Land, Deception Island in the South Shetlands, and Signy Island in the South Orkneys. A permanent shore base was established at Deception Island and another at Port Lockroy in the Palmer Archipelago off the west coast of Graham Land, meteorological stations being attached to both bases. Further visits were paid by H.M.S. *William Scoresby* to these two bases in March and, again, in April, 1944. Magistrates were sworn in for the South Orkneys, South Shetlands and Graham Land, and a special series of postage stamps was issued for the use of British establishments in those territories and in South Georgia. Since 1944 the United Kingdom has maintained a number of British bases in the Dependencies, the following being the bases (either constructed or re-established) in the territories on which Argentina has made encroachments—

*South Orkneys—*

Sandefjord Bay, Coronation Island (1945).  
Cape Geddes, Laurie Island (1946).  
Signy Island (1947).

*South Shetlands—*

Port Foster, Deception Island (1944)<sup>9</sup>.  
Admiralty Bay, King George Island (1947).

*Graham Land and its Archipelagos—*

Port Lockroy, Palmer Archipelago (1944).  
Hope Bay, Trinity Peninsula (1945).  
Stonington Island, Marguerite Bay (1946).  
Barry Island, Debenham Islands (1946)<sup>10</sup>.  
Argentine Islands (1947)<sup>10</sup>.  
Duse Bay, Trinity Peninsula (1953).

The United Kingdom Government has sent ships to the South Shetlands-Graham Land area every Antarctic summer since 1944; and all the above bases, with the exception of those in Laurie Island and in the Debenham Islands, have been occupied either continuously or intermittently by British parties. A special organisation, the *Falkland Islands Dependencies Survey*, was set up in 1945 to administer these bases, together with three others in the South Orkneys, and to supervise their work. Under its

<sup>9</sup> Headquarters of British Magistrates, 1910-30.

<sup>10</sup> Built and occupied by the British Graham Land Expedition, 1935-37.

direction extensive surveys and explorations were carried out in the Dependencies, including ground surveys, over large stretches of the Graham Land peninsula, and meteorological stations were established. Sovereignty was also displayed in other ways as, for example, by the appointment of magistrates, the issue of postage stamps, and the lodging of protests both locally and through the diplomatic channel against encroachments by Chilean and Argentine parties. Thus, the United Kingdom Government has at all times taken all such steps as were open to it in the circumstances to assert and maintain its title.

### **Argentina's Persistence in Her Pretensions to the Falkland Islands Dependencies and in Her Physical Encroachments on the South Orkneys, South Shetlands and Graham Land<sup>11</sup>**

32. In 1941 Argentina, which in the period 1925-38 had put forward mainly paper claims, embarked upon a definite policy of encroachment in the South Orkneys, South Shetlands and Graham Land. In that year the meteorological station on Laurie Island in the South Orkneys was manned by Argentine *naval* personnel, and the opening of a permanent post office in the South Orkneys was announced in Argentina and notified through the International Postal Union. The following year the naval transport *Primero de Mayo* was sent to Deception Island in the South Shetlands where, as has already been stated, it painted the Argentine colours on the walls of the Hektor Whaling Company's factory and deposited the notice claiming all lands and dependencies between 25° and 68° 34' West, which is mentioned in paragraph 3 above. The ship then proceeded to Lambda Island (Melchior Group) in the Palmer Archipelago and erected a flag and beacon there. A year later, the Argentine colours on Deception Island were obliterated by H.M.S. *Carnarvon Castle*, and the Argentine act of possession was removed (paragraph 30 above). On being so informed, the Argentine Foreign Minister replied that the Argentine Government considered its claims, "inherited from Spain<sup>12</sup>", to be justified. In a memorandum of February 15, 1943, the Argentine Government reaffirmed its pretensions to all Antarctic lands and dependencies south of latitude 60° South

<sup>11</sup> As has already been mentioned (paragraphs 3 and 26-28 above), Argentina has made a *paper* claim to *all* the territories comprised in the Falkland Islands Dependencies. She has not, however, attempted to assert this claim in any overt way with reference to the South Sandwich Islands or South Georgia. These territories are not therefore further mentioned herein, except in the Conclusions.

