

Falklands War: the first 400 years

Claims, Chronology & Counter-Claims

by Roger Lorton



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Introduction



A couple of years ago I came across a forum while '*surfing*' the internet. There was an ongoing debate about Argentina's claims to the archipelago, an argument I had thought long resolved by the Falklands War in 1982.

My interest roused I discovered that 1982 was just the most violent episode in a conflict that has a much longer history, and a dispute that remains unfinished. All the indications are that it is set to run and run.

So, being argumentative by nature, I set upon a little research the better to push Britain's case in the forum I'd found. It turns out that there are quite a few forums.

This book is the result of that research, or at least of a part of it. On the internet, my research amounts to nearly 200,000 words and covers as much Falklands history as I've been able to uncover. This then, is about a third of the full history.

I've set out the various claims, as I understand them, and then have laid out the history of the diplomatic battles and skirmishes that have taken place over these far flung rocks.

Set out as a time-line, it rather reflects the way that I like to view things, in factual chunks, the better to understand the processes involved and to see the relationship between one event and another. Too much of the history of the Falklands is viewed in isolation rather than in the wider context of the period. I believe that there is very little that can be properly understood if viewed in isolation.

After the chronology are the counter-claims, where I attempt to sum up history. Never an easy task. One day perhaps these issues will be aired in an international tribunal or a court of law where better minds than mine can consider the legal implications. Actually that option has been available to all the participants in the Falkland Wars for the last 100 years; and yet none have taken it up. Perhaps no one is very certain of the result.

Until then, I offer this. I've kept the references, citations, sources, etc., and hence the footnotes, to a minimum. The larger history lodged on the internet is fully referenced, and can be checked by the reader should they require more information, or question my sources.

Indeed, more than 90% of what I have here is available to the serious researcher on the internet. An indication of how popular this subject is I think. So, if in doubt, Google it.

I have opted for self-publication for one simple reason. Any commercial publisher worthy of the name would have the bottom line in mind and would, quite rightly, ask me to take down the internet pages. Uninterested in the possibility of profit, of which I suspect there is none, I have taken this course.

I hope it is of benefit. Enjoy.

July 2012

NB The Falklands archipelago consists of two main islands, surrounded by hundreds of small ones. History is easier to understand if one thinks of East and West.

Claims



France

First settlement – the first country to build a settlement on the Islands were French.

America

Inheritance – a right of access to the whale and seal fisheries around the Falkland Islands inherited from Britain.

Spain

Abandonment – the British gave up their pretensions to sovereignty by abandoning the archipelago in 1774 and relinquishing their title, as they had promised.

Cession from France – the French ceded their claim to sovereignty to the Spanish in 1767.

First Discovery – Spain got there first.

Settlement & Use – unchallengeable after 1767

Treaty – *Tordessilas (1494)* gave the Falklands to Spain; *Utrecht (1713)* prevented British discoveries in the Americas and *Nootka (1790)* forbade any settlement on the coast of America south of any existing Spanish colony.

Britain

Acquiescence/Prescription – no objection was made to British possession and, as a result, good title passed eventually to Britain under the laws of '*prescription*', or '*squatters rights*'.

First Discovery – England got there first.

First Settlement – the first country to build a settlement on the Islands were British.

Use – British shipping has made extensive and uninterrupted use of the islands from 1766 until today.

Argentina

Inheritance – sovereignty passed to Argentina on their declaration of independence as the successor to Spain and the *Viceroyalty of the Rio de la Plata*.

Claim, Settlement & Use – the Falklands were claimed for the United Provinces in 1820 and this was followed by a settlement in 1823 and then undisturbed use until 1833.

Usurpation – the British appeared in 1833, 55 years after they'd abandoned West Falkland, and ejected all the legal Argentine settlers so that they could place an '*implanted population*' from Britain onto the Falkland islands.

Chronology



1480 - 1768



The 15th century may seem a little early for the dispute over the Falkland Islands to have started. After all, they had not yet been discovered. Not by Europeans at least. But the roots of this war start way back then when a Pope, Alexander VI, took it upon himself to divide the unknown world; giving the larger portion to Spain. He was Spanish of course, but that, apparently, was not relevant. What was relevant is that Spain believed that it had incontestable ownership of everything to the west of an imaginary line drawn from north to south down the globe. They would hold on to that belief for nearly 300 years.

1481 – June, a Papal Bull, *Aeterni regis*, issued by Pope Sixtus IV, confirms the *Treaty of Alcáçovas* which recognises Spain's sovereignty over the Canary Islands. In Spain and Portugal's attempt to carve the unknown world between them, Portugal gets everything to the south of the Canaries.

1491 – ships leave Bristol; “ *in search of the island of Brazil and the seven cities.*”

1493 – May 4th, Pope Alexander VI issues the *Inter caetera*, dividing the New World lands between Spain and Portugal by establishing a north-south line of demarcation 100 leagues west of the Cape Verde Islands. Undiscovered non-Christian lands to the west of the line are to be Spanish possessions and those to the east belong to Portugal.

1494 – Portugal complains that the Pope's decision breaches the 1481 agreement. Representatives from Spain and Portugal meet in the Spanish town of Tordesillas to discuss the matter.

June 7th, the two sides sign the *Treaty of Tordesillas* with the line of demarcation now relocated to a position 370 leagues west of the Cape Verde Islands. The Falkland Islands lie within the area granted to Spain, while South Georgia and the South Sandwich Islands lie in Portugal's sphere of influence. The agreement only binds the signatories though and is not recognised by other European States, particularly England.

1496 – March 5th, King Henry VII, in defiance of both the Pope's grant, and the *Treaty of Tordesillas*, provides *Letters Patent* to John Cabot, giving; “... *full and free authority, faculty and power to sail to all parts, regions and coasts of the eastern, western and northern sea, under our banners, flags and ensigns, with five ships or vessels of whatsoever burden and quality they may be, and with so many and with such mariners and men as they may wish to take with them in the said ships, at their own proper costs and charges, to find, discover and investigate whatsoever islands, countries, regions or*

provinces of heathens and infidels, in whatsoever part of the world placed, which before this time were unknown to all Christians. . .”

1498 – July 25th, the Spanish Ambassador in England, Don Pedro de Ayala, writes to the Court of Spain; *“I think your Majesties have already heard that the King of England has equipped a fleet in order to discover certain islands and continents, which he was informed [by] some people from Bristol, who manned a few ships for the same purpose last year, had found. I have seen the map which the discoverer has made, The people of Bristol have, for the last seven years, sent out every year two, three, or four light ships, in search of the island of Brazil and the seven cities, . . . I have seen on a chart the direction which they took and the distance they sailed, and I think that what they have found, or what they are in search of, is what Your Highnesses already possess. . . . I write this because the King of England has often spoken to me on this subject, and he thinks that Your Highnesses will take great interest in it. . . . I told him that, in my opinion, the land was already in the possession of Your Majesties; but though I gave him my reasons, he did not like them.”*

1501 – March 19th, Letters Patent, issued by Henry VII grant permission to Richard Warde, Thomas Ashurst and John Thomas; *“to undertake explorations in the west.”*

1506 – the *Treaty of Tordesillas* is recognised by the Pope.

1507 – German cartographer, Martin Waldseemuller, using information garnered from Portugal, publishes his map of the world. He shows islands near the east coast of South America, close to 50°S latitude.

1516 – Juan Diaz de Solis, a Spanish navigator, steps ashore on land to the south of the Rio de la Plata.

1519 – August 10th, Ferdinand Magellan, a Portuguese explorer employed by Spain, sets sail for South America in his quest to find the western route to the spice islands of the Pacific and the Indies. He is accompanied by Estêvão Gomes, a Portuguese captain, who deserts the expedition and returns to Spain.

1522 – September 6th, the battered remains of Magellan's expedition arrive back in Spain, and before long, islands near to the 50° parallel appear in a chart by Pedro Reinel, the *Circolus Antarcticus*.

Spain would later claim that Gomez discovered the Falkland Islands when he emerged from the Magellan Strait en-route back to Spain, and that his crew named them the *'Islas de Sansón y de los Patos'*.

However, this claim was not published before 1765, raising doubts about its authenticity. Charts and maps were kept, particularly by Spain and Portugal, as State secrets so that the competition did not know what had been discovered, nor where.

The English, the French and the Dutch, on the other hand, were quick to announce their discoveries; giving them a head start when disputes arose. Spain was also inclined to be expansive in its claims, so that when it landed on an unknown coast, it claimed the whole continent that the coast was part of.

1549 – Spain establishes the *Gobernación del Río de la Plata* to administer its new lands around the River.

1580 – Bernardino de Mendoza, Spanish Ambassador, complains about English ships in 'Spanish' seas making an angry demand for satisfaction from Queen Elizabeth I, who responds that; " .. *she would not persuade herself that [the Indies] are the rightful property of Spanish donation of the Pope of Rome in whom she acknowledged no prerogative in matters of this kind, much less authority to bind Princes who owe him no obedience; or to make that New World as it were a fief for the Spaniards ... this imaginary proprietorship ought not to hinder other princes from carrying on commerce in these regions, and from establishing Colonies where Spaniards are not residing, without the least violation of the law of nations.*"¹

1588 – the Spanish Armada, sent to invade England, is defeated by good seamanship, good luck and bad weather.

1592 – **August 14th**, English sea-captain John Davis, in the *Desire*, is blown off course from Magellan's Strait by adverse winds, and; " *driven in among certain isles never before discovered ... lying fifty leagues or better from the shore, east and northerly from the Straits ..*"

1593 – Richard Hawkins is commissioned; " *To attempt some enterprise with a ship, bark, and pinnace against the king of Spain, his subjects, and adherents upon the coasts of the West Indies, Brazil, Africa, and America, or in the South seas, granting him and his partners whatsoever he shall take either by sea or land, reserving to the Queen, her heirs and successors, one fifth part of all treasure, jewels, and pearls.*"

1594 – **February 2nd**, Hawkins sees the Falklands; " *we fell in with the land of Terra Australis, in 50 degrees, 55 leagues off the straits of Magellan, east-northwest from the straits.*"²

Sir Richard, believing that the islands have not previously been named, calls them, 'Hawkins' Maidenland.' in honour of the maiden Queen.

1598/1600 – Dutchman, Sebald de Weerdt, a vice-admiral of the *Dutch East India Company* makes the first accurate charting of the Falkland Islands' location.

1606 – James I founds the *Virginia Company* with the purpose of establishing settlements on the east coast of North America; an area Spain still considers its own.

1612 – Don Pedro de Cuñega, Spanish Ambassador to the English Court, demands that England removes its colonies in the Americas.

June 20th, England's representative in Madrid, Sir John Digby, writes to London; " *They are very much displeased ... with our Plantation of Virginia, which they stick not now to say, that if his Majesty will not cause it to be recalled, this King will be forced by a strong hand to essay the removal of it; ... I doubt not but he will receive a cold answer, and for*

1 *On the right of Nations to establish Colonies in the New World* William Camden 1615

2 This from the narrative written up by John Ellis, one of the officers with Hawkins' expedition. Hawkins only wrote up his own account 29 years after he made the journey, and confuses much of the detail.

their doing anything by the way of hostility, I conceive they will be very slow to give England so just a pretence to be doing with them."

1648 – January 30th, a Treaty is signed between Spain and the Netherlands, in which Spain recognises limits to the *Treaty of Tordesillas* for the first time; *"...and in the said treaty shall be comprehended all potentates, nations, and people, with whom the said Lords the King and States, or members of the East and West India Companies in their name, within the limits of their said grants, are in friendship and alliance. And each one, ... shall remain in possession of and enjoy such lordships, towns, castles, fortresses, commerce and countries of the East and West Indies, as well as of Brazil, and on the coasts of Asia, Africa, and America, respectively, which the said Lords the King and States, respectively, hold and possess, ... it has been agreed and stipulated, that the Spaniards shall keep their navigation to the East Indies, in the same manner they hold it at present, without being at liberty to go further;.."*

1655 – Oliver Cromwell's, 'Western Design' sees English forces challenging Spanish possessions in the Caribbean.

1670 – July 18th, England and Spain sign the *Treaty of Madrid* under which Spain recognises English possessions in the Caribbean and both sides agree not to trade in each other's territory. There is no reciprocal recognition of Spanish possessions however.

1675 – Dutchman, Frederik de Wit, produces a map of South America with the Falklands named as the '*Sybold de Waerde Eylanden*'.

1684 – William Dampier, John Cook and Ambrose Cowley visit the Falklands in *Bachelor's Delight*.

1690 – January 27th, the Islands are sighted by Captain John Strong from the ship, *Welfare*. He records in his log, *".. this land doth show like a great many Islands, it is a large land and .. there is several keys that lye along the shore. We sent our boat on shore to one of them and they brought on board abundance of Pengwins and other fowl and seal .."*

January 29th, Strong sails down the passage between the main Islands which he names '*Fawlkland Channel*' after Anthony Cary, 5th Viscount Falkland. A crew member, Richard Simpson, notes, *"As for Hawkins Land, tis parted by a great sound which we passed through ...The Sound in several places was so full of weeds that the ship could hardly make her way and if one might judge by appearance, there it was we sailed through a medow. The island,if it were not quite destitute of wood would make a Nobel plantation;it bears an English name, good Harbage and a great variety of land and sea fowl."*

Strong makes the first recorded landing at Bold Cove; *" Wednesday this morning we weighed and stood unto an harbour on ye west side and there came to ane anchor and sent our boat on shoar for fresh water and did kill abundance of geese and ducks but as far as wood there is none..."*

1696 – William Dampier returns to the South Atlantic, and circumnavigates the Falklands.

1698 – French privateer-entrepreneurs from St. Malo are increasingly active around the tip of South America.³

1701 – French naval captain, Jacques Gouin de Beauchêne, in the *Prudent*, discovers a remote island to the south of the main Falklands archipelago, which is given his name. French investment in the south seas trade is estimated at 500,000 livres per annum. "About the beginning of the last century they were also seen and visited by French vessels from Saint Malo in Brittany, engaged in fishing, and in the contraband trade with the Spanish coasts of the Pacific; .."⁴

1703/1706 3 vessels return to St Malo from South America with a combined cargo valued at 7 million livres. French investment in the south seas trade is now estimated to average 4 million livres a year.

Maurepas, and *St. Louis*, both French ships, visit the Falklands; "If I have in this chart suppressed imaginary Lands, I have also added some real, in 51 Degrees Latitude, which I have called New Islands, because discover'd since the Year 1700, most of them by ships of S. Malo. I have laid them down according to the memoirs or Observations of the *Maurepas* and the *S. Louis*, Ships belonging to the India Company, which saw them near at hand and even the latter was watered there in a Pool, which I have set down, near Port St.Louis. The water was somewhat ruddy and unsavory; in other respects good for the Sea."⁵

1708 – **December 23rd**, Privateers Woodes Rogers and William Dampier, in the *Duke* and the *Duchess*, pass the Islands on their way to the Pacific. Woodes refers to the archipelago as the *Falkland Islands*.

1712 – 'Falkland Islands' is used in a publication describing the *Welfare's* journey, 22 years before.

1713/14 – the *Treaties of Utrecht* are signed, ending the *War of Spanish Succession*. Philip, Duke of Anjou is recognized as Philip V, King of Spain. Two of the *Treaties* concern British/Spanish relations; the first is a peace agreement, the second deals with commercial matters. Both are somewhat vague. Under *Article 8* of the peace agreement, Britain promises to assist in the return of Spanish possessions in the West Indies, as they had existed at the start of the war in 1701.

"... among other conditions of the general peace, it is by common consent established as a chief and fundamental rule, that the exercise of navigation and commerce to the Spanish West Indies should remain in the same state it was in the time of the aforesaid King Charles the Second; ... that the Spanish dominions in the West Indies may be preserved whole and entire, the Queen of Great Britain engages, that she will endeavour, and give assistance to the Spaniards, that the ancient limits of their dominions in the West Indies be restored, .."

3 *In Search of Empire: the French in the Americas, 1670 – 1730'* by J. S. Pritchard 2004

4 *The Falkland Islands, a Memoir, descriptive, historical, and political* Robert Greenhow 1842. Eight ounces of gold was worth around 740 livres by 1726.

5 *A Voyage to the South-Sea, And along the Coasts of Chili and Peru, In the Years 1712, 1713, and 1714,..* Amédée-François Frézier 1716. The routes taken by the *Maurepas* and the *St.Louis* are marked on the accompanying map.

1716/17 – Frézier's map and book are published. They are translated into both English and Dutch, and widely circulated.

1722 – a new French map by Guillaume Delisle refers to the islands as '*Les Iles Malouines*'.

1740 – Commodore George Anson, sails from England in *HMS Centurion* intent on attacking Spanish possessions in South America. Accompanied by *Gloucester*, *Severn*, *Pearl*, *Wager*, *Tryal* and the store ships *Anna* and *Industry*, the journey turns into a circumnavigation of the world. Anson passes the Falkland Islands on his route to Cape Horn and notes their strategic value.

1744 – Anson completes his circumnavigation, arriving back in England with a treasure of 1,313,843 pieces of eight, and 35,682 ounces of silver taken from the Spanish Galleon *Nuestra Señora de Cavadonga*.

1748 – '*A Voyage Round the World*' is published by George Anson. The Admiral uses the book to promote his argument for the establishment of British bases in the South Atlantic and South Pacific; "*That it was scarcely to be conceived of what prodigious import a convenient station might prove, situated so far southward and close to Cape Horn ... and that (these islands) might be of great consequence to this nation and in time of war would make us masters of the seas.*"

Admiral Anson, persuades the Admiralty to send two sloops for the purpose of surveying the Falkland Islands. Information of the proposal reaches the Spanish court, which, already annoyed by Anson's circumnavigation, immediately protests any further encroachment into what it regards as its own area of influence. Ambassador, Sir Benjamin Keene, describes the Spanish view of exclusive rights to distant seas as '*whimsical*'.

1749 – May 21st, Keene suggests to the Spanish Minister, Carvajal, that Anson's proposed expedition is only to rediscover and survey the Falkland Islands; "*.. he fell upon the inutility of pretending to a further discovery of them and affirmed they had been long since first discovered and inhabited by the Spaniards; who called them the Islands de Leones from the quantities of these amphibious animals to be met upon their coasts and that there were already in the books in their offices very ample descriptions of the dimensions, properties, etc, of those islands.*"

June, concerned with effecting a rapprochement with the Spanish Court following the end of two merged conflicts with Spain, the war of *Jenkin's Ear* and the war of *Austrian Succession*; together with the need to complete a commercial treaty, the British Government postpones Anson's mission; "*.. for the present, ..without giving up the right to send out Ships for the discovery of unknown & unsettled Parts of the World.*"

1750 – the *Treaty of Madrid* is agreed between Spain and Portugal. This agreement rejects the old limits placed on Portuguese expansion set by the *Treaty of Tordesillas 1494*, relying instead on, *uti possidetis, ita possideatis* (*who owns by fact, owns by right*) at the expense of Spain.

