

# FALKLANDS OR MALVINAS?

## THE BACKGROUND TO THE DISPUTE

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‘**A** LAND without form or expression’, wrote Viscount Bryce when he visited the Falkland Islands in the early years of this century. Never had he seen ‘any inhabited spot that seemed so entirely desolate and solitary’. It is an ironical comment on the conduct of international affairs that the question of sovereignty over such an unprepossessing part of the world should once have brought Britain, France and Spain to the brink of war. It is equally incredible that, for over a century and a half, the disputed possession of the islands should have embittered relations between Britain and Argentina, two nations which, traditionally, and for the most cogent of economic reasons, should be firm friends.

During the 1950s, when General Perón was in power, slogans on banners and buildings stridently demanding: ‘Englishmen, give us back the Malvinas!’ were accepted as part of the *peronista* technique of bidding for popular support by playing upon the xenophobic passions of the masses. Nevertheless, years after Perón was driven into ignominious exile, the same slogans reappear with monotonous frequency and the demand for the ‘return’ of the Falklands is as insistent as ever, as the recent history of the dispute will show.

On December 16, 1965, yielding to unremitting Argentine lobbying, the Twentieth General Assembly of the United Nations adopted Resolution 2065 which invited the United Kingdom and Argentina to enter into discussions which would lead to a peaceful solution of the differences between them. Success in obtaining such international recognition of the dispute encouraged renewed activity in Buenos Aires. In January 1966, the Argentine Government created the *Instituto y Museo Nacional de las Islas Malvinas y Adyacencias* (Falkland Islands and Dependencies Institute and National Museum) to be housed in a building under the control of the Ministry of Foreign Affairs. The object of the Institute was ‘to stimulate the national conscience’ to demand the return of the Islands to Argentina, and to collect and disseminate information about this question. Arrangements were made for the establishment of a specialist library, and for propaganda talks and films throughout the nation. At the same time, advantage was taken of the visit of Mr. Michael Stewart, in his first period of office

as British Foreign Secretary, once more to press the Argentine claim. Then, in February 1966, influential Argentines reactivated their Committee for the Recovery of the Falklands (*Junta de Recuperación de las Malvinas*), with the object of stimulating their Government 'to seek a rapid solution of this long-standing dispute'. Later, Sir George Bolton, Chairman of the Bank of London & South America, conscious of the damage which was being done to Anglo-Argentine trade relations, urged that the 'running sore' should be excised by the establishment of a condominium.

These developments attracted little attention in the United Kingdom, but the comic-opera attempt on September 28, 1966, by 20 young Argentine extremists belonging to the *Movimiento Nueva Argentina* (The New Argentina Movement) to stage *Operación Condor*, a 'symbolic' seizure of the islands, made the British public generally aware of the existence of the dispute. This episode may have been no more than a publicity stunt, organised by an illustrated magazine, which was reported to have put a special supplement on the Malvinas on the news stands in Buenos Aires within a few hours of the receipt of the news of the 'invasion'. The 'invasion' was said to have angered President Onganía, and to have been condemned by responsible opinion in Argentina as making the country appear ridiculous in the eyes of the world, but there is no doubt that the gesture was acclaimed by a large section of the populace. The 'invaders' became national heroes overnight. They were praised by the 62 pro-Perón trade unions, and the *Confederación General del Trabajo* (The General Confederation of Labour) threatened a 24-hour general strike if the extremists were punished for their patriotic action. President Onganía skilfully avoided trouble by having the 'invaders' removed from the Falklands, not to Buenos Aires where they would have been fêted, but to Ushuaia on the grounds that their offence had been committed within the jurisdiction of the Governor of Tierra del Fuego.

Something of the Argentine President's displeasure over this episode may have been due to the fact that talks then being conducted with the British Government offered the distinct possibility that Argentina's ambitions might at last be fulfilled. The substance of these negotiations may be inferred from the fact that early in 1968 Sir Cosmo Haskard, the Governor of the Falkland Islands, returned to his post after talks in London and reported to his Executive Council certain matters which they were sworn to secrecy not to reveal. Nevertheless, the Unofficial Members of the Council appear to have been so alarmed by the episode that, on February 27, they addressed an open letter to Parliament warning members that negotiations were in progress which could result in the handing-over of the islands to Argentina. They pointed out that

the 2,000-odd islanders had never been consulted regarding their future and reiterated in bold type that they did '*NOT want to become Argentines*'.

Their appeal to fair play and to the right of self-determination may have had the effect of delaying an announcement which the Government was about to make regarding their future. Mr. George Brown's resignation may also have saved them momentarily. In any case, it fell ironically to Mr. Stewart, as almost his first act following his reincarnation as Secretary of State for Foreign Affairs, to face persistent questioning in the House of Commons about negotiations which probably began during his first term of office. Having previously given a pledge that nothing would be done to change the status of the islands without the consent of the inhabitants, he could scarcely do other than reiterate what he had said in Buenos Aires in 1966.<sup>1</sup>

For the moment, therefore, the Falkland Islanders are appeased but not wholly reassured. Lord Chalfont's 'philosophising' in the House of Lords over the power of the United Nations made them suspect that a deal with Argentina was still a possibility.<sup>2</sup> As the persistent questions in the House of Commons revealed, many Members of Parliament shared the islanders' anxieties.

