

P.M. 102/2.

P R E T O R I A ,

3 - 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.M. 102/2

P R E T O R I A,

11 OCT 1957

DIE SEKRETARIS VAN HANDEL EN NYWERHEID.

Prins Edward Eilande.

Met verwysing na vorige korrespondensie (my brief van 2 Oktober) insake 'n moontlike Suid-Afrikaanse aanspraak op sowereiniteit oor bogenoemde eilande, heg ek hierby aan, vir u aandag, afskrifte van briewe gerig aan die Britse Koloniale kantoor deur mnr. L.H. Clare-Burt van Kaapstad, en van antwoorde wat die Britse owerhede daarop gestuur het.

D. B. SOLE

SEKRETARIS VAN BUITELANDSE SAKE.

DS/CdV

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D. B. SOLE

DBS/AD

SECRETARY FOR EXTERNAL AFFAIRS.

P R E T O R I A,

SECRET.

11 OCT 1947

My dear Crowe,

Prince Edward Islands.

Thank you for your F/58 of 2nd October re Mr. Clare-Burts application for a sealing licence.

We have not yet received the comments of all the Departments concerned on the policy issues connected with the possible 'acquisition' of the Prince Edward Islands, but hope to be able to put the matter before the Cabinet for decision about the end of the month.

In the meantime we should be grateful if you would continue to temporize.

Yours sincerely,

D. B. SOLE

Please return file to Mr. [unclear]

E.E. CROWE, ESQ.

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D. B. SOLE

"the question does not appear to be of any practical importance in view of the fact that no other power has any claim to the islands, and that the Union can acquire Sovereignty over them by occupation, in the manner indicated, in pursuance of a cession by the Government of the United Kingdom, irrespective of whether or not a cession to the Union by the British Government will in itself confer any rights.

" The British Government will no doubt be guided by the advice of its own legal advisers as to the proper procedure to be adopted in effecting the contemplated transfer, but we may mention that there appear to be two possible alternatives in this regard, viz: a cession by means of a formal treaty, or abandonment of the islands by the Government of the United Kingdom, followed by a formal notification to that effect to the Union authorities and occupation by the latter, and it is suggested that having regard to all the circumstances, the latter alternative should be adopted.

" It does not appear necessary to approach Parliament for advance authority to take steps with a view to acquiring sovereignty over the islands, but the steps so taken should, it is suggested, be formally submitted to Parliament for ratification, and in any case legislation will be necessary to provide for the administration of the islands."

A. E. Jansen
SECRETARY FOR JUSTICE.

?
*
Payne - but U.K. should Thompson immediately recognize this acquisition. This would strengthen our position. A.P. 20/10

Telegramadres } "JUSTICE."
Telegraphic Address }

U.D.J. 548.

Alle Briewe geadresseer te word aan
SEKRETARIS VAN JUSTISIE
All Communications to be Addressed
To
SECRETARY FOR JUSTICE



By beantwoording gee op
In reply please quote
No. 1/189/47

UNIE VAN SUID-AFRIKA - UNION OF SOUTH AFRICA.

DEPARTEMENT VAN JUSTISIE,
DEPARTMENT OF JUSTICE.

PALEIS VAN JUSTISIE,
PALACE OF JUSTICE.

SECRET.

PRETORIA.

17. 10. 1947.

The Secretary for External Affairs,
P R E T O R I A.

POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN
SOVEREIGNTY OVER PRINCE EDWARD ISLANDS.

With reference to your minute P.M.102/2 of the 2nd
October, 1947, I beg to inform you that the Law Advisers
remark as follows:-

"It would appear that according to present opinion
an occupying power can acquire sovereignty over unoccupied
territory only by the observance of certain formalities and
compliance with certain requirements. The first requisite
is a formal act of occupation which may consist of a
proclamation or of the hoisting of the flag of the occupying
power, but this formal act constitutes fictitious occupation
only and merely confers an inchoate right of relatively
short duration which will lapse unless further steps are
taken within a reasonable period. These further steps are
physical occupation by settlement and the introduction of
some form of administration.

" Whilst the United Kingdom has exercised certain acts
of ownership in relation to the islands, it has not apparent-
ly either formally occupied them or complied with any of the
other requirements mentioned, and it is, therefore, as
indicated in the accompanying memorandum, doubtful as to
whether it has acquired sovereignty. On the other hand,
the /.....

*10-10-47
J. H. Lawrence*

Uganda

SOUTH AFRICAN COUNCIL FOR SCIENTIFIC AND INDUSTRIAL RESEARCH
SUID-AFRIKAANSE WETENSKAPLIKE EN NYWERHEIDNAVORSINGSRAAD

P. 11102/2
P.O. Box 395,
Private Bag/Rekvaotsek.

Telephone 3V38

Telegram: "AVORS"

Reference No. Sec. 2/8
Verwysingsnommer

PRETORIA

16th October, 1947.

SECRET.

18-10-1947

RECORDED
PLACED ON FILE 25/10/47

SECRETARY FOR EXTERNAL AFFAIRS :

Possible Establishment of South African
Sovereignty over Prince Edward Islands.

I agree with the recommendations made
in this memorandum.