<sup>12</sup> The territories concerned were barely discovered in Spain's day, and then not by Spain (see paragraphs 6-11 above). They were never part of any Spanish dominion.

and between longitudes 25° and 68° 34' West. It also purported to "protest" against jurisdictional acts carried out by British officials. The United Kingdom Government, in a memorandum of April 7, 1943, replied reasserting the British titles. Meanwhile, the *Primero de Mayo* was engaged on a second expedition to the Antarctic, during which it visited the Melchior Islands and Port Lockroy in the Palmer Archipelago, and Marguerite Bay further to the South. The ship then returned to Deception Island in the South Shetlands, and there repainted the Argentine colours on the walls of the Whale factory. It was after this expedition that the United Kingdom, despite its heavy commitments in the second world war, initiated in 1944 the programme of maintaining British bases in the South Orkneys, South Shetlands and Graham Land described in paragraph 31 above.

33. In 1947, some three years after the renewal of the British programme of bases, the Argentine Government began a course of systematic encroachment on the British territories of the South Shetlands and Graham Land. While continuing its meteorological station at Laurie Island in the South Orkneys, it proceeded to establish, as well as a few emergency huts, the following Argentine Posts<sup>13</sup>:

*South Shetlands—*

- Port Foster, Deception Island (1947).
- Half Moon Island, Livingstone Island (1952).
- Potter Cove, King George Island (1953).
- Harmony Cove, Nelson Island (1954).
- Ardley Peninsula, King George Island (1954).

*Graham Land and its Archipelagos—*

- Gamma Island, Palmer Archipelago (1947).
- Paradise Harbour, Danco Coast (1951).
- Barry Island, Debenham Islands (1951).
- Hope Bay, Trinity Peninsula (1951).
- Dundee Island (1952).
- Brialmont Cove (1954).
- Petermann Island (1955).

*Coats Land—*

- In the neighbourhood of Vahsel Bay (1955).

These posts are all within the Falkland Islands Dependencies and in areas covered by British activity as already described. The

<sup>13</sup> The United Kingdom Government are still engaged in investigating the most recent Argentine encroachment at Vahsel Bay in Coats Land (see paragraphs 4, 14 and 15 above) where an Argentine post may have been established.

recent or very recent establishment of these Argentine posts appears to foreshadow a rapid expansion of the present Argentine encroachments and violations of British sovereignty. Protests against these violations and encroachments have been lodged at various dates by the United Kingdom through the diplomatic channel, and locally by officials of the British Administration in the Falkland Islands Dependencies. The Argentine Government has nevertheless persisted in its policy of encroachment, maintaining the above-mentioned posts, and repeatedly manifesting its intention to continue to disregard the United Kingdom's prior and well-established legal titles.

34. In the opinion of the United Kingdom Government, these Argentine acts taken together, and related to the complete absence of any Argentine claim prior to 1925 or 1937, as the case may be (depending on the territory concerned), and to the previous complete Argentine indifference to, and even recognition of, the British claim, are evidence of a quite recent, deliberate, and considered policy of infiltration on the part of the Argentine Government, directed to creating a semblance or fiction of Argentine sovereignty, and to placing that Government in a position, after a sufficient lapse of time, to argue that any previous British sovereignty was now replaced or overlaid by Argentine sovereignty. In effect, this is a policy of usurpation.

#### **Limited Relevance in Point of Law of Events after 1925 in the Case of the South Orkneys and after 1937 in the Case of the South Shetlands and Graham Land**

35. The acts of the Parties after 1925 in the case of the South Orkneys and after 1937, in the case of the South Shetlands and Graham Land, are of limited juridical relevance, for two reasons. First, the dispute crystallised when Argentine first asserted her claims, namely in or about 1926 in the case of the South Orkneys, and in or about 1937 in the case of the other two territories; and according to well-established principles of law, it is at the date of crystallisation that the rights of the Parties are to be adjudged. The subsequent acts of the Argentine Government were clearly undertaken, not as a genuine manifestation of an existing title, but with a view to trying to create one, and in order to improve Argentina's legal position. They are not, therefore, to be taken into consideration (*Minquiers and Ecrehos* Case, I.C.J. Reports, 1953, page 59). Secondly, even if the United Kingdom had not previously acquired a good title, it undoubtedly displayed and exercised its sovereignty in and in regard to the South Orkneys, South Shetlands and Graham Land during (at the latest) a period running—in the case of the first-named territory—from July 21, 1908, to 1925 and after; and—in