The British public is somewhat bewildered by the situation. In the past, while momentarily irritated (or slightly amused) by such episodes as the shooting-up of the British Embassy in Buenos Aires when the Duke of Edinburgh was staying there, the burning of Union Jacks in the streets and the sacking of the British Consulate in Rosario, they have felt no animosity against Argentina. Recently, however, their mood has changed and there are signs that, as in the case of Gibraltar, they are not disposed to hand over to an alien Power people who want to remain British. Nevertheless, accustomed to the erroneous charge that Britain spent most of the 19th century acquiring territory to which she had no right, and ignorant of the historical facts, the public wonders secretly whether there is some foundation for the Argentine claim. They have not been helped by successive British governments who have

<sup>1</sup> 'In our experience, no good is served by keeping unwilling subjects under one's flag, but when the inhabitants' wishes are clear, as in this case they are clear, then the wishes of the Falkland Islanders are more important than those of either the Government of the United Kingdom or that of Argentina.' *The Times*, January 14, 1966.

<sup>2</sup> 'Confirming that negotiations with the Argentine Government over the future of the Falkland Islands are continuing, Lord Chalfont, Minister of State, Foreign Office, caused a minor storm in the House of Lords yesterday by apparently suggesting that the views of United Nations might come before those of the islanders.'

Lord Conesford asked: "What right, if any, has the United Nations to interfere with our sovereignty over the Falkland Islands?" Lord Chalfont replied: "The very fact of membership of the United Nations implies that countries that belong to it derogate a certain amount of sovereignty to it." Later he said his remark was "philosophical." *The Times*, March 14, 1968.

consistently taken Lord Palmerston's view that there is nothing to discuss and have consequently refrained from publicising the British case.

On the other hand, the people of Argentina have been subjected over the years to such a barrage of propaganda, and to the publication of so many one-sided books and articles, that they regard as axiomatic the statement that the islands really belong to their nation and were filched from them by Great Britain.

What follows in the present article is therefore intended as a contribution to Anglo-Argentine understanding. Perhaps a statement of the chief arguments adduced by Argentina will make the British aware of the reasons why Argentines are so emotional about the question of sovereignty. It may also reveal to Argentines that there is also something to be said for Great Britain's present attitude.

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It is essential at the outset to make clear what is in dispute. Argentina's maximum claim is to the Falkland Islands and the Dependencies. The Dependencies consist of South Georgia, the South Sandwich islands, the South Orkneys, the South Shetlands, the Graham Land peninsula and various barren Antarctic islands; they were brought under the administration of the Governor of Port Stanley, in the Falklands, in 1908. However, by the Antarctic Treaty of 1959, it was agreed to hold in abeyance all territorial claims in the area where there was international co-operation for scientific purposes. This means that, for the time being, Argentina will not press her claims to the South Orkneys, on the grounds that she has maintained a meteorological station on one of the islands, nor to Graham Land, on the principle of continental projection, nor to the other islands because they are dependencies of the Falklands, which she maintains are hers by right. The nub of the present question is therefore the status of the Falkland Islands.

These islands form an archipelago of about 200 small and two large islands enclosed within a rectangle of 120 by 60 miles and lying some 300 miles off Patagonia and 250 miles from the entrance to the Magellan Straits. When Charles Darwin visited the region in H.M.S. *Beagle* in 1834, he estimated that the total surface area of the islands was about half the size of Ireland, but the area of Northern Ireland alone would probably now be considered as nearer the mark. The two largest islands in the group, on which the history of the archipelago centres, are East Falkland, with an area of 2,500 square miles, where once stood Port Louis, or Puerta de la Soledad, now the seat of the capital, Port Stanley, and West Falkland (also called Gran Malвина). It is not certain why these islands became known in England as the Falklands, but the designation may be an extension of Falkland Sound, the name

given to the strait between the East and West islands by Captain John Strong in the *Welfare* in 1690, probably in honour of Anthony Cary, third Viscount Falkland, then a Commissioner of the Admiralty and later First Lord. Las Malvinas, the name by which the archipelago is known in Argentina, is the hispanisation of the French name Les Malouines, recalling the intrepid Breton sailors from St. Malo who fished and hunted seals in those waters in the early 18th century.

East Falkland was first colonised as a consequence of the French hope of finding on the west coast of America compensation for their loss of Canada. In 1764, Antoine Louis de Bougainville, who had served in Quebec under Montcalm, was given permission by the Duc de Choiseul, Louis XV's Minister, to settle men and women from Acadia (Nova Scotia) and St. Malo on that island, so that it could serve as a staging post for the French penetration of the Pacific. Bougainville built a fort called Port Louis in honour both of his namesaint and his king, and laid the foundations of a French settlement. This caused consternation in Madrid because the Spaniards claimed dominion over all South America, except for the parts occupied by the Portuguese. Charles III therefore protested to his partner in the Bourbon Family Compact, and eventually a compromise was reached whereby Bougainville withdrew his colony but received a large sum by way of compensation. A Spanish governor took over from him, and Port Louis became known as Puerto de la Soledad.