1754/5 – Louis-Antoine de Bougainville serves on the French Ambassador's staff in London, where he hears about Anson's designs on the Falkland Islands; "*A perusal of*

*admiral Anson's voyage around the world fixed his ideas for finding the Malouine Islands, and determined him to make them the first object of his expedition, and to form a settlement there.*⁶

1759 – in **August**, Carlos III succeeds to the Spanish throne on the death of his brother. Carlos is concerned about British privateer attacks on Spanish shipping and fears for his Empire.

1761 – **August 15th**, the third *Family Compact* between Charles III of Spain, and his cousin, Louis XV of France, is signed; “*any power which shall become the enemy of one or other of the two Crowns shall be the enemy of both.*” Spain promptly joins France's on-going war with Britain.

1762 – **September**, a British fleet arrives off Manila and lays siege to the Spanish City.

October 6th, the defenders of Manila sue for terms after their walls are bombarded and breached. The British agree not to sack the city in exchange for 4 million dollars, the '*Manila Ransom*'. Taking account of looting, and the down payment, \$2,000,000 remains outstanding which the acting-Governor, Archbishop Rojo, promises that Spain will pay.⁷

1763 – in Paris, Bougainville completes a proposal for an expedition to the Falkland Islands using displaced Arcadians from Nova Scotia as settlers. He puts this plan to the French Government which, while interested, is unwilling to fully finance the venture. In order to obtain funding, Bougainville forms the *Compagnie de St. Malo* and seeks investors.

February 10th, the *Treaty of Paris*, is concluded between France, Spain and Britain, ending the *Seven Years* war.

In **May**, the French Minister du Marine, Étienne-François, comte de Stainville, duc de Choiseul, gives the Government's blessing for Bougainville's project, promotes him to Capitaine de vaisseau, and agrees that the State will underwrite some of the costs.

September 8th, Bougainville departs the French coast with two ships, the frigate *Aigle* and a corvette, *Sphinx*.

December 28th, arriving at Montevideo, Bougainville arouses the suspicion of the Spanish authorities. “*The Governor afterwards desired M. de Bougainville to permit him to take a copy of the orders he had received from the King of France for the command of the two frigates, because he was obliged to send it to the court of Spain, together with a circumstantial account of out anchorage. M. De Bougainville readily complied with his request.*”

Governor Joaquín de Viana sends a message to Madrid querying the purpose of the French ships.

6 *The History of a Voyage to the Malouine (or Falkland) Islands, made in 1763 and 1764, Under the Command of M. de Bougainville, in order to form a settlement there.* Don Pernetty 1771

7 *Great Britain, the Manila Ransom and the First Falkland Islands Dispute with Spain* G. Rice 1980.

1764 – January, Bougainville leaves Montevideo and the two vessels head towards their destination, arriving on the last day of the month in; “*a great bay at the Eastern extremity of the Malouines.*”

February 17th, the French expedition commences the construction of *Fort St. Louis* on East Falkland. With no wood available, the buildings have stone and 'grass-box' walls, with rushes as a roof. Cattle are released.

March 21st, a small pyramid is constructed in the center of the fort. Inside is a silver plate and a sealed glass bottle containing the names, ranks and countries of both ship's companies. An inscription giving details of the expedition, its leaders and the latitude and longitude readings are set into one side of the pyramid. Wooden medallions with the bust of the French King, and the Arms of France are set in the other faces.

April 5th, a 21 gun salute heralds the ceremony to take formal possession of the island; “*All the company being assembled at the fort, the pyramid was opened; ... We cried Vive le Roy seven times and fire twenty-one cannon. We cried again Vive le Roy seven times. M. de Bougainville then produced the king's commission, appointing a governor in the new colony, which was delivered to M. De Nerville, ...*”

April 8th, Louis-Antoine de Bougainville departs, leaving behind his brother, and some 28 settlers.⁸

June 17th, Commodore John Byron, who had been a midshipman in Anson's fleet, is ordered to the south seas by His Britannic Majesty, George III; “*Whereas ... there is reason to believe that lands and islands of great extent, hitherto unvisited by any European power, may be found in the Atlantic ocean, between the Cape of Good Hope and the Magellanic streight, within the latitudes convenient for navigation, and in climates adapted to the produce of commodities useful in commerce; and whereas ... Falklands islands, lying within said tract; never yet been sufficiently surveyed as that an accurate judgment may be formed of .. coasts and product: his Majesty; conceiving no conjuncture so proper for an enterprise of this nature; as a time of profound peace, which his kingdoms at present happily enjoy, has thought fit that it should now be undertaken.*”

June 26th, Bougainville arrives back in France to discover that the Spanish have been asking questions.

July 8th, rumours of Bougainville's success circulate Paris and appear in the *Gazette de Hollande*. Spain complains that it has only heard of the expedition via the press, and not from its ally.

October 6th, Bougainville reports to the Duc de Choiseul, before setting out for the islands again.

1765 – January, the Court in Madrid demands that France relinquish any claim to the *Les Iles Malouines*.

⁸ A Short Biography of Louis-Antoine de Bougainville, 1729 – 1811 J. Robson 2005.

January 13th, Byron in *Dolphin*, explores the Falklands; “.. we espied land, which appeared to be a considerable number of islands near each other, some of them seeming very low, ... The second day after, at three in the morning, we stood in towards the land, and hoisted out our boats to sound. These were gone till noon, when they returned, with the agreeable news of their having found a fine convenient bay, entirely secure from the fury of the winds, with its entrance lying to northward... In passing on the starboard side many fine small bays and harbours open to the view, and to the third of these, we gave the name of Port Egmont ..”⁹

January 22nd, Byron formally claims the islands for George III; “*The Union Jack was erected on a high staff and being spread I named the whole of His Majesty's Isles which I claimed for the Crown of Great Britain, His heirs and successors.*”

January 27th, Commodore Byron sails away again, having founded a watering-place and vegetable garden.

A hunting party from the French settlement report seeing two ships which they believe to be British.

April 25th, Bougainville drops off more settlers bringing the colony to 75, and sets out again for France.

August, in Paris, Bougainville is told that the Spanish Government are demanding that he relinquish all claims to the islands, removes the Arcadians and hands the settlement to Spain. Bougainville argues that the Spanish claim is invalid as they have never attempted to settle the Islands. Choiseul, probably aware of Byron's expedition, is concerned that the English may attempt to claim the islands for themselves. In defiance of Spain's demands, Choiseul authorises a further expedition.

July 20th, Henry Conway, Secretary of State for the Southern Department, instructs the Admiralty to ready a frigate, a sloop and a store-ship for an expedition to Port Egmont to; “*immediately complete the settlement begun last year.*”

Captain John Macbride receives his instructions;

*“If any lawless persons should happen to be found seated on any Part of the said Islands, they are to be compelled either to quit the said island, or to take the oaths, acknowledge and submit themselves to His Majesty's government as subjects of the Crown of Great Britain. And if, contrary to Expectations, the subjects of any Foreign Power in Amity with Great Britain, should under any real and pretended authority, have taken upon them to make any settlement of any kind ... the commanders of His Majesty's ships are to visit such settlement, and to remonstrate against their proceedings...to warn them off said the islands ..”*¹⁰

The Ministers in London were perfectly capable of reading the French newspapers so, although unconfirmed perhaps, there can be little doubt that they were aware of Bougainville's successful establishment of a settlement in the Falkland Islands.

9 *A Voyage Round the World* J. Byron 1767

10 *The Struggle for the Falkland Islands* Goebel 1927

They also knew of Byron's arrival there and were keen to back it up with some sovereign authority; hence the need to get MacBride out there. What London certainly also knew is that there were two main Islands, and that the French were probably on the eastern one, while Byron's harbour lay to the west. The English certainly knew that Spain was not happy.

While technically at peace, there was rarely much *'amity'* between Spain, Britain and France; all competitors for trade and power. Europe's ménage à trois. France and Spain being very much a *'family affair.'*

With so many spys working for each country, Macbride's departure was duly noted.

On the same day, Lord Egmont writes to the Duke of Grafton; “... *as to Spain, it is impossible that even their pretended title from the Pope's Grant or any Treaty (so far as I can recollect) can give them the least claim to an Island lying 80 or 100 leagues in the Atlantick Ocean eastward of the Continent of South America, to which it cannot be deem'd appurtenant.*”

In **November**, the *Aigle* and *Etoile* sail for the south Atlantic, but without Bougainville.

1766 – January, Captain John MacBride arrives at Port Egmont in the *Jason*, accompanied by *HMS Carcass*, the store-ship *HMS Experiment* and 25 marines. He erects permanent buildings, gardens and a blockhouse for the garrison. Cattle, goats, sheep and pigs are put ashore to support the garrison.

January 19th, the Spanish acknowledge that the *Manila Ransom* is a legal and just debt, but prevaricate about payment.

April, Bougainville travels to Madrid to argue for his right of settlement. Unimpressed, the Spanish invoke the *'Pacte de Famille'*. The first cargo of seal products are delivered by the *St. Malo Company* to France.

May 5th, the Spanish *Committee of Ministers* meets and, following an intervention by Carlos III, announces that Spain is will take over the settlement bu will reimburse all legitimate costs. Bougainville is given no choice but to agree.

The Secretary of the British Embassy in Madrid reports; “*I find it now agreed between the French and Spanish Courts that the former shall renounce all claim to these Islands and that M. de Bougainville shall be reimbursed by Spain the expenses of his settlement, ..*”

May 15th, Lord Rochford is ordered to Paris.

July, the Spanish Ambassador to the Court of St. James, Don Filippo Vitorio Amadeo Ferrero de Biella, Prince of Masseran, complains to the British Government about the British settlement on West Falkland.

August, Masserano demands *'clarification'*, claiming that the settlement breaches *Article 8* of the *Treaty of Utrecht*. Lord Shelburne informs Masserano that the British right is based on first discovery and that London does not regard *Article 8* as a prohibition on discoveries in the South Seas. Prince Masserano immediately writes to his Foreign

Minister, Grimaldi, urging an attack on the British settlement.

September, oft-delayed reinforcements are finally ready to depart for Port Egmont.

France ratifies the agreement with Madrid over Port Louis, and Spain repeats that its acquisition from the French is; "*in consequence of the Treaty of Utrecht, as by it all but Spaniards are excluded from settling in that part of the World.*"

Masserano again seeks clarification of the British position receiving much the same answer as before. Lord Shelburne, however, takes the opportunity to remind the Ambassador that the *Manila Ransom* remains unpaid.

October 2nd, Choiseul becomes concerned that Britain may be preparing for a war for which both France and Spain are badly unprepared. He writes to Minister Grimaldi urging calm, suggesting that they need evidence of Spanish occupation of the Falklands in the previous century to be able to rely upon *Article 8* of the *Treaty of Utrecht 1713*.

Carlos III, issues a Royal Decree denoting the *Malouines* as a dependency of Buenos Aires. Captain Felipe Ruiz Puento is named as the first Governor of the new territory.

October 4th, the *St. Malo Company* signs over its settlement.

"I, Monsieur Louis de Bougainville, colonel of his most Christian Majesty's army, have received six hundred and eighteen thousand one hundred and eight livres, thirteen sols, and eleven deniers, being the amount of an estimate that I have given in, of the expenses incurred by the St. Malo Company in equipments for founding their intrusive establishments in the Malvina Islands, belonging to his Catholic Majesty, in the following manner:—

"Forty thousand livres delivered on account to me in Paris, by his Excellency the Count de Fuentes, ambassador of his Catholic Majesty to that court, for which I gave the proper receipt.

"Two hundred thousand livres, which are to be delivered to me at the same court of Paris, according to bills drawn in my favour by the Marquess of Zambrano, treasurer-general of his Catholic Majesty, upon Don Francisco Ventura Llorena, treasurer-extraordinary of the same; and sixty-five thousand six hundred and twenty-five hard dollars, and three-fourth parts of another, which are equivalent to the three hundred and seventy-eight thousand one hundred and eight livres three sous and eleven deniers, at the rate of five livres per dollar, which I have to receive in Buenos Ayres, on account of bills which have been delivered to me, drawn by his excellency the Baylio Fray, Don Julian Arriaga, secretary of state for the general department of the Indies and navy of his Catholic Majesty.

"In consideration of these payments, as well as in obedience to his Most Christian Majesty's orders, I am bound to deliver up, in due formality, to the court of Spain, those establishments, along with the families, houses, works, timber, and shipping built there, and employed in the expedition; and, finally, every thing therein belonging to the St. Malo Company, as included in the accounts which are so settled, and to his Most Christian Majesty, by this voluntary cession, making void for ever all claims that the company, or any person interested therein may have, or might produce, upon the treasury of his Most Catholic Majesty; nor can they henceforth demand more pecuniary,

or any other compensation whatsoever. In testimony whereof, I set my name to this present instrument and voucher, as one principally interested, as well as authorized to receive the whole of this sum, agreeably to a registry in the department of state in St. Ildefonso, 4th October, 1766.

October 15th, at a meeting of the Cabinet in London it is proposed that Britain relinquish its claim to the Falklands, in exchange for payment of the *Manilla Ransom*.¹¹

October 17th, news of the transfer of the French settlement reaches London.

October 19th, Minister Choiseul has one of a number of informal conversations with Lord Hertford, who is in Paris on private business. " ... *M. de Choiseul then said, that he had taken that opportunity of talking to me, because he wished that my friend, the Comte de Fuentes, should be privy to what he said upon the establishment we were going to make in the Isles Malouines, and the just jealousy that Spain entertained upon our expedition into the South Sea. He said this matter was of so serious a nature, that he had already, by his own influence with the Spanish ministers employed at Paris and London, prevented a memorial being presented at the court of London, which was little less than a declaration of war, and that he had sent a messenger to Comte Guerchy relative to this matter, till time could be given for the two courts to know better upon what foundation these expeditions were made.*

He then told me, in the presence of M. de Fuentes, that when M. de Bougainville had made an establishment there for the court of France, it had given such offence to the Spanish court, that they were immediately obliged to desist from any further attempts upon it, without interrupting the harmony which at present subsisted between them; though there was not the same reason for jealousy whilst that intimate connection lasted, as there would naturally be with a power so formidable at sea as England was. To this matter I could properly make no other answer, ... The world at Paris is, I find, in possession of the uneasiness of the court of Spain, and with their usual quickness have determined that we shall soon have a war."

In a further conversation with Hertford, Choiseul suggests that if Britain agrees not to establish itself in the South Seas, in compliance with the Spanish interpretation of *Article 8*, then France will act as a mediator over the outstanding *Ransom* amount. Choiseul indicates that the matter could be resolved by January.

October 28th, Lord Rochford finally arrives in Paris as the new Ambassador.

November 2nd, Choiseul and Rochford meet. Choiseul suggests that the cancellation of Anson's proposed expedition of 1748 was a recognition of Spanish rights in the South Atlantic. Rochford denies this, reasserting Britain's right to claim unexplored lands, unrestricted by *Article 8*. Choiseul then suggests that, if both the Spanish and English Courts left it to them, the two Ministers could reach an accommodation combining both the Falklands and the *Manilla Ransom*, within '*half an hour*'. Rochford makes no comment.

11 *William Pitt: Earl of Chatham* Albert Von Ruville 1907 p.205

Hertford, back in London, reports his conversations with Choiseul to Lord Shelburne, but fails to mention French mediation and indicates only the basic exchange suggestion which, if agreed, would have the Spanish Court settling its debt in January. More importantly he fails to mention the necessity of British recognition of Spain's interpretation of *Article 8*.

November 5th, Bougainville sails for the South Atlantic.

November 15th, the Cabinet meets to discuss the Falklands / *Manila Ransom* proposal as reported by Hertford. The decision is to proceed with a negotiation but avoiding any French involvement. Rochford is instructed to inform Choiseul that *Article 8* of the *1713 Treaty* does not restrict Britain's rights in the South Seas, “ .. *the Spaniards' Romantick and absurd Notions to the Contrary not withstanding.*”

November 22nd, in a meeting between Lord Chatham and the French Ambassador in London, it becomes apparent that Hertford has left some details out. French involvement is not acceptable to the British Government, any more than is any prohibition on discoveries and settlements in the South Seas.

November 25th, unaware of what is happening in London, Rochford meets Choiseul again, and proposes that both Spain and Britain desist from establishing themselves on the Islands, and that Spain settles the outstanding *Ransom* amount.

November 28th, Rochford writes to William Pitt, Earl of Chatham about his conversation with Choiseul; “ ... *The only essential affair that can disturb the peace of Europe is our disputes with Spain; and I here found him so sincerely terrified (if I may use the expression) at the court of Spain's taking some absurd step, that I am confident there is no reasonable proposal he would not come into, for accommodating the Manilla ransom, and the affair of the islands of Falkland.*”¹²

December 4th, Captain MacBride discovers the French settlement. In compliance with his orders, Macbride gives the French 6 months to evacuate the islands. Bougainville-Nerville responds with a similar demand. While the formal reports indicate a tense stand-off, rumour suggests that both parties, formalities complete, settle down to a convivial evening.

December 12th, Rochford learns of the confusion caused by Hertford's omissions. Negotiations stall.

1767 - January 2nd, Earl Shelburn writes to Rochford; “ *The King's sincerity is undoubted as appears by the whole transaction. His steadiness I am certain will not be less. If any attempt therefore is made to negotiate away the substance of the proposal first made to His Majesty, your Excellency may be assured that His Majesty will not listen to it, so that if the Ministers of Spain endeavor ... to start fresh difficulties, the only consequence will be, that the station in question at the Isles of Falkland, the importance of which His Majesty fully knows, will remain open to be established by His Majesty, .. the Manilla Ransom cannot be forgotten ...*”

January 13th, Choiseul repeats his offer of mediation to Lord Rochford, but Spanish Minister Grimaldi informs Choiseul that his assistance is no longer required. Choiseul's

12 *Anecdotes of the life of the Right Hon. William Pitt, 1st Earl of Chatham* John Almon vol.3 1792

response is that France will not be in a position to support Spain if there's a war.

April 1st, in a simple ceremony, Louis de Bougainville hands over the French settlement to Felipe Ruíz Puente, Commander of the *Esmeralda*, and the new Spanish Governor of the *Islas Maluinas*. Fort Louis is renamed Puerto Soledad. *“I delivered our settlement to the Spaniards, who took possession of it by planting the Spanish colors which were saluted at sun-rising and sunset from the shore and on the ships ... “*

September, Lord Shelburne informs Masserano; *“.. that if the Spaniards, in talking of their possessions included the American and Southern Seas, and our navigating these gave occasion to them to suspect a war, he had no hesitation to say that he would advise one, if they insisted on renewing such a vague and strange pretension long since worn out.”*

1768 – Captain Rayner takes over as Military Commander at Port Egmont.

February 25th, Julián de Arriaga, Spanish Minister of the Navy and the Indies, issues an order to the Governor in Buenos Aires, Don Francisco de Paula Bucarelli, to expel any British settlement discovered on the Falkland Islands.