M. J. ...
PRESIDENT : COUNCIL FOR
SCIENTIFIC AND INDUSTRIAL RESEARCH.

Recd 24/10

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" Whilst the United Kingdom has exercised certain acts of ownership in relation to the islands, it has not apparently either formally occupied them or complied with any of the other requirements mentioned, and it is, therefore, as indicated in the accompanying memorandum, doubtful as to whether it has acquired sovereignty. On the other hand,

the /.....

NEW ADVENTURES FOR SHIP WITH GREAT EXPLORING RECORD

AUSTRALIAN EXPEDITION TO STUDY ANTARCTIC WEATHER

From A Special Correspondent

SYDNEY, Monday.

A STRANGE SHIP, painted the colour of mustard, was towed down Sydney Harbour early this month. Crowds lined the great harbour bridge to watch her, for she is a ship with a history and a future.

Built in Norway in 1919, for the whaling industry, her first name was Fapefjord. Mr. Lincoln Ellsworth took her on an exploration of the Antarctic and called her Wyatt Earp. She endured magnificently against the pressure of the winter ice packs. In 1938 the Australian Government, increasingly alive to the importance of their vast white Antarctic empire, bought her.

POSSIBILITY OF LONG-RANGE FORECASTING

War broke the Wyatt Earp's career. The Australian Navy took her over and called her Wangala. She served for six years sweeping and laying mines and acting as a training ship.

At the end of the war the Australian Government, spurred on by the example of Admiral Byrd's American expedition, decided upon an Australian exploration of the Antarctic and they reclaimed the Wyatt Earp.

This all-Australian expedition, commanded by Group Captain Stewart Campbell, late of the R.A.A.F., will leave at the end of November. Two troop landing ships will act as store carriers and it will probably take 10 months to complete the expedition's task.

The influence of the Antarctic on the weather of the world is now more or less proved, and it is the purpose of the expedition to investigate the theories in detail.

The Argentine Government is already fully convinced and now leases the site of a meteorological station from the British Government in the South Georgia islands.

80TH ANNIVERSARY OF U.S. PURCHASE OF ALASKA

ANCHORAGE (Alaska), Monday. — Alaskans celebrated on Saturday the 80th anniversary of the purchase of the territory from Russia by initiating the first stream-lined train service on the Alaska railways.

Commenting on the occasion, the New York World Telegram recalls that Abraham Lincoln's Secretary of State, Seward, who negotiated the Alaska deal with Russia, also planned at that time to buy Greenland from Denmark, but abandoned the idea when the Press and public criticised his Alaska purchase. The papers referred to the deal as "Seward's folly."

"To-day Americans are glad they own Alaska," says the paper. "We would like to have Greenland too, but the price has gone

Before the war the South African Government asked Australia and New Zealand to co-operate in setting up meteorological stations in the Antarctic and an expedition led by Sir Douglas Mawson went into the icefields for this purpose.

The published results of Admiral Byrd's expedition produced further evidence of the importance of the Antarctic and his scientists stated that within two years it would be possible to produce long range and accurate weather forecasts.

The British Admiralty, too, has been impressed by the theory and during the war set up five radio meteorological stations on the sub-continent. They found them "extremely useful."

The Australian Government is therefore sending the Wyatt Earp. Apart from undertaking scientific research it will seek a suitable site for the permanent base in the Antarctic.

The Wyatt Earp will not be the only source of information. The two troop carriers will take parties to Macquarie Island, about 100 miles south of Tasmania, and to Herd Island, which is about half way across the Antarctic Ocean, south of the Kerguelen group.

A DEAD ISLAND

Herd Island is one of the grimmest places on earth. No life can endure there, not even the tiny polar weeds that brighten many of these islands in their brief summer. It is dominated by a 7,000ft. mountain from whose slopes the ice never recedes.

Meteorological stations will be established on these two islands and from this triangle of observatories — the third will be the Wyatt Earp — information will be flashed to the mainland.

For Australia it is difficult to over-estimate the importance of long-range weather forecasting. To know the probable weather even a few months in advance will mean that Australian farmers, who are always at the mercy of their climate, will have some chance of choosing the most suitable crop and of moving their

Denmark 1,000,000,000 dollars (about \$250,000,000) for it, but Denmark is not interested.—Sapa-United Press.

PRINCESS CHOOSES WEDDING MUSIC

LONDON, Monday. — Princess Elizabeth has chosen two familiar hymns—"The Lord is my Shepherd, I shall not want" and "Praise my soul, the King of Heaven"—for her wedding music.

The full official details show that the service in Westminster Abbey on November 20, by command of the King, follows the lines of previous Royal weddings.

Princess Elizabeth's choice of the Bridal March by the British composer, Sir Hubert Parry (1848-1918) in place of the traditional march from Wagner's Lohengrin may set a new fashion.

This dignified march will probably be welcomed by many brides who wish for something to replace the too-familiar Wagner.

The Princess has retained the traditional Mendelssohn Wedding March for the end of the ceremony.—Sapa-United Press.

threatens.

WHALES AND RAYS

The Wyatt Earp is to undertake other researches. The Southern Hemisphere is the most favourable place in the world for the study of cosmic rays. Surveys by air and sea are to be made and scientists are to study the feeding habits of whales.

Depending upon the information the Wyatt Earp brings back, the Australian Government will make their final decision as to the future of their sector of the Antarctic.

Do You Know?

By Quiz

WHICH HANGS DOWN?

ANSWER this wrongly:

Which of these two hangs down: Stalagmites or stalactites?