Meanwhile, the British had been active in West Falkland. On January 23, 1765, Commodore John Byron, grandfather of the poet, obeying instructions to find a good harbour which could be a base for further surveys, went ashore on Saunders Island and took possession of it and all the neighbouring islands in the name of George III. He called the anchorage Port Egmont, in honour of the Earl of Egmont, then First Lord of the Admiralty, and left his subordinate, Captain Macbride, to reconnoitre the area. Macbride found Bougainville's settlement, told the settlers to depart because the islands belonged to Britain, and went back home to report. Within a year he was back in Port Egmont with some 100 settlers, but, in 1769, the Spaniards, having got rid of the French, resolved to remove the British and warned them to leave. As no notice was taken of their warning, the Spanish intendant in Buenos Aires sent a force of 1,400 soldiers to expel the settlers. Outnumbered, the small British garrison was obliged to capitulate and the Spanish occupied Port Egmont on June 10, 1770.

This insult to the British flag brought Britain, France and Spain to the point of war. Spain tried to calm the British by saying that the Governor of Buenos Aires had acted on his own initiative. Britain demanded that the governor's action should be disavowed and the settlement at Port Egmont restored. The diplomatic battle lasted until

January 22, 1771, when, the French having made it clear that they were in no position to go to war, and the Duc de Choiseul having been dismissed by King Louis, Spain agreed 'to deliver up . . . the port and fort called Egmont'. It was formally handed over on September 16, 1771, to Captain Scott of the frigate *Juno*. However, the cost of keeping the settlement was disproportionate to its value, and in 1774, as part of a general retrenchment, the naval garrison was withdrawn. A plaque was left reiterating British rights and concluding: 'In witness whereof this plate is set up, and his Britannic Majesty's colours left flying as a mark of possession'.

The Spaniards left West Falkland alone, and concentrated their activities on Puerto de la Soledad, which was used as a prison settlement. Governors were appointed, subservient to the Viceroy at Buenos Aires, until the Napoleonic invasion of Spain and the imprisonment in France of the Spanish royal family broke the links between the Spanish Crown and the Spanish possessions overseas. On May 25, 1810, the people of Buenos Aires set up the 'Provisional Governing Junta of the Provinces of the Río de la Plata', ostensibly to administer the area until Ferdinand VII should regain the throne of Spain. Early in 1811, Xavier Elío, Viceroy of La Plata, who refused to recognise the Junta, and regarded himself as the sole remaining representative of royal authority, agreed that the Governor of Montevideo should withdraw what was left of the Spanish garrison on the Falklands. The islands were thus uninhabited for many years, although they were visited at will by foreign whalers and vessels of many nationalities. From then onwards Spain took no further interest in the islands.

Much of the Argentine case for sovereignty rests on her claim that she inherited the rights which Spain abandoned. These rights in turn are held to be based on the papal grant of 1493, the Treaty of Tordesillas of 1494, and on discovery, and occupation. It is therefore necessary to examine briefly each of these points.

The papal bulls *Inter Caetera* of 1493, issued by Alexander VI, a Spaniard notoriously beholden to Ferdinand and Isabella, granted Spain all territory in the Indies to the west, and Portugal all territory to the east, of a line drawn from Pole to Pole 100 leagues west of the Azores and Cape Verde Islands. This arrangement was subsequently modified by the Treaty of Tordesillas of 1494, between Spain and Portugal, by which the demarcation line was set 370 leagues west of the Cape Verde Islands. The intention of these decisions, which were not acceptable to other European monarchs, was to avoid war between Spain and Portugal by defining spheres for discovery and colonisation; but the treaty was broken decades later when the Portuguese extended their settlements in Brazil to the west and south-west. In effect, therefore, Spain's claim to the exclusive possession of most of America was

acknowledged only in so far as she could maintain it by force. In the centuries which followed, her supremacy was challenged many times. By the end of the colonial period the English, French and Dutch had established themselves in lands which Spain claimed as hers but from which she was powerless to expel the so-called intruders.

It is equally difficult to make a case for Spain on the grounds of discovery. An accurate answer to the question 'who first sighted the Falklands?' is unlikely ever to be forthcoming. When evidence adduced from accounts of early voyages is submitted in support of one explorer as against another, it is always qualified by expressions of probability or possibility. Undoubtedly, Amerigo Vespucci, on his third voyage along the coast of South America, or Magellan on his way to the straits that bear his name, or Sir Francis Drake on his way round Cape Horn, or Hawkins when he found his 'Maiden-land', *could* have caught a glimpse of the islands, but there is no certain proof that they, or the other candidates for the honour, ever did so. Scholars will continue to exercise their ingenuity to explain ambiguous marks on charts and maps, or to expound tantalising sentences in log-books and journals, but it is unlikely that anything positive will result from their efforts. Even in the 19th century, with improved navigational aids, mariners found it difficult to make a landfall on the Falklands, and, before then, ship after ship must have sailed quite near the archipelago without being aware of the existence of the islands.