“His Majesty orders me to instruct Your Excellency to be on the look out so that no British settlement whatsoever is allowed, and to expel by force any already formed if warnings according to law are not enough: and without the need for further orders or instructions, nor to use in this any further measure than that necessary from your own forces against what they have, so you don't expose yourselves with inferiority if you don't succeed...”

In **August**, Sir James Grey, Ambassador to the Spanish Court, leaves Madrid in the hands of the Secretary of the Embassy, Mr. James Harris, until his replacement, Lord Rivers, can arrive.¹³

Lord Rochford returns to Britain and accepts a cabinet seat.



¹³ Lord Rivers never left England, which is why subsequent events were handled by Secretary Harris.

1769 - 1774



Two settlements in one archipelago, which Spain believed should be its own mainly because of an old Treaty with Portugal unrecognised by any other nation.

Britain is the rising power, Spain the declining one. France is scheming in the middle, seeking revenge for the loss of Canada.

1769 – Captain Anthony Hunt, *HMS Tamar*, takes charge as Military Commander at Port Egmont.

November 28th, Hunt finds a Spanish schooner, the *Goleta*; *"I fell in with a Spanish schooner, taking a survey.., and on examination found him belonging to a Spanish Settlement on the east part called Port Soledad, in possession of the French in 1767, and by them called Port Louis. Agreeably to my orders, I warned him to quit the islands; .."*¹⁴

November 30th, the *Goleta* returns; *".. with an officer of infantry on board him, and two letters from the Governor of the Settlement;.."*

the Officer of Infantry, Mario Plata, delivers a message from Don Philip Ruiz Puente in Soledad; *"The master of the Goleta, ... gave me the first intelligence of your arrival and continuance in this Streight ... I cannot refrain from declaring to you my great astonishment at hearing from the said pilot, that the interruption of his voyage, and his putting into this port, are owing to your having forced him to it; ... I can hardly think, that an officer of your rank, commanding a ship of war ... should be so much wanting in attention and respect due to the King my Master's flag, especially within his dominions."*

Hunt responds; *"I have received your letter ... acquainting me, that these islands, and coast thereof, belong to the King of Spain, your Master. In return, I am to acquaint you, that the said islands belong to his Britannick Majesty, my Master, by right of discovery, as well as settlement; and that the subjects of no other power whatever can have any right to be settled in the said islands, without leave from his Britannick Majesty ...I do therefore, in his Majesty's name, and by his orders, warn you to leave the said islands .."*

December 12th, Governor Puente writes again; *"... I now tell you,.. and to all who may come under your command as subjects of his Britannick Majesty, that on receipt of this second warning and requisition, you, with the greatest dispatch, quit every Settlement made within these territories and islands of my government, the legal possession of which belongs to my sovereign, and without his superior licence or permission, which you have not produced, no person can navigate, much less make a Settlement, without violating the sacredness of the present treaties.."*

December 16th, Hunt responds by repeating his own requirement that the Spanish quit the Islands.

¹⁴ *The History, Debates and Proceedings of both Houses of Parliament of Great Britain* vol.5 1792 p.480

1770 – February 20th, two Spanish frigates arrive at Port Egmont seeking fresh water. Their commander, Don Fernando de Rubalcava, on the *St. Catharine*, writes to Capt. Hunt expressing; *".. great astonishment at seeing an English flag flying, and a kind of settlement formed; (and) charged him with a violation of the last peace, and protested against the act in all its parts; at the same time declared that he would abstain from any other manner of proceeding, till he had acquainted his Catholic Majesty with this disagreeable transaction."*¹⁵

Hunt requires the Spanish ships to depart, which they do 8 days later, after taking on water. Disturbed by the encounters, Capt. Hunt sails for England to inform the British Government of what has occurred. Captain Farmer of the frigate *Swift*, and Captain Maltby with the *Favourite*, remain at the Port.¹⁶

May 6th, a Spanish fleet sails from Buenos Aires.

June 3rd, Capt. Hunt arrives in Plymouth and informs the Admiralty of the Spanish demands.

A Spanish frigate, *Industria*, commanded by Capt. Juan Ignacio de Madariaga, anchors at Port Egmont also claiming to need water. Captain William Maltby, in the *Favourite*, orders the vessel to leave.

June 7th, the *Industria* is joined by 4 other frigates, *Santa Bárbara*, *Santa Catalina*, and *Santa Rosa*, plus the three decked xebec *Andaluz*.

Farmer orders the *Swift's* crew to the shore defences, while Maltby brings the *Favourite* in as close as he can. Two of the Spanish vessels fire at the *Favourite* as she manoeuvres, but miss. Maltby protests as no hostilities have been declared; *"His answer was, they were not fired at the Favourite, but as signals to him."*

June 8th, Madariaga states, in an exchange of letters; *"Finding myself with incomparable superior forces of troops, train of artillery, utensils, ammunition and all the rest corresponding, for to reduce a regular fortification, with 1,400 men for disembarking, for which 526 are of choice regular troops, as you may see, I see myself obliged in this case to intimate to you, according to the orders of my court, that you should quit ... for, if you do not execute it amicably, I will oblige you by force .."*¹⁷

June 9th, the Spanish commander again writes to the British Captains. He offers to allow the garrison the liberty of carrying away whatever they were desirous to remove, and promises his receipt for what should be left, that no loss might be suffered. If however; *".. contrary to all expectation, you should be determined to maintain your new Establishment, I will avail myself of the forces under my command, to make you quit the place with the fire of my guns and musquets, and you will be the cause of your own ruin .."*

Madariaga gives the Captains 15 minutes to comply; *".. our officers returned; for answer,*

15 *Annual Register* 1771

16 The *Swift* subsequently sailed to the Strait of Magellan and was lost in a storm. The majority of the crew survived however, and managed to return to Port Egmont after a 3 week journey in an open cutter, just in time to help defend the settlement.

17 *Statistics of the Colonies of the British Empire* R.M. Martin 1839

that words are not always deemed hostilities, and that they could not think that he would, in a time of profound peace, and when the greatest harmony subsisted by his own acknowledgment between the two crowns, attempt to put his threats in execution. That ... the King their master was sufficiently capable to demand satisfaction, in all parts of the globe, of any power whatsoever that should offer to insult the British flag. And that therefore, was the time limited even shorter than the fifteen minutes he had allowed, it should make no alteration in their determined resolution, to defend, to the utmost of their power, the charge committed to them."

The British Officers are invited to inspect the Spanish troops to see the superiority of the opposing force, which they do. Undeterred, Captain Maltby, with 50 crew and two cannon, reinforce the blockhouse during the night.

June 10th, Spanish forces land to the north of the settlement and march towards it. One frigate sends boats directly towards the shore covered by cannon fire from the other Spanish ships, all of which passes over the blockhouse; *"Our people fired some shot, but seeing the impossibility of defending the settlement, and the Spaniards having now broke through all the limits of peace and amity, even to the actual committal of hostilities, so that their conduct was neither capable of being denied, or explained away; our officers, as they had judiciously led them to this explicit avowal, and supported the honour of their own country as far as the means in their hands would admit of, with the same propriety preferred saving the valuable lives of their people, and leaving the injury to be redressed by their country ... They accordingly hung out a flag of truce, and demanded articles of capitulation."*

British forces are detained while an inventory is taken of the goods at the settlement, their departure being prevented by removal of the *Favourite's* rudder.

July, Adrien-Louis de Bonnières, comte de Guines is appointed French Ambassador to the Court in London.

July 11th, the British garrison leaves Port Egmont, having been given a receipt for the goods seized. The inventory notes 20 gardens under cultivation.

In **August**, Madrid receives notice of the action.

August 22nd, James Harris, Secretary to the Embassy in Madrid, sends news of Madariaga's attack to London; *"My Lord. The following fact was brought from Buenos Ayres to Cadiz, by the St. Nicholas de Barry, setting forth, that in consequence of two of his Catholick Majesty's vessels having touched at Port Egmont in the month of January, and finding it occupied by the English, who not only refused to evacuate the place, but even denied them admittance, a squadron of five frigates, with three hundred man of the regiment of Majorca, and the old battalion of Buenos Ayres, were destined to sail from thence the 6th of May last ... with orders to dislodge the English establishment there."*

September 9th, Lord Rochford, Northern Secretary, consults the King.

September 10th, a Cabinet Meeting of the King's Ministers is held.

September 12th, Mr. Harris, in Madrid, is sent instructions by Lord Viscount Weymouth, Southern Secretary; *"The Spanish Ambassador here having informed me, that he had*

good reason to believe his Catholick Majesty's Governor of Buenos Ayres has taken it upon him to make use of force, in order to dispossess the English of their settlement at Port Egmont in Falkland's Islands; adding, that he was directed to make this communication, to prevent the bad consequences which might arise ... I told His Excellency, ... that I knew his Majesty's instructions to the officer who made the settlement at Port Egmont, and to those who have succeeded him in that command, were, to warn the subjects of other powers (if any such were found there) to withdraw themselves from thence; .. I therefore asked His Excellency if he was ordered to disavow the conduct of Mons. Bucarelli? His answer was, that he had no instructions from his Court on that head, and could give no answer to that question, without hearing again from Madrid...

... you will immediately await upon Monsieur Grimaldi, ... and to ask, whether his Catholick Majesty by disavowing a measure which his Ambassador here acknowledges not to have been authorised by his particular instructions, and by restoring things to the precise state in which they stood before M. Bucarelli undertook this rash expedition, will put it into his majesty's power to suspend those preparations, which, under the present circumstances, his honor will not permit him to postpone.”

September 13th, the Admiralty readies sixteen 'guardships'.

September 19th, press warrants from the Admiralty are dispatched to Portsmouth, for the manning of the fleet. 22 more ships are ordered. Two investors in the new Stock Market, both Lords, on hearing the news sell their stock causing the market to fall.

September 20th, press gangs strip the merchant ships in Portsmouth of all useful hands before heading for the town.

September 21st, the Hon. Robert Walpole, *chargé d'affaires* in Paris, reports to Lord Rochford that France seems keen to avoid any conflict. Not trusting the reports, Rochford instructs Walpole to gather intelligence.

Bertrand de Frances, the French *chargé d'affaires* in London, reports the reaction directly to the duc de Choiseul in Paris

September 22nd, the *Favourite* arrives and anchors off Motherbank, near Plymouth. The Admiralty is notified.

September 28th, Mr. Harris writes to Lord Weymouth regarding an interview with the Spanish Minister; “.. *Mr. Grimaldi answered me in very vague terms ... that we had reason to foresee such an event would happen, since their disapprobation of our establishment on Falkland Island was notorious, and that it had often been the subject of discussion; that, however, he was sorry, exceedingly sorry, it had taken place, and that the moment they heard it was intended, they had despatched a vessel from Corrunna to prevent it, which unfortunately arrived too late; that still he could not blame the conduct of Mons. Bucharelli, as it was founded on the established laws of America...*”¹⁸

At the beginning of **October**, Lord Rochford orders the Admiralty to ready the fleet for war. News of the British preparation generates irritation, and doubts, in Madrid.

18 *Diaries and Correspondence of James Harris, First Earl of Malmesbury* James Harris 1844.

October 5th, Harris informs Lord Weymouth; “*I have great reason to believe that His Catholic Majesty is inclined, to come to an accommodation with us at almost any rate ...*”

October 10th, acting on instructions Ambassador Masserano, proposes a convention; “*... to disavow any particular orders given to Mons. Bucarelli, upon this occasion, at the same time that he is to acknowledge, that he acted agreeably to his general instructions, and to his oath, as governor. He is further to stipulate the restitution of Falkland Islands, without injury to his Catholic Majesty's right to those lands, and he expects his majesty to disavow the menace of Captain Hunt...*”

October 17th, the Admiralty reports that 30 ships of the line are being readied for active service and that 10 more may be available by the end of the month.

On the same day, Weymouth informs the *chargé d'affaires* in Madrid and Paris, that the proposal suggested by Masserano is unacceptable; that Britain demands the disavowal of Bucarelli and the restoration of Port Egmont without further discussion or conditions, and that Capt. Hunt cannot be criticised.

October 29th, Minister Grimaldi speaks to Harris; “*... I wish to God, ... I knew what you expect; I thought we had done so much that there remained nothing for us to do. ... We have allowed ourselves to be in the wrong; we have offered the most ample reparation; surely it is very hard, in the point wherein we are insulted (meaning the menace of Captain Hunt) you will not listen to our solicitations, although they are such as you might acquiesce in without the least diminution of the satisfaction we give you.*”

November 7th, at a further interview Harris is told that Ambassador Masserano is now instructed to inform London; “*... 1st. his catholic Majesty's desire of coming to an amicable accommodation and of preserving peace. 2nd. that his Catholic Majesty is disposed to give every reasonable satisfaction to the insult his majesty thinks he has suffered by his subjects being dislodged from Port Egmont. And thirdly that his Catholic Majesty is moreover ready to come into any method regarding the manner of giving this satisfaction, as appears most eligible to his majesty; that, however, at the same time as he agrees to these three articles, he expects, first that as he has gone so far as to save the honour of his majesty, that his majesty would also contribute to the saving his,*”

Masserano submits two draft declarations, both of which include a reciprocal rejection of their officers' actions. Lord Weymouth declines to accept either, as any disavowal may compromise Britain's sovereignty claim.

November 13th, the King, in his speech on the State Opening of Parliament, says; “*By the act of the Governor of Buenos Ayres, in seizing by force one of my possessions, the honour of my crown, and the security of my people's rights, were become deeply affected. Under these circumstances, I did not fail to make an immediate demand, from the court of Spain, of such satisfaction as I had a right to expect for the injury I had received. I directed also the necessary preparations to be made, without loss of time, for enabling me to do myself justice, in case my requisition to the court of Spain should fail of procuring it for me;...*”

November 22nd, in the Lords, Earl Chatham complains about the suggested rejection of Bucarelli's actions by the Spanish Crown; “*the very mention of a disavowal is an*

impudent insult offered to the King's dignity. The King of Spain disowns the thief, while he leaves him unpunished, and profits by the theft; in vulgar English, he is the receiver of stolen goods, and ought to be treated accordingly."

Earl Chatham also refers to the history of the Islands; "*If I am not mistaken, we have been in possession of these islands since the year 1764 or 1765. Will the ministry assert, that in all that time, the Spanish court have never once claimed them? that their right to them has never been urged, or mentioned to the ministry? If it has, the act of the governor of Buenos Ayres is plainly the consequence of our refusal to acknowledge and submit to the Spanish claims. For five years they negotiate; when that fails, they take the islands by force."*

November 23rd, Ambassador Masserano has three meetings with Lord Weymouth, without reaching any agreement. Weymouth instructs Harris; "*As Prince Masseran continues to hold a language which gives very little reason to expect just satisfaction for the insult committed in the midst of profound peace, ... you may take such method as you shall think most adviseable, to apprise, as privately as possible, the lieutenant governor of Gibraltar of this uncertain state of affairs, and of letting him know that, general Cornwallis, and other officers, belonging to that garrison, are ordered to their posts, and are to embark immediately. You will also apprise his majesty's consuls at Cadiz, Alicante and in other ports of Spain, of the danger of a rupture, that they may take such precautions, with regard to their papers and effects as shall appear to them prudent ..."*

November 24th / 25th, all land officers are ordered to report to their posts. Lord North asks Parliament to increase the Navy's strength from 16,000 to 40,000 seamen.

November 28th, the Cabinet resolves to recommend war if Spain fails to accept its demands. French *chargé d'affaires*, Bertrand de Frances, has a meeting with Lord North.

It has been alleged that at this meeting, Lord North said; "*If Frances would promise that this conversation would not be made public he would say in confidence that they did not desire to keep the island, that it was worth nothing to them and if Spain would give the satisfaction demanded they would certainly evacuate."*

There is no confirmation of this in any British source.

Official negotiations were taking place elsewhere between Ambassador Masserano and the Lords Weymouth and Rochford, and North, although Prime Minister, was not involved. In fact, Lord North repeatedly made it clear in all his dealings with Frances that his views were 'unofficial'.

Somehow that seems to have been lost in translation. Either that or the Frenchman, keen to be seen to be getting somewhere, placed far too much emphasis on the disinterest of Lord North in his messages to Choiseul.

November 29th, Rochford opens a meeting with Ambassador Masserano by emphasizing Britain's claim to the Falkland Islands. Lord Rochford tells the Prince that the British will be prepared to discuss the legal issue of Spain's claim once restitution had been made. Masserano responds that there would have to be a mutual abandonment first or that

Spain's position will be compromised. Rochford says that war seems inevitable. After the Prince leaves, Bertrand de Frances arrives for his own consultation with Rochford. ¹⁹

November 30th, Ministers' agree that any restitution has to be both '*public*' and '*complete*'. On being informed of the rejection of Masserano's proposals, Frances says that Britain has "*opted for war.*"²⁰

December 1st, Robert Walpole, in Paris, writes to Harris; "*.. I cannot account for such unreasonable behaviour in the Court of Spain, ... This obstinacy, in not at once granting what the honour of our nation justly requires, makes me think that Court more in the wrong than what I have all along wished, ..where is the difficulty, .. if the Court of Spain had never given any orders ?*"

That same day, Frances and Lord North meet again. The British Minister confirms that there can be no discussion over "*right*", but only about "*satisfaction.*"

December 3rd, once again, Lord North is visited by the French *chargé d'affaires*. North opens by emphasising the unofficial nature of the conversation, but then says that the England which not interested in keeping the Falklands because of the expense involved.²¹

December 4th, Lord Weymouth asks the Admiralty to prepare a further 15 ships of the line. The British Fleet is ordered to Spithead.

December 5th, Weymouth seeks the King's permission to break off diplomatic relations with Spain by recalling Harris.

December 6th, King George expresses reservations to Rochford, about Weymouth's proposal, while negotiations continue.

Minister Grimaldi writes to the Ambassador Masserano to inform him that the Spanish Court is willing to drop its demand that Capt. Hunt be subject to criticism; that they will be willing to let the British return to Port Egmont, but that some agreement must be reached on a reciprocal evacuation of the Islands.

December 7th, Rochford reminds King George III about the unpaid *Manilla Ransom*. Weymouth, proposal to sever diplomatic relations is rejected by the Cabinet.

December 11th, Weymouth asks to be replaced.

December 13th, Frances, puts a proposal from Choiseul to the Spanish Ambassador whereby the Catholic King; "*forgot and took no notice*" of the acts leading up to June 10th and that the English garrison be allowed to return without prejudice to the rights of Spain; although these rights must be recognised by the Court in London.

Masserano refuses to accept the idea without explicit instructions from Madrid.²²

19 Frances' report of his interview suggested that Rochford was prepared to evacuate the islands; totally incompatible with the message that Masserano had just been given, raising questions about Frances' accuracy. cf. Goebel 1927

20 "*The proposal made by Frances of a formal confirmation by the king of the secret promise was duly considered at a plenary session of the cabinet, and it was rejected.*" Goebel 1927 p.310. This contention is unsupported by any evidence. Goebel does not offer any source for this.

