

P.M. 102/2.

TELEGRAM.

FROM: Secretary for External Affairs, Pretoria.  
TO: High Commissioner, London.  
17th June, 1947.

3rd June, 1947.

No. 639. SECRET (DOM)

Your 558.

POLAR COMMITTEE.

Much regret that Union authorities have not yet had opportunity of considering question.

*Mr. Johnson*  
*has gone into this - it is nice to me!*  
*P.P.P.*  
*6/6*  
*will let him continue*  
*has never been in*  
*contact with*

Government of Victoria to search for the missing "Waratah" made a thorough search of both islands. Further visits were made in 1929, 1935 by the "Discovery II", 1939 by the French sloop "Bougainville" and in 1940 by H.M.S. "Neptune" but none of these expeditions succeeded in landing.

2. In 1906 Dr. W.B. Newton, a British subject, applied to the Colonial Office for a concession to work the guano deposits then thought to exist on the Prince Edward Islands. Nothing could be found in the Foreign Office or Admiralty Archives to show that the islands had ever been claimed by any Government. Enquiry of the French Government in 1907 elicited the reply that operations on these islands would be a matter of indifference to them. Dr. Newton was granted a lease for 21 years from February 1908. At the time the Colonial Office informed the Foreign Office that

in the/....

Copy for 1/96/1

SECRET.

P R E T O R I A ,

17 JUN 1947

CHIEF OF THE GENERAL STAFF.

Prince Edward Islands and Heard Island.

I send you herewith for your consideration a copy of a minute, together with the relevant annexure, addressed to me by the Political Secretary to the High Commissioner, London, on the 20th March and would be glad to have your comments on the passages in pages 2 and 3 dealing with the question of Prince Edward Islands and Heard Island. You will no doubt be interested in the aspects of strategy and security.

I am asking the Secretary for Transport for his comments on the separate aspects of meteorology and civil air routes.

A. M. HAMILTON

ACTING SECRETARY FOR EXTERNAL AFFAIRS.

AH/EB

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in the/....

Paragraphs in this document are not to be disseminated to any other Government

P.M. 102/2.

TELEGRAM.

FROM: Secretary for External Affairs, Pretoria.  
TO: High Commissioner, London. 17th June, 1947.

~~SECRET~~

SECRET  
20-6-1947  
PLACED ON

No. 639. SECRET (DOM)  
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ACTING SECRETARY FOR EXTERNAL AFFAIRS.

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SECRET.

P R E T O R I A ,

17 JUN 1947

THE SECRETARY FOR TRANSPORT.

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I send you herewith for your consideration a copy of a minute together with the relevant annexure, addressed to me by the Political Secretary, to the High Commissioner, London, on the 20th March and would be glad to have your comments on the passages in pages 2 and 3 dealing with the question of Prince Edward Islands and Heard Island. You will no doubt be interested in both the meteorological aspect and in the reference to the possibility of a direct air service between the Union and Australia.

I am asking the Chief of the General Staff for his comments on the separate aspect of strategy and security.

*Forward to Sec for Transport (Aeroplane request 17/7)*

*CONFIDENTIAL*

A. M. HAMILTON

Date 13.7.47 Initials *dx*

*Pend 1-8-47*

*Pend 8-8-47*

AH/EB ACTING SECRETARY FOR EXTERNAL AFFAIRS.

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(sgd.) A.M. HAMILTON.

for ACTING SECRETARY FOR EXTERNAL AFFAIRS.

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in the/....



P.M. 102/2  
D.D. 124(a)

Telegramadres  
Telegraphic Address

"DECHIEF"

DEPT OF

Wees so goed om onderstaande nommer in  
antwoord te vermeld  
In reply please quote



No. U.G.S. 34/22

UNIE VAN SUID-AFRIKA.—UNION OF SOUTH AFRICA.

**SECRET**

GROOTHOOFKWARTIER,  
GENERAL HEADQUARTERS,

PRETORIA.

SECRET

20th June, 1947.

SECRETARY FOR EXTERNAL AFFAIRS.

\* Your P.M. 102/2 of 17th June, 1947  
refers.

Apart from its economic value, accurate  
weather forecasting is of the greatest importance  
in warfare, and this factor alone from the General  
Staff point of view is more than sufficient to  
press a claim for Prince Edward Island.

Passed to TPi  
CONSIDERATION  
for INFORMATION  
DISPOSAL  
Date 27/6/47 initials AS

*P. Van der Merwe*

GENERAL.  
CHIEF OF THE GENERAL STAFF.

① Tymos  
2 om h.  
Kw.  
20/6.

② copy to Transvaal (with ref to 102/2)  
for info.

Penna 15/6/47

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be a matter of indifference to them. Dr. Newton was  
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in the/....



Tele. Ad.: "MOMENTUM."  
Phone: 33081 Ext: 42

Ref. M.11.

DEPARTMENT OF TRANSPORT—DEPARTEMENT VAN VERVOER

4th Floor,  
Sanlam Buildings,  
PRETORIA.

SECRET.

The Secretary for External Affairs,  
PRETORIA.

7-8-1947

Prince Edward Islands and Heard  
Island.

With reference to your minute No.P.M.102/2 of the 17th June, 1947, I have to inform you that it is considered that Prince Edward Islands would not only be of use to the Union as a meteorological station but also for Direction Finding in the event of a direct air route being established between South Africa and Australia, and in this connection the Department is of the opinion that a claim to the islands might be justified.

*Received by  
1.30pm 8/8*

Secretary for Transport.

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in the/....

Copy for 1) 96/1.  
P.M. 102/2.

P R E T O R I A .

13 AUG 1947

The High Commissioner for the  
Union of South Africa,  
L O N D O N .

Prince Edward Islands and Heard Island.

Please refer to your minute No. 19/88/2 of the 20th March, dealing inter alia with discussions in the Polar Committee on the desirability of attaching the Prince Edward Islands to the Union of South Africa.

This question has been referred to the Departments concerned and their comment shows that the islands would not only be of use to the Union as the site for a meteorological station, but also for direction finding in the event of a direct air route being established between South Africa and Australia. Military considerations also indicate the desirability of proceeding further with the proposal to strengthen the claim of the United Kingdom or of the Union of South Africa to sovereignty over the islands.

Interdepartmental discussions are still proceeding but you should inform the Polar Committee of the comments given above and ask whether the views of the United Kingdom departments concerned could be made available at an early date. In this regard you will recall that Mr. Syers intimated at the last meeting of the Polar Committee that he was endeavouring to ascertain the views of the appropriate United Kingdom authorities as to how the British Commonwealth claim to the islands could best be substantiated.

D. B. SOLE

SECRETARY FOR EXTERNAL AFFAIRS.