the case of the other two territories—from July 21, 1908, to 1937 and after. Therefore, quite independently of its earlier titles, the United Kingdom had already in these periods established as against Argentina, an unimpeachable title to the sovereignty of these three territories. Accordingly, Argentina's assertions of title to the South Orkneys in 1925 and thereafter, and to the South Shetlands and Graham Land in 1937 and thereafter, were, and always have been, illegal and invalid (*Eastern Greenland Case* (1953), Series A/B 53, page 64). Events subsequent to 1925 or 1937, as the case may be, are thus primarily relevant for the purpose of showing that, in face of the Argentine pretensions, the United Kingdom did not abandon, but actively maintained, its titles to the territories in question. This is conclusively demonstrated in paragraphs 26-31 above. The United Kingdom, by its continued display of State activity ; by protests or counter-measures, which were always prompt, and evidence of the exercise of due vigilance ; by attempts to settle the dispute through diplomatic negotiations ; by actively seeking to bring the dispute to arbitration or judicial settlement (see paragraph 40 below) ; and by submitting the present Application to the Court, had energetically prosecuted its case, upheld its sovereignty, and maintained its rights and titles.

**The Jurisprudence of International Tribunals Negatives the Argentine Claims and Supports the United Kingdom's Titles.**

36. The jurisprudence of international tribunals both negatives the Argentine claims and supports the legal titles of the United Kingdom, more especially the awards and judgments in the following well-known cases :

The Island of Palmas (1928), 2 Reports of International Arbitral Awards, 831 ;

Clipperton Island (1931), 2 Reports of International Arbitral Awards, 1105 ;

Legal Status of Eastern Greenland (1933), Series A/B 53 ;

Minquiers and Ecrehos, I.C.J. Reports, 1953. p. 47.

37. These modern cases of high authority, negative completely any Argentine claim based on alleged historic grounds of title deriving from succession to supposed titles acquired by Spain. Apart from the fact that, on the evidence, no original Spanish titles can be established at all (see footnote 12 to paragraph 32 above), the *Island of Palmas Case* (page 846) and the *Clipperton Island Case* (page 1109) clearly show that any such early Spanish titles could not prevail to-day against long-continued British display and exercise of sovereignty. Again, even if it were possible to apply the doctrine of geographical contiguity to islands distant some 400 miles, or to a separate continent distant some 500 miles, from Argentine territory, the

*Island of Palmas Case* (pages 854-855, 869 and 870) negatives completely any Argentine claim based on so-called geographical grounds of title, and clearly lays down that they could not prevail against actual display and exercise of sovereignty. It has also been suggested on behalf of Argentina that she never recognised British sovereignty over the Dependencies. Ignoring for present purposes the question whether recognition by other States is necessary for the acquisition of title, and if so in what circumstances, it suffices here to recall the facts related in paragraph 24 (2) above, which establish Argentina's acquiescence in and recognition of the British claims to those territories. But in any event the *Eastern Greenland Case* (page 62) and the *Minquiers and Ecrehos Case* (page 66) clearly show that any failure by Argentina to recognise the British claims would not have altered the character and legal effects of the British Letters Patent, or of the other British legislative and administrative acts, as manifestations of British sovereignty.

38. At the same time, the above-mentioned leading cases show conclusively that all recognised juridical grounds strongly support the claims of the United Kingdom, and not those of Argentina. Thus the *Island of Palmas Case* (page 870) and the *Clipperton Island Case* (page 1110) indicate that the British takings of possession described in paragraphs 6-11 of the present Application created initial British titles superior to any of Argentina's pretended historical or geographical titles. The *Island of Palmas Case* (pages 838-840 and 867), *Eastern Greenland Case* (pages 52, 54 and 63) and *Minquiers and Ecrehos Case* (at page 65) conclusively show that to-day, in case of dispute, the primary test of sovereignty is the actual display and exercise of the functions of a State in and in regard to the disputed territories during the relevant periods. In the present case, it is evident from the facts set out in the present Application that it is the United Kingdom, not Argentina, that has displayed and exercised the function of a State in regard to the South Orkneys, South Shetlands and Graham Land, and especially during the decisive periods immediately preceding the critical dates, that is the period up to 1925 in the case of the South Orkneys, and up to 1937 in the case of the other two territories, as well as earlier.