If the balance of probabilities is to be struck, then there is much to commend Dr. Samuel Johnson's view that John Davis, commander of the *Desire*, a vessel in Cavendish's squadron, sighted some of the islands in the group on August 14, 1592. Another good candidate is Sebald van Weerdt. In January 1600, in command of the *Geloof*, he emerged from the Straits of Magellan on his return journey to Rotterdam and sighted three small islands, inhabited only by penguins and not marked on any map. The Dutch called these islands the Sebaldes and later identified them with islands in the West Falklands group. The name 'Sebaldes' covers the archipelago on maps of the 17th and 18th centuries, and it was the name used by Bougainville in his initial proposals to colonise them. However, mere discovery without settlement has little bearing on the present question of sovereignty. This was admitted by Manuel Moreno, the Argentine Minister in London, who acknowledged to Palmerston in 1833 that 'to establish a right to dominion on the fortuitous act of discovery, or on a momentary possession, is not sufficient: it must be formal or tranquil settlement, which includes habitation and culture'.

No one would contest Bougainville's claim to be the first founder of a settlement on East Falkland at Port Louis, nor Spain's to have acquired his title by purchase. It is likewise accepted that the British

were the first to settle on West Falkland, at Port Egmont. The agents of both parties proclaimed their rights over the rest of the territory, but the actual decision as to which claim was valid was a matter of diplomatic bargaining between Madrid and London, with the French intervening to help out the Spaniards.

When Captain Macbride was instructed to make a settlement at East Falkland, he was told to warn off settlers of any other nation whom he might encounter, but to refer the question of sovereignty to London. The subsequent forcible occupation of Macbride's settlement at Port Egmont by the governor of Buenos Aires obliged the Spaniards to choose between war and restitution and, unable to count on the support of France, they chose the latter course. Prince de Masserano, the Spanish Ambassador in London, stated in his declaration to Lord Rochford in 1771 that the restoration of the fort and port 'cannot, nor ought, any wise to affect the question of the prior rights of sovereignty'. This sentence was pointedly ignored in Lord Rochford's counter-declaration which spoke only of the Spanish disavowal of the Buenos Aires expedition against Port Egmont and the restoration of 'all things . . . to the precise situation in which they stood before the 10th of June 1770'.

Spain's action in restoring the *status quo* has much embarrassed successive generations of proponents of the Argentine case. They have sought to explain it away by saying that Spain agreed to the compromise in order to avoid war, and because there was a secret agreement that, once honour was satisfied, the British would withdraw from Port Egmont, after a suitably discreet interval. However, no document embodying such an agreement has come to light to substantiate this assertion. When, in 1833, Manuel Moreno, the Argentine representative in London, raised this point as part of his protest against the British reoccupation of the islands, Lord Palmerston immediately ordered a search through all the official correspondence of the period and was able to assure Moreno that there was no allusion in the correspondence between London and H.M. Ambassador in Madrid to any such undertaking. The Argentine evidence is drawn from Spanish and French dispatches, and proves no more than that Masserano was under the impression that the British would withdraw once they had received satisfaction. There was certainly no formal agreement in writing signed by both parties.

What seems to have happened is the following. During the weeks of negotiations following the expulsion of the British from Port Egmont, there were various suggestions as to what could be done to restore good relations between Britain and Spain. Spain twice raised the possibility of evacuation by both sides, but linked this suggestion to other conditions which the British could not accept. At one point in the

exchanges, Lord North, speaking unofficially, as he was at pains to point out, because it was not his department, hinted to one of the staff of the French embassy that Britain really did not want to remain in the Falklands and would leave if honour were satisfied. This conversation was naturally reported to Masserano, and by him to Madrid, but he could not obtain official confirmation from the British Government. Weeks later, when Charles III realised that he would have to go to war without his French ally if he did not come to terms, Masserano was instructed to accept the British demands in the knowledge (presumably based on the French embassy report) that the British would later leave the Falklands. After the agreement to restore the settlement had been fulfilled, Masserano asked the British when they were going to leave, but was told that no promise to this effect had been made. Eventually, of course, the British did go, but for reasons of economy, not because of any secret promise, and they left their flag flying and a plaque asserting their rights.

This act may have been 'perfidious Albion's' way of getting the best of both worlds. At the time of the negotiations, in order to avoid war, it may have suited a weak British ministry to let Masserano delude himself as to British intentions. Certainly the storm which raged in Parliament when it became known that the question of sovereignty had not been settled, made the government fully aware that they could not hope to survive public wrath if they abandoned Port Egmont. By leaving in 1774, for reasons of economy, the British kept their honour unstained, but made it clear where they stood on the matter of sovereignty.

However, the argument about the 'secret promise' is academic in both the practical and the figurative sense of the word. Spain abandoned the islands in 1811, and, although the Cortes at Cadiz expressed their intention of reoccupying them when the situation was more propitious, this moment never arrived. For almost 10 years the islands were *res nullius*, used by sealers and whalers but under no visible authority.