19/88/2.

SPRINGBOK:

18th September, 1947.

THE SECRETARY FOR EXTERNAL AFFAIRS:

I have to inform you that I understand from the Commonwealth Relations Office that Mr. L.H. Clare-Burt, c/o Dent and Goodwin, P.O. Box 1446, Cape Town, has applied for a sealing licence to operate in the Marion and Prince Edward Island Group in the Southern Indian Ocean.

In this regard I might state that since the discussions about the future of these islands earlier this year, the United Kingdom Authorities have decided that there would be no objection to the South African and Australian Governments "acquiring" Prince Edward and Heard Islands respectively should they wish to do so.

More or less simultaneously with the taking of the decision the United Kingdom Authorities received the substance of the information contained in your minute, P.M. 102/2 of 13th August and the United Kingdom Authorities are in consequence examining the strength of their own title to the Islands and the legal steps which would be needed before the transfer (if such it can be called) would take place.

The United Kingdom Authorities in South Africa are being informed of the foregoing with the comment that none of this information can be conveyed to Mr. Burt, but that equally it seemed doubtful whether British officials here in London are in a position to turn down his application out of hand. In the circumstances it is being suggested to the United Kingdom representative in the Union that he should reply to Mr. Burt's request saying that his application is still under consideration and that a further letter would be addressed to him in due course.

I am told that the situation is being explained to the Union Antarctic Experts and they are being told by the British Authorities, for their confidential information, of the reasons for the temporising reply which is to be sent to Mr. Burt.

(sgd) W. C. Naude

Political Secretary.

P.M. 102/2.



UNION OF SOUTH AFRICA.

SOUTH AFRICA HOUSE,  
TRAFALGAR SQUARE,  
LONDON, W. C. 2.

Telegraphic Address:  
"OPPOSITELY, TRAFALGAR SQUARE, LONDON."

Reference No. 19/88/2.

SPRINGBOK:

18th September, 1947.

DEPT. OF EXTERNAL AFFAIRS  
RECORDED  
PLACED ON FILE

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I am told that the situation is being explained to the Union Antarctic Experts and they are being told by the British Authorities, for their confidential information, of the reasons for the temporising reply which is to be sent to Mr. Burt.

*Indole*  
*Tosapu.*  
*D 24/9*

*[Signature]*  
Political Secretary.

Recommendations.

It is recommended:

- (a) That the Union Government approve <sup>in principle</sup> of steps being taken to establish South African claims to the Islands.
- (b) That interdepartmental discussions take place with the C.G.S., Naval, Meteorological and other authorities concerned (including Legal Advisers) to recommend what practicable steps should be taken.

United Kingdom Government to strengthening its inchoate claims in that area, the Polar Committee in November 1945 invited the Foreign Office and the Colonial Office to examine the question whether it was not desirable that the Prince Edward Islands should be attached to a part of the British Commonwealth for administrative purposes. As a result of comments received it was suggested that the islands might either be attached to the Falkland Island Dependencies or ceded to the Union of South Africa. It should be noted, however, in connection with the first alternative, that the distance between the Prince Edward Islands and the Falkland Islands is some 4,000 miles as compared with 1,200 miles from South Africa.

The United Kingdom Government have decided that there would be no objection to the Union Government "acquiring" the Prince Edward Islands should they wish to do so and they are examining the legal steps which would be needed before the transfer or cession (if such it can be called) would take place.

Union Government Policy.

Union Government Policy to the above proposal has not yet been defined but the departments concerned are all in favour of taking whatever steps are practicable to establish a South African claim to these islands. A decision is now required from the Government whether or not South African claims should be pressed. The decision is of some urgency in as much as a reply <sup>has</sup> to be returned to the application for a sealing licence to operate in the islands. The issue of such a licence does, in part, denote the exercise of sovereignty and the United Kingdom authorities, to whom the application has been addressed, are for the time being <sup>deferring</sup> ~~adverting~~ their reply.

Recommendations /...

impressed with the strategic importance of the islands from the point of view of meteorological services and considers this factor alone more than sufficient to justify the establishment of <sup>a claim to</sup> sovereignty over the Prince Edward Islands. While no proper exploration of the possibilities has been made, it is the opinion of British experts that a landing strip for aircraft could be laid down on one of the islands. The South African Department of Transport considers that the islands would not only be of use to the Union as a site for a meteorological station but also for direction finding in the event of a direct air route being established between South Africa and Australia.

From a naval point of view the islands have no strategic importance as they are of no use either as bases or even for shelter.

#### Economic Importance.

Experience seems to have shown that the islands have little or no economic importance. No Guano has been found and the sealing proved to be unprofitable <sup>after</sup> ~~upto~~ 1930. The large increase in the price of oil and skins since that date, and in particular a general shortage of oil, may, however, make sealing of more importance in the future. An application for sealing licences to operate in the islands has recently been made to the United Kingdom Government and this may be an indication that sealing is now more profitable. Although no minerals have been discovered the islands have not yet been examined by a competent geologist.

*This "boom" may be temporary.*

#### Proposal to cede the Islands to the Union of South Africa.

As a result of the wartime and post war revival of interest in the Antarctic and the importance attached by the

United /.....



to legislate for the territory, to issue whaling or other licences, to arrange occasional visits, to appoint Magistrates or generally exercise the functions of sovereignty. In other words little or no weight now attached to discovery; the requirements of effectiveness of possession are now greater and the necessity of continuity of effective possession is now emerging almost as a new requirement of international law".

On the basis of the above opinion the Polar Committee in London decided that it was extremely doubtful whether any but an inchoate British title now exists and that should the islands be formally annexed, the annexing power would have to arrange at least that they should be <sup>visited</sup> ~~vested~~ and to exercise some form of effective control.

#### Strategic Importance of the Islands.

In May 1944 the United Kingdom Air Ministry considered the situation in the Antarctic from the point of view of air transport. The Air Staff concluded that "the Antarctic if suitably developed might make possible an air route from the United Kingdom to Australia and the Pacific via South Africa. This would probably require the establishment of staging points on the Prince Edward Islands and Macquarie Island, as well as at several points on the Antarctic continent. Such a route could indeed be of first rate importance if the main Empire route to the East was broken by enemy occupation or <sup>domination</sup> ~~dominion~~ of India or of some other essential link". As this contingency was at the time a remote one the Air Staff did not recommend development of the route but it is a contingency which must now be studied with much more serious attention, in view of the present situation and possible developments in India and the Middle East. The South African Chief of General Staff is

impressed /.....