39. The United Kingdom, in its pleadings, will refer with greater particularity to the numerous passages in the four above-mentioned leading cases and in other authorities which support its titles to sovereignty over the Falkland Islands Dependencies. Although the

present Application is necessarily preliminary in character, the special circumstances appear to justify drawing attention to the jurisprudence of the four leading cases, as an indication of how solid are the legal bases of the British titles and how devoid of any foundation the Argentine pretensions.

### Acceptance of the Court's Jurisdiction in the Case

40. The United Kingdom, having regard to the long period during which British sovereignty has been effectively exercised in and in regard to the territories of the Falkland Islands, would be justified in taking strong measures to put an end to Argentina's encroachments on the South Orkneys, South Shetlands and Graham Land<sup>14</sup>. Firmly believing in the pacific settlement of disputes among nations by judicial procedures and on the basis of law, it has preferred, when negotiations proved fruitless, to seek to have its dispute with the Republic of Argentina regarding these territories submitted to the International Court or other judicial or arbitral tribunal. Thus, in Notes of December 17, 1947, the United Kingdom Government invited Argentina, and Chile to whom a separate invitation was sent, to challenge the British titles to sovereignty by invoking the jurisdiction of the International Court of Justice, which the United Kingdom would then accept. Argentina, in a Note of January 28, 1948, replied to the effect that she was convinced of the unquestionable rights of herself and Chile over the disputed areas<sup>15</sup>, and that it would be wrong for her to appear before the Court in the position of a State requesting what already belonged to her. The United Kingdom renewed its offer to go before the Court in Notes of April 30, 1951, and February 16, 1953, without, however, obtaining a favourable response from the Republic of Argentina. As the continuance of the dispute concerning the sovereignty of the territories of the Falkland Islands Dependencies necessarily threatens to impair the existing friendly relations between the two countries, the United Kingdom addressed a further Note to Argentina on December 21, 1954, inviting her, jointly with the United Kingdom, to refer the dispute to an independent *ad hoc* arbitral tribunal. On the same date, the United Kingdom addressed an identical

<sup>14</sup> Forceful action had in fact to be taken in one case (namely at Deception Island in February 1953), when a particularly flagrant attempt was made to erect an Argentine hut actually within the precincts of the existing (and occupied) British base on that island.

<sup>15</sup> This can only increase the dubious character of the Argentine pretensions, since the Argentine and Chilean claims conflict over the most important part of the ground. Both could not be valid even if either were.



Note to Chile. Neither of these countries<sup>16</sup>, however, has thought fit to accept the United Kingdom's proposal, and the Argentine Government has in the meantime sent an expedition to Vahsel Bay in Coats Land—a factor so recent that the United Kingdom Government has not yet had time to investigate it.

41. The United Kingdom, in its Notes of December 21 last, stated that, in the event of Argentina (or equally Chile) failing to accept its offer of arbitration, it reserved the right to take such steps as might be open to it to obtain an adjudication of its legal rights. One of the steps open to the United Kingdom is to bring the dispute before the Court by a unilateral Application under Article 40 (1) of the Statute and Article 32 (2) of the Rules, and, as indicated in paragraph 1 above, it is this procedure which the United Kingdom has elected to adopt.

42. The United Kingdom Government, therefore, declares that it hereby submits to the jurisdiction of the Court for the purposes of the case referred to the Court in the present Application—(for the precise scope of this submission, see footnote 1 to paragraph 1 above). The Argentine Government has not, so far as the United Kingdom Government is aware, yet filed any declaration accepting the Court's jurisdiction, either generally under Article 36 (2) of the Statute or specially in the present case. The Argentine Government, which has frequently expressed its adherence to the principle of judicial settlement of international disputes, is, however, legally qualified to submit to the jurisdiction of the Court in this case. Consequently, upon notification of the present Application to the Republic of Argentina by the Registrar in accordance with the Rules of Court, the Argentine Government, under the settled jurisprudence of the Court, can take the necessary steps to that end, and thereby cause the Court's jurisdiction in the case to be constituted in respect of both Parties.

43. The United Kingdom Government founds the jurisdiction of the Court on the foregoing considerations and on Article 36 (1) of the Court's Statute; and asks that a copy of the present Application be transmitted to the Government of Argentina in accordance with Article 33 of the Rules of the Court, and to all members of the United Nations and other States entitled to appear before the Court, under Article 34 of the said Rules.