(Answer at Foot of Column Five)

DEPT. OF EXTERNAL AFFAIRS
RECEIVED
22-10-1947
RECORDED...
PLACED ON FILE... TELEGRAM.

P.M. 102/2

FROM: Secretary for External Affairs, Pretoria.
TO: High Commissioner, London.

21st October, 1947.

No. 1081. SECRET (DOM-PUB).

Your 1034.

No meteorologist can be spared and it is not intended to nominate a Government geologist to accompany the expedition.

POSSIBILITY OF LONG-RANGE FORECASTING

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SECRET.

PRETORIA,

28 OCT 1947

CHIEF OF THE GENERAL STAFF: *Not sent - reply received*
THE SECRETARY FOR COMMERCE AND INDUSTRIES:
THE SECRETARY FOR TRANSPORT: *Not sent*

POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN SOVEREIGNTY OVER PRINCE EDWARD ISLANDS.

It will be appreciated if I can be furnished with your views on the memorandum attached to my minute P.M. 102/2 dated 2nd October, 1947, as soon as possible to enable me to arrange for discussions with all interested Departments.

D. B. SOLE

SECRETARY FOR EXTERNAL AFFAIRS.

GGL/AD

OF U.S. PURCHASE OF ALASKA

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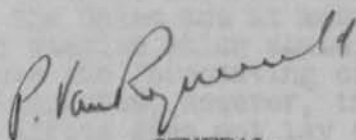
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It is recommended that a combined air and sea reconnaissance be undertaken as soon as possible by the South African Air Force and South African Naval Force. It would not be necessary to authorise any special expenditure as the reconnaissance would be undertaken as part of normal service duties.

Until such a reconnaissance has been completed it is impossible to express anything more than general ideas on the desirability and practicability of permanently occupying the Islands.

Both the South African Air Force and the South African Naval Forces are able to undertake the reconnaissance almost immediately but it must be emphasised that summer weather conditions are essential to the success of the venture. For this reason an early decision on policy is imperative. If the reconnaissance is authorised it is recommended that a representative of the United Kingdom Government accompany the Naval party so that official possession and/or transfer of the Islands could be symbolised by the hoisting of the Union Jack and/or Union Flag.



GENERAL:
CHIEF OF THE GENERAL STAFF:

DEPT. OF EXTERNAL AFFAIRS
REGISTRY "DEOPS."
27-10-1947
RECORDED
UNION OF SOUTH AFRICA

SECRET



In reply please quote

Wees so goed om onderstaande nommer in antwoord te vermeld.

N.G.S./34/22

P.M.102/2

SECRET

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

HEADQUARTERS,
UNION DEFENCE FORCES,
HOOFKWARTIER,
UNIE-VERDEDIGINGSMAG,
PRETORIA.

24 October 1947.

SECRETARY FOR EXTERNAL AFFAIRS:

POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN
SOVEREIGNTY OVER PRINCE EDWARD ISLAND:

Your secret minute P.M.102/2 of 2 October 1947, together with accompanying memoranda has reference.

Modern long range weapons, the fact that accurate weather forecasting is of the greatest importance in warfare, and the present uncertain position in the Indian Ocean make these Islands of the greatest strategic importance to the Union.

From the short term view the Islands would undoubtedly be a liability to the Union and at most would provide a meteorological station which would, it is thought, considerably improve the forecasting of our weather conditions. In the long view, however, the question arises that if South Africa does not lay claim to the Islands now and the United Kingdom allows such claim as it has to lapse, there is the possibility that they may be claimed by some other country that may not be friendly disposed towards us in the event of another war. For the proper defence of the Union, therefore, the Islands must remain at least in friendly hands.

It is felt that the only way to ensure this is for Union of South Africa sovereignty to be established before it is too late.

I should add that information concerning the Islands is somewhat scanty but is sufficient for me to say that it is possible for a meteorological station to be set up, for a landing strip to be laid down and for a small harbour to be constructed provided costs are not a major consideration. Until a proper reconnaissance of the Islands is made it is impossible to give even a rough estimate of the capital cost.

The annual expenditure for operating and maintenance would probably be high because it would necessitate a fairly large party on the Island to maintain morale under the conditions prevailing in those areas. No estimate can be given at this stage; but a figure can be worked out after a proper reconnaissance has been made.

/2.....It



P.M.102/2

Phone: 33081 Ext: 42400
Teleg. Ad.: "MOMENTUM." PLACED ON FILE.....

Ref. M.11.

DEPARTMENT OF TRANSPORT—DEPARTEMENT VAN VERVOER

4th Floor,
Sanlam Buildings,
PRETORIA.

RECEIVED
D. 28-10-1947
SECRET.

The Secretary for External Affairs,
PRETORIA.

28-10-1947

Possible Establishment of South African
Sovereignty over Prince Edward Islands.

With reference to your minute No.P.M.102/2 of the 2nd instant, relative to the abovementioned subject, I have to inform you that as far as this Department is concerned the advantages of the Union possessing Prince Edward Islands outweigh the disadvantages. Transport is the main difficulty.

2. In the event of an air route being established between the Union and Australia, when the Islands will be required for direction finding, regular and frequent weather reports from the Islands and other fixed points will be essential in order to secure adequate meteorological protection.