Company of Cape Town". This British Company, a subsidiary of Irvin and Johnson (S.A.) Ltd., was granted exclusive whaling, sealing, guano and mineral rights. The terms of the lease included permission to display the British flag as occasion might require in proof of occupation and the obligation to erect a navigational beacon. By request of the Company the lease was terminated in 1934, the Company stating that they had not exercised their rights under the lease since 1930 and that conditions had developed which prohibited use being made of these rights; no minerals or guano had been found and the price of oil made elephant sealing unprofitable.

The question of legal title <sup>to</sup> of the Islands.

There appears to be some doubt whether the United Kingdom Government possessed a good title to the islands in 1934 (the date when the last lease was terminated). Even if it is considered that this title existed in 1934 there remains a doubt whether the islands may not now be regarded as having been abandoned and as having reverted to the situation of terra nullius.

The legal aspect of territorial sovereignty has been summarised by the Legal Adviser to the Foreign Office as follows: "Claims to territorial sovereignty may be divided into three categories:

- (a) Claim by virtue of discovery, which gives inchoate right of short duration.
- (b) Claim by virtue of formal act of annexation, again giving inchoate right, effective only for a limited period to perfect a claim by administration.
- (c) Completed claim by occupation, i.e. by the establishment and maintenance of the necessary administration.

In this connection the standard of what constitutes effective occupation and control must vary with the material conditions of the territory concerned. It is no longer sufficient merely

to /.....

the islands were never formally annexed before the lease was granted. Dr. Newton, however, never hoisted the British flag nor did he occupy the islands or make any other use of his concession.

In 1909 the Southern Sealing Company of Cape Town advised the Acting High Commissioner for South Africa that they had established a settlement of twenty men on Marion Island for the purpose of collecting elephant seal oil and skins and that they owned a small steamer which was being used to maintain communication with Cape Town. The Governor of the Cape Colony informed the Foreign Office of these developments and was instructed that in view of the licence granted to Dr. Newton in 1908 the islands "must be considered as already under British sovereignty".

In 1910 it was pointed out that the Legal Adviser's opinion was based on erroneous premises, that the action granting a lease had not been made effective by sufficient acts of occupation, and that the island had never ceased to be terra nullius.

In 1910 in reply to an enquiry whether the islands were British territory the Norwegian Government were informed that a licence had been granted to Dr. Newton and that the United Kingdom Government were not prepared to grant a licence to more than one applicant. In reply to a similar enquiry from the French Government in the same ~~order~~<sup>same year</sup> it was stated that the islands had been annexed and were under British sovereignty. In reply to an enquiry from the German Government in 1928 it was stated that the islands had been annexed in 1908 and that a 21 year licence had been granted to Dr. Newton.

In 1926 the islands were leased by the United Kingdom Government for ten years to the "Kerguelen Sealing and Oiling

Company /.....

POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN  
SOVEREIGNTY OVER PRINCE EDWARD ISLANDS.

Geography and History.

The two islands of this group, Marion and Prince Edward, are situated 1,200 miles south east of the Union. They were discovered by the Frenchman Marion-Dufresne in January 1772. In 1776 Captain Cook sailed between the two islands and gave them their present names. From 1802 onwards the group was visited by American and British sealers, but very little definite information about <sup>their visits</sup> ~~them~~ has survived. During the nineteenth century soundings off shore were made by British and French vessels. In 1873 a party from a British naval vessel landed on Marion Island for a few hours. In 1910 the "Wakefield" which had been chartered by the Government of Victoria to search for the missing "Waratah" made a thorough search of both islands. Further visits were made in 1929, 1935 (by the "Discovery II"), 1939 by the French sloop "Bougainville" and 1940 by H.M.S. "Neptune" but none of these expeditions succeeded in landing.

In 1906 Dr. W.B. Newton, a British subject, applied to the Colonial Office for a concession to work the guano deposits then thought to exist on the Prince Edward Islands. Nothing could be found in the Foreign Office or Admiralty Archives to show that the islands had ever been claimed by any Government. Enquiry of the French Government in 1907 elicited the reply that operations on these islands would be a matter of indifference to them. Dr. Newton was granted a lease for 21 years from February 1908. At the time the Colonial Office informed the Foreign Office that in the opinion of their Legal Advisers, "the granting of a lease and the hoisting of a British flag by the occupier were tantamount to annexation". Consequently

the /.....

Discussed by  
Mr. Foster with  
Sey who agreed  
we could go ahead  
with securing  
detailed views and  
photos from Dept  
concerned prior  
to submitting matter  
to Cabinet.

29.



POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN SOVEREIGNTY OVER PRINCE EDWARD ISLANDS.

Recommendations.

Geography and History.

That it is recommended that this group, Marion and Prince Edward Islands, be approved in principle of steps being taken to establish South African claims to the islands.

In 1776 Captain Cook sailed between the two islands and interdepartmental discussions take place with the S.O.S., Naval, Meteorological and other authorities very concerned (including Legal advisers) to recommend what practicable steps should be taken.

During 1800 a British naval vessel sailed from a British naval vessel sailed in 1800 and in 1805 the "Wakefield" which had been chartered by the Government of Victoria to search for the missing "Merchet" made a thorough search of both islands. Further visits were made in 1899, 1935 (by the "Discovery II"), 1939 by the French sloop "Houganville" and 1943 by U.S.S. "Hagnum" but none of these expeditions succeeded in landing.

In 1906 Dr. F.A. Newton, a British subject, applied to the Colonial Office for a concession to work the guano deposits then thought to exist on the Prince Edward Islands. Nothing could be found in the Foreign Office or Admiralty Archives to show that the islands had ever been claimed by any Government. Enquiry of the French Government in 1907 elicited the reply that operations on those islands would be a matter of indifference to them. Dr. Newton was granted a lease for 21 years from February 1908. At the time the Colonial Office informed the Foreign Office that in the opinion of their Legal advisers, "the granting of a lease and the hoisting of a British flag by the occupier were tantamount to annexation". Consequently

the /.....

*Handwritten notes:*  
 To be discussed by  
 the Staff with  
 the S.O.S.  
 in view of the  
 fact that the  
 islands were  
 discovered in  
 1776  
 by the British  
 Captain Cook  
 in 1776  
 J.C. Clarke  
 22



should be attached to a part of the British Commonwealth for administrative purposes. As a result of comments received it was suggested that the islands might either be attached to the Falkland Island Dependencies or ceded to the Union of South Africa. It would be noted, however, in connection with the first alternative, that the distance between the Prince Edward Islands and the Falkland Islands is some 4,000 miles as compared with 1,200 miles from South Africa.

14. The United Kingdom Government have decided that there would be no objection to the Union Government "acquiring" the Prince Edward Islands should they wish to do so and they are examining the legal steps which would be needed before the transfer or cession (if such it can be called) would take place.