<sup>16</sup> While the present Application is of course, formally, quite separate from the concurrent application in respect of Chile, the fact that there are also Chilean pretensions relating to the South Shetlands-Graham Land area, and of equally or even more recent date, has a significance that cannot be overlooked. It is a clear case of two rival and incompatible attempts to oust and usurp the legitimate sovereignty of the United Kingdom.

44. The attitude of the Argentine Government in this case has compelled the United Kingdom to take the initiative in placing the matter before the Court, and therefore in effect to appear as applicant. The United Kingdom Government nevertheless wishes to make the fullest reservations on the question of the onus of proof of title. It considers that the manifest priority in time of the British possession of the territories, dating back to periods varying between 110 and 180 years ago, and the complete absence during virtually the whole of those periods, until a quite recent date, of any activities of a sovereign character, other than British, in the territories, is indicative of a self-evident British title, which it is for any country challenging that title to rebut.

#### **The Contentions and Claims of the United Kingdom Government in the Case**

45. The Government of the United Kingdom, in submitting this application to the Court, accordingly *contends* :—

- (1) that by reason of historic British discoveries of certain territories in the Antarctic and sub-Antarctic ; by reason of the long-continued and peaceful display of British sovereignty from the date of those discoveries onwards in, and in regard to, the territories concerned ; by reason of the incorporation of these territories in the dominions of the British Crown ; by virtue of their formal constitution in the Royal Letters Patent of 1908 and 1917 as the British Possession called the Falkland Islands Dependencies : the United Kingdom possesses, and at all material dates has possessed, the sovereignty over the territories of the Falkland Islands Dependencies, and in particular the South Sandwich Islands, South Georgia, the South Orkneys, South Shetlands, Graham Land and Coats Land ;
- (2) that the legal titles of the United Kingdom to the Falkland Islands Dependencies, and in particular to the South Sandwich Islands, South Georgia, the South Orkneys, South Shetlands, Graham Land and Coats Land, are, and at all material dates have been, superior to the claims of any other State, and in particular to those of the Republic of Argentina ;
- (3) that, in consequence, the pretensions of the Republic of Argentina to the South Sandwich Islands, South Georgia, the South Orkneys, South Shetlands, Graham Land and Coats Land, and her encroachments and pretended acts of sovereignty in those territories are, under international law, illegal and invalid.

46. The Government of the United Kingdom, therefore, asks the Court to declare—

- (1) that the United Kingdom, as against the Republic of Argentina, possesses, and at all material dates has possessed, valid and subsisting legal titles to the sovereignty over all the territories comprised in the Falkland Islands Dependencies, and in particular South Sandwich Islands, South Georgia, the South Orkneys, South Shetlands, Graham Land and Coats Land ;
- (2) that the pretensions of the Republic of Argentina to the territories comprised in the Falkland Islands Dependencies, and in particular South Sandwich Islands, South Georgia, the South Orkneys, South Shetlands, Graham Land and Coats Land, and her encroachments and pretended acts of sovereignty in or relative to any of those territories are, under international law, illegal and invalid ;
- (3) that the Republic of Argentina is bound to respect the United Kingdom's sovereignty over the territories comprised in the Falkland Islands Dependencies, and in particular South Sandwich Islands, South Georgia, the South Orkneys, South Shetlands, Graham Land and Coats Land, to cease her pretensions to exercise sovereignty in or relative to those territories and, if called on by the United Kingdom, to withdraw from them all or any Argentine personnel and equipment.