3. It is estimated that an amount of approximately £15,000 will be required to establish a meteorological station equipped with adequate wireless facilities on the Islands and that an amount of approximately £6,000 including £2,000 for transport will be necessary yearly to maintain the station.

4. Whether or not the outlay will benefit weather services within the Union by a corresponding amount is a question which can only be answered by actual trial. There are certainly large possibilities particularly in regard to medium range forecasts (4 to 5 days), for which, in the Southern Hemisphere, there is at present too little regular information available particularly from the Antarctic and bordering regions.

5. I may add that Professor Spilhaus in his recent report on the Union's meteorological services, states that though Tristan da Cunha and Gough Islands are of primary importance to the Union, temporary meteorological stations on other islands towards the Antarctic are desirable in order to determine the value of such stations for routine use in the future.

Jack L. Brown
SECRETARY FOR TRANSPORT.

Office of the Government Guano Islands,
32 Riebeek Street,
Box 251,
CAPE TOWN.

7th September, 1943.

The Secretary for Agriculture and Forestry,
PRETORIA.

SEALING GENERAL.

With reference to your minute No. R.176/10 of the 17th ultimo, I have to inform you that I requested Mr. Clare-Burt to discuss his proposition for sealing.

He recently purchased a fifty year old steamship of about 80 tons capacity and has spent a great deal of money on reconditioning her. He considered it would be a good investment to fit the boat out as a temporary factory ship and when not so used to enter the trade for coastal cargo.

I had the boat inspected. As reconditioned she is seaworthy, but very old: she has accommodation for only 8 men and this is the complement of her crew. She has not been fitted out as a factory ship.

Mr. Clare-Burt has personally had no experience of sealing and was informed by friends of its possibilities. He had no intention of keeping the skins and his main idea was to cook the oil out and utilise the remainder of the carcass for fuel for the ship's boiler.

He did not know how he would handle 400 seals per day but thought that with the crew and a few sealers he could do so especially as the ship has a steam winch for hauling the seals aboard. He had no idea of the period in which sealing could be done but knew there were seasons. As regards price he considered he should obtain at least 6/- per gallon for the oil. Asked whether he could give any idea as to the basis on which he would be prepared to pay the State for the Concession he said he had not yet thought of it but he would let me know later.

Mr. Clare-Burt's idea of a venture in sealing as of National importance is rather pathetic in view of his present knowledge and equipment for the work.

Presuming he could kill 400 seals per diem for 25 days of the month at Long Island, the ship, which can accommodate only eight men is too small. For this daily quantity of seals at least forty men are required and the resulting yield of oil would have to be stored aboard or transported away.

I cannot see in what way Mr. Clare-Burt, who is a ship engineer of not very much standing could do what he proposes with the craft at his disposal. Such a venture would fail simply for the reason that the craft is totally unsuitable.

It would, in my opinion, definitely be wrong to hand over the Seal Preserves to any private concern.

I informed Mr. Clare-Burt that the Union has no say over the Seal Preserves belonging to South-West Africa.

(Sgd.) ???

SUPERINTENDENT: GOVERNMENT GUANO ISLANDS

I doubt if the records of the expedition are now available but, from memory, I think that we realised £10 to £12 per skin (almost equal to the then price for Alaskan seals) at a time when South African seals were realising 24/-. I am not sure of the number we got but I think our share was over 1,000 skins but, in any case the realisations more than covered the cost of the year's work, even with five concerns operating, whereas an ordinary season's work would only be of about four months' duration.

I have not discussed this proposition with Mr. Johnson, who is presently abroad. I also do not know what is the position with regard to the rights and whether same have lapsed: if not, I would be happy to transfer any rights I have to the Government and I think Mr. Johnson would probably be quite willing to do the same. If the Government considers the project unsuitable or too small, I would like to tackle the job and feel that Mr. Johnson would probably be of the same opinion, in which case we would want to co-operate with the Meteorological Department and share transport and other costs.

If anything is to be done in the matter, it should, if possible, be done quickly to avoid the destruction of the herds, which might have accumulated during the war years, during the coming season. I am not sure exactly when the seals do arrive at the Islands but, again from memory, I think it is some time between October and December.

In case there is still time to protect the breeding seals in the coming season, I am cabling my brother, Sir John Irvin, asking if he can ascertain from the British Authorities what is the position in regard to the rights granted us in 1912.

(Sgd.) G.D. Irvin.

COPY/N.N.

4th October, 1945.

SEAL FISHING ON MARION AND PRINCE EDWARD ISLANDS.

In or about 1912 I learned that there were considerable numbers of valuable fur seals on these two Islands. Johnson and I thereupon chartered the S.S. "Victoria" and sent her down to the Islands with experienced sealers. Although we found no seals there, as they had left on their usual seasonal migration, we secured evidence that seals were plentiful there at the right season. Incidentally, the seasonal migratory habits of the Southern seals are similar to those of the Alaskan seal and unlike those of the seals which inhabit the South African coast.

We thereupon applied for a licence from the British Authorities for the sole sealing rights of these Islands, our intention being to establish a permanent sealing industry there on the same lines as the famous seal fishery on one of the Aleutian Islands, where the breeding seals are carefully protected and only the surplus bachelor seals taken.