Union Government Policy

15. Union Government Policy to the above proposal has not yet been defined but the departments concerned are all in favour of taking whatever steps are practicable to establish a South African claim to these islands. A decision is now required from the Government whether or not South African claims should be pressed. The decision is of some urgency in as much as a reply is to be returned to the application for a sealing licence to operate in the islands. The issue of such a licence does, in part, denote the exercise of sovereignty and the United Kingdom authorities, to whom the application has been addressed, are for the time being deferring their reply.

sovereignty over the Prince Edward Islands. While no proper exploration of the possibilities has been made, it is the opinion of British experts that a landing strip for aircraft could be laid down on one of the islands. The South African Department of Transport considers that the islands would not only be of use to the Union as a site for a meteorological station but also for direction finding in the event of a direct air route being established between South Africa and Australia.

11. From a naval point of view the islands have no strategic importance as they are of no use either as bases or even for shelter.

Economic Importance.

12. Experience seems to have shown that the islands have little or no economic importance. No Guano has been found and the sealing proved to be unprofitable after 1930. The large increase in the price of oil and skins since that date, and in particular a general shortage of oil, may, however, make sealing of more importance in the future. An application for sealing licences to operate in the islands has recently been made to the United Kingdom Government and this may be an indication that sealing is now more profitable. Although no minerals have been discovered the islands have not yet been examined by a competent geologist.

Proposal to cede the Islands to the Union of South Africa.

13. As a result of the wartime and post war revival of interest in the Antarctic and the importance attached by the United Kingdom Government to strengthening its inchoate claims in that area, the Polar Committee in November 1945 invited the Foreign Office and the Colonial Office to examine the question whether it was not desirable that the Prince Edward Islands

the requirements of effectiveness of possession are now greater and the necessity of continuity of effective possession is now emerging almost as a new requirement of international law".

9. On the basis of the above opinion the Polar Committee in London decided that it was extremely doubtful whether any but an inchoate British title now exists and that should the islands be formally annexed, the annexing power would have to arrange at least that they should be visited and to exercise some form of effective control.

Strategic importance of the Islands.

10. In May 1944 the United Kingdom Air Ministry considered the situation in the Antarctic from the point of view of air transport. The Air Staff concluded that "the Antarctic if suitably developed might make possible an air route from the United Kingdom to Australia and the Pacific via South Africa. This would probably require the establishment of staging points on the Prince Edward Islands and Macquarie Island, as well as at several points on the Antarctic continent. Such a route could indeed be of first rate importance if the main Empire route to the East was broken by enemy occupation or domination of India or of some other essential link". As this contingency was at the time a remote one the Air Staff did not recommend development of the route but it is a contingency which must now be studied with much more serious attention, in view of the present situation and possible developments in India and the Middle East. The South African Chief of General Staff is impressed with the strategic importance of the islands from the point of view of meteorological services and considers this factor alone more than sufficient to justify the establishment of a claim to

obligation to erect a navigational beacon. By request of the Company the lease was terminated in 1934, the Company stating that they had not exercised their rights under the lease since 1930 and that conditions had developed which prohibited use being made of these rights: no minerals or guano had been found and the price of oil made elephant sealing unprofitable.

The question of legal title to the Islands.

7. There appears to be some doubt whether the United Kingdom Government possessed a good title to the islands in 1934 (the date when the last lease was terminated). Even if it is considered that this title existed in 1934 there remains a doubt whether the islands may not now be regarded as having been abandoned and as having reverted to the situation of terra nullius.

8. The legal aspect of territorial sovereignty has been summarised by the Legal Adviser to the Foreign Office as follows: "Claims to territorial sovereignty may be divided into three categories:

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In this connection the standard of what constitutes effective occupation and control must vary with the material conditions of the territory concerned. It is no longer sufficient merely to legislate for the territory, to issue whaling or other licences, to arrange occasional visits, to appoint Magistrates or generally exercise the functions of sovereignty. In other words little or no weight now attached to discovery: the



2. however, never hoisted the British flag nor did he occupy the islands or make any other use of his concession.

3. In 1909 the Southern Sealing Company of Cape Town advised the Acting High Commissioner for South Africa that they had established a settlement of twenty men on Marion Island for the purpose of collecting elephant seal oil and skins and that they owned a small steamer which was being used to maintain communication with Cape Town. The Governor of the Cape Colony informed the Foreign Office of these developments and was instructed that in view of the licence granted to Dr. Newton in 1908 the islands "must be considered as already under British sovereignty".

4. In 1910 it was pointed out that the Legal Adviser's opinion was based on erroneous premises, that the action of granting a lease had not been made effective by sufficient acts of occupation, and that the island had never ceased to be terra nullius.

5. In 1910 in reply to an enquiry whether the islands were British territory the Norwegian Government were informed that a licence had been granted to Dr. Newton and that the United Kingdom Government were not prepared to grant a licence to more than one applicant. In reply to a similar enquiry from the French Government in the same year it was stated that the islands had been annexed and were under British sovereignty. In reply to an enquiry from the German Government in 1928 it was stated that the islands had been annexed in 1908 and that a 21 year licence had been granted to Dr. Newton.

6. In 1926 the islands were leased by the United Kingdom Government for ten years to the "Kerguelen Sealing and Oiling Company of Cape Town". This British Company, a subsidiary of Irvin and Johnson (S.A.) Ltd., was granted exclusive whaling, sealing, guano and mineral rights. The terms of the lease included permission to display the British flag as occasion might require in proof of occupation and the



POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN  
SOVEREIGNTY OVER PRINCE EDWARD ISLANDS.

Geography and History.

1. The two islands of this group, Marion and Prince Edward, are situated 1,200 miles south east of the Union. (lat.  $46^{\circ}5'S$ , long.  $37^{\circ}50' E$ .) They were discovered by the Frenchman Marion-Dufresne in January 1772. In 1776 Captain Cook sailed between the two islands and gave them their present names. From 1802 onwards the group was visited by American and British sealers, but very little definite information about their visits has survived. During the nineteenth century soundings off shore were made by British and French vessels. In 1873 a party from a British naval vessel landed on Marion Island for a few hours. In 1910 the "Wakefield" which had been chartered by the Government of Victoria to search for the missing "Waratah" made a thorough search of both islands. Further visits were made in 1929, 1935 by the "Discovery II", 1939 by the French sloop "Bougainville" and 1940 by H.M.S. "Neptune" but none of these expeditions succeeded in landing.
2. In 1906 Dr. W.B. Newton, a British subject, applied to the Colonial Office for a concession to work the guano deposits then thought to exist on the Prince Edward Islands. Nothing could be found in the Foreign Office or Admiralty Archives to show that the islands had ever been claimed by any Government. Enquiry of the French Government in 1907 elicited the reply that operations on these islands would be a matter of indifference to them. Dr. Newton was granted a lease for 21 years from February 1908. At the time the Colonial Office informed the Foreign Office that in the opinion of their Legal Advisers, "the granting of a lease and the hoisting of a British flag by the occupier were tantamount to annexation". Consequently the Islands were never formally annexed before the lease was granted. Dr. Newton,

Recommendations.