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Spain never reasserted her rights in the Falklands, nor, more particularly, to East Falkland which she had acquired by purchase from Bougainville. That these rights passed to Argentina is a matter of assertion by Argentines rather than of direct transfer by Spain. In 1816, a majority of the provinces in what was formerly the Spanish Viceroyalty of La Plata declared themselves independent as the United Provinces of La Plata. The government of Buenos Aires, as the former seat of the Viceroy, assumed the lead in foreign affairs and in 1820 sent Captain Jewitt, an American in their service, to take possession

of the Falklands. He ran up the flag of the new republic on the site of Puerto de la Soledad and returned to Buenos Aires. His action was without any noticeable effect on the masters of vessels in the vicinity who continued to fish and to slaughter wild cattle as they were accustomed to do. (It must be remembered that, at that period, the United Provinces had been recognised only by the U.S.A. but that other nations with interests in South America did not officially accept their independent existence. Britain did not grant recognition until 1825.) However, in 1824, Louis Vernet, who had settled in Buenos Aires, obtained a grant of land in East Falkland. His attempts to found a colony failed, largely, Vernet claimed, because foreign vessels would not respect the exclusive rights to cattle and fisheries granted him by the Buenos Aires Government. To give himself an appearance of authority, because Buenos Aires was powerless to help him, Vernet obtained in 1828 from the Government of the United Provinces of La Plata a grant of full sovereignty over East Falkland and Staten Land and, in 1829, the title of Military and Political Governor of the Falkland Islands.

Britain immediately made it clear to the Argentines that they had acted without taking into account British rights in the islands. The naval force, it was pointed out, had been withdrawn from Port Egmont in 1774 for reasons of economy, but sovereignty had not been abandoned and it was open to the British to return when they judged the moment appropriate. They had contested the Spanish claim to sovereignty and were certainly not prepared (as Palmerston put it in 1834) to permit 'any other state to exercise a right as derived from Spain which Great Britain had denied to Spain itself'.

The fact is that the United Provinces' proclamation of their 'right' to succeed to Spanish possessions in their area was no more than a statement of intention. How much they could actually acquire depended, not on formal cession by Spain, but on how far they could prevent Spain from re-establishing her authority in a given area. For many years after the defeat of their armies in America, the Spaniards still hoped that they might one day win back their lost territories. When, finally, Spain agreed to recognise the independence of Argentina in 1859, it was Argentina without the Falklands, with no explicit transfer of any rights which Spain may have held over the archipelago. As Britain was mediator between the newly constituted nation and the former mother country, it would have been most unlikely that she would have permitted any such transfer or allowed into the treaty of recognition anything which could be interpreted as a challenge to British sovereignty in the islands.

A corollary to Argentina's claim to have succeeded to Spanish rights in the Falklands is her appeal to the principle of *uti possidetis*.

This was an arrangement adopted by the emergent Spanish American republics in the absence of any formal transfer of territories by the Spanish Crown. It meant that each of the new South American nations should be deemed to have succeeded to the lands attached to the former Spanish authorities in their areas at the 'critical date' of 1810 (or 1821 in the case of Central America)—*uti possidetis, ita possideatis*, 'as you possess, so you may possess'. As the Falklands were administered by the Governor of Buenos Aires in the last decades of Spanish colonial rule, it was claimed that they should pass into the control of the United Provinces of La Plata, later the Argentine Republic.

This argument obscures a number of facts. *Uti possidetis juris* was a rough and ready agreement between the new Latin American states to establish their respective territorial limits. (It led to many controversies and conflicts between the new nations, some of which persist.) As a principle, it could be applied only to a dispute between Latin American nations. For example, it could be invoked if Uruguay claimed the Falklands on the grounds that, at the 'critical date', the islands were, in fact, administered from Montevideo, and it was the Governor of Montevideo who withdrew the garrison and settlers. Whether it is applicable in a dispute with a non-Spanish American nation is open to doubt. In any case, *uti possidetis* was not formally adopted until the Congress of Lima in 1848, by which time the Falklands had again been under British control for a number of years.

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The man who did most to assist Argentina's claim to the Falklands, or at least, to East Falkland, was Louis Vernet. As has been noted above, Daniel Jewitt's unsubstantiated proclamation of the sovereignty of the United Provinces in 1820 was not taken seriously by the subjects of any other nation. Vernet managed to establish a settlement on East Falkland, which may be said to have lasted from 1826 to 1831, and was able to obtain in 1829 the title of military and political governor of the islands, although there were formal British protests. Vernet was first and foremost a business man. The Buenos Aires Government owed his wife's family £20,000. He estimated that the right to the wild cattle, seals and fisheries in and around East Falkland would enable him to recoup the debt, and that the sale of provisions to the ships which put in at his settlement at Puerto de la Soledad would bring him a reasonable profit, as, indeed, proved to be the case.

It was a pity that this active and enterprising business man should have committed the cardinal blunder of trying to enforce his authority as reputed governor on American sailors who regularly fished in waters which he considered to be exclusively his. In July 1831, having acquired,

as military governor, a small force of soldiers from Buenos Aires, he seized three United States vessels. One escaped, one was allowed to fish on condition that Vernet was given a share of the profits, and the third, with Vernet on board, proceeded to Buenos Aires so that the master could stand trial for illegal fishing.

Unfortunately for Vernet, United States affairs in Buenos Aires were in the hands of George W. Slacum, the consul, who was angered by the sight of a United States vessel under arrest by the forces of a government for which he appears to have had scant respect. Also unfortunate for Vernet was the appearance in the River Plate of U.S.S. *Lexington*. After hearing Slacum's complaint, her captain, Commander Silas Duncan, sailed to Puerto de la Soledad, arrested six Argentines, destroyed the battery and armaments and declared the islands free of all government. He justified his action on the grounds that Buenos Aires had no right to the islands and that, in interfering with United States ships on their lawful occasions Vernet had acted as a pirate and could therefore be treated as such in accordance with international law. President Jackson approved of Duncan's action and the islands became once more *res nullius*.