Owing to some delay in deciding the sovereignty of the Islands, the sole concession which we eventually obtained arrived too late for the sealing season and just before the seals arrived, four Nova Scotian sealing expeditions also arrived, the result being that the five expeditions killed all the seals they could lay hands on whether they were breeding seals or not. The result was that the breeding seals were decimated and we were faced with the position that we would have to police the Islands for several years while the breeding herds were re-established. This was rather an onerous undertaking as it entailed the employment of an attending-on steamer for that period and, owing to the rapid expansion of our South African fishing and whaling business, I am afraid we rather let the matter slide.

I have recently given some thought to the matter as I think that the seals have probably had a rest during the war years and that there might be sufficient breeding seals now to re-establish the industry.

The installation of a meteorological station on Marion Island, the probability of which was recently announced in the papers, would greatly help the position, if co-operation could be arranged, for the following reasons:-

- (1) If meteorological work and that of seal fishing was proceeded with, the cost of transport (which is the most costly part of seal fishing) would be halved.
- (2) If it was found that the seal herds were too small, they could be protected by the meteorological staff, at little additional cost, for several years until the breeding stock was built up.

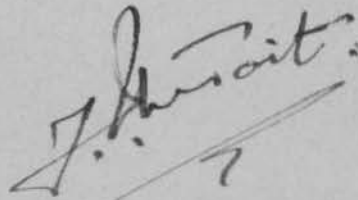
I doubt/.....

- (a) the possible source of guano;
- (b) the utilisation of the seals for the fur trade and for oil.

A possible disadvantage arising from occupation and control is that it might be incumbent upon the Union to protect the Islands in the event of hostilities. As, however, these Islands are not suitable for permanent colonisation, the responsibility of the Union in such an event would only amount to the evacuation of the few men stationed on the Islands for the development of the guano and seal industries and for meteorological observations. The Chief of the General Staff will, I have no doubt, comment more fully on this aspect of the matter.

I am in favour of the Islands being placed under the sovereignty of the Union Government and would welcome the opportunity of participating in the discussion to be arranged by your Department.

In regard to paragraph 3 of your minute under reference and your minute of the 11th October, 1947, I am of opinion that the application of Mr. L.H. Clare-Burt should be held in abeyance until it is known whether the Islands will be placed under the sovereignty of the Union, as, until then, the Union will not be able to exercise control over the Islands and as pointed out in this minute it is deemed advisable that the seals should be protected and only hunted under control. I attach, furthermore, for your information, a copy of a minute No. 17/1474 dated 7th September, 1943, submitted by the Superintendent, Government Guano Islands, relative to an application for sealing on the Islands which was previously submitted by Mr. Clare-Burt. From that minute it would appear that, on the information then furnished, Mr. Clare-Burt's proposal is hardly worthy of serious consideration.

A handwritten signature in dark ink, appearing to read "J. Hurait", written in a cursive style. Below the signature is a horizontal line.

SECRETARY FOR COMMERCE AND INDUSTRIES.



SECRET
Secret

29-10-1947
RECORDED.....
PLACED ON FILE.....

DEPARTEMENT VAN HANDEL EN NYWERHEID,
DEPARTMENT OF COMMERCE AND INDUSTRIES,
SENTRAALSTRAAT 216,
216 CENTRAL STREET.

PRETORIA, 194

29-10-1947

THE SECRETARY FOR EXTERNAL AFFAIRS : PRETORIA.

POSSIBLE ESTABLISHMENT OF SOUTH AFRICAN
SOVEREIGNTY OVER PRINCE EDWARD ISLANDS

With reference to your minute No. P.M.102/2 dated 2nd October, 1947, it was reported during 1942 that considerable quantities of guano were deposited on these Islands which could be collected for the purpose of augmenting the Union's supply of fertilizer. As these Islands are situated within the rain-belt it was, at that time, considered hardly likely that there would be such an accumulation of guanos to justify an expedition to the Islands and no further action was taken.

As the Islands are said to be frequented by numerous sea-birds, it should be possible to obtain a considerable amount of guano annually, provided it is collected before the rainy season starts. These Islands might provide a new source of guano for the Union as, owing to the fact that the Union is nearest to these Islands which lie about 1,200 miles south-east of Cape Town, the Union would appear to be the only country which could develop the guano deposit in an economical manner.

Apart from the development and utilisation of the guano resources of the Islands there are the questions of protecting the seals and developing a sealing industry and the establishment of a meteorological observation station on the Islands.

So far as sealing is concerned, I attach, for your information, a copy of a report dated 4th October, 1945, by Mr. G.D. Irvin, which deals with the question of sealing from the point of view of the fur market. I have no doubt, however, that if sealing for the fur trade should prove a profitable venture that arrangements could be made to collect seal oil at the same time.

It would appear, however, from Mr. Irvin's report that there has been indiscriminate slaughtering of seals and that if a long term policy is to be followed in this matter the question of ownership and control will require the earliest possible attention. From the point of view of geographical proximity the Union is possibly best situated to own and control the Islands in question.

Apart from the establishment of a meteorological station on the Islands which, I assume, will be dealt with by the Department of Transport, the advantages which would accrue to the Union by assuming ownership and control of the Islands appear to be :-

(a)/.....

they may possess. No communication has yet been made to the United Kingdom Government in this regard. The Prime Minister could perhaps address the necessary request to the United Kingdom authorities in the course of his forthcoming visit to London.