It is recommended:

1. (a) That the Union Government approve in principle of steps being taken to establish South African claims to the Islands.
  - (b) That interdepartmental discussions take place with the C.G.S., Naval, Meteorological and other authorities concerned (including Legal Advisers) to recommend what practicable steps should be taken.
- During the nineteenth century soundings off shore were made by British and French vessels. In 1873 a party from a British whaler was landed on Marion Island for a few hours. In 1910 the "Lafayette" which had been chartered by the Government of France to search for the missing "Arctik" made a thorough search of both islands. Further visits were made in 1879, 1887 by the "Discovery II", 1939 by the French ship "Bougainville" and 1945 by S.A.S. "Hector" but none of these expeditions succeeded in landing.
- In 1946 Mr. W.B. Newton, a British subject, applied to the Colonial Office for a concession to work the guano deposits then thought to exist on the Prince Edward Islands. Nothing could be found in the Foreign Office or Admiralty Archives to show that the islands had ever been claimed by any Government. Enquiry of the French Government in 1947 elicited the reply that operations on these islands would be a matter of indifference to them. Mr. Newton was granted a lease for 22 years from January 1948. At the time the Colonial Office referred the matter to the Admiralty for their views on the proposed lease. The Admiralty advised that in the opinion of their legal advisers, "the granting of a lease and the hoisting of a British flag on the islands were tantamount to annexation". Consequently the islands were never formally annexed before the lease was granted. Mr. Newton,

should be attached to a part of the British Commonwealth for administrative purposes. As a result of comments received it was suggested that the islands might either be attached to the Falkland Island Dependencies or ceded to the Union of South Africa. It should be noted, however, in connection with the first alternative, that the distance between the Prince Edward Islands and the Falkland Islands is some 4,000 miles as compared with 1,200 miles from South Africa.

14. The United Kingdom Government have decided that there would be no objection to the Union Government "acquiring" the Prince Edward Islands should they wish to do so and they are examining the legal steps which would be needed before the transfer or cession (if such it can be called) would take place.

#### Union Government Policy

15. Union Government Policy to the above proposal has not yet been defined but the departments concerned are all in favour of taking whatever steps are practicable to establish a South African claim to these islands. A decision is now required from the Government whether or not South African claims should be pressed. The decision is of some urgency in as much as a reply is to be returned to the application for a sealing licence to operate in the islands. The issue of such a licence does, in part, denote the exercise of sovereignty and the United Kingdom authorities, to whom the application has been addressed, are for the time being deferring their reply.

sovereignty over the Prince Edward Islands. While no proper exploration of the possibilities has been made, it is the opinion of British experts that a landing strip for aircraft could be laid down on one of the islands. The South African Department of Transport considers that the islands would not only be of use to the Union as a site for a meteorological station but also for direction finding in the event of a direct air route being established between South Africa and Australia.

11. From a naval point of view the islands have no strategic importance as they are of no use either as bases or even for shelter.

Economic Importance.

12. Experience seems to have shown that the islands have little or no economic importance. No Guano has been found and the sealing proved to be unprofitable after 1930. The large increase in the price of oil and skins since that date, and in particular a general shortage of oil, may, however, make sealing of more importance in the future. An application for sealing licences to operate in the islands has recently been made to the United Kingdom Government and this may be an indication that sealing is now more profitable. Although no minerals have been discovered the islands have not yet been examined by a competent geologist.

Proposal to cede the Islands to the Union of South Africa.

13. As a result of the wartime and post war revival of interest in the Antarctic and the importance attached by the United Kingdom Government to strengthening its inchoate claims in that area, the Polar Committee in November 1945 invited the Foreign Office and the Colonial Office to examine the question whether it was not desirable that the Prince Edward Islands



the requirements of effectiveness of possession are now greater and the necessity of continuity of effective possession is now emerging almost as a new requirement of international law".

9. On the basis of the above opinion the Polar Committee in London decided that it was extremely doubtful whether any but an inchoate British title now exists and that should the islands be formally annexed, the annexing power would have to arrange at least that they should be visited and to exercise some form of effective control.

Strategic Importance of the Islands.

10. In May 1944 the United Kingdom Air Ministry considered the situation in the Antarctic from the point of view of air transport. The Air Staff concluded that "the Antarctic if suitably developed might make possible an air route from the United Kingdom to Australia and the Pacific via South Africa. This would probably require the establishment of staging points on the Prince Edward Islands and Macquarie Island, as well as at several points on the Antarctic continent. Such a route could indeed be of first rate importance if the main Empire route to the East was broken by enemy occupation or domination of India or of some other essential link". As this contingency was at the time a remote one the Air Staff did not recommend development of the route but it is a contingency which must now be studied with much more serious attention, in view of the present situation and possible developments in India and the Middle East. The South African Chief of General Staff is impressed with the strategic importance of the islands from the point of view of meteorological services and considers this factor alone more than sufficient to justify the establishment of a claim to

obligation to erect a navigational beacon. By request of the Company the lease was terminated in 1934, the Company stating that they had not exercised their rights under the lease since 1930 and that conditions had developed which prohibited use being made of these rights; no minerals or guano had been found and the price of oil made elephant sealing unprofitable.

The question of legal title to the Islands.

7. There appears to be some doubt whether the United Kingdom Government possessed a good title to the islands in 1934 (the date when the last lease was terminated). Even if it is considered that this title existed in 1934 there remains a doubt whether the islands may not now be regarded as having been abandoned and as having reverted to the situation of terra nullius.

8. The legal aspect of territorial sovereignty has been summarised by the Legal Adviser to the Foreign Office as follows: "Claim to territorial sovereignty may be divided into three categories:

- (a) Claim by virtue of discovery, which gives inchoate right of short duration.
- (b) Claim by virtue of formal act of annexation, again giving inchoate right, effective only for a limited period to perfect a claim by administration.
- (c) Completed claim by occupation, i.e. by the establishment and maintenance of the necessary administration.

In this connection the standard of what constitutes effective occupation and control must vary with the material conditions of the territory concerned. It is no longer sufficient merely to legislate for the territory, to issue whaling or other licences, to arrange occasional visits, to appoint Magistrates or generally exercise the functions of sovereignty. In other words little or no weight now attached to discovery; the

however, never hoisted the British flag nor did he occupy the islands or make any other use of his concession.