It is not relevant at this point to pursue the protracted controversy between Argentina and the United States which was the result of Captain Duncan's swift and brutal act of retribution. Diplomatic relations between the two countries were suspended for 11 years and the question of reparations was kept alive by Argentina for the rest of the century. What is of interest, however, is the fact that, at that period, the United States did not take seriously the Buenos Aires claim to the islands. In his famous message to Congress in December 1823, President Monroe had warned European Powers that they should no longer think of establishing colonies in the western hemisphere. Nevertheless, the United States did not protest when the British reoccupied the islands in 1833. The United Kingdom was regarded as continuing the 18th-century settlement. The Falklands were thus classed with the existing possessions of European Powers in America which, as Monroe had stated, were accepted by the United States. In the latter half of the 19th century, U.S. consular practice also showed acceptance of British sovereignty, and in 1902 the State Department included the Falklands in its list of British possessions.

As far as Vernet was concerned, Captain Duncan's actions put an end to any pretensions which he may have had to continue as an officer of the Buenos Aires Government. He resigned as governor, because he was no longer convinced of the justice of the Buenos Aires claim. Indeed, even as early as 1829, he had told Woodbine Parish, the British Consul-General in Buenos Aires, that he would like the British Government to take his settlement under their protection. He later

stated that when he was assured that the British had not made a secret agreement with Spain to withdraw from West Falkland, he had realised that Buenos Aires had no claim to the islands. He therefore directed his efforts for many years after these events to securing compensation from Great Britain for the wild cattle and the property at Puerto de la Soledad which he said were his.

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Much is made in successive presentations of the Argentine case of the next episode in the history of the islands: the supposed fact that Great Britain 'brutally' and 'forcefully' expelled the Argentine garrison in 1833. The record is not nearly so dramatic. After the commander of the *Lexington* had declared, in December 1831, the Falklands 'free of all government', they remained without any visible authority. However, in September 1832, the Buenos Aires Government appointed, in place of Vernet, an interim commandant, Juan Mestivier. The British representative immediately lodged a protest, but Mestivier sailed on the *Sarandí* at the end of the year to take charge of a penal settlement at San Carlos, his Government's reserve on East Falkland. There was a mutiny, led by a sergeant of the garrison, and Mestivier was murdered. At this juncture, on January 11, 1833, H.M. sloop *Clio* arrived at Puerto de la Soledad when Pinedo, the commander of the *Sarandí* and 25 soldiers were attempting to re-establish order. The so called 'brutal' eviction is laconically recorded in Captain Onslow's log:

Tuesday 1 Jany. 1833.

P.M. Mod. with rain 12.20 shortened sails and came to Port Louis (Soledad), Berkeley Sound . . . found here a Buenos Ayrean flag flying on shore. 2.30 out boats. 3 furred sails. 5.30 Moored ship . . .

Wednesday Jany. 2. Moored at Port Louis

A.M. Mod. cloudy . . . loosed sails and landed a party of marines and seamen and hoisted the Union Jack and hauled down the Buenos Ayrean flag and sent it on board the schooner to the Commandante. Sailmaker repairing the Main top Gallant sails. . . .

In the interval between these two entries, Onslow had 'civilly' (his report) told Pinedo that he had come 'to exercise the right of sovereignty' on the islands and asked him to haul down his flag on shore. Pinedo protested, but said that if the Buenos Aires flag were allowed to fly until January 5, he would leave with his soldiers and anyone else who wished to go. When Onslow proved adamant, Pinedo agreed to embark his soldiers, but he left his flag flying on shore. This was why Onslow sent it to him by one of the *Clio's* officers. Pinedo sailed on January 4 and was later punished by the Buenos Aires Government for failing to offer any resistance.

The British therefore reasserted their rights in the Falklands without a shot being fired. They could justify their action on three grounds: they were continuing the jurisdiction which they had exercised in the 18th century; they had never recognised any rights of the Buenos Aires Government in the islands and had protested against Vernet's and Mestivier's appointments. In any case, Spain's withdrawal from the islands in 1810, and the American destruction of Vernet's settlement in 1831, had made the islands *res nullius*, under the control of no visible authority, and thus open to occupation by any Power which could maintain itself on them.

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Since these events in 1833, the Falkland Islands have been in the possession of the United Kingdom. The hoisting of the flag in Port Egmont and Puerto de la Soledad in January 1833 was followed a year later by the installation of a British governor. Since then, British administration has been continuous and, as it has been unbroken for over a hundred years, there is no doubt as to the international legality of the British title. To do justice to the Argentine case, however, it is necessary to mention at this point one other episode in 1833 which has been made much of by certain Argentine apologists: the supposed guerrilla activity of patriotic Argentines against the occupying British.