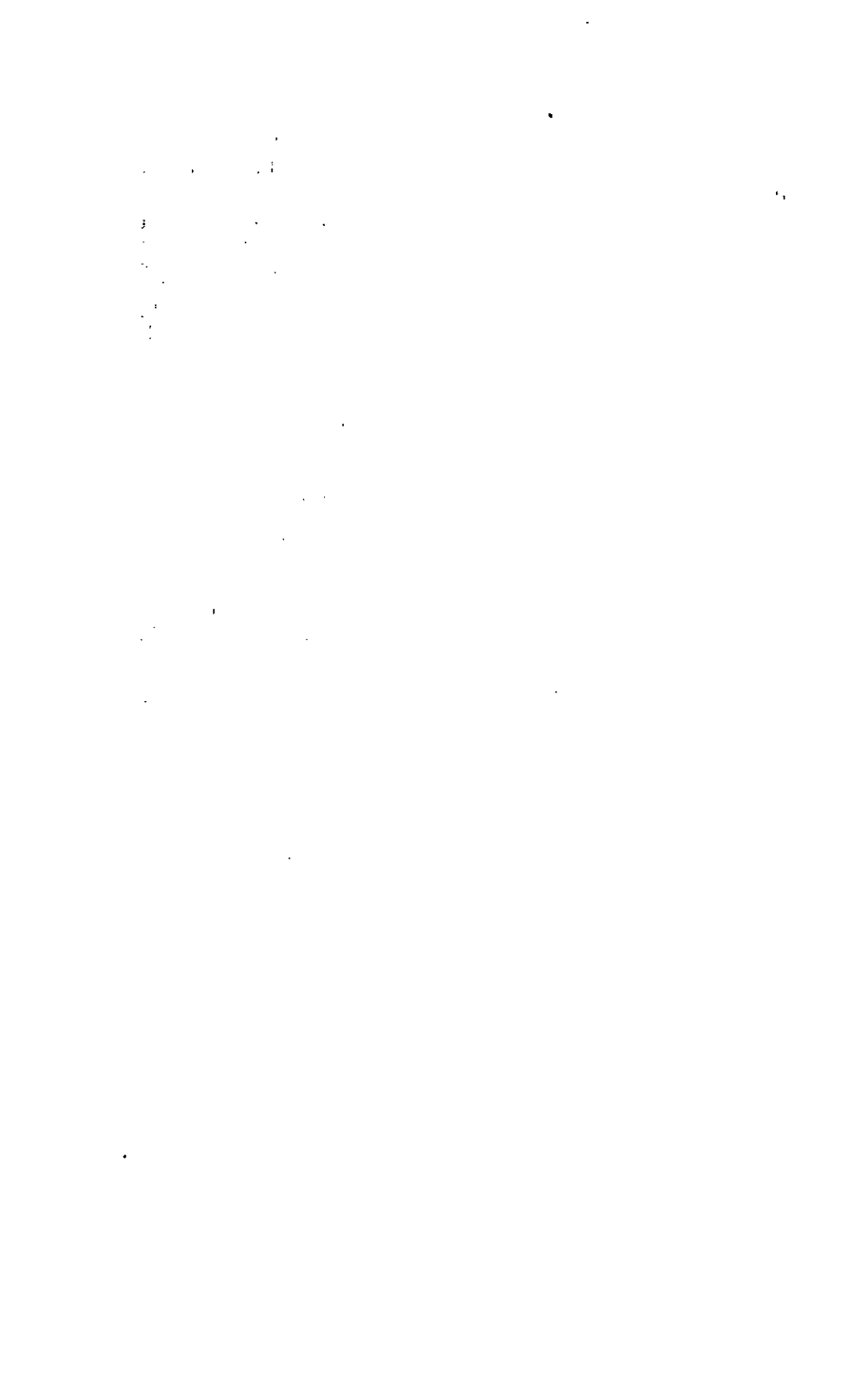
I have the honour to be,

Sir,

Your obedient Servant,

(Signed) G. G. FITZMAURICE,  
Agent for the Government of  
the United Kingdom.

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and the said Council shall exercise the same functions in regard to all matters arising in connection with the Dependencies as are exercised by the Executive Council of our Colony of the Falkland Islands in regard to matters arising in connection with our said Colony.

5. It shall be, and shall be deemed always to have been, competent for the Governor, by and with the advice and consent of the Legislative Council of our Colony of the Falkland Islands, to make laws for the peace, order, and good government of the Dependencies.

6. The Governor is, and shall be deemed always to have been, authorised and empowered to make and execute, in our name and on our behalf, grants and dispositions of any lands which may lawfully be granted or disposed of by us within the Dependencies, either in conformity with instructions under our Sign Manual and Signet, or through one of our Principal Secretaries of State, or in conformity with such laws as may from time to time be in force in the Dependencies.

7. We do hereby reserve to us, our heirs and successors, full power and authority from time to time to revoke, alter, or amend these our Letters Patent as to us or them shall seem meet.

8. The Governor shall cause these our Letters Patent to be published in the Government *Gazette* of our Colony of the Falkland Islands, and the same shall thereupon come into force.

In witness whereof we have caused these our Letters to be made Patent. Witness ourself at Westminster, this 21st day of July, in the eighth year of our reign.

By warrant under the King's Sign Manual.

MUIR MACKENZIE.