3. In 1909 the Southern Sealing Company of Cape Town advised the Acting High Commissioner for South Africa that they had established a settlement of twenty men on Marion Island for the purpose of collecting elephant seal oil and skins and that they owned a small steamer which was being used to maintain communication with Cape Town. The Governor of the Cape Colony informed the Foreign Office of these developments and was instructed that in view of the licence granted to Dr. Newton in 1908 the islands "must be considered as already under British sovereignty".

4. In 1910 it was pointed out that the Legal Adviser's opinion was based on erroneous premises, that the action granting a lease had not been made effective by sufficient acts of occupation, and that the island had never ceased to be terra nullius.

5. In 1910 in reply to an enquiry whether the islands were British territory the Norwegian Government were informed that a licence had been granted to Dr. Newton and that the United Kingdom Government were not prepared to grant a licence to more than one applicant. In reply to a similar enquiry from the French Government in the same year it was stated that the islands had been annexed and were under British sovereignty. In reply to an enquiry from the German Government in 1928 it was stated that the islands had been annexed in 1908 and that a 21 year licence had been granted to Dr. Newton.

6. In 1926 the islands were leased by the United Kingdom Government for ten years to the "Kerguelen Sealing and Culling Company of Cape Town". This British Company, a subsidiary of Irvin and Johnson (S.A.) Ltd., was granted exclusive whaling, sealing, guano and mineral rights. The terms of the lease included permission to display the British flag as occasion might require in proof of occupation and the

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P R E T O R I A,

12 - OCT 1947

THE CHIEF OF THE GENERAL STAFF:

POSSIBLE ESTABLISHMENT OF SOUTH  
AFRICAN SOVEREIGNTY OVER PRINCE  
EDWARD ISLANDS.

Three copies are attached of a brief memorandum on the above subject which has been prepared in this Department. The memorandum takes into account the views expressed in your C.G.S. 34/22.

2. You will note from the concluding paragraph that the Union Government is now required to define its policy in this matter. To enable the matter to be properly considered in Cabinet it is desired to compile a more detailed analysis setting out in full the advantages and disadvantages which might accrue to the Union should the suggested policy be pursued, and assessing the practical possibilities of putting such a policy into effect.
3. To this end it would be appreciated if you would arrange for the preparation of such a document dealing in detail with the strategic importance of the islands to the Union, the desirability and practicability (considered both from a short term and long term point of view) of establishing a meteorological station and laying down a landing strip, the practicability of arranging for periodical visits by a unit of the S.A.N.F. (e.g. as part of a training cruise) with a view either to keeping contact with a station on the islands or merely in order to maintain the islands as a South African sphere of interest, the practicability of arranging an occasional long range flight over the islands to maintain the "sphere of interest" such as has been undertaken by R.A.A.F. Halifaxes in connection with Australian claims in the Antarctic. Any other data which you consider would be useful should be included and it would be helpful if you could give a rough estimate of the annual expenditure that would be involved.
4. Other Departments concerned are being asked to prepare similar assessments and on receipt of all the relevant data it is proposed to convene a meeting for further discussion about the end of October. It would be appreciated, therefore, if your views could reach me before the 29th October.

D. B. SOLE

P R E T O R I A,  
2 - OCT 1947

THE PRESIDENT, COUNCIL FOR SCIENTIFIC  
AND INDUSTRIAL RESEARCH:

POSSIBLE ESTABLISHMENT OF SOUTH  
AFRICAN SOVEREIGNTY OVER PRINCE  
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3. Any contribution to consideration of this question which you are able to make would be greatly appreciated by this Department.
4. Other Departments concerned are being asked to prepare similar assessments and on receipt of all the relevant data it is proposed to convene a meeting for further discussion about the end of October. It would be appreciated, therefore, if your views could reach me before the 29th October.

D. B. SOLE

SECRETARY FOR EXTERNAL AFFAIRS.

DBS/AD

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SECRETARY FOR EXTERNAL AFFAIRS.

DBS/AD

P.M. 102/2.

SECRET:

P R E T O R I A,  
2 - OCT 1947

THE SECRETARY FOR TRANSPORT:

POSSIBLE ESTABLISHMENT OF SOUTH  
AFRICAN SOVEREIGNTY OVER PRINCE  
EDWARD ISLANDS.

Two copies are attached of a memorandum on the above subject which has been prepared in this Department. The memorandum takes into account the views expressed in your M.11 of August 7.

2. You will note from the concluding paragraph that the Union Government is now required to define its policy in this matter. To enable the matter to be properly considered in Cabinet it is desired to compile a more detailed analysis setting out in full the advantages and disadvantages which might accrue to the Union should the suggested policy be pursued, and assessing the practical possibilities of putting such a policy into effect.
3. To this end it would be appreciated if you would kindly arrange for the preparation of such a document dealing in detail with the possible use of the Prince Edward Islands as a site for a meteorological station, and for Direction Finding in the event of a direct air route being established between South Africa and Australia. The document should estimate what value would be attached to such meteorological services etc. and the practicability of putting the proposals into effect either in the immediate or more distant future. A rough estimate of the annual expenditure that would be involved would also be useful.
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D. B. SOLE

SECRETARY FOR EXTERNAL AFFAIRS.

P.M. 102/2.

P R E T O R I A ,

2 - OCT 1947

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3. To this end it would be appreciated if you would kindly arrange for the preparation of such a document dealing with the importance of the islands from an economic standpoint, particularly in regard to sealing possibilities. In this connection you will no doubt be interested to note that the application for a sealing licence referred to in paragraph 12 of the accompanying memorandum emanates from a Mr. L.H. Clare-Burt, c/o Dent and Goodwin, P.O. Box 1446, Cape Town. Any information you may have about this gentleman and the background to his proposed activities, would be useful.

4. Other Departments concerned are being asked to prepare similar assessments and on receipt of all the relevant data it is proposed to convene a meeting for further discussion about the end of October. It would be appreciated, therefore, if your views could reach me before the 29th October.

S. B. SOLE

SECRETARY FOR EXTERNAL AFFAIRS.



P R E T O R I A,

2 - OCT 1947

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P.M. 102/2.

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4. Other Departments concerned are being asked to prepare similar assessments and on receipt of all the relevant data it is proposed to convene a meeting for further discussion about the end of October. It would be appreciated, therefore, if your views could reach me before the 29th October.

B. B. SOLE

DBS/AD

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D. B. SOLE

2nd October, 1947.

Sir,

I am directed by the High Commissioner for the United Kingdom to refer to the letters which you addressed to the Secretary of State for the Colonies on the 25th July and 29th August applying for a sealing licence in the Marion and Prince Edward Island group.

In reply I am to inform you that your application is still under consideration and that a further letter will be addressed to you in due course.