21 Goebel does not cite his source for this alleged conversation. cf. Goebel 1927 p.311

22 Masserano could not yet have seen the letter from Grimaldi dated the 6th.

December 14th, Rochford also proposes the withdrawal of Harris from Madrid. Frances writes to Choiseul describing internal divisions within the British cabinet; their distrust of any French involvement and the warlike character of Weymouth.

December 16th, Lord North again meets with the French *chargé d'affaires*, who suggests Choiseul's proposal comprising disavowal, restitution and a reservation of Spanish right. Lord North agrees to put the proposal to the Cabinet.

December 17th, Ambassador Masserano is given permission, by Madrid, to demand his passports if the situation does not improve.

December 19th, the Cabinet meets again and rejects the proposals brought by Lord North. Weymouth's resignation is made public, and Rochford adds the Southern Department to his own responsibilities.

Choiseul, now aware of Grimaldi's letter of the 6th, writes to Madrid saying that the question of right will not be taken up by the British; that the only way to avoid war is to make the demanded declaration of restitution, and to then trust the British to deal with the legal issue after. He suggests that a reservation of sovereignty, may be acceptable to London.

Prince Masseran also writes to Minister Grimaldi, suggesting that the Spanish Court rely on Lord North's vague assurances of disinterest, rather than on Choiseul's proposal which does not include a commitment by the British to evacuate the Islands.

December 20th, Lord North tells Frances that if peace is dependent upon a declaration of rights by Spain, then war is inevitable.

December 21st, Lord Rochford, instructs Harris to leave Madrid; "*All negotiations having been for some time at an end between Lord Wemouth, or myself, and the Spanish Ambassador... I am now to signify to you the king's pleasure, that your stay at Madrid appearing entirely unnecessary, you prepare to return home with all convenient speed, after taking leave in the usual manner.*"

December 23rd, King Louis sacks Choiseul for failing to consult him over France's correspondence with Madrid and London. In a letter to the Spanish King, Louis offers to mediate but states that he is not for war.

"Here the King of France interfered. He declared positively against a war. In consequence of this interposition, the King of Spain sent fresh instructions to Prince Maserano; of which the following is the purport, viz. "The King of Spain condescends, out of regard for his loving brother, the King of France, to relinquish Falkland's Island; but at the same time protests against any claim the English may set up to the right."

December 31st, information is received by Rochford that; "*... war with England was agreed on between the courts of France and Spain in the beginning of last year, in consequence of which agreement orders were some time after sent to the Governor of Buenos Ayres to take the Island of Falkland in order to irritate the English to declare war,*"²³

23 *Charles III of Spain* Joseph Addisson 1900 p.87.

1771 – January, 26 ships are moored off Spithead and awaiting orders, commanded by Rear-Admiral Matthew Buckle.

There is a theory that all events are related in some way.

A small footnote to these proceedings is that the Royal Navy had been suffering from cuts to its budget for some years and was much diminished in size, hence the urgent need to rebuild quickly.

During the period of cuts there was obviously no recruitment, but when this emergency changed that, a 12 year old was able, through the patronage of his mother's brother, Capt. Maurice Suckling, to join the Royal Navy.²⁴

British history should be grateful both to Capt. Suckling and the Falkland Islands for the employment of one, Horatio Nelson.

January 2nd, Minister Grimaldi instructs Masserano to present a declaration meeting British demands, but that; “ .. *this declaration shall not prejudice the anterior rights of his Catholic Majesty to the Islands called Malvinas and by the English Falkland, but is solely to restore things as a matter of law and of fact, to the state they were before the expulsion* ...

... they assure us that they will evacuate the Falklands later, and that we should rely on their promise, the King has determined to concede that which is to save his honor and leave for later the negotiation on the evacuation of the island, accepting their offer although it be merely verbal. Your Excellency should secure this in the best way possible either by an explanation of the British King,... or at least by his Ministers at the time when your Excellency executes the declaration..”

January 3rd, Lord Rochford informs Masserano of Harris' recall instructions. Offended by the action, the Ambassador accuses Rochford of bad faith.

January 4th, Mr. Harris receives his recall orders. He notifies the British Consuls and representatives at the Spanish ports by courier, but does not immediately inform the Spanish Court in order to give time for his warnings to reach their destinations.

January 10th, King Louis XV, writes to his Ambassador in London, the Count de Guines; “*The recall of Harris is a circumstance which seems to announce the real disposition of the English for an early war, ...*”

January 13th, Harris finally informs Grimaldi of his recall orders. Ambassador Masserano receives instructions from Madrid authorising the French Ambassador to mediate, but he refuses to do anything until diplomatic relations have been restored between Spain and Britain.

January 16th, Grimaldi's letter of the 2nd reaches the Masserano.

24 Defence cuts seem to play a regular, and detrimental, part in the history of the Falkland Islands.

January 22nd, Lord Rochford instructs Harris to return to Madrid immediately. The order is 'backdated' to the 18th.

On the same day, the Spanish Ambassador presents a declaration stating that the Spanish King; ” *disavows the violent enterprise of Buccarelli,*“ and promises, ” *to restore the port and fort called Egmont, with all the artillery and stores.* “

Lord Rochford accepts, and signs the document.

*“On the 22d of January 1771, the Prince of Masserano, the Spanish Ambassador, settled, with the Ministers of His Britannic Majesty, the essential point of this negociation, the decision of which restored to England, the possession of the Falkland Islands. The ratification of the court of Madrid, was only wanting; ... From this moment, the peace seemed assured; since this agreement of the three powers, upon the essential point, demonstrated their pacific views. But it was necessary, in order to stifle every seed of dispute, to agree to disarm respectively: and that Spain, who perhaps would have wished for a reciprocal abandonment of Falklands Islands, should rely (for the future evacuation of these islands by England, about to resume possession of them) on the little interest that power would have to preserve them...”*²⁵

January 25th, Rochford informs Harris of the agreement, enclosing copies of the documents.

SPANISH DECLARATION

“His Britannick Majesty having complained of the violence which was committed on the 10th of June, 1770, at the island commonly called Great Malouine, and by the English Falkland's Island, in obliging, by force, the commander and subjects of his Britannick Majesty to evacuate the port by them called Egmont; a step offensive to the honour of his crown; - the Prince de Maserano, Ambassador Extraordinary of his Catholick Majesty, has received orders to declare, and declares, that his Catholick Majesty, considering the desire with which he is animated for peace, and for the maintenance of good harmony with his Britannick Majesty, and reflecting that this event might interrupt it, has seen with displeasure this expedition tending to disturb it; and in the persuasion in which he is of the reciprocity of sentiments of his Britannick Majesty, and of its being far from his intention to authorise any thing that might disturb the good understanding between the two Courts, his Catholick Majesty does disavow the said violent enterprize, - and, in consequence, the Prince de Maserano declares, that his Catholick Majesty engages to give immediate orders, that things shall be restored in the Great Malouine at the port called Egmont, precisely to the state in which they were before the 10th of June, 1770: For which purpose his Catholick Majesty will give orders to one of his Officers, to deliver up to the Officer authorised by his Britannick Majesty the port and fort called Egmont, with all the artillery, stores, and effects of his Britannick Majesty and his subjects which were at that place the day above named, agreeable to the inventory which has been made of them.”

“ The Prince of Masseran declares, at the same time, in the name of the King his master, that the engagement of his said Catholic Majesty, to restore to his British Majesty the

25 *Memorial of the Count de Guines, the French Ambassador to the Court of London; against Messieurs Tort and Roger, formerly his secretaries, and against Mr. Delpesch.* London 1777.

possession of the port and fort called Egmont, cannot nor ought any wise to affect the question of the prior right of sovereignty of the Malouine islands, otherwise called Falkland Islands.”

*“In witness whereof, I the under-written Ambassador Extraordinary have signed the present declaration with my usual signature, and caused it to be sealed with our arms.
London, the 22nd day of January, 1771.*

(L.S.) (Signé) “LE PRINCE DE MASSERAN.”

ACCEPTANCE

*“His Catholick Majesty having authorised the Prince of Maserano, his Ambassador Extraordinary, to offer, in his Majesty's name, to the King of Great Britain, a satisfaction for the injury done to his Britannick Majesty by dispossessing him of the port and fort of Port Egmont; and the said Ambassador having this day signed a declaration, which he has just delivered to me, expressing therein, that his Catholick Majesty, being desirous to restore the good harmony and friendship which before subsisted between the two Crowns, does disavow the expedition against Port Egmont, in which force has been used against his Britannick Majesty's possessions, commander and subjects; and does also engage, that all things shall be immediately restored to the precise situation in which they stood before the 10th of June 1770; and his Catholick Majesty shall give orders, in consequence, to one of his Officers to deliver up to the Officer authorised by his Britannick Majesty, the port and fort of Port Egmont, and also all his Britannick Majesty's artillery, stores and effects, as well as those of his subjects, according to the inventory which has been made of them. And the said Ambassador having moreover engaged, in his Catholick Majesty's name, that what is contained in the said declaration shall be carried into effect by his said Catholick Majesty, and that duplicates of his Catholick Majesty's orders to his officers shall be delivered into the hands of one of his Britannick Majesty's Principal Secretaries of State within six weeks; his said Britannick Majesty, in order to shew the same friendly disposition on his part, has authorised me to declare, that he will look upon the said declaration of the Prince de Maserano, together with the full performance of the said engagement on the part of his Catholick Majesty, as a satisfaction for the injury done to the Crown of Great Britain. In witness whereof, I the under-written, one of his Britannick Majesty's Principal Secretaries of State, have signed these presents with my usual signature, and caused them to be sealed with our arms.
London, the 22nd day of January, 1771.²⁶*

(L.S.) (Signé) “ROCHFORD.”

On the same day, the agreement is laid before Parliament by Lord North, and the debates start; *“Colonel Barre ... called the Spanish Declaration scandalous and infamous; dishonorable to the Crown, and disgraceful to the nation.”*

²⁶ Original in French, translation from - *A Collection of All the Treaties of Peace, Alliance and Commerce, between Great-Britain and Other Powers: From 1754 to 1784* Charles Jenkinson Earl of Liverpool 1785

Spain included a paragraph about sovereignty, but it didn't actually have much effect, other than to be face-saving clause written in for the benefit of the Spanish King. What it said, is that the restoration of Port Egmont did not affect the question of sovereignty. Which had not been resolved. That is perfectly correct. It had not been resolved between Spain and England at that time, and it would not be resolved until 1863.

January 29th, the *Declaration and Acceptance* are published in the *London Gazette*; *"The expedition is disavowed, and the island is restored. The Spaniards have stipulated that the grant of possession shall not preclude the question of prior right; a question which we shall probably make no haste to discuss, and a right of which no formal resignation was ever required."*

This reserve has supplied matter for much clamor, and perhaps the English ministry would have been better pleased without it. But when we have obtained all that was asked, why should we complain that we have not more? ... To push advantages too far is neither generous nor just. Had we insisted on a concession of antecedent right, may it not misbecome us,.. to consider what Grimaldi could have answered. We have already, he might say, granted you the whole effect of right, and have not denied you the name. We have not said that the right was ours before this concession, but only that what right we had is not by this concession negated."

February 4th, Lord North lays the papers relative to the crisis before Parliament. Two questions are moved by William Pitt, Lord Chatham, in the House of Lords, for the opinion of the judges.

"1. Whether, in consideration of law, the imperial crown of this realm can hold any territories or possessions thereunto belonging, otherwise than in sovereignty?"

2. Whether the declaration, or instrument for restitution of the port or fort called Egmont, to be made by the Catholic King to his Majesty, under a reservation of a disputed right of sovereignty expressed in the very declaration or instrument stipulating such restitution, can be accepted or carried into execution without derogating from the maxim of law before referred to, touching the inherent and essential dignity of the crown of Great Britain?"

Lord Mansfield refuses to refer the questions to the judges, asserting that the answers are, "self-evident".²⁷

February 5th, Lord Camden writes to Chatham; *"I spent the whole evening last night in considering the law point of your Lordship's questions... I am .. extremely concerned at your Lordship's hasty introduction of the business yesterday; ... I cannot satisfy myself that the reservation of the question of right, in the King of Spain's declaration, does in anywise touch the King of Great Britain's right of sovereignty. That becomes absolute jure coronae from the moment the restitution takes place. Nor does it seem to me the King's title is abridged or limited; inasmuch as the reservation neither denies the right on one side nor asserts it on the other. The question remains as it stood before the hostility;*

²⁷ This from Junius, a famous contributor to the *Public Advertiser*. *".. the answer to them was self-evident, that they answered themselves; by which his Lordship was understood to mean that both queries clearly answered themselves in the negative."* Junius wrote under a variety of titles and is now suspected to be Sir Philip Francis, a politician.

the King of Spain declaring only that he ought not to be precluded from his former claim by this act of possessory restitution."²⁸

February 7th, Madrid sends out orders for the restitution; *"To Don Felipe Ruiz Puente. It being agreed between the King and his Britannic Majesty, by a Convention signed in London on the 22d of January last past, by the Prince of Masserano and the Earl of Rochford, that the Great Malouine, called by the English Falkland, should be immediately replaced in the precise situation in which it was before it was evacuated by them on the 10th June last year; I signify to you, by the King's order, that, as soon as the person commissioned by the Court of London, shall present himself to you with this, you order the delivery of the Port de la Cruzada or Egmont, and its fort and dependencies, to be effected, as also of all the artillery, ammunition and effects, that were found there, belonging to his Britannic Majesty and his subjects, according to the inventories signed by George Farmer and William Maltby, Esqs., on the 11th July of the said year, at the time of their quitting the same, of which I send you the enclosed copies, authenticated under my hand; and that, as soon as the one and the other shall be effected with the due formalities, you cause to retire immediately the officer and other subjects of the King which may be there. God preserve you many years.*

Pardo, 7th February 1771. Don Julian De Arriaga."

February 8th, Harris receives his instructions to return. Having taken time to pack up all his household, he has only reached Algoa, 20 miles from Madrid. He finds a fast horse.

February 9th, on his arrival back in Madrid, Harris immediately seeks an appointment with Minister Grimaldi; who refuses to recognise him without the presentation of new credentials.

February 13th, the House of Commons, after much debate, approves the agreement with Spain by 271 votes to 157 against. However, the issue meets opposition in the Lords with 18 Peers of the Realm signing a 'Dissentient' decrying the result; *"... an unparalleled and most audacious insult has been offered to the honour of the British flag, by the detention of a ship of war of his Majesty's, for twenty days after the surrender of Port Egmont, and by the indignity of forcibly taking away her rudder...*

10. Because in the said declaration the restitution is confined to Port Egmont when Spain herself originally offered to cede Falklands Islands. It is known that she made her forcible attack on pretence of title to the whole, and the restitution ought, therefore, not to have been confined to a part only; ...

11. Because the declaration, by which his Majesty is to obtain possession of Port Egmont, contains a reservation or condition of the question of a claim of prior right of sovereignty in the Catholic King to the whole of Falkland's Islands, being the first time such a claim has ever authentically appeared in any public instrument jointly concluded by the two courts. ...

No counter-claim has been made on the part of his Majesty, to the right of sovereignty, in any part of the said island ceded to him; any assertion whatsoever, of his Majesty's right of sovereignty, has been studiously avoided, from the beginning to the accomplishment of this unhappy transaction; which, after the expense of millions, settles no contest, asserts

28 *Correspondence of William Pitt, Earl of Chatham* W.S. Taylor (ed.) vol.4 1838 - 1850

no rights, exacts no reparation, affords no security, but stands as a monument of reproach to the wisdom of the national councils, of dishonour to the essential dignity of his Majesty's crown, and of disgrace to the... untainted honour of the British flag."

February 14th, Harris reports from Madrid, *"They keep the declaration here as secret as possible. I do not find any to whom they have shown it, except those to whom they are obliged to communicate it. They also report that we have given a verbal assurance to evacuate Falkland's Island in the space of two months"*.

February 21st, Lord Rochford and Ambassador Masserano meet. Rochford informs Masserano that, the point of honour having been met, he is prepared to listen to proposals. Masserano responds that he has no instructions to make proposals.

Bertrand Frances speaks to Lord North on the issue of an evacuation of the Falklands by the British and the means by which the two powers should disarm to a level where peace can be assured. North speaks extensively about the latter point but seems confused as to the suggested evacuation.

"In the matter of the right to the Malvinas, however, Frances asked how the ministry proposed to carry out its word and preserve peace, North inquired what he meant by the question of right."

The misunderstanding over North's unofficial conversations with Frances permeates this whole episode. The Frenchman, and through him the Spanish, continued to misinterpret what had been said despite Lord North's emphasis that he was never acting in any official capacity.

Even Masserano, initially skeptical, came to read far too much into the diplomatic language of English Ministers, and even that of the King; although he did remind Madrid on a number of occasions that they had nothing in writing.

The political fallout was huge and the administration heavily criticised. The British had won, but did not appear to have gained anything that they did not already own. And at great cost.

The political opposition had a field day, as did the press. If it had been North's intention to evacuate Port Egmont, it would have been impossible in such a climate. But then the only suggestion that North intended an evacuation, came from the Frenchman, Frances. It is not proven.

February 22nd, Mr. Harris is promoted temporarily to Minister Plenipotentiary to the Court of Spain.

February 28th, Masserano speaks to Rochford on the subject of disarmament, and asks when the promises regarding the Falklands will be carried into effect. Rochford responds that his Government is only sending a single frigate, a sloop and a store-ship to Port Egmont and that, once they had taken possession, the affair would be regarded as being at an end.

Masserano complains that the matter would only be at an end when the island was

abandoned. Rochford tells him that disarmament and the Falklands are two different issues, and the question of right has not yet been touched upon.

March 1st, Rochford speaks to the French *chargé d'affaires*, suggesting a conference; and he raises the issue of restitution, saying that the ceremony must take place at Port Egmont, and not at Puerto Soledad as proposed, so as not to suggest any recognition of Spanish right. Frances says that Masserano's only interest is an evacuation of the Falklands and that although both Bourbon courts wished to disarm, neither would do so until the question of right was settled.

Fresh rumours of war circulate causing the stock market to fall. Bathelemy Tort, the French Ambassador's secretary, is accused of *'insider trading'*.²⁹

March 4th, “.. the French and Spanish ambassadors went to Lord Rochford, and demanded that a day should be fixed for settling the question of prior right to Falkland Island. Lord Rochford refused to name any day.”³⁰

March 5th, Lord Rochford tells Masserano that he is ready to treat on the matter of right; that any abandonment in the manner suggested by Spain will not involve a loss of right and that Britain can return at any time. Masserano demands to know when his hopes of a British evacuation may be realised, when there is no response, the Prince says; “*If that is so then even these are lost forever.*”³¹

March 8th, Lord Rochford informs Harris; “*His Majesty has been pleased to order the Juno frigate of thirty-two guns, the Hound sloop, and Florida store-ship, to be prepared to go to Port Egmont, in order to receive the possession from the Spanish commander there; and as I have spoken so fully to Prince Maserano on the manner of its being executed, it is needless for me to say any more to you upon it.*

I think it right to acquaint you, that the Spanish ambassador pressed me to have some hopes given him of our agreeing to a mutual abandoning of Falkland's Islands, to which I replied, that it was impossible for me to enter on that subject with him, as the restitution must precede every discourse relating to those islands.