(2) **Letters Patent of March 28, 1917.** Extract from *Falkland Islands Gazette*, July 2nd 1917; published in *British and Foreign State Papers*, 1917-18. Vol. III (London, 1921), pp. 16-17.

#### FALKLAND ISLANDS (DEPENDENCIES)

**LETTERS PATENT**, passed under the Great Seal of the United Kingdom, providing for the further Definition and Administration of certain Islands and Territories as Dependencies of the Colony of the Falkland Islands.

Dated March 28, 1917. George the Fifth by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India: To all to whom these Presents shall come, Greeting.

WHEREAS doubts have arisen as to the limits of the groups of islands known as South Georgia, the South Orkneys, the South Shetlands, and the Sandwich Islands, and the territory of Graham Land otherwise known as Graham's Land; and whereas it is expedient that provision should be made for the government, not only of these islands and territory but also of certain other Our islands and territories adjacent thereto as Dependencies of Our Colony of the Falkland Islands:

such Courts and for the Administration of Justice as may be necessary for the peace, order, and good government of Our subjects and others within the said present or future settlements respectively, or any of them, any law, statute, or usage to the contrary, in any wise notwithstanding :

And whereas by the said recited Act of Parliament it is further enacted that it shall be lawful for Us, by any Commission or Commissions under the Great Seal of the United Kingdom, or by any Instructions under Our Signet and Sign Manual accompanying and referred to in any such Commission or Commissions, to delegate to any three or more persons within any of the Settlements aforesaid respectively, the powers and authorities so vested in Us in Our Privy Council as aforesaid, either in whole or in part, and upon, under, and subject to all such conditions, provisoes, and limitations as by any such Commission, or Commissions or Instructions, as aforesaid, We shall see fit to prescribe : Provided always, that notwithstanding any such delegation of authority as aforesaid, it shall still be competent to Us in Our Privy Council, in manner aforesaid, to exercise all the powers and authorities so vested as aforesaid in Us in Our Privy Council :

Now therefore, in pursuance and exercise of the powers so vested in Us as aforesaid by the said recited Act of Parliament, We, of Our special Grace, certain knowledge and mere motion, by this Commission under the Great Seal of the United Kingdom aforesaid, delegate to the persons hereinafter named within the said Falkland Islands, the powers and authorities so vested in Us in Our Privy Council as aforesaid ; but upon, under and subject to all such conditions, provisoes, and limitations as by this Our Commission, or by the Instructions under our Signet and Sign Manual accompanying the same, are prescribed. And We do declare Our Pleasure to be, and do hereby declare and grant, that the Governor for the time being of the said Falkland Islands, and such other persons, not being less than two, as are hereinafter designated, shall constitute and be a Legislative Council for the said Islands. And We do hereby direct and appoint that the persons other than the said Governor constituting the said Legislative Council shall be such Public Officers within the said Islands as shall be designated, or such other persons within the same as shall from time be named for that purpose by Us by any Instruction or Instructions, or Warrant or Warrants, to be by Us for that purpose issued under Our Signet and Sign Manual, and with the advice of Our Privy Council, all of which Councillors shall hold their places in the said Council at our pleasure.

And We do hereby authorise, empower, and enjoin such Legislative Council to make and establish all such Laws, Institutions, and Ordinances as may from time to time be necessary for the peace, order, and good government of Our subjects and others within the said present or future Settlements in the said Falkland Islands and in their Dependencies ; and Our pleasure is that in the making and establishing all such Laws, Institutions, and Ordinances, the said Legislative Council shall conform to and observe all such rules and regulations as shall be given and prescribed in and by such Instructions as We, with the advice of Our Privy Council, shall from time to time make for their guidance therein : Provided nevertheless, and We do hereby reserve to Ourselves, Our Heirs and Successors, Our and Their right and authority to disallow any such Ordinances in the whole or in part ; and to make and establish

time being, full power and authority, as he shall see occasion, in Our name and on Our behalf, to grant to any offender convicted of any crime, in any Court, or before any Judge, Justice, or Magistrate within Our said Settlements, a free and unconditional pardon, or a pardon subject to such conditions as by any Law or Ordinance hereafter to be in force in Our said Settlements may be thereunto annexed, or any respite of the execution of the sentence of any such offender for such period as to such Governor may seem fit.