When Pinedo withdrew at Onslow's request, he appointed as governor, Juan Simón, headman of the *gauchos* who had remained on the island after the destruction of Vernet's settlement. This appointment had no validity, but the *gauchos*, and William Dickson, who had been Vernet's storekeeper, together with two former ship's masters, Matthew Brisbane and William Lowe, decided to carry on with Vernet's plans for a trading settlement. On August 26, 1833, three *gauchos*, one of whom was a certain Antonio Rivero, in company with five of the former convicts from Mestivier's prison settlement, killed Brisbane, murdered Juan Simón, brutally despatched a German and a Spanish settler, stole all they could and fled into the interior. Those settlers who escaped, including a woman and three children, took refuge on a small island where they endured great hardship until January 1834, when H.M.S. *Challenger* arrived with the new governor, Lieutenant Henry Smith. As soon as he had repaired the settlement, Smith, with a party of six Royal Marines, hunted down the murderers. One of the *gauchos* was killed by his fellows, another, Luna, turned King's evidence, and Antonio Rivero was sent to prison in England but later was returned to the River Plate.

A few years ago, there was set up in Buenos Aires a *Comisión Pro Monumento a Rivero*, a committee to erect a monument to Antonio

Rivero. According to the broadcast given in January 1967 by the committee's Vice-President, the murder of Brisbane and others was a patriotic revolt against the British invader, a deliberate guerrilla war undertaken so that the Argentine flag would once more fly over Puerto de la Soledad. The committee therefore advocated the erection of a statue to Antonio Rivero at Río Gallegos, the nearest point in Argentina to the Falklands, until such time as it can be transported to Puerto de la Soledad when it is once more the capital of the 'Islas Malvinas argentinas'.

Unfortunately, the truth is not in the least heroic. There was no British 'occupying force' on the island; the murderers did not hoist the flag of the United Provinces when they killed Brisbane; and the motive for their action was that Brisbane was paying them in worthless paper money, previously printed by Vernet, instead of in dollars.

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From the foregoing it is evident that Argentina's 'historic' claim to the Falkland Islands is, to say the least, open to considerable doubt. It was not taken seriously by any nation at the time when it was first advanced, and it could not be maintained later against the United States or the United Kingdom. However, in addition to their appeal to history, Argentine apologists adduce three other arguments which must now be examined.

The first asserts that the islands belong to Argentina because they are geologically part of Patagonia. Only geologists can say whether this statement is well-founded, but scientific opinion does seem to have changed since the theory was first put forward in the 19th century. Fossil remains and the theory of continental drift suggest that the islands have an affinity with South Africa rather than South America. In any case, this point would be worth considering only if the islands were *res nullius* at the present time, and this is clearly not the case.

The second argument is based on geographical propinquity and, again, it would be relevant only if the islands were uninhabited, or not under continuous administration by some Power. As the main islands are beyond the 100-fathom line, they cannot be said to be on the continental shelf. Their position 300 miles away from the nearest Argentine territory scarcely makes their inhabitants near neighbours of the Patagonians. On this basis, Chile could make an equally good claim to possession, on the grounds of the propinquity of the Falklands to Chilean territory in the Straits of Magellan.

In this connection, it should be recalled that when the United Kingdom reoccupied the Falklands, Argentina had not incorporated Patagonia, partly because possession of that area had long been the subject of dispute with Chile. It was not until 1884, after the United

Kingdom had administered the islands for close on half a century, that the Argentine Government reopened the question of sovereignty, using propinquity as the excuse. The Argentine Foreign Minister, Dr. Ortiz, told Edmund Monson, the British Minister in Buenos Aires, that 'now that the country was consolidated and rounding off its territory' the Falklands should be handed over 'by reason of their geographical position'. The British representative reported to Earl Granville: 'In the interests of civilisation they [the Argentines] may have been justified in dividing with Chile the unexplored Pampas, hitherto only populated by nomad Indians. The pretext does not serve with regard to the Falklands which have by English occupation been converted into a peaceable and prosperous settlement.' This statement is still valid.

The third argument which Argentines frequently put forward is that there are no Falkland Islanders, only colonists, and colonialism is incompatible with the American ideal. This overlooks two facts: 80 per cent. of the present population is native born and some descendants of the very first settlers still live there. Moreover, successive American Presidents have not regarded British sovereignty as contravening the famous Monroe anti-colonial Doctrine.

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On the basis of history, or equity, or international law, therefore, it would appear that Argentina would experience some difficulty in obtaining a settlement satisfactory to her national pride. Politically, because of the present international situation, she is in a much stronger position. Although the Uruguayan delegate to the Organisation of American States, remembering Argentina's retention of the Island of Martín García, in the River Plate, must listen with some scepticism to certain passages in the Argentine case, most Latin American states are convinced of the rightness of her cause. Guatemala, with claims on British Honduras, is an active ally and Venezuela, because of the Guyana border question, an interested observer of the progress of the Malvinas dispute. Argentina can therefore count on the unanimous support of the Latin American members of the Organisation of American States should the dispute ever be referred to that regional organisation.

Similarly, Argentina can also count on support in the United Nations of the Afro-Asian group, naturally predisposed in principle to rally to the cry of 'anti-colonialism'. This accounts for her success in 1965 in obtaining official recognition of the existence of the dispute, and the passage of the resolution urging Anglo-Argentine discussions on the matter. As the United Nations is notorious for its ability to overlook the provisions of its charter when such a course is politically expedient, the Falkland Islanders, like the Gibraltarians, are unlikely in the present

circumstances to obtain much satisfaction from an appeal to the principle of self-determination.