You will endeavour, on all occasions, to inculcate the absurdity of Spain having any apprehensions, from the state in which Port Egmont was before its capture, or the force now sent out, of his Majesty's intending to make use of it for the annoyance of their settlements in the South Sea, .. nothing can be farther from the King's inclination, who sincerely desires to preserve peace between the two nations.”

March 14th, a heated discussion takes place between Rochford and Masserano over ownership. When Rochford questions the *'impertinance'* of Spain; Masserano responds; “*No more impertinent than the English pretension to something that belongs to Spain.*” Lord Rochford retaliates; “*Be assured, that even if we go to war over it, it will be a big war and by no treaty of peace will we cede the island.*”

March 15th, Instructions are sent to the Admiralty; “*....Your lordships will direct Captain Stott to behave with the greatest prudence and civility towards the Spanish*

29 *The Perreaus and Mrs. Rudd: Forgery and Betrayal in Eighteenth-Century London* D.T. Andrew 2001

30 Taylor (ed.) 1838 - 1850

31 Goebel 1927 p.388

commander and the subjects of his Catholic Majesty, carefully avoiding any thing that might give occasion to disputes or animosity, and strictly restraining the crews of the ships under his command in this respect; but if, at or after the restitution to be made, the Spanish commander should make any protest against his Majesty's right to Port Egmont, or Falkland's Islands, it is his Majesty's pleasure that the commander of his ships should answer the same by a counter-protest, in proper terms, of his Majesty's right to the whole of the said islands, and against the right of his Catholic Majesty to any part of the same".

March 25th, Grimaldi writes to Masserano; *"With reference to the evacuation of Gran Malvina we shall see whether they wish there to give credit by their own acts that their most sacred promises can be relied on."*

March 28th, a message from Versailles informs the French Ambassador that both Spain and France will disarm.

April 7th, the Count de Guines receives a message stating that the Spanish Court will rely on England evacuating the Falklands.

April 12th, Masserano responds to Minister Grimaldi, warning that the British insist that they have made no official promise.

April 23rd, Lord Rochford instructs the Admiralty to reduce the men, *".. to be employed in His Majesty's service at sea to 25,000, the French and Spanish Ambassadors having, in the name of their respective courts, declared their readiness to disarm to their peace establishment at the same time as His Majesty."*

September 13th, British forces arrive back on West Falkland.

September 16th, Port Egmont is formally restored to Capt. Stott. Capt. John Burr, of *HMS Hound*, remains as Military Administrator.

In **October** the settlement's artillery, provisions and stores, seized the previous year, return from Buenos Aires.

December 9th, Captain Stott arrives back at Plymouth; *"I must beg leave to refer their lordships to the letter I had the honour of writing you from Rio de Janeiro, the 30th of July last, ... from whence I sailed, with his Majesty's ships under my command, the next day, and arrived at Port Egmont the evening of the 13th of September following.*

The next morning, seeing Spanish colours flying, and troops on shore, at the settlement formerly held by the English, I sent a lieutenant to know if any officer was there on behalf of his Catholic Majesty, empowered to make restitution of possession to me, agreeably to the orders of his Court for that purpose, duplicates of which I had to deliver him: I was answered, that the commanding officer, Don Francisco de Orduna, a lieutenant of the royal artillery of Spain, was furnished with full powers, and ready to effect the restitution.

He soon after came on board the Juno to me, when I delivered him his Catholic Majesty's orders. We then examined into the situation of the settlement and stores, adjusted the form of the restitution and reception of the possession—instruments for which were settled, executed, and reciprocally delivered (that which I received from the Spanish

officer, and a copy of what I gave him, are here enclosed).

On Monday, the 16th of September, I landed, followed by a party of marines, and was received by the Spanish officer, who formally restored me the possession; on which I caused his Majesty's colours to be hoisted and the marines to fire three volleys, and the Juno five guns, and was congratulated, as were the officers with me, by the Spanish officer, with great cordiality on the occasion.

The next day Don Francisco, with all the troops and subjects of the King of Spain, departed in a schooner which they had with them. I have only to add, that this transaction was effected with the greatest appearance of good faith, without the least claim or reserve being made by the Spanish officer in behalf of his Court."

December 11th, the restitution is announced in London; "*On Monday 16th September Capt. Stott landed, followed by Party of Marines, and was received by the Spanish Officer, who formally restored him Falklands Island, Port Egmont, its Fort and other Dependencies, giving him the same Possession as His Majesty had before the 10th of June 1770.*"³²

Thomas Robinson, 2nd Baron Grantham, travels to Madrid to take over as British Ambassador to the Spanish Court.

1772 – January 2nd, Grantham writes to Rochford; "*I have received the honour of your lordship's despatch, containing the agreeable intelligence of the restitution of Port Egmont and its dependencies, with the due formalities. On receiving this notice I waited on the Marquis de Grimaldi, to assure him of his Majesty's satisfaction at the good faith and punctuality observed in this transaction.*

M. de Grimaldi seemed aware of the intention of my visit, and was almost beforehand with me in communicating notice of this event's being known in England.

He seemed well pleased at the conclusion of this affair, but entered no further into conversation.."

January 21st, King George III, in his speech on the Opening of the 5th Session of the 13th parliament says; "*The performance of the engagement of the king of Spain, in the restitution of Port Egmont and Falkland's Island, and the repeated assurances that I have received of the pacific disposition of that court, as well as of other powers, promises to my subjects the continuance of peace ..."*

March 6th, Rochford informs Grantham; "*It may be of use to inform your Excellency, that his Majesty has determined to reduce the force employed at Falkland's Island to a small sloop with about fifty men, and twenty-five marines on shore, which will answer the end of keeping the possession: and, at the same time, ought to make the court of Spain very easy as to our having any intention of making it a settlement of annoyance to them."*

".. which will answer the end of keeping the possession .." appears to be a clear dismissal of Spain's demands. A garrison was to be maintained, albeit one reduced in size.

32 *The London Gazette*, No. 11204.

When three countries have come close to war, it is a delicate business getting them all to reduce their forces to the peace time norms. Each must disarm at the same pace so as not to create any mistrust.

Spain remained concerned that the English would use Port Egmont as a base to interfere with their commerce in the south seas, and the order to reduce the garrison's size was an attempt to allay those fears and assist the process of disarmament.

March 20th, the Viceroy of Peru, His Excellency Don Manuel de Amat, writes to the Secretary of the Indies in Madrid; “ ... as to the matter of an English settlement in these Seas or their vicinity; of which I make no doubt, and never have doubted since I communicated my opinion to that effect some years ago. This, indeed, has received increasing corroboration day by day from my own observation and from intelligence received.

The only thing that would have caused me to waver in this opinion would have been the honest and sincere abandonment by England of the Malvinas islands, because I have never been able to understand nor never will believe that these can offer a suitable field for any regular plantation, or considerable fortification, unless for the sole purpose of using the advantage of their situation as a port of call for vessels to refresh at, when bound to and from the South Sea, and which might in time become as prosperous as that which Holland possesses at the Cape of Good Hope.

..it will make its occupiers complete masters of these seas...

The tenacity with which the English persist in retaining their foothold in the Malvinas has served to augment the force of these considerations and, according to the account given by the Governor, Don Xavier Antonio Mufloz, under date the 4th of November, 1771 (which I have by me, quoted in full), they are daily rendering their occupancy more effectual, and more secure.”³³

1773 – Lt. Samuel Clayton takes over as Military Administrator on West Falkland. Domingo Chauri is Governor at Puerto Soledad.

1774 – January 5th, Francisco Gil de Taboada y Lemos takes over as Spanish Governor at Puerto Soledad.

Lt. Clayton receives orders to evacuate Port Egmont; “*But previous to your departure from the Falkland Islands, you are to take the strictest care to erect on the principle parts on the Port, Fort and islands proper Signals and Marks of Possession, and on its belonging to His Majesty.*”

February 11th, Lord Rochford writes to Ambassador Granthamin Madrid, about a proposed evacuation of the Falklands; “ ...as a matter of small consequence, that, in order to avoid the expense of keeping any seamen or marines at Falkland’s Island, they would be brought away, after leaving there the proper marks or signals of possession, and of its belonging to the Crown of Great Britain. ... it is only a private regulation with regard to our own convenience; ... your Lordship may, if they mention it to you, freely avow it

³³ *The Voyage of Captain Don Felipe Gonzalez in the ship of the line San Lorenzo, with the frigate Santa Rosalia in company, to Easter Island in 1770-1* B.G. Corney 1908 p.98

without entering into any other Reasoning .. it is neither more nor less than a small part of an economical naval regulation.”

“By 1774 it seemed to most country gentlemen that Lord North had achieved what no one else had been able to do since 1763: he had ended the period of war-finance and was well on the way to paying off the burdens left by the last War of Empire.”³⁴

On the face of it, it would seem that Lord North finally gave that which he was alleged to have offered in his unofficial conversations with Frances during 1770/71; to wit, the abandonment of West Falkland.

However, the plaque and marks of sovereignty are a clear indication that sovereignty was neither to be relinquished, nor abandoned for all time.

The garrison departs on *HMS Endeavour*, leaving behind a Union Jack and a lead plate stating -

Know all the Nations, the Falkland Islands, with its ports, warehouses, landings, natural harbours, land and coves belonging thereto, are of exclusive rights and ownership of his most sacred Majesty George III, King of Great Britain. In testimony whereof, placed this plate and the colours of his British Majesty left flying as a sign of possession by S.W.Clayton, official Commander of the Falkland Islands. 1774 A.D.'

April 9th, an Order is sent from the Court in Madrid, to the Governor at Puerto Soledad; “*The Court of London having lately offered to abandon the establishment they have formed in the Great Malvina, and to withdraw from thence the few soldiers and inhabitants they have there, the King decrees me to inform you of the same, in order so that you may in consequence prudently and carefully watch whether the English do actually abandon their said establishment, without forming any other new one in that neighbourhood, and in case of their having done so, you will from time to time assure yourself that they do not return to that place, and your will inform me of the particulars of every thing that takes place there as well now and for the future: Until further instructions which I shall send you, you are not to exceed the better part of my present order, nor allow any one to visit the said abandoned establishment, except those you may send there ..*”³⁵

Ten whaling vessels hunt around the Falkland Islands, including the *Montague* from Boston, and the *Thomas* out of Cape Cod.³⁶



34 *The Reign of George III, 1760 -1815* J.S. Watson 1963.

35 A copy of this order was obtained by Woodbine Parish in 1830 and forwarded to London on November 20th. Similar instructions were sent by Madrid to the Governor in Buenos Aires. *PRO FO 6 499*

36 *The Blackheath Connection: A Website Book* Dan Byrnes 2000. Also in *An Account of Falkland Islands by William Clayton, Esq. Of His Majesty's Navy Clayton 1776* (read to the Royal Society)

1775 - 1822



Port Egmont's garrison was withdrawn to save money; besides war in the colonies seemed certain following a tea party in Boston. Britain had demonstrated however, that it was prepared to defend its claim.

The issue of right remained undetermined. Spain held East Falkland but claimed the whole archipelago while the Union Jack flew over West Falkland, and Britain too claimed the whole archipelago.

Whether a plaque was sufficient to maintain a sovereignty claim has exercised a few legal minds in modern times, but they certainly thought so throughout the 18th century. The French had built their pyramid at Fort Louis, while Spanish crucifixes criss-crossed the Americas. An establishment and the maintenance of a settlement is better evidence of sovereignty though. And use, of course.

The British garrison had left behind 20 gardens, growing produce to service visiting ships. The garrison had sailed away, and the gardens abandoned but the Order dated April 9th, 1774 clearly indicated that the Spanish were not too sure that the British had really gone for good.

A small aside. Boston's famous tea party in 1773 had been held on the *Dartmouth*. After losing his cargo, its owner, Francis Rotch, a Quaker and loyalist, decided that sealing was easier. He is rumoured to have sat out America's *War of Independence* on West Falkland.

1775 – A Falkland Islands whaling and sealing fleet is established by four Nantucket oil merchants, including Francis Rotch. Sixteen vessels are outfitted at Martha's Vineyard and instructed to rendezvous at Port Egmont; to over-winter and take seals.³⁷

In **September**, Rotch negotiates the release of American vessels captured by the Royal Navy; for service with the whaling fleet. He also arranges for their protection by the British Government in exchange for an agreement whereby he spends £10,000 on supplies in London, and sells the seal oil there.³⁸

Towards the end of the year, a Spanish vessel commanded by Pascual Callejas, arrives at Port Egmont. The lead plaque containing the British claim is removed to Buenos Aires.

Two whaling vessels captained by William and Jonathon Mooers of London, take a cargo of Elephant Seals from the Falklands to Dunkerque in France.³⁹

1776 – January 1st, William Clayton, the last Military Administrator at Port Egmont, describes the archipelago in a reading to the Royal Society.

37 *Chronological List of Antarctic Expeditions and Related Historical Events* Robert Headland 1989. The other merchants are named as Richard Smith, Aaron Lopez and Leonard Jarvis.

38 *The War against the Seals: A History of the North American Seal Fishery* Briton Cooper Busch 1985. 13,000 seal skins from the Falklands were sold in Canton, China for \$5 each, by the American fleet.

39 *A History of the Whale Fisheries* James Travis Jenkins 1921

February 7th, Ambassador Masserano, complains that English vessels have been seen in Port Egmont; “... *in opposition to the solemn and repeated protestations with which Spain had been assured of the total abandonment of that place.*”

March 1st, the wording of the lead plate left behind at Port Egmont, is reported to the Court in Madrid.

April 1st, a suggestion is made in the House of Commons, that convicts should be sent to the Falkland Islands. It is not taken up. ⁴⁰

The *Whale Fishery, etc. Act 1776* extends the bounty system of £2 per ton to the Southern Whale fishery which covers the south Atlantic below 31° S.

In **August**, King Charles III of Spain creates the *Viceroyalty of the Rio de la Plata*; “.. *the viceroyalty of La Plata is represented as extending southward to the latitude of 41 degrees*”⁴¹

The new Viceroyalty was formed from those parts of the older Viceroyalty of Peru that surrounded the Rio de la Plata basin. It extended no further south than 41° S.

The Falkland Islands (at 51° S) were not included within the Viceroyalty, although they were dependent upon it for supplies. This is confirmed by the Decree issued in Buenos Aires on June 10th , 1829.

It appears significant that the Viceroy in 1780, pursuing his country's war against Britain, recognised a British territory close to the Viceroyalty and attacked it.

1777 – April 1st, Don Pablo Sisur is commissioned to survey the area of the Islands near Port Egmont; “*In his Instructions he was ordered, if he found there any American Vessels, to make to them the before-mentioned intimation, as it was no longer under British dominion; and in case he should find there any English Vessels, he should make the same intimation to them, and further accuse them of a want of good faith.*”

Spanish Governor, Francisco Gil de Taboada y Lemos, leaves Puerto Soledad.⁴²

October 1st, the *Treaty of San Ildefonso* between Spain and Portugal recognises Portuguese rights to Brazil and reaffirms both the *Treaty of Madrid 1750*, and the abandonment of the *Treaty of Tordesillas 1494*.

1778 – large numbers of 'maruading' sealers, American and British, are noted by the Spanish penal colony at Puerto Soledad.

Juan de la Piedra is sent out from Buenos Aires to explore along the coast of Patagonia, south of latitude 41° S. “*Our occupation of the Falkland Islands, in the first instance, ... joined to the enterprising character of the British voyages of discovery about the same*

40 *Convicts and Empire: a Naval Question, 1776-1811 A.* Frost 1980

41 *Revolucion Hispano-Americaux* Mariano Torrente 1829

42 “*Of the extent of the Spanish settlement at Soledad during this period, we have no distinct accounts... It was under the superintendence of an officer entitled Commandante of the Malvinas, who was dependent on the viceroy of La Plata.*” Greenhow 1842

period, appears to have stimulated the Spaniards, in alarm lest we should forestall them, to examine their coasts, to explore their rivers, and to found settlements, of which every record was concealed from public view, lest the world at large should become better acquainted ..”⁴³

1779 – July 8th, Spain declares war against Great Britain, citing a number of grievances and joining the French in support of the Americans; although Spain declines a formal alliance with the colonists lest it sets a bad example to her own.

1780 – Viceroy Vértiz orders the surviving buildings at Port Egmont to be destroyed.

1783 – Spanish attempts to settle the coast of Patagonia fail, and the settlements are abandoned. Capt. Frost in the American ship, *General Knox*, hunts seals at the Falklands.

1784 – Francis Rotch returns to the Islands in the *United States*, to hunt elephant seals.

1786 – Rotch takes 13,000 fur seal skins, and 300 tons of seal oil from the Falklands.⁴⁴

Lt. Thomas Edgar RN, in the whaler *Hope*, surveys West Falkland.⁴⁵

“Between the two main islands the sound is from 7 to 12 miles broad; and many of the smaller islands are situated in it. This channel is navigable for ships of any size, and by attending to the best chart, which is that of Lieutenant Edgar, it may be passed through with safety, as all the dangers are there laid down.”⁴⁶

1787 – a British whaling ship, *Amelia*, commanded by Capt. James Shields, visits the Falkland Islands.

“In 2 cruizes made by Don Ramon Clairac in 1787, he found in different parts of the Islands, the ship *Hudibras*, the *Shallop Audaz*, and the *Brig Malplaquet*, all English Vessels. They made divers excuses for being there, and were all likewise ordered off.”⁴⁷

In **March**, the Marquis of Loreta, Don Pedro Meza, reconnoiters but finds no sign of foreign vessels.

1788 – British ships visiting the Falklands include the *Lucas*, under Cap. William Aiken, the *Intrepid*, under Capt. John Leard and the *Quaker* under the command of Shadrick Kearn. Thomas Delano in the *Lord Hawke* leaves South Georgia with a full cargo of seal furs.

April 4th, the sealer, *United States*, arrives at Dover with 25,000 gallons of oil from the Falkland Islands.⁴⁸

April 28th, “By a Royal Order, dated in Aranjuez on the 28th of April, 1788, Instructions

43 *Buenos Ayres and the Provinces of the Rio Del La Plata* Woodbine Parish 1839

44 Busch 1985

45 *A Chart of West Falkland Island from an Actual Survey by Lieu. Tho. Edgar of the Royal Navy in the Years 1786 & 1787* London 1797.

46 *A voyage towards the south pole, performed in the years 1822-24* James Weddell 1825.

47 Vernet 1832. All of the reports of Spanish authorities challenging vessels around the Falklands, come from Vernet's response to American accusations of piracy. No original sources are cited.

48 *She Captains: Heroines and Hellions* Joan Druett 2000

were given to foment the Fisheries in the Islands, and to reconnoiter their Establishments, in order not to allow any English to remain, either on Falkland, or any other part.”