And We do hereby give and grant unto the Governor of Our said Settlements, for the time being, full power and authority, upon sufficient cause to him appearing, to suspend from the exercise of his office within Our said Settlements any person exercising any office or place under or by virtue of any Commission or Warrant granted, or which may be granted, by Us, or in Our name, or under Our authority ; which suspension shall continue and have effect only until Our pleasure therein shall be made known and signified to such Governor. And We do hereby strictly require and enjoin the Governor of Our said Settlements, for the time being, in proceeding to any such suspension, to observe the directions in that behalf given to him by Our Instructions under Our Signet and Sign Manual, accompanying his Commission of appointment as Governor of the said Settlements.

And in the event of the death or absence out of Our said Settlements in the Falkland Islands and in their Dependencies, of such person as may be commissioned and appointed by Us to be the Governor thereof, We do hereby provide and declare Our pleasure to be, that all and every the powers and authorities herein granted to the Governor of Our said Settlements in the Falkland Islands and in their Dependencies for the time being, shall be and the same are hereby vested in such person as may be appointed by Us by Warrant under Our Signet and Sign Manual to be the Lieutenant-Governor of Our said Settlements ; or in the event of there being no person within Our said Settlements commissioned and appointed by Us to be Lieutenant-Governor thereof, then Our pleasure is and We do hereby provide and declare, that in such contingency all the powers and authorities herein granted to the Governor or Lieutenant-Governor of Our said Settlements, shall be and the same are hereby granted to the Justice of the Peace whose name shall be standing first in order in any general Commission of the Peace, issued by the Governor or Officer administering the Government of Our Settlements in the Falkland Islands and of their Dependencies, such Commission of the Peace being revocable and renewable from time to time by such Governor or Administrator of the Government, as he may find occasion ; and such Lieutenant-Governor or such Justice of the Peace, as may be, shall execute all and every the powers and authorities herein granted until Our further pleasure shall be signified therein.

And We do hereby require and command all Our Officers and Ministers, civil and military, and all other the inhabitants of Our said Settlements in the Falkland Islands and their Dependencies, to be obedient, aiding and assisting to such person as may be commissioned and appointed by Us to be the Governor of Our said Settlements, or in the event of his death or absence to such person as may, under the provisions of these Our Letters Patent, assume and exercise the functions of such Governor.

- (c) to employ any licensed vessel to tow, buoy, or manufacture in Colonial waters whale carcasses taken outside Colonial waters by any unauthorised vessel.

The Governor in Council may make regulations for:—

- (a) Fixing the conditions of licences;
- (b) Regulating the number of licences to be granted in any one year;
- (c) Defining the limits within which a licence-holder may take whales;
- (d) Regulating the number of whales to be taken;
- (e) Regulating the disposal for forfeited whales, oil, &c.; and
- (f) Generally for carrying out the provisions of the Ordinance.

The owner or lessee of any land may take possession of a derelict whale with permission of the Governor in Council and on payment of a royalty. Provision is made for taking whales for scientific purposes.

During the War Ordinances were passed requiring the products of the whaling industry to be brought to, and sold in, the United Kingdom.

#### (B) REGULATIONS

(a) *South Georgia*.—The regulations

- (1) Prohibit leaseholders from killing or shooting any whale calf or any female whale which is accompanied by a calf;
- (2) Reserve to the Crown any dead whale abandoned or thrown up on the seashore;
- (3) Prescribe penalties for breaches of the regulations.

(b) *Other Dependencies*.—The regulations

- (1) Provide for the issue of annual licences (October to September);
- (2) Prohibit licensed vessels from catching whales for a Company other than that mentioned in the licence;
- (3) Authorise the use of (a) two floating factories, in conjunction with two whale catchers—fee £200; and (b) a third whale catcher—fee £100;
- (4) Require the provision of pressure boilers for dealing with the residue of the carcass;
- (5) Prescribe that separate licences shall be issued for:—

- (a) The South Shetlands and Graham Land;
- (b) The South Orkneys;
- (c) The Falkland Islands;
- (d) The South Sandwich Islands;

but that no further licence or lease for whaling purposes shall be issued, with the exception of renewals of existing annual licences for two floating factories and two whale catchers, or of a third whale catcher, without the permission of the Governor in Council;

- (6) Require every licensed vessel at the end of the season to proceed direct to a port of entry and to report full particulars of the catch, including the number of barrels of oil and the quantity of baleen and guano obtained;