18. In the meantime the Union authorities will explore what further action is practicable and necessary to establish South African claim to sovereignty.

the matter, agrees with the general consensus of opinion that steps should be taken to establish South African sovereignty over the islands.

16. The opinions expressed in paragraphs 11 - 15 above are the views of the South African Departments concerned.

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

17. 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 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.

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

Recommendations.

19. As a first step towards establishment of South African sovereignty it is desirable that the United Kingdom Government should now take such action as may be necessary to transfer to the Union Government such title or claims to ownership as

they /.....

amount of approximately £15,000 would be required to establish a meteorological station equipped with adequate wireless facilities and that an amount of approximately £6,000 including £2,000 for transport would be necessary yearly to maintain the station. Whether or not the outlay would benefit ~~quite~~ the services in the Union by a corresponding amount is a question which can only be answered by actual trial. There are certainly large possibilities particularly in regard to medium range forecasts (four to five days) for which in the southern hemisphere there is at present too little regular information available particularly from the Antarctic and bordering regions. Professor Spilhaus who recently surveyed the Union's meteorological services considered that the establishment of temporary meteorological stations on islands towards the Antarctic is desirable in order to determine the value of such stations for routine use in the future.

Economic Importance.

14. Experience prior to 1939 seems to have shown that the islands were of little or no economic importance. In 1942, however, it was reported that considerable quantities of guano were deposited and the Department of Commerce and Industries now considers that it should be possible to obtain a considerable amount of guano annually, provided it is collected before the rainy season starts. Mr. G.D. Irvin of Irvin and Johnson considers that there are favourable sealing possibilities from the point of view of the fur market provided there is effective control to prevent indiscriminate slaughtering of seals. If sealing for the fur trade should prove a profitable venture, arrangements could no doubt be made to collect seal oil at the same time.

15. The President of the Council for Scientific and Industrial Research who has considered the various aspects of

the /.....

weather forecasting is of the greatest importance in warfare, and the present uncertain position in the Indian ocean make these islands of the greatest strategic importance to the Union. From the short term view the islands would undoubtedly be a liability to the Union and at most would provide a meteorological station which might considerably improve the forecasting of South African weather conditions. In the long view, however, the question arises that if South Africa does not lay claim to the islands now and the United Kingdom allows such claim as it has to lapse, there is the possibility that they may be claimed by some other country that may not be friendly disposed towards the Union. For the proper defence of the Union, therefore, the islands must remain at least in friendly hands. It is felt that the only way to ensure this is for South African sovereignty to be established as soon as possible.

12. Provided costs are not a major consideration it should be possible to lay down a landing strip and to construct a small harbour but until a proper reconnaissance is made, it is impossible to give even a rough estimate of the capital cost. The South African Air Force and the South African Naval Force are in a position to undertake a combined air and sea reconnaissance almost immediately, but to ensure success such reconnaissance should be made during the present summer weather conditions.

13. Meteorological Importance.

In the event of an air route being established between the Union and Australia, when the islands will be required for direction finding, regular and frequent weather reports from the islands will be essential in order to secure adequate meteorological protection. It is estimated that an

amount /.....

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".

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.

11. In the opinion of the South African Chief of Gener Staff, modern long range weapons, the fact that accurate

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 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 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

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.

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 Advisers' 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

Sec. 1. Memo to be at once circulated in Cab. & decision, (reference of this paper)
2. Memo to be prepared for the K. Govt in connection with my representations on this subject.

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° 45' S, long. 37° 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 in 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 islands were never formally annexed before

C. J.
This is the name of the Prince Edward & Marion Islands (the former was the name of the Prince Edward group) which is proved to be the same as the name of the islands in the 18th century.

607
4/4/47

P R E T O R I A,

5 NOV 1947

THE PRIVATE SECRETARY TO THE
RT. HON. THE MINISTER OF FINANCE.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

G. P. JOOSTE

SECRETARY FOR EXTERNAL AFFAIRS.

Note

Three copies of memo handed to Mr Cooper for the Prime Minister
 3/2. 5.11.47
 J.P.H.

GGL/.

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SECRET

PRETORIA,

5 NOV 1947

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF LANDS.

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G. P. JOOSTE

SECRETARY FOR EXTERNAL AFFAIRS.

GGL.

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P.M. 102/2.

PRETORIA,

SECRET

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF AGRICULTURE.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

G. P. JOOSTE

SECRETARY FOR EXTERNAL AFFAIRS.

GGI/.

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PRETORIA,

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF THE INTERIOR.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

G. P. JOUBTE

GGL/.

SECRETARY FOR EXTERNAL AFFAIRS.

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PRETORIA,

SECRET

11 NOV 1947

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF POSTS AND TELEGRAPHS.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

G. P. JOUBTE,

SECRETARY FOR EXTERNAL AFFAIRS.

GGL/.

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PRETORIA,

SECRET

5 NOV 1947

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF ECONOMIC DEVELOPMENT.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

G. R. JOHNSON

SECRETARY FOR EXTERNAL AFFAIRS.

GCL/.

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PRETORIA,

5 NOV 1947

SECRET

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF TRANSPORT.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

S. P. JOUBERT
SECRETARY FOR EXTERNAL AFFAIRS.

GCL/.

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the /.....

PRETORIA,

5 NOV 1947

SECRET

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF LABOUR.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

G. P. JOOSTE

SECRETARY FOR EXTERNAL AFFAIRS.