July 16th, Captain Leard writes to Charles Jenkinson, the President of the *Council for Trade and Foreign Plantations*, suggesting seal conservation measures for the Falklands.⁴⁹

1790 – in **February**, an American Schooner, *Peregrine*, is ordered away from the Falklands by the Spanish.

October 28th, Britain and Spain sign the *Nootka Sound Convention No.1 (The Treaty of San Lorenzo)*;

*'Article 6: It is further agreed with respect to the eastern and western coasts of South America and the islands adjacent, that the respective subjects shall not form in the future any establishment on the parts of the coast situated to the south of the parts of the same coast and of the islands adjacent already occupied by Spain; it being understood that the said respective subjects shall retain the liberty of landing on the coasts and islands so situated for objects connected with their fishery and of erecting thereon huts and other temporary structures serving only those objects.'*⁵⁰

Article 7: In all cases of complaint or infraction of the articles of the present convention, the officers of either party, without permitting themselves previously to commit any violence or act of force, shall be bound to make an exact report of the affair, and of its circumstances, to their respective Courts, who will terminate such differences in an amicable manner.”

The agreement also contains a 'Secret Article'; “*Since by article 6 of the present convention it has been stipulated, respecting the eastern and western coasts of South America, that the respective subjects shall not in the future form any establishment on the parts of these coasts situated to the south of the parts of the said coasts actually occupied by Spain, it is agreed and declared by the present article that this stipulation shall remain in force only so long as no establishment shall have been formed by the subjects of any other power on the coasts in question. This secret article shall have the same force as if it were inserted in the convention.*”

Nootka Sound was another area of contention between Britain and Spain. In order to avoid a war over who owned what, a *Convention* was agreed; in fact 3 Conventions.

The first had the primary purpose of avoiding conflict and was intentionally vague. As is so often the case, vagueness led to differences of interpretation and, in turn, to further disagreement.

Art. 6 used the term, “*islands adjacent*”. At 300 miles the Falklands, in relation to the coast of South America, would not conform to any 18th century dictionary description of '*adjacent*'. A little like saying that Paris is adjacent to London. Indeed Lord Egmont, in July of 1765, had already confirmed this view.

49 Headland 1989

50 “.. it is evident that by no stretch of imagination can a point on the continental shelf situated say a hundred miles, or even much less, from a given coast, be regarded as “adjacent” to it’ - North Sea Continental Shelf Cases, International Court of Justice, 1969.

Nootka was about trade, and it should be noted that the *Convention* imposed no conditions on existing sovereignty claims.

December 3rd, the *Convention* is laid before Parliament; “*To remove all possibility,..of our ever forming a settlement to the south of her American colonies, was an object for which Spain would have been willing to pay a liberal price. Of the truth of this assertion, there was sufficient proof in the efforts made by the Government of Spain to prevent other nations from planting colonies in the Falkland Islands; from which islands, it may be remarked, both parties to the convention appear to have been excluded by the terms of the sixth article.*”⁵¹

1791 – November 22nd, the Spanish Commander of the Falklands is ordered to reconnoiter the Cape Horn and Tierra del Fuego with a frigate and a brig; “*according to the literal tenor of Article VI, the English should not be allowed to fish or construct huts on Coasts ..., such as the Coasts of Deseado, those of San Jose, and even the Bay of San Julian, and other places in which we may have had occupation or settlements, or which may be accessory to Districts actually occupied.*”

Capt. Eckstein in the whaler, *Sydenham*, hunts near the Falkland Islands.

1792 – American sealer Benjamin Page, in the *Hope*, takes a cargo of Fur Seal skins from the Falklands to China.

Relations between France and Britain break down.⁵²

1793 – in **September**, Don Juan Latre, patrolling East Falkland in the Spanish Brig, *Galvez*, sends a warning to the American Brig, *Nancy*; “*In consequence of the recent Treaties between the Spanish and British Governments, and of the orders I have received from the Commander and Governor of these Islands of Malvinas, it is my duty to inform you that you have no right either to fish or to anchor in the neighborhood of Spanish settlements; as solely the English Royalists are allowed to fish at 10 leagues from the said Establishments ...*”

September 14th, Lt. Latre discovers 6 more American fishing vessels and 1 French ship. All are ordered away and their huts and gardens destroyed.

American sealing vessels *Betsey*, *Josephus* and *Swallow* hunt at the Islands. *Swallow* takes 16,000 Fur Seal skins.

1796 – October 5th, Spain forms an alliance with France and declares war against Britain. “*The Nootka Sound convention grew out of certain rights on the part of Great Britain, which existed long prior to the formation of that convention. Gentlemen had talked about certain concessions on the part of Spain, certain benefits which had been conceded to England in the Nootka Sound convention; but it would be remembered that that convention was ended by the war of 1796.*”⁵³

51 *Memoir; historical and political, on the northwest coast of North America, and the adjacent territories, illustrated by a map and a geographical view of those countries* Robert Greenhow, United States. Dept. of State 1840

52 Britain was almost constantly at war with France between 1792 and 1814. The shifting alliances between Spain and France had a direct effect on Spain's relationship with Britain, and on its ability to govern its colonies.

53 *Abridgment of the Debates of Congress, from 1789 to 1856. From Gales and Seatons' Annals of Congress; from*

*“Spain declared war against Great Britain.. since which period, no distinct allusion to the convention of 1790 appears to have been made by either of the parties, in its public acts addressed to, or its engagements concluded with, the other.”*⁵⁴

1797 – British forces blockade Spain, cutting her off from her American dominions.

1801 – Responsibility for the Colonies is transferred to the *War and Colonial Office*. The *Favourite* from Nantucket hunts at the Falklands.

1802 – Capt. McLean in the *Anna Josepha*, en-route from Sydney to Cape Town, stops at West Falkland with the crew suffering from scurvy. James Grant RN notes the presence of American sealers which he will report on his return.

1805 – Spanish maps refer to the islands as the ‘*Malvinas*’.

October 21st, the *Battle of Trafalgar* reduces, even further, the capacity of Spain to communicate with its colonies.

Any restriction imposed by the Nootka Sound Convention died in 1796 as a result of Spain's declaration of war.

Spain's ability to hold on to its claimed territory in South America is virtually destroyed by the Napoleonic wars. Initially an ally of Bonaparte, Spain stood between him and Portugal so he turned on Spain and forced its Kings to abdicate in his favour.

Watching from afar, the Spanish colonies were unsure how to react. They'd also been watching the development of the USA since its revolution with some interest.

1808 – February, Napoleon Bonaparte occupies Spain.

March 19th, Charles IV of Spain abdicates in favour of his son Ferdinand, but is then taken prisoner by Napoleon who summons Ferdinand to Bayonne.

May 5th, under pressure Charles retracts his first abdication, but abdicates again, this time in favour of Napoleon.

May 6th, Ferdinand is forced to renounce his own claim to the Spanish throne. Popular uprisings break out around Spain.

June 6th, Napoleon proclaims his brother, Joseph, as José I, King of Spain and the Indies.

September 25th, Spanish partisans fighting Napoleon form a temporary government, the *Supreme Junta*, to serve in place of the absent King.

1809 – May 22nd, the *Supreme Junta* invites representatives to sit in a *Cortes* including Peru, Buenos Aires and Chile.

their Register of debates; and from the official reported debates, by J. Rives 1860
54 Greenhow 1842

1810 – January 29th, following military reverses the *Supreme Junta* dissolves itself and a five person *Council of Regency of Spain and the Indies* is tasked with organising the *Cortes*.

May 22nd – 25th, a meeting is held in Buenos Aires to decide the future of the *Viceroyalty*. Delegates refuse to recognise the authority of the *Council of Regency*, but declare for Ferdinand, professing to sustain the provinces in; “*the most constant fidelity and adherence to their beloved Ferdinand VII, and his legal successors to the crown of Spain.*”⁵⁵

Buenos Aires Province forms its own, '*Primera Junta*', with the Viceroy, Baltasar de Cisneros, forced into exile. Not all the Provinces agree and conflict erupts.

Montevideo endorses the *Council of Regency* and its Governor, Francisco Javier de Elio, declares himself, *Viceroy of the Rio de la Plata*. The capital of the *Viceroyalty* moves across the river.

June 2nd, *La Gazeta de Buenos Ayres* is founded by Decree; “*the people have a right to know the behavior of their representatives.*” The *Gazette* is to publish official announcements, appointments, notices and decrees.⁵⁶

1811 – January 19th, Francisco Javier de Elio is confirmed as *Viceroy* by the *Junta of Cadiz*, with Buenos Aires declared a rebel city.

February, the rural population rebel and besiege Montevideo, threatening de Elio's position. All loyal troops are ordered back, including those stationed on East Falkland; “*..the Cortes at Cadiz expressed their intention of reoccupying them when the situation was more propitious ..*”⁵⁷

February 13th, Commander Paul Guillén Martínez, evacuates the garrison, and penal colony, from Puerto Soledad, leaving a plate in the bell tower containing the inscription⁵⁸ -

This island with its ports, buildings, units and contents belongs to the sovereignty of Sr. D. Fernando VII King of Spain and the Indies, Soledad of Malvinas 7 February 1811 - Governor Paul Guillén.

November 18th, following defeat at the hand of the rural forces, de Elio returns to Spain.

1812 – January, Francisco Javier de Elio resigns as *Viceroy de la Rio Plata*.

February 27th, Manuel Belgrano unfurls the first triband flag of light blue and white. The *First Triumvirate* refuse to accept the new flag, as they rule on behalf of Ferdinand and a flag would be an act of independence.

55 *Present State of the Spanish Colonies* William Walton vol II 1810

56 All countries have an official organ through which Government notices, laws, appointments, etc can be announced.

57 *Falklands or Malvinas? The Background to the Dispute*. J. Metford *International Affairs* 44 July 1968 pp.463-481

58 This plate is reminiscent of the lead plaque left by the British in 1774, with the exception that it only refers to 'island' (singular) and not 'islands' (plural).

March 19th, the *Cortes* in Cádiz promulgates a written *Constitution*. *Article 1: "The Spanish nation is the collectivity of the Spaniards of both hemispheres."*⁵⁹

1813 – February 8th, the British ship *Isabella* is wrecked off the coast of Eagle Island. The Captain, George Higton, and 5 of the crew set out to get help in one of the ship's boats leaving the rest of the crew behind.

April 5th, the American sealer *Nania* finds the marooned British seamen who are unaware that the US and Britain are at war. On discovering this the British crew seize the *Nania* and maroon Captain Barnard and his crew.

October, British forces under Arthur Wellesley drive Napoleon from Spain.

1814 – British vessels, *Admiral Colpoys*, *Diana* and *Recovery* visit the Falkland Islands. The Provinces of the old *Viceroyalty de la Rio Plata* descend into a series of civil and internecine wars that will last until 1876.

January 14th, released from the custody of Napoleon, Charles IV freely renounces his rights to the Spanish throne in favour of Ferdinand VII.

May 4th, Ferdinand refuses to accept the liberal *Constitution* of 1812, instead imposing absolute monarchy over Spain, and its dominions in the Americas.

July 5th, a *Treaty of Friendship and Alliance* is signed between Britain and Spain.

August 28th, additional *Articles* are agreed between Spain and Britain, reinstating all commercial treaties existing before 1796, but only until new negotiations take place; "*Art. 1.—It is agreed that, pending the negociation of a new Treaty of Commerce, Great Britain shall be admitted to trade with Spain upon the same conditions as those which existed previously to the year 1796. All the Treaties of Commerce which at that period subsisted between the two nations being hereby ratified and confirmed.*"⁶⁰

Ferdinand was desperate to get his dominions back under control, but while Buenos Aires has prevaricated, Paraguay, Chile and Venezuela had declared their total independence.

Britain was sympathetic to Ferdinand's dilemma, but it also saw trading opportunities and preferred to 'sit on the fence' while Spain attempted to recapture its colonies.

The *Treaty of Friendship* did not fully reinstate the Nootka Sound Convention; or its restrictions.

⁵⁹ Although declaring the legitimacy of Ferdinand VII, the *Constitution* effectively reduced the power of absolute monarchy and attacked the powers of both Church and Nobles. Under this constitution the concept of sovereignty resided in the nation, rather than the monarch, raising the hope of self-rule in the Americas.

⁶⁰ "*But this article could have related only to the treaties of commerce between the European dominions of the parties; for in the first place, no commerce existed agreeably to treaty, between either party or its colonies and the colonies of the other, before 1796; and moreover, another article in the same Treaty of Madrid provides that, "in the event of the commerce of the Spanish American colonies being opened to foreign nations, His Catholic Majesty promises that Great Britain shall be permitted to trade with those possessions, as the most favored nations."* Thus it would seem that the convention of October, 1790, between Great Britain and Spain, expired in October, 1795, and has not since been renewed; and if that be the case, Great Britain and Spain should each stand with regard to the Falkland Islands, as if it never had been concluded." Greenhow 1842

In **November**, Capt. Barnard and his crew are rescued by the British whalers, *Asp* and *Indispensable*.

1815 – Edmund Fanning, in the sealing ship, *Volunteer*, leaves a sealing gang at Port Louis with orders to hunt in the area until he returns in 1817.

1816 – **July 9th**, the United Provinces of South America formally declares independence from Spain at the Congress of Tucumán. Delegates point to the refusal of Ferdinand VII to accept the *Constitution* of 1812, and states that any union between Spain and its Dominions was broken by Ferdinand's abdication in 1810.

July 20th, Belgrano's triband flag is accepted as the flag of the new nation.

1817 – Captain Edes in the sealing ship, *Pickering*, visits the Falkland Islands.

April 6th, George W. Erving, US Minister to Spain, writes to Secretary John Quincy Adams; “*With respect to the colonies, I believe it to be very certain that England has offered her mediation. ... she does not wish to separate the colonies from Spain, on the contrary; but she desires that the trade to them may be open.*”

December 4th, the United States sends out three commissioners; Rodney, Bland and Graham, to ascertain the condition and prospects of the La Plata provinces. Bland reports; “*To the South of latitude thirty-eight degrees and a half, and between the Andes and the Atlantic, as far as the straits of Magellan, is, at present, entirely in possession of the various tribes of Patagonian savages, over whom the colonial Government exercised no authority, nor asserted any claim, other than a right of pre-emption and of settlement in their territory against all foreign nations; to which rights and benefits the independent Government claims to have succeeded.*”

1818 – **November 7th**, John Quincy Adams notes in his diary; “*... Still less can he [the President] enlarge upon the facts in the internal condition of South America which operate against the acknowledgment of the Government of Buenos Ayres, the principal of which is that they pretend to the sovereignty of the whole Viceroyalty of La Plata, while Portugal is in possession of Montevideo, Artigas of the Banda Oriental, Paraguay under other separate government, and the Spanish royalists in five other provinces.*”

1819 – **January 14th**, Spain announces penalties for any subject of a foreign state who joins the standard of their revolting colonists.

“*The Republic of the United Provinces of South America comprehends, with some exceptions, the same territory as the Viceroyalty of Rio de la Plata, which was established in 1778. It extends from the 16th to the 45th degree of south latitude.*”⁶¹

Towards the end of the year, Patrick Lynch in Buenos Aires purchases the French frigate *Braque* and refits her as a privateer. She is renamed *Heroína*.

The *Heroína*, and its Commander David Jewett play a surprising large part in the wars. There are some gaps, but what is known to be fact is that Jewett was commissioned by the

61 *Letters on the United Provinces of South America, addressed to the Hon. Henry Clay* Vicente Pazos Kanki 1819

authorities in Buenos Aires as a Marine Brevet-Colonel, and that he became a 'privateer' licensed to pursue Spanish shipping. When he attacked the ships of other nations he became a 'pirate'.

His actions in 1820 feature prominently in the claims by Argentina to the Falkland Islands although there is no evidence that he had any orders, or authority, to do what he did. And when he got back, he forgot to mention what he'd done. Which seems a little strange.

Even in 1820 it was an accepted fact of international law that turning up, stating a claim and then leaving again, without a swift follow-up by some administrative authority on behalf of the claiming State, was insufficient for sovereignty.

And yet, that was exactly what happened.

1820 – January 5th, David Jewett is commissioned by Matias Irigoyen, Minister of War.⁶²

Patrick Lynch obtains a 'corsair' license from the Supreme Director, Jose Rondeau, permitting his privateer to pursue and capture Spanish ships.

March 21st, Colonel David Jewett, takes command of the *Heroína*, and sails after Spanish prey.

*“There is scarcely a Buenos Ayrean privateer which has not committed piracy of every description - it appears that at Buenos Ayres itself commissions of Artigas have been sold to the Captains of the Buenos Ayres privateers, who have gone to sea, and used one or the other commission as suited their purposes... There is not a day passes but we hear of new crimes .. under the flag and commission of Buenos Ayres ...”*⁶³

July 11th, in the House of Commons; “ .. on a call for information .., Dr. Lushington argued the broad principle, that England ought to recognize immediately and fully the independence of Buenos Ayres.”

July 20th, Minister Rush writes from London, to Secretary John Quincy Adams in Washington; “*What I have heard is, that, in the month of April, .. the agents of Chili, Buenos Ayres and Venezuela, did meet together ... They jointly signed an address to the king of Spain asking that the independence of these countries might be acknowledged. This address was transmitted to Ferdinand .. The reply to it .. was, that no proposition would be listened to that had not for its basis the return of the colonies to their subjection to the mother country.*”

July 27th, the *Heroína* attacks a Portuguese ship, the *Carlota*, which is en-route to Lisbon, in an act of piracy.

October 27th, Jewett and the *Heroína* arrive in the Falkland Islands after losing the *Carlota*, and the 50 men on it, in a storm. His ship, and remaining crew, are in a poor condition, suffering from scurvy.

62 *Revista del Archivo Nacional de Historia, Sección del Azuay, Issue 5, pp. 120-121*

63 John Quincy Adams July 20th, 1820

November 2nd, Colonel Jewett announces that he has an order to take possession of the Islands. He sends letters to some of the ships scattered around the islands:

“National Frigate Heroína at Port Soledad : Sir, I have the honour to inform you of the circumstance of my arrival at this port, commissioned by the supreme government of the United Provinces of South America to take possession of these islands in the name of the country to which they naturally appertain. In the performance of this duty it is my desire to act towards all friendly flags with the most distinguished justice and politeness. A principal object is to prevent the wanton destruction of the sources of supply to those whose necessities compel or invite them to visit the islands, and to aid and assist such as require it to obtain a supply with the least trouble and expense. As your views do not enter into contravention or competition with these orders, and as I think mutual advantage may result from a personal interview, I invite you to pay me a visit on board my ship, where I shall be happy to accommodate you during your pleasure. I would beg you, so far as comes within your sphere, to communicate this information to other British subjects in this vicinity. I have the honour to be respectfully yours...”

British explorer and seal hunter, James Weddell, on the brig *Jane*, receives the letter and walks the 7 or 8 miles from his mooring in Port St. Salvador to Puerto Soledad, where the *Heroína* lies.