I am, Sir,

Your obedient servant,

E. E. CROWE

SENIOR SECRETARY.

L.H. CLARE-BURT ESQ.,  
C/O BENT & GOODWIN (CAPE) (PTY) LTD.,  
P.O. BOX 1446,  
CAPE TOWN.

KH.

periodical visits by a unit of the R.A.A.F. (e.g. as part of a training cruise) with a view either to keeping contact with a station on the islands or merely in order to maintain the islands as a South African sphere of interest, the practicability of arranging an occasional long range flight over the islands to maintain the "sphere of interest" such as has been undertaken by R.A.A.F. Halifaxes in connection with Australian claims in the Antarctic. Any other data which you consider would be useful should be included and it would be helpful if you could give a rough estimate of the annual expenditure that would be involved.

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D. B. SOLE



COPY

c/o Dent & Goodwin (Cape)(Pty) Ltd.,  
P.O. Box 1446,  
CAPE TOWN, S. AFRICA.  
25th July, 1947.

The Under Secretary of State for the Colonies,  
Downing Street,  
LONDON, S.W.1.

Sir,

I respectfully beg to apply for a five year concession for sealing on the Marion and Prince Edward Island group in the Southern Indian Ocean.

I have several goodm seaworthy boats at my disposal, as well as the financial resources to undertake this venture, and, should same be successful, I am prepared to pay any royalties which may be levied in this connection.

My full name is Lindsay Hilton Clare-Burt, and I am a British subject, born of British parents, and my birthplace was Auckland, New Zealand.

My war service includes contracting to His Majesty's Royal Navy and the South African Navy in regard to repairs to their vessels, etc.,

In view of the world shortage of oils and fats, I trust, Sir, that you will consider my application favourably, and grant me the concession, so that I may exploit the possibilities of obtaining the above commodities from these islands.

Thanking you in anticipation of your kind consideration,

Yours faithfully,

(Sgd.) L.H. Clare-Burt.

KH.

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D. B. SOLR

c/o Dent & Goodwin,  
P.O. Box 1446,  
Cape Town, S. Africa.  
29th August, 1947.

The Under Secretary of State for the Colonies,  
Downing Street,  
LONDON, S.W.1.

Sir,

With reference to my letter of the 25th ult., re a five-year concession for sealing on the Marion and Prince Edward Island group in the Southern Indian Ocean, I shall be grateful if you could let me have some indication as to when your decision in regard to my application will be made.

I must apologise for addressing you again in this matter, but would explain that I have several vessels lying idle, and the season is getting rather late.

Again thanking you in anticipation for your kind consideration.

I am,  
Yours faithfully,

(Sgd.) L.H. Clare-Burt.

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B. B. SOLR

F/58

*No. Gator : PH  
enclose duplicates  
to C. & I. for attention  
ref. no previous letter*

OFFICE OF THE HIGH COMMISSIONER  
FOR THE UNITED KINGDOM,  
PRETORIA.

*2nd* October, 1947.

My dear Sole,

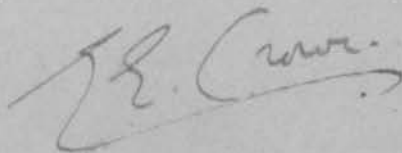
At the suggestion of the Commonwealth Relations Office I am sending you - in the hope that you are the right person - copies of two letters addressed by a Mr. L.H. Clare-Burt of Cape Town to the Colonial Office, applying for a sealing licence in the Marion and Prince Edward Island Group. I also enclose a copy of the interim reply which we have now sent to Mr. Burt.

The reason for this temporizing is that, as you will know, the future of these islands came under discussion at the meeting on March 13th of the Polar Committee in London, which you attended. Since then an interdepartmental meeting was held in London at which it was decided that no objection would be seen to the South African and Australian Governments "acquiring" Prince Edward and Heard Islands respectively should they wish to do so.

Moreover, as you will probably know, South Africa House have recently written to the Commonwealth Relations Office to inform them that the Union Departments concerned are now considering whether the Prince Edward Islands should be acquired by them; and in consequence the United Kingdom authorities are examining the strength of their own title to the Islands and the legal steps which would be needed before the transfer (if such it can be called) would take place.

In the circumstances a reply to Mr. Burt on the lines of my letter seemed the only course that could properly be adopted.

*Yours sincerely*



D.B. SOLE ESQ.,  
DEPARTMENT OF EXTERNAL AFFAIRS,  
PRETORIA.

flight over the islands to maintain the "sphere of interest" such as has been undertaken by R.A.A.F. Halifaxes in connection with Australian claims in the Antarctic. Any other data which you consider would be useful should be included and it would be helpful if you could give a rough estimate of the annual expenditure that would be involved.

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D. B. SOLE

DBS/AD

SECRETARY FOR EXTERNAL AFFAIRS.

2nd October 1962

Recommendations:

It is recommended:

- (a) That the Union Government approve in principle of steps being taken to establish South African claims to the islands.
- (b) That interdepartmental discussions take place with the S.S.S., Naval, Meteorological and other authorities concerned (including Legal Advisers) to recommend what practicable steps should be taken.

It is recommended that the Union Government should be advised of the steps which should be taken to establish South African claims to the islands. It is suggested that the Union Government should be advised of the steps which should be taken to establish South African claims to the islands. It is suggested that the Union Government should be advised of the steps which should be taken to establish South African claims to the islands.

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S.S. Wild 20,  
Ministry of External Affairs,  
FREETOWN.

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should be attached to a part of the British Commonwealth for administrative purposes. As a result of comments received it was suggested that the islands might either be attached to the Falkland Island Dependencies or ceded to the Union of South Africa. It should be noted, however, in connection with the first alternative, that the distance between the Prince Edward Islands and the Falkland Islands is some 4,000 miles as compared with 1,200 miles from South Africa.

14. The United Kingdom Government have decided that there would be no objection to the Union Government "acquiring" the Prince Edward Islands should they wish to do so and they are examining the legal steps which would be needed before the transfer or cession (if such it can be called) would take place.

#### Union Government Policy

15. Union Government Policy to the above proposal has not yet been defined but the departments concerned are all in favour of taking whatever steps are practicable to establish a South African claim to these islands. A decision is now required from the Government whether or not South African claims should be pressed. The decision is of some urgency in as much as a reply is to be returned to the application for a sealing licence to operate in the islands. The issue of such a licence does, in part, denote the exercise of sovereignty and the United Kingdom authorities, to whom the application has been addressed, are for the time being deferring their reply.

sovereignty over the Prince Edward Islands. While no proper exploration of the possibilities has been made, it is the opinion of British experts that a landing strip for aircraft could be laid down on one of the islands. The South African Department of Transport considers that the islands would not only be of use to the Union as a site for a meteorological station but also for direction finding in the event of a direct air route being established between South Africa and Australia.