GGL/.

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PRETORIA,

SECRET

1047

THE PRIVATE SECRETARY TO THE
HON. THE MINISTER OF HEALTH.

I enclose for the consideration of the Minister a memorandum prepared by this Department on the establishment of South African sovereignty over the Prince Edward Islands which the Prime Minister has directed me to send to all Ministers preparatory to discussions at a meeting of the Cabinet before the Prime Minister's departure for London on 14th November, 1947.

G. P. JOUBERT

SECRETARY FOR EXTERNAL AFFAIRS.

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From time to time doubts have been expressed as to the validity of the United Kingdom title to the Islands and it is apparent that this title will diminish with the passage of time unless it is strengthened by acts of occupation and administration. The geographical position of the Islands makes effective administration by the Government of the United Kingdom difficult to envisage for the Islands are 4,000 miles distant from the Falkland Islands.

The Union Government believe that the Government of the United Kingdom would welcome the establishment of Union sovereignty over the Islands, a move which would place the Islands under the control of the Member of the British Commonwealth whose metropolitan territory lies nearest to the Islands and which is best able to exercise jurisdiction over the Islands effectively. The Union Government believe also that the United Kingdom Government appreciate that the Union of South Africa has specific strategic, meteorological and economic interests in the Islands, which materially strengthen the desirability of the Union Government establishing an effective claim to sovereignty.

Accordingly, the Union Government would be glad to learn whether the United Kingdom are now willing to take the steps they consider necessary to cede to the Union Government such title or claim to ownership as they may at present possess. In this event the Union Government would welcome any suggestions the United Kingdom Government might care to offer regarding the further action to be taken by the Union Government to establish their claim to sovereignty.

SECRET

A I D E - M E M O I R E.

The Government of the Union of South Africa wish to establish the sovereignty of the Union over the Prince Edward Islands, a group of two islands, Marion and Prince Edward, situated 1,200 miles south east of Cape Town at latitude $46^{\circ} 45'$ South and longitude $37^{\circ} 50'$ East in the Southern Ocean.

It is understood that the Government of the United Kingdom have contemplated and would welcome the assumption of sovereignty over the Islands by a member of the British Commonwealth but before they take steps to establish their sovereignty the Union Government wish to assure themselves that any rights or title which the United Kingdom may have in the Islands are ceded to them.

It will be recalled that on 14th November, 1945, at a meeting of the Polar Committee, the suggestion was made by a United Kingdom representative that the South African meteorological services might wish to establish a meteorological station on Marion Island and at the same meeting attention was drawn to the desirability of attaching the Islands to a British Dependency or to a Member of the Commonwealth. At a meeting of the Polar Committee held in London on 13th March, 1947, the Secretary of the Committee submitted a report in which it was suggested that the Islands should be either annexed by the Union of South Africa or attached to the Falkland Islands Dependencies.

From/...

SECRET:

P R E T O R I A .

15 NOV 1947

My dear High Commissioner,

Possible Establishment of South African
Sovereignty over the Prince Edward Islands.

You will be aware that the above proposal was put forward and discussed earlier this year in the Polar Committee. The matter has now reached the stage where the proposal has been approved by Cabinet and it has been decided that the matter should formally be raised by the Prime Minister with the United Kingdom Government in the course of his visit to London.

For your information I enclose copies of:

- (a) a Department of External Affairs paper which was approved by Cabinet.
- (b) an Aide-Memoire which the Prime Minister intends to present to the United Kingdom authorities.

I should be grateful if you would be good enough to remind the Prime Minister, if necessary, of this matter, to ensure that it is not overlooked.

Yours sincerely,

D. D. FORSYTH

G. HEATON NICHOLLS, Esq.

File to Mr. Nicholls

DBS/MEB.

"The Leases may have contained some provision authorising the Company to perform acts of administration. Even so, however, mere occupation for 4 years (up to 1930) by a Lessee Company under a Lease terminated at the request of the Lessees in 1934 and not followed by any further display of sovereignty would not be likely to impress the International Court.

(d) It is necessary to add that if we could establish a claim to Title by occupation there does not appear to be any sufficient evidence of intention to give up our sovereignty to support the claim that we have abandoned the Islands, though the cancellation of the leases in 1934 might be quoted against us".

Yours sincerely,

Alfred Nichol,

P. S. The Commonwealth Office considers that all that need be done is for the Union to proceed as though there were no doubt about our sovereignty over the islands; establish a meteorological station there and generally occupy and administer the islands. It would be far better than to dispute our sovereignty.

S. H. L.



Telephone: W. T. ALL 4488.
Telegraphic Address:—
"OPPOSITELY, LESQUARE, LONDON."

UNION OF SOUTH AFRICA.

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

22nd November, 1947.

SECRET:

My dear Prime Minister,

The following is the result of my investigations regarding the question of the Prince Edward Islands.

The Commonwealth Relations Office have expressed interest in learning of the consideration which the Union Government is giving to these Islands and hopes to be kept as closely informed as possible of the outcome of the Union Government's examination of the problems involved.