“Captain Jewitt received me with great politeness, and not withstanding the mutilated and worn out state of his crew, he assumed an air of power and authority beyond my expectation. He told me his business was to take possession of the Falkland Islands for his government, and that everything necessary for an establishment would be procured from Buenos Ayres so soon as he could purchase a cutter, of which there were several among the islands. It evidently appeared, however, that his principal business was to refresh his crew; for never, since the time of Lord Anson, perhaps, had an instance occurred where the scurvy had been so destructive to a ships company. ... The complement of men, when the ship sailed from Buenos Ayres eight months before, was 200: they had not now more than 30 seamen and 40 soldiers fit to do duty ... “

November 6th, Col. Jewett holds a ceremony; *“In a few days, he took formal possession of these islands for the patriot government of Buenos Ayres, read a declaration under their colours, planted on a port in ruins, and fired a salute of 21 guns. .. he had laid claim to the wreck of the French ship .. to the entire exclusion of several vessels which had arrived, ..(and) he was aware that an authoritative appearance was necessary.”*

November 9th, Capt. William B. Orne of the *General Knox* also receives a copy of the proclamation. Jewett however, makes no attempt to impose any conditions on the ships present in the Islands. Nor is any attempt made to regulate the sealing activities that most the ships there are indulging in.

6 British ships, the '*Eliza*', '*George*', '*Hetty*', '*Indian*', '*Jane*' and '*Sprightly*' are moored around the Islands, together with 9 US ships, including the *Physicienne*, *Charity*, and the *Sir Andrew Hammond*.

1821 – February, Colonel Jewett prepares a long report about his journey for the authorities in Buenos Aires; but makes no mention of his claim of the previous November. He also asks for a relief, as he too has become sick with scurvy.

Jewett seizes the US schooner, *Rampart*, in a further act of piracy. He claims it has a cargo bound for Spain.

In **March**, Capt. Guillermo Mason takes over as commander of the *Heroína*. Jewett returns to the mainland.

April, Capt. Mason and the *Heroína* sail away from the Falkland Islands leaving no marks of sovereignty behind.

June 6th, the General Knox arrives back in Salem, Massachusetts and a copy of Jewett's circular appears in the Salem Gazette two days later.⁶⁴

August, the Salem Gazette article is repeated in a London newspaper, before being picked up by the press in Gibraltar and Spain.

October 6th, all Privateer commissions issued against Spain are annulled by Buenos Aires.⁶⁵

November 10th, the news report reaches the United Provinces, and is reproduced in the *Buenos Aires Argos*.

One of the more outlandish claims to be made by Buenos Aires is that both Jewett and Mason held the title of 'Governor' of the Falkland Islands. No such title was ever gazetted, or otherwise announced, for either man, officially or unofficially. Certainly no evidence has ever been produced.

That there was no official reaction by the British Government is unsurprising as there were no diplomatic relations between Buenos Aires and Britain at that time. Ferdinand's stubborn approach to Spain's own claims meant that the United Provinces were still unrecognised by all but themselves.

In Buenos Aires, the newspaper reports were unsubstantiated by Jewett's own 13 page account, so there was no reaction by that Government either.

December, British sealers *Enchantress*, *Hetty*, *John*, *Pomona*, *Sprightly*, *Jane*, *Beaufoy*, *Jane Maria*, *Wasp*, *Livonia*, *Robert* and *Grace* hunt at the Falklands.

1822 – March 9th, Joaquin de Anduaga, Spanish Minister to the United States, writes to John Quincy Adams; “*Sir: In the National Intelligencer of this day, I have seen the message sent by the President to the House of Representatives, in which he proposes the recognition by the United States of the insurgent Governments of Spanish America. ... what is the present state of Spanish America, and what are its Governments, to entitle them to recognition? Buenos Ayres is sunk in the most complete anarchy, and each day sees new despots produced, who disappear the next. ... I think it my duty to protest as I do solemnly protest, against the recognition of the Governments mentioned, of the*

64 A copy of this news report was all that Luis Vernet was able to supply as proof of Jewett's alleged, “*Act of Sovereignty*”, in his *Report* of 1832.

65 *British & Foreign State Papers 1821 – 1822* p 386.

insurgent Spanish provinces of America, by the United States, declaring that it can in no way now, or at any time, lessen or invalidate in the least the right of Spain to the said provinces, or to employ whatever means may be in her power to reunite them to the rest of her dominions.”

March 20th, the *Heroína* is forced to surrender by the Portuguese frigate *Pérola* off Gibraltar. Mason is arrested and tried for piracy; found guilty and imprisoned.

May 2nd, in the House of Commons, during a debate on the South American colonies; “*Lord Londonderry ... , in answer to the questions of Sir James Mackintosh, that whilst this government had neither formally recognized, or entered into any correspondence that would imply a recognition of, these new governments, it had nevertheless considered them as governments de facto; ..*”

September 17th, James Weddell departs England in the brig, *Jane*, bound once again for the south seas. The *Jane* is accompanied by the cutter, *Beaufoy*, captained by a Matthew Brisbane. *Adeona* stops at the Falkland Islands to hunt seals.



1823 - 1832



The situation so far. Britain had not maintained a garrison on West Falkland after 1774, but the British and American whaling industries have grown rich in the hunting grounds around the Falklands. West Falkland had also been surveyed by a Royal Navy officer without any interference from the Spanish penal colony on East Falkland.

But then they left too, in 1811, taking Spain's claim to Soledad back to Montevideo, and then onto Madrid.

1823 – July 4th, Bernadino Rivadavia, Minister of Foreign Affairs in Buenos Aires, having negotiated a cease-fire in the war of independence with Spain, signs the *Preliminary Peace Convention* with Spanish commissioners; “*Buenos Ayres has implicitly withdrawn from the struggle Buenos Ayres pacts with the Spanish to the detriment of the American cause.*”⁶⁶

July 23rd, a William Robertson, in Buenos Aires, writes to the British Government to inform them that a convention, has been agreed with Spain, whereby hostilities should cease for 18 months between Spain and her former colonies. Robertson also reports an arrangement whereby the Provinces produce \$20 million, which is to be made available to Spain, and used to resist French aggression; in return for which Spain will acknowledge the independence of her former colonies. This agreement has so many conditions that there is little chance of it succeeding.

In **August**, Luis Vernet, a French Huguenot, with a cattle business south of Buenos Aires, together with his partner, Jorge Pacheco, approaches the Government there for permission to hunt wild cattle on East Falkland; “*.. Don Jorge Pacheco and myself, convinced of the right of this Republic, and seeing it recognised by the tacit and general consent of all Nations during the 3 preceding years, solicited and obtained from the Government the use of the Fishery, and of the Cattle on the Eastern Malvina Island, and likewise tracts of land thereon, in order to provide for the subsistence of the Settlement we should establish there...*”⁶⁷

August 20th, Foreign Secretary George Canning writes to Ambassador Rush of the USA; “*1. We conceive the recovery of the Colonies by Spain to be hopeless. 2. We conceive the question of the Recognition of them, as Independent States, to be one of time and circumstances. 3. We are, however, by no means disposed to throw any impediment in the way of an arrangement between them, and the mother country by amicable negotiation. 4. We aim not at the possession of any portion of them ourselves. 5. We could not see any portion of them transferred to any other Power, with indifference.*”

66 *Memorias de general O'Leary* Daniel Florencio O'Leary 1883

67 '*Report of the Political, and Military Commandant of the Malvinas'* Luis Vernet Aug 10th 1832, in *British and Foreign State Papers 1831-1832*. Vernet's *Report* contains his personal perspective, and was written in his own defence following accusations of piracy by the USA.

August 28th, Vernet and Pacheco receive the permission of Buenos Aires to take an expedition to the Islands. Pacheco is given a grant of land on East Falkland in lieu of a debt owed to him by the Province⁶⁸.

An English merchant, Robert Schofield from Montevideo, is brought in as a partner by Luis Vernet. He provides 2 vessels for the venture.

October, Woodbine Parish is named British *Consul-General* to Buenos Aires, tasked with the promotion of trade; *"He will recollect always that his character is purely a commercial one, and his object expressly of a conciliatory nature."*⁶⁹

So little is known of the political situation that Parish is also required to answer some questions about the Government of the United Provinces; *"1st. Has the Government so constituted already notified by a public act its determination to remain independent of Spain and to admit no terms of accommodation with the mother country? 2nd. Is it in military possession of the country ...?"*

Parish is provided with the traditional 3 snuff boxes, embossed with images of the King, to give as gifts to, *"persons of the highest consideration."* He is also told that if, in the event of relations of a political, as opposed to purely commercial nature, being established with Buenos Aires, other persons would be appointed, after which Parish's functions would be confined to those of a purely consular nature.

Also in **October**, the *Polignac Memorandum* is issued by George Canning, the British Foreign Secretary following discussions with France and America. Britain declines to assist Spain in the retention of her colonies in South America, opening the way for diplomatic relations with Buenos Aires, Colombia, and Mexico.

December 2nd, in his seventh *State of the Union* address, President Monroe of the USA declares that any further attempt by European nations to colonize land or interfere with the emerging States in the Americas would be viewed as an act of aggression. This becomes known as the *Monroe Doctrine*.

"We could not view an interposition for oppressing the South American States or controlling in any other manner their destiny by any European Power in any other light than as a manifestation of an unfriendly disposition towards the United States."

Canning writes that the United States has no right; *"to take umbrage at the establishment of new Colonies from Europe in any unoccupied parts of the American continent."*⁷⁰

December 18th, just as his gauchos are about to leave, Vernet recognises that the United Provinces could benefit from an act of sovereignty and applies for a title for the expedition's leader; *"... being ready to depart. Pablo Areguati, Captain of Militia will accompany it, ... it could be convenient both to the interests of governments and to commerce to install some authority. Therefore your Excellency will please to give to said Areguati the letter of Commander of the place without salary.. By this insurance the*

68 This grant was not ratified until 1828.

69 *Sir Woodbine Parish and Early Days in Argentina* Nina Louise Kay Shuttleworth, 1910 Appendix II (the author was Parish's grand-daughter.)

70 The US, on its own, was incapable of fulfilling this threat had it been challenged but, in spite of Canning's immediate reaction, Britain offered to co-operate with the Americans against any attack on the revolting states. The Royal Navy was quite capable.

*country will get use of that abandoned Island .. Areguati intends to form out of the labourers a company of militia ...*⁷¹

No mention of any title is made in the response;

*“ ... [this] Government, considering it a duty to protect commerce and to encourage every branch of industry in the country, has thought it proper to grant the Petitioner the lands that he solicits, under the express condition to make manifest the measurements under fixed boundaries in order to obtain the titles of property. ..”*⁷²

1824 – January 24th, Ferdinand VII of Spain decrees that his Government has no authority to negotiate the recognition of any revolted Spanish-American colonies.⁷³

February 2nd, Areguati, with 25 gauchos, arrives on Soledad.

February 12th, Areguati writes, *“We are without meat, without ship’s biscuits, and without gunpowder for hunting. We support ourselves by chance captures of rabbits, since there is no fat meat since we cannot go out to slaughter as there are no horses. I have resolved to tell you that we are perishing.”*⁷⁴

March 31st, Woodbine Parish, arrives in Buenos Aires.

April 7th, in the *Buenos Ayres Gazette*; *“ ... Mr. Parish, the Consul-General, and Mr. Griffiths, the Vice-Consul, were received for the first time at the House of the Government by Senor Don Bernadino Rivadavia, Minister of State for Foreign Affairs, when they presented their credentials ... it is the first official Document from Europe, in which the Government of the Country is addressed in a direct manner suited to the character which this Country has been endeavoring to deserve these 15 years...”*

April 8th, Capt. William Low, of the British ship *Adeona*, threatens to denounce Areguati's party as 'pirates'.⁷⁵

April 12th, Parish has a long interview with Minister Rivadavia; *“With respect to Spain, he at once said, there was one positive determination come to by all People of whatever Party in the State, viz. To decline to enter into any negotiations whatever with the Government of that Country unless founded upon a previous Recognition of their Independence.”*

April 27th, Parish informs London that Spain refuses to cede any territory to the new Government in Buenos Aires.

June 7th, Areguati abandons East Falkland and returns to Buenos Aires in the *Fenwick*. He leaves 8 gauchos behind, including the foreman Aniceto Oviedo.

June 25th, Woodbine Parish describes what he has found;

71 PRO FO 6 499

72 *Getting it Right: the real History of the Falkland/Malvinas* Pascoe & Pepper 2008.

73 *The Recognition of the Spanish Colonies by the Motherland* William Robertson 1918

74 AGN VII 129. Doc 51

75 *False Falklands History at the United Nations: How Argentina misled the UN in 1964 - and still does* Pascoe & Pepper 2012. AGN Sala VII legajo 132 Doc 8

“The United Provinces of la Plata, or, as they are sometimes called, the Argentine Republic, comprise, (with the exception of Paraguay and the Banda Oriental, which have become separate ..) the whole of that vast space lying between Brazil and the Cordillera of Chile and Peru, and extending from the 22nd to the 41st degree of south latitude. The most southern settlement of the Buenos Ayreans as yet is the little town of Del Carmen, upon the river Negro.”

July 24th, the remaining gauchos are rescued from East Falkland by the British sealer, *Susannah Anne*. On their arrival back in Buenos Aires they are paid off. Vernet's business venture has failed, and the investment lost.

August 24th, Woodbine Parish is instructed to negotiate a commercial Treaty; *“.. placing on a permanent footing the commercial intercourse which has so long existed between His Majesty's subjects and those States.”*

Bernardino Rivadavia, negotiates a one million pound loan, with Barings Bank on behalf of Buenos Aires.

December 30th, Canning informs the US that the British Government has decided to recognise the independence of three new American States: Mexico, Colombia and Buenos Ayres. News of Britain's decision reaches the Court in Madrid.

1825 – January 16th, George Slacum arrives in Buenos Aires as Consul for the USA.

January 21st, the Spanish Court protests at the decision to recognise the independence of its colonies; *“As to Buenos Ayres, England herself hardly can tell who it is that commands, or what form of Government exists there at present. ... and she cannot be ignorant that that unhappy Country is a prey to the rapacity of a few ambitious individuals: ... H. M. considering that no act of proceeding of a third power can alter or weaken, much less destroy, the Right of His Sovereignty feels that he ought not to renounce them, nor will he ever do so. .. H. M. therefore declares in the face of the whole world ... that He neither acknowledges, nor ever will acknowledge, either directly or indirectly the independence of the Governments, which have established or shall hereafter establish themselves in Mexico, Terra-firma, Buenos Ayres, ..*

... H. M. protests and will protest in the most solemn manner against these measures, by which the Treaties existing between the two Powers will be violated and the legitimate and imprescriptible Rights of The Throne of Spain attacked in the most serious manner.’

January 23rd, the Congress of the United Provinces passes a provisional law granting the Government of Buenos Aires power to conduct foreign relations on its behalf.

February 2nd, the *Treaty of Amity, Commerce, and Navigation* is signed by Woodbine Parish on Britain's behalf; *“In spite of the difficulties caused by intrigues on the part of the United States to obtain “most favoured nation” terms with Buenos Ayres, and to prove that a treaty of commerce was no recognition, ...”*

Jose Manuel Garcia Ferreyra signs for the United Provinces.

Article 1 states, “There shall be perpetual amity between the dominions and subjects of his Majesty the King of the United Kingdom of Great Britain and Ireland, and the United Provinces of Rio de la Plata, and their inhabitants.”

Article 3, " His Majesty the King of the United Kingdom ... engages further, that in all his dominions situated out of Europe, the inhabitants of the United Provinces of Rio de la Plata shall have the like liberty of commerce and navigation, stipulated for in the preceding Article, to the full extent to which the same is permitted at present, or shall be permitted hereafter, to any other nation."

The Treaty is ratified by the Congress of the United Provinces. Don Bernadino Rivadavia, is appointed as Minister Plenipotentiary to the Courts of England and France. Senor Don Ignacio Nuñez, is appointed Secretary of the Legation to the English and French Courts. Vice-Consul Griffiths takes the agreement to London for ratification.

March 25th, George Canning responds to Spain's protest; *"M. Zea concludes, with declaring that ... the British Gov*. , as violating existing Treaties; and the imprescriptible rights of the Throne of Spain. Against what will Spain protest? It has been proved that no Treaties are violated by us; and we admit that no question of right is decided by our recognition of the New States of America."*

Nuñez, on his journey to England, writes a description his country: *"An account, historical, political, and statistical, of the United Provinces of Rio de la Plata, with an appendix, concerning the usurpation of Monte Video by the Portuguese and Brazilian governments."*

The work is comprehensive and lays out the organisation, and geography, of the United Provinces, even including longitude and latitude readings for the main towns. He puts the most southerly of the United Provinces' settlements at 37° S latitude. No mention is made of the Falkland Islands.

Vernet's first attempt at making money from the cattle on East Falkland had failed. The inclusion of the Englishman, Schofield, is intriguing however. Well read, Vernet undoubtedly knew the archipelago's history and Schofield's inclusion could be seen as a way of mitigating possible problems with Britain. After the expedition failed, Schofield, already suffering from TB, turned to drink and died a few months later. The exact nature of his agreement with Vernet remains unknown.

Parish's description of the limits of the United Provinces concurs with Bland's report of 1817, and other descriptions, in that the territory being claimed did not extend south of 41° S. The very detailed description by Nuñez confirms this.

The importance of *Art.3* of the 1825 Treaty is that it granted a British licence for commercial ventures within the dominions of George IV, which included the Falkland Islands. The commercial activities of businessmen adventurers like Vernet, now had British permission.

Defiant in the face of reality however, Ferdinand VII still maintained his own claim to all Spain's old territory, including East Falkland.

July 23rd, Griffiths returns to Buenos Aires with the ratification, and news that Woodbine Parish is appointed British *chargé d'affaires* in Buenos Aires, pending the arrival of a Minister.

1826 – January, in an attempt to recoup his previous losses, Luis Vernet leads a further expedition to the islands, managing to establish a tentative base next to the old settlement of Puerto Soledad, on East Falkland.

February 28th, Lord John Brabazon Ponsonby is appointed *Minister Plenipotentiary and Envoy Extraordinary* to the River Plate Provinces.

In **September**, the sealer *Sprightly* hunts at the Falkland Islands.⁷⁶ Ponsonby presents his credentials in Buenos Aires

1827 – January 28th, at Port Louis a letter for France is given to the *Adeona*, which is returning to England; “*Captain Low is leaving immediately for England. We are going to leave the island to go to our destination. We have found at this place all that we were promised by the Spaniards, we have eaten much local game and fish ...*”

March 9th, Lord Ponsonby writes to Foreign Secretary Canning to inform him that the Provinces have all rejected the central authority of Buenos Aires. Rivadavia, now President, denounces the Provincial chiefs as rebels and anarchists.

June 27th, President Rivadavia is forced to resign. Central authority largely collapses.