The United States is also likely to favour a solution satisfactory to Argentina. As the *Lexington* incident is now forgotten, there is no need for her to question Argentina's original claim to the islands. Hemispheric solidarity also predisposes her to support an American state, especially where such action would, at no cost to herself, give her prestige a much-needed boost in the Organisation of American States. Most important of all, the U.S.A. desires a prolonged period of stability in Argentina. Although initially censuring the military uprising of June 1966, the United States Government seems now to have come round to the view that General Onganía, an anti-Communist, and demonstrably able to control the *peronista* trade unions, offers the best hope for settled government. If he secured the Malvinas for Argentina, his prestige would be so high that the continuity of his régime for many years would be virtually assured.

Finally, Argentina's best ally at the present time may well be, paradoxically, British officialdom. The Falklands were acquired at a time when a base near the Straits of Magellan was essential for naval control of the Pacific coast of South America and the South Atlantic. In two world wars the facilities at Port Stanley were vital for the defeat of German raiders and naval units. Strategically, they are now no longer important, even if giant tankers were to find it cheaper to avoid the Panama Canal by going round Cape Horn, or if that canal were ever put out of action. To the realistic official mind, therefore, the islands are scarcely worth retaining, especially in view of the damaging effect of the dispute on Anglo-Argentine commercial relations. The signs are that this line of thought may have prevailed in recent discussions. The two governments may have been very near agreement on the terms of the transfer of sovereignty when pressure of British opinion made it inexpedient, for the moment, to make a public statement to that effect. It should be noted, however, that the seemingly categorical replies given to questions in the House of Commons leave open the possibility of a change of status at some future date, when it can be shown to be in the best interests of the inhabitants.

Whether the Falklanders will be allowed to say that they approve of such benevolence, or whether it will be imposed on them, remains to be seen. They themselves know exactly where they stand. Rather than accept Argentine rule, for which they have no respect, they will leave the islands from which, against considerable odds, they and their predecessors have contrived for over 130 years to extract a livelihood.

The present position of the dispute may therefore be summed up as follows :

(1) The Falklands are now of scant economic or strategic importance. There are no known minerals, no oil deposits, and the wool-clip, since the failure to establish a refrigeration plant for the export of frozen mutton, is the only source of wealth. The soil is unfertile, the climate inhospitable, and only tough and resourceful people like the present inhabitants can stand the isolation. A population of around 2,000 is about the maximum that could be supported, even with such adjuncts as a missile or satellite tracking-station, or a naval base, or a centre for Antarctic exploration.

(2) Argentina's claim is founded on emotion and recurrent irredentist fever. She has no need for more territory and has far more attractive lands than the Malvinas to develop. It is also doubtful whether her cattle-and-grain-minded farmers would ever take kindly to sheep. Nevertheless, their almost mystical sense of *nuestra tierra*, their irradicable belief that there is a wrong to be righted, their impression derived from their publicists that the islands are an earthly paradise, compel the Argentines to be unyielding in their attempts to secure the transfer of sovereignty. Certainly any politician in difficulties has only to raise the cry of *Las Malvinas son nuestras* and he will have the whole nation behind him.

(3) Britain would like to dispossess herself of the last remnants of an imperial past, especially when they are of no economic benefit, but she has an inescapable moral commitment to the Falkland Islanders who have no wish to be other than British.

In these circumstances, it is difficult to see an immediate solution to the dispute. Some comment on it has used the argument that the islanders' future is bound up with that of her neighbours. It is always assumed that these are Argentines. However, although the islanders, in the past, contributed to the development of the Patagonian region, they also have links with sheep farming in the Chilean Punta Arenas region. Although Montevideo is 1000 miles away, they also have associations with Uruguay, which is their normal point of contact with the outside world. Either of these countries would appeal more to the Falklanders than Argentina, a country which has always made life difficult for them by imposing trade controls, non-recognition of passports, alleged obligation to military service, restrictions on postal services and similar constant irritants. In a sensible world, successive Argentine governments would have wooed the islanders, encouraged them to use the port of Buenos Aires instead of forcing them to use Montevideo, and attempted to convince them that they would be better off under Argentine administration! The fact remains, nevertheless, that the islanders have no wish to be other than British, and a plebiscite (which

the Argentines say they would not recognise) would give a complete confirmation of this attitude.

There seems to be only one helpful suggestion which can be voiced at this juncture. Many young islanders are emigrating to New Zealand where their expertise with sheep is appreciated, their English tongue preserved and their devotion to free institutions safeguarded. It would not cost a phenomenal sum to offer all the island families generous resettlement grants there (or in Wales, or the Scottish islands and highlands from which many of their ancestors came). If the majority accepted, the Falklands could then be offered for hard cash to Argentina, Chile or Uruguay, or to any interested bidder, provided the Monroe Doctrine were not violated. Unless some action such as this is taken, Britain must retain sovereignty until the inhabitants agree to a transfer. If their present mood is maintained, such an event is unlikely to happen in this generation.

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