The Commonwealth Relations Office have held interdepartmental discussions as a result of which they report that they see no objection in principle to the transfer of the Prince Edward Islands to South Africa (or of Heard Island, and with it the McDonald Islands, to Australia). As regards the present Title of the Prince Edward Islands, the views of the Legal Adviser to the Commonwealth Relations Office may be summarised as follows:—

"(a) Occupation as a means of obtaining Title to a territory consists of two elements (a) an intention to exercise sovereignty (animus); and (b) actual occupation (factum).

(b) The evidence of animus is very thin. There mere granting of licences is by itself of little value. The Islands appear not to have been formally annexed to His Majesty's Dominions, nor it seems is there anything before 1926 upon which we could rely to establish factum. Any advantage which we might have obtained from the settlement established in 1909 in the Prince Edward Islands would appear to have been lost by the warning to the South Sealing Company that their operations would be carried out entirely at their own risk. The result appears to be that any occupation of the Islands would be regarded as a private venture and not on behalf of the Crown.

(c) The strongest claim would, seem to rest on the Leases granted in 1926 by the United Kingdom Government and subsequent occupation by the Lessees. Recent authorities however, require, to establish the necessary factum, not only actual occupation, but something in the nature of administration.

/The ...

Field Marshal the Rt. Hon. J.C. Smuts,
O.M., P.C., C.H., K.C., D.T.D.,
Hyde Park Hotel,
Knightsbridge,
LONDON, S.W.1.

The contents of this telegram must be paraphrased if they are communicated to any person outside a Government Department.

TELEGRAM

Received: 26.11.1947.

FROM: High Commissioner, London.
TO: Secretary for External Affairs, Pretoria. LONDON, W.C.2.

25th November, 1947.

No. 1136 SECRET (DOM).

From Heaton Nicholls for Forsyth.

Your P.M. 102/2 of 14th November.

*Mr. G. G. G. G.
P.M. 102/2
P.M. 102/2*

British Government have no objection to immediate occupation and effective administration of Islands by Union.

The Commonwealth Relations Office have expressed interest in examining of the consideration which the Government is giving to these Islands and hopes to be kept as closely informed as possible of the results of the Union Government's examination of the problems involved.

The Commonwealth Relations Office have held interdepartmental discussions as a result of which they report that they see no objection in principle to the transfer of the Prince Edward Islands to South Africa (or of Heard Island, and with it the McDonald Islands, to Australia). As regards the present title of the Prince Edward Islands, the views of the Legal Adviser to the Commonwealth Relations Office may be summarised as follows:-

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- (b) The evidence of animus is very thin. There mere granting of licences is by itself of little value. The Islands appear not to have been formally annexed to His Majesty's Dominions, nor it seems is there anything before 1926 upon which we could rely to establish factum. Any advantage which we might have obtained from the settlement established in 1909 in the Prince Edward Islands would appear to have been lost by the warning to the South Sealing Company that their operations would be carried out entirely at their own risk. The result appears to be that any occupation of the Islands would be regarded as a private venture and not on behalf of the Crown.
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/The ...

Field Marshal the Rt. Hon. J.C. Smuts,
O.M., P.C., C.H., K.C., D.T.D.,
Hyde Park Hotel,
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TELEGRAM.

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FROM: High Commissioner, London.
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25th November, 1947.

No. 1136 SECRET (DOM).

From Heaton Nicholls for Forsyth.

Your P.M. 102/2 of 14th November.

British Government have no objection to immediate occupation and effective administration of Islands by Union.

(1) ✓
P.P.M.

*This refers to a proposal to have
leads to establish Union sovereignty
over the Prince Edward Islands (Prince
Edward & Marion) which lie some 1200 miles
South-East of Cape Town in the Atlantic
to discuss the matter with the U.K.
in connection with the British Antarctic
Territory in 1944*

(3) York
W
2/27

(2) Sec. E. A
Yes
Jm

to the Commonwealth Relations Office may be summarised as follows:-

"(a) Occupation as a means of obtaining Title to a territory consists of two elements (a) an intention to exercise sovereignty (animus); and (b) actual occupation (factum).

(b) The evidence of animus is very thin. There mere granting of licences is by itself of little value. The Islands appear not to have been formally annexed to His Majesty's Dominions, nor it seems is there anything before 1926 upon which we could rely to establish factum. Any advantage which we might have obtained from the settlement established in 1909 in the Prince Edward Islands would appear to have been lost by the warning to the South Sealing Company that their operations would be carried out entirely at their own risk. The result appears to be that any occupation of the Islands would be regarded as a private venture and not on behalf of the Crown.

(c) The strongest claim would, seem to rest on the Leases granted in 1926 by the United Kingdom Government and subsequent occupation by the Lessees. Recent authorities however, require, to establish the necessary factum, not only actual occupation, but something in the nature of administration.

/The ...

Field Marshal the Rt. Hon. J.C. Smuts,
O.M., P.C., C.H., K.C., D.T.D.,
Hyde Park Hotel,
Knightsbridge,
LONDON, S.W.1.

26-11-1947
PLACED ON FILE

8/11/102/2

TELEGRAM

Received 26.11.1947.

FROM: High Commissioner, London.
TO: Secretary for External Affairs, Pretoria.

25th November, 1947.

No. 1136 SECRET (DOM).

From Heaton Nicholls for Forsyth.
Your P.M. 102/2 of 14th November.

British Government have no objection to immediate occupation and effective administration of Islands by Union.

Handwritten notes:
L.A. 102/2
M. J. 102/2
N. 102/2
V.P. 102/2

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