11. From a naval point of view the islands have no strategic importance as they are of no use either as bases or even for shelter.

Economic Importance.

12. Experience seems to have shown that the islands have little or no economic importance. No Guano has been found and the sealing proved to be unprofitable after 1930. The large increase in the price of oil and skins since that date, and in particular a general shortage of oil, may, however, make sealing of more importance in the future. An application for sealing licences to operate in the islands has recently been made to the United Kingdom Government and this may be an indication that sealing is now more profitable. Although no minerals have been discovered the islands have not yet been examined by a competent geologist.

Proposal to cede the Islands to the Union of South Africa.

13. As a result of the wartime and post war revival of interest in the Antarctic and the importance attached by the United Kingdom Government to strengthening its inchoate claims in that area, the Polar Committee in November 1945 invited the Foreign Office and the Colonial Office to examine the question whether it was not desirable that the Prince Edward Islands

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the requirements of effectiveness of possession are now greater and the necessity of continuity of effective possession is now emerging almost as a new requirement of international law".

9. On the basis of the above opinion the Polar Committee in London decided that it was extremely doubtful whether any but an inchoate British title now exists and that should the Islands be formally annexed, the annexing power would have to arrange at least that they should be visited and to exercise some form of effective control.

Strategic Importance of the Islands.

10. In May 1944 the United Kingdom Air Ministry considered the situation in the Antarctic from the point of view of air transport. The Air Staff concluded that "the Antarctic if suitably developed might make possible an air route from the United Kingdom to Australia and the Pacific via South Africa. This would probably require the establishment of staging points on the Prince Edward Islands and Macquarie Island, as well as at several points on the Antarctic continent. Such a route could indeed be of first rate importance if the main Empire route to the East was broken by enemy occupation or domination of India or of some other essential link". As this contingency was at the time a remote one the Air Staff did not recommend development of the route but it is a contingency which must now be studied with much more serious attention, in view of the present situation and possible developments in India and the Middle East. The South African Chief of General Staff is impressed with the strategic importance of the islands from the point of view of meteorological services and considers this factor alone more than sufficient to justify the establishment of a claim to

obligation to erect a navigational beacon. By request of the Company the lease was terminated in 1934, the Company stating that they had not exercised their rights under the lease since 1930 and that conditions had developed which prohibited use being made of these rights; no minerals or guano had been found and the price of oil made elephant sealing unprofitable.

The question of legal title to the Islands.

7. There appears to be some doubt whether the United Kingdom Government possessed a good title to the islands in 1934 (the date when the last lease was terminated). Even if it is considered that this title existed in 1934 there remains a doubt whether the islands may not now be regarded as having been abandoned and as having reverted to the situation of terra nullius.

8. The legal aspect of territorial sovereignty has been summarised by the Legal Adviser to the Foreign Office as follows: "Claim to territorial sovereignty may be divided into three categories:

- (a) Claim by virtue of discovery, which gives inchoate right of short duration.
- (b) Claim by virtue of formal act of annexation, again giving inchoate right, effective only for a limited period to perfect a claim by administration.
- (c) Completed claim by occupation, i.e. by the establishment and maintenance of the necessary administration.

In this connection the standard of what constitutes effective occupation and control must vary with the material conditions of the territory concerned. It is no longer sufficient merely to legislate for the territory, to issue whaling or other licences, to arrange occasional visits, to appoint Magistrates or generally exercise the functions of sovereignty. In other words little or no weight now attached to discovery; the



however, never hoisted the British flag nor did he occupy the islands or make any other use of his concession.

3. In 1909 the Southern Sealing Company of Cape Town advised the Acting High Commissioner for South Africa that they had established a settlement of twenty men on Marion Island for the purpose of collecting elephant seal oil and skins and that they owned a small steamer which was being used to maintain communication with Cape Town. The Governor of the Cape Colony informed the Foreign Office of these developments and was instructed that in view of the licence granted to Dr. Newton in 1908 the islands "must be considered as already under British sovereignty".

4. In 1910 it was pointed out that the Legal Adviser's opinion was based on erroneous premises, that the action granting a lease had not been made effective by sufficient acts of occupation, and that the island had never ceased to be terra nullius.

5. In 1910 in reply to an enquiry whether the islands were British territory the Norwegian Government were informed that a licence had been granted to Dr. Newton and that the United Kingdom Government were not prepared to grant a licence to more than one applicant. In reply to a similar enquiry from the French Government in the same year it was stated that the islands had been annexed and were under British sovereignty. In reply to an enquiry from the German Government in 1928 it was stated that the islands had been annexed in 1908 and that a 21 year licence had been granted to Dr. Newton.

6. In 1926 the islands were leased by the United Kingdom Government for ten years to the "Kerguelen Sealing and Oiling Company of Cape Town". This British Company, a subsidiary of Irvin and Johnson (S.A.) Ltd., was granted exclusive whaling, sealing, guano and mineral rights. The terms of the lease included permission to display the British flag as occasion might require in proof of occupation and the

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POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN  
SOVEREIGNTY OVER PRINCE EDWARD ISLANDS.

Geography and History.

1. The two islands of this group, Marion and Prince Edward, are situated 1,200 miles south east of the Union. (lat.  $46^{\circ}45'S$ , long.  $37^{\circ}50' E$ .) They were discovered by the Frenchman Marion-Dufresne in January 1772. In 1776 Captain Cook sailed between the two islands and gave them their present names. From 1802 onwards the group was visited by American and British sealers, but very little definite information about their visits has survived. During the nineteenth century soundings off shore were made by British and French vessels. In 1873 a party from a British naval vessel landed on Marion Island for a few hours. In 1910 the "Wakefield" which had been chartered by the Government of Victoria to search for the missing "Waratah" made a thorough search of both islands. Further visits were made in 1929, 1935 by the "Discovery II", 1939 by the French sloop "Bougainville" and 1940 by R.M.S. "Neptune" but none of these expeditions succeeded in landing.
2. In 1906 Dr. W.B. Newton, a British subject, applied to the Colonial Office for a concession to work the guano deposits then thought to exist on the Prince Edward Islands. Nothing could be found in the Foreign Office or Admiralty Archives to show that the islands had ever been claimed by any Government. Enquiry of the French Government in 1907 elicited the reply that operations on these islands would be a matter of indifference to them. Dr. Newton was granted a lease for 21 years from February 1908. At the time the Colonial Office informed the Foreign Office that in the opinion of their Legal Advisers, "the granting of a lease and the hoisting of a British flag by the occupier were tantamount to annexation". Consequently the islands were never formally annexed before the lease was granted. Dr. Newton,