1828 – January, Woodbine Parish writes; “*.. the New States are torn by the most lamentable dissensions, and all in their discontent seem ready to cut each other's throats.... all must go to anarchy and confusion.*”

Luis Vernet, still on East Falkland, formulates a plan to convert his fledgling settlement from a commercial enterprise, to a political one; “*... having realised the natural advantages that it might provide the country, I conceived the project of establishing a Colony directly subordinate to Buenos Aires which at the same time would give the state the benefit of putting the sovereignty over the coasts and islands of the south beyond doubt..*”⁷⁷

January 5th, Vernet submits his proposal; “*.. I have thought it convenient to exert myself in the establishment of a Colony on the island of Soledad of the cluster called Malvinas. But since for this the protection of Government is necessary, ... not only to the owner of this undertaking, but also to the new Colonists, I consider it expedient for the success of this important object that your Excellency will be pleased to cede to me both rights of possession and of property and to protect me in the same ..*

It will be here proper to bear in mind that the Government, by permitting me to establish the Colony in the Malvina Islands under the stated conditions, does nothing more than reoccupy a territory that laid abandoned, but which once having been acquired by the Spaniards, this Government has not lost the right to take possession of. There is no better way to prevent any other nation from entertaining private views than by the establishment of a Colony. This comes under the immediate inspection of a Government in every civilized country. These islands being found abandoned would belong to the first that occupied them particularly as they belong to the line existing beyond the

76 Headland 1989

77 AGN, Sala VII, Legajo 129, doc. 59

*frontier. ..*⁷⁸

To help finance the venture, he requests a tax exemption and the fishing rights, *inter alia*, around the Falkland Islands.

General Don Juan Ramón Belcarce, Minister of War, issues a *Decree* that same day.

The Government, taking into consideration the great benefit the Country will derive by populating the Island, the ownership of which is solicited, ... the benefit of which would flow to the Inhabitants of the Republic, which hitherto have fallen into the hands of Foreigners, that toward the settling and extension of Territory on the Southern Coasts the settlement on these Islands is a great step; and lastly, that the great expenses required to put into execution a scheme of this nature, can by no means be compensated, but by the ownership of lands, which, if not granted, an opportunity of doing a great national good would be lost, and even the right of Sovereignty over them; doth in conformity to the spirit of the Law of 22nd October, 1821⁷⁹, cede to Mr. Lewis Vernet, Resident and Merchant of this place, ... all the lands of the Island of Soledad, excepting those that were ceded to Don. Jorge Pacheco, by a Decree dated 13th December 1823, and which has been ratified by a Decree of this day; ... with the object, and under the express condition, that, within 3 years of the date hereof, a Colony shall be established, and that at the end of that time the Government shall be informed of its state; in order to determine what it may consider convenient for the .. administration of the same. ..

This Decree is not published in the official *Gazette* and is not circulated amongst the diplomatic community.

Having failed to get any title for Areaguati in 1823, Vernet appears to have had no further sovereign ambitions before 1828, at which time he recognised that any profit was tied to control of the resources around East Falkland. Hence the suggestion to Buenos Aires that they “*take possession,*” clearly suggesting that in his view, they had never done so before.

Buenos Aires recognised the opportunity and gave grants of land on the island of Soledad (only), in exchange for the creation of a colony within 3 years.

In this *Decree*, Buenos Aires clearly acknowledged that there had been no colony there before, mentioning an ‘*extension*’ of territory, and the possibility that the ‘*opportunity*’ of sovereignty might be ‘*lost*’.

The remarkably speedy response questions quite how much thought was put into this decision; indeed whether there was any consultation between Ministers at all. The failure to publicise, or announce, the *Decree* may seem to suggest a lack of confidence by Buenos Aires’ in its right to take these measures; and perhaps some recognition of the advantages of accomplishing a *fait accompli*.

America would certainly take this view, and later claim that the Decree of 1828 had been deliberately kept quiet so that the international community could not object.

Perhaps this is why Vernet decided to hedge his bets by raising two flags over East Falkland; and Parish sought hints about Government activity by keeping an eye on the news reports.

78 PRO FO 6/499

79 A law of fisheries which did not extend to the Falkland Islands.

January 30th, aware of the British claim to sovereignty over all the archipelago, Luis Vernet submits his land grant to the British, requesting official approval. The grant is counter-signed by Vice-Consul Charles Griffiths.⁸⁰

April 23rd, a ship, *Hope*, is wrecked off South Georgia. Captain Brisbane, and part of the crew, sail to the coast of Patagonia in a small boat; across 2,600 miles of rough seas.

May 25th, Emilio Vernet writes in his diary about the 1810 Revolution celebrations on East Falkland; “*At sunrise three cannon shots were fired and the flags of both Great Britain and Buenos Aires were hoisted*”.

The United Provinces default on the Baring Bank loan.

July 31st, Lord Ponsonby transfers to Brazil, leaving Woodbine Parish as the only British representative.

December 1st, General Juan Lavalle takes over the Province of Buenos Aires in a *coup d'état*. Lavalle announces to Parish, and the representatives of France and the USA, his appointment as Provincial Governor but, after consulting, they agree to delay recognition of the new regime.

1829 – unable to enforce his fisheries concession around the island, Vernet approaches the Lavalle Government; “*The depredations of Foreigners on the Coasts still went on and there was no force in the Colony capable of restraining them nor was there any public Officer to protest against them. This state of disorder obliged me to require the Government to adopt some measures.*”

A Buenos Aires newspaper reports the intended establishment of a penal colony in the Falkland Islands.

March 15th, Parish writes to the British Foreign Secretary, Lord Aberdeen; “*In a sentence lately passed upon some Convicts, and signed by the acting Government of Buenos Ayres it was (said) ... that they were to be banished to the Martin Garcia; “until the establishment at the Falkland Isles should be ready for their reception ...*

.. This, and the circumstances of this Government having taken upon itself at various times to grant to individuals privileges to form temporary Settlements in those Islands for the purposes of Sealing and taking the Wild Cattle which are to be found there, induces me to bring the pretensions of this Government to the Sovereignty of those Islands under your Lordships notice, not being aware that His Majesty has ever formally relinquished his ... claims to them, and considering that now that the Commerce of the Pacific is open to the World, they may perhaps be thought of much greater value than formerly, when His Majesty settled his Rights with the Court of Spain...”⁸¹

Vernet also seeks British protection; “*.. he now applied to Great Britain, through their Charge d’Affaires, for the protection of his colonists.*”⁸²

80 Pascoe & Pepper 2008, p.13.

81 *PRO FO 6 499*

82 Shuttleworth 1910 p.359

March 18th, following an announcement of a military force to be made up of all foreigners, the *'Battalion of the Friends of Order'*, Woodbine Parish protests complaining that such an *Order* is in breach of the *Treaty* of 1825. Lavalle is forced to rescind the *Decree*. The French follow suit, and there is an outburst of anti-British sentiment in the Province, whipped up by Rivadavia.

April 20th, Vernet reports to Parish that the Colony on Soledad now consists of; *'10 white inhabitants, 10 seafaring men, mostly English and Americans, 18 Negroes indentured for 10 years, 12 Negro girls, 52 (Negro) Males, a brother and brother-in-law of Mr. Vernet.'* He adds that he is preparing to embark with more settlers; “ .. *eight families including Mr Vernet, and seven single men, Germans. In all 33 individuals.*”

April 25th, after speaking to Vernet, Woodbine Parish informs London; *“I now enclose for your Lordships' information, copies of the Grants which have been made by the Government of Buenos Ayres, of the Isle of Soledad,... I have procured these papers from Mr. Vernet himself, a very intelligent person, who has passed three winters there, and is now returning with several Colonists to be located according to his Agreement with the Government ... he would, I believe, be very happy if His Majesty's Government would take his settlement under their protection ...”*⁸³

May 2nd, Capt. Matthew Brisbane arrives in Buenos Aires, and reports the loss of the *Hope* to the Vice-Consul.

May 15th, a charter is agreed between Matthew Brisbane and Luis Vernet, for the brig *Betsy* to sail first for Port Louis and then Staten Land, after which the vessel is to be taken over by Brisbane in an attempt to rescue the remainder of his crew from South Georgia.

June 10th, the Government of the Province of Buenos Aires announces the -

'Political and Military Command of the Malvinas'

"When by the glorious Revolution of May 25, 1810 these Provinces separated themselves from the Dominion of the Mother Country, Spain held the important possession of the Falkland Islands, ... this Possession was justified by the right of being the first occupant, by the consent of the principal Maritime Powers of Europe and by the proximity of these islands to the Continent that formed the Viceroyalty of Buenos Aires, unto which Government they depended.

For this reason, the Government of the Republic having succeeded to every right which the Mother Country previously exercised over these Provinces, and which its Viceroy possessed, continued to exercise acts of Dominion in the said Islands, its Ports and Coasts, notwithstanding circumstances have hitherto prevented this Republic from paying the attention to that part of the Territory which, from its importance, it demands. Nevertheless, the necessity of no longer delaying such precautionary measures as shall be necessary to secure the rights of the Republic; and at the same time to possess the advantages which the productions of the said Islands may yield, and to afford to the Inhabitants that protection of which they are entitled, the Government has agreed and decreed, as follows:

83 PRO FO 6 499

Article 1. - The Falkland Islands and those adjacent to Cape Horn in the Atlantic Ocean, shall be under the command of a Political and Military Commander, appointed immediately by the Government of the Republic.

Article 2. - The Political and Military Commander shall reside in the Island de la Soledad, on which a Battery shall be erected under the Flag of the Republic.

*Article 3. - The Political and Military Commander shall cause the Laws of the Republic, to be observed by the Inhabitants of the said Islands, and provide for the due performance of the Regulations respecting Seal Fishery on the Coasts. "*⁸⁴

June 13th, this Decree is published in the official Gazette. Luis Vernet is granted the title of 'Civil and Military Commandant of Puerto Luis', but this, in contrast, is not gazetted.

Vernet also requests a warship to assist with fisheries protection. This is not granted, but he is provided with 4 cannon, 50 rifles and ammunition, 20 quintals of iron, a bellows and blacksmithing, carpentry, construction and farming tools.⁸⁵

June 20th, the *Betsy* sails with Luis Vernet, Matthew Brisbane and 38 new English and German settlers, en-route to East Falkland. Vernet's wife, Maria Saez, and children, Emilio, Luisa and Sofia, are also on board.

June 24th, the civil war started by Lavalle's take-over of Buenos Aires comes to an end.

June 26th, Woodbine Parish informs London of the Decree; " ... I forward a copy for your Lordships information, formerly asserting the Rights of the Republic to those Islands. I believe that the steps lately taken by Mr Vernet to increase his Colony, at the Isle of Soledad, have drawn the attention of the Buenos Ayrean Authorities to the subject, and have led to this measure.

But, I do not learn that they at present contemplate taking any further steps in pursuance of their Decree, beyond the conferring upon Mr Vernet himself the Honorary appointment of Political and Military Governor of his own Settlement."

July 9th, in London, Lord Aberdeen requests a legal opinion from Sir Herbert Jenner, the King's advocate-general.

July 10th, the Colonial Office circulates a memorandum setting out the advantages of "resuming possession".

July 15th, Vernet arrives back in the Islands with the resolve to; " ... employ all my resources and avail myself of all my connections in order to undertake a formal colonization which should... lay the foundation of a national Fishery which has been at all times and in all countries the origin and nursery of the Navy and Mercantile Marine...".

July 23rd, Colonial Secretary, Sir George Murray, writes to the British Prime Minister, the Duke of Wellington; "It appears to me that the interval between the cessation of the power of old Spain and the consolidation of that of the new governments in South America would be the best time for our resuming our former possession of the Falkland

84 *British & Foreign State Papers* 1832-1833 p.314/315

85 *Archivo General de la Nación Argentina. Fondo Luis Vernet. Sala VII 2-4-6*

Islands....

I have not spoken with Lord Melville on the subject, but I believe he is very sensible of the importance in the naval point of view of the occupation of those islands."

July 25th, Wellington responds; " *It is not clear to me that we have ever possessed the sovereignty of all these islands. The convention certainly goes no farther than to restore to us Port Egmont, which we abandoned nearly sixty years ago.*

If our right to the Falkland Islands had been undisputed at that time and indisputable, I confess that I should doubt the expediency of now taking possession of them.

We have possession of nearly every valuable post and colony in the world and I confess that I am anxious to avoid to excite the attention and jealousy of other powers ...

But in this case in which our right to possess more than Port [Egmont] is disputed, and at least doubtful, it is very desirable to avoid such acts.

I am at the same time very sensible of the inconvenience which may be felt by this country and of the injury which will be done to us if either the French or Americans should settle upon these islands, the former in virtue of any claim from former occupancy, the latter or both from any claim derived by purchase or cession from the government of Buenos Ayres.

That which I would recommend is that the government of Buenos [Ayres] should be very quietly but very distinctly informed that His Majesty has claims upon Falklands Islands and that His Majesty will not allow of any settlement upon, or any cession to, individuals or foreign nations of these islands by Buenos Ayres, which shall be inconsistent with the King's acknowledged right of sovereignty..."

July 28th, Herbert Jenner's legal opinion is given; " *the symbols of property and possession which were left upon the islands sufficiently denote the intention of the British Government to retain those rights which they previously acquired."*

August 8th, Aberdeen sends instructions to Parish to inform the Government in Buenos Aires that the British claim should not be treated with indifference;

" It appears that the Republic, attempting to execute the full rights of sovereignty over these Islands, has made grants of land, and has conferred exclusive privileges upon certain individuals ..

These acts have been done without deference to the validity of the claims which His Majesty has constantly asserted to the sovereignty of the Falklands; and it is therefore essential that the proceedings of the Republican Government should not be permitted to injure the rights of His Majesty,... which were founded upon the original discovery and subsequent occupation of the islands ... it cannot be ... that the abandonment of this (settlement) in the Year 1774 by the British Government is in any degree to be considered as ... to invalidate His Majesty's just pretensions. ... the symbols of possession and property were left ... the British flag remained flying; and all those formalities were addressed which indicated the rights of ownership ... the intention to assume the occupation of the territory at a more convenient season."

August 30th, on Soledad, Vernet proclaims his Governorship, announcing the " *the formal act of dominion on behalf on the Republic of Buenos Aires on these Falkland*

*Islands of Tierra del Fuego and its adjacent and other territories.*⁸⁶

Luis Vernet circulates a message to those whalers and sealers anchored around the Islands informing them of his newly granted authority. Puerto Soledad reverts to being called Puerto Louis.

September 17th, Lord Aberdeen informs Parish that his dispatches have been laid before the King; *“Having ... fully explained to you the opinion of HM Government as to the rights of the Crown of Great Britain with regard to those Islands, I have now only to instruct you to address a note to the Buenos Ayrean Minister ... protesting formally in the name of His Majesty against the terms of the above mentioned Decree, as infringing these just rights of sovereignty over the Falkland Islands which His Majesty has never relinquished ..”*

November 14th, Parish receives Lord Aberdeen's instructions.

November 19th, Woodbine Parish presents an Official Note to the Foreign Minister, General Guido; *“The undersigned ... has the honour to inform H.E. General Guido the Minister encharged with the Department of Foreign Affairs that he has communicated to his Court the official document signed by General Rodriguez and Don Salvador Maria del Carril, in the name of the Government of Buenos Ayres, and published on the 10th of June last, containing certain Provisions for the Government of the Falkland Islands.*

The undersigned has received the orders of his Court to represent to H.E. General Guido that in issuing this decree, an authority has been assumed incompatible with His Britannic Majesty's rights of sovereignty over the Falkland Islands. These rights, founded upon the original discovery and subsequent occupation of the said islands, acquired an additional sanction from the restoration, by His Catholic Majesty, of the British settlement, in the year 1771, which, in the preceding year, had been attacked and occupied by a Spanish force, and which act of violence had led to much angry discussion between the Governments of the two countries.

The withdrawal of His Majesty's forces from these islands, in the year 1774, cannot be considered as invalidating His Majesty's just rights. That measure took place in pursuance of a system of retrenchment, adopted at that time by His Britannic Majesty's Government. But the marks and signals of possession and property were left upon the islands. When the Governor took his departure, the British flag remained flying, and all those formalities were observed which indicated the rights of ownership, as well as an intention to resume the occupation of that territory, at a more convenient season.

The undersigned, therefore, in execution of the Instructions of his Court, formally protests, in the name of His Britannic Majesty, against the pretensions set up on the part of the Argentine Republick, in the decree of 10th June, above referred to, and against all acts which have been, or may hereafter be done, to the prejudice of the just rights of sovereignty which have heretofore been exercised by the Crown of Great Britain.”

November 25th, the Minister for Foreign Affairs, Tomas Guido, acknowledges receipt of the British protest; *“ ... The Government intends to give an attentive consideration to the Note of Mr. Parish and the Undersigned will be happy to communicate to him its*

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*Resolution, as soon as he shall receive orders to do so.*⁸⁷

December 8th, Juan Manuel de Rosas is elected Governor and Captain-General of the Province of Buenos Aires. His first act is to declare all the *Decrees* of his predecessor, '*null and void*'.

As a result of Rosas' declaration that all of the *Decrees* of the illegal Lavalle government were '*null and void*', the *Decree* announcing the '*Political and Military Command of the Malvinas*' of June 1829 was technically wiped from the record; of no effect.

Vernet acknowledged that this had been the; “.. *formal act of dominion on behalf on the Republic of Buenos Aires..*,” which suggests that he did not see the *Decree* of 1828 in that light.

What is most important, is that Buenos Aires' first official and public attempt at staking a claim to the sovereignty of East Falkland was immediately (within the speeds available at the time) protested by the British Government.

Wellington may have had a doubt, but it was quickly dispelled by his legal advisors, and presumably his King.

With all the sides now clearly aware of the other's pretensions we have reached what is known as the '*critical date*'. That point in which, in sovereignty disputes, any further acts must be seen to be coloured by the knowledge that others are after the same chunk of real estate.

1830 – February 5th, a daughter is born to Luis Vernet and his wife at Port Louis.

In **October**, Luis Vernet places an advertisement in two Buenos Aires newspapers, the *La Gaceta Mercantile* and the *British Packet and Argentine News*, giving a warning; “*The undersigned, Governor of the Falkland Islands, ..., doth hereby, in compliance passed by the Government of Buenos Ayres on the 10th June, 1829, to watch over the execution of the laws respecting the Fisheries ... inform you; that the transgression of these laws will not as heretofore, remain unnoticed.*”

The undersigned flatters himself that this timely notice which he gives to all Masters of vessels engaged in the Fisheries on any part of the coasts under his jurisdiction, will induce them to desist since a repetition will expose them to become a lawful prize to any vessel of war belonging to the Republic, or to any vessel which the undersigned may think proper to arm in use of his authority, for executing the laws of the Republic.

The undersigned further warns persons against the practice of shooting cattle on East Falkland Island, the same being private property, and however innocent the act may be in those that are not aware of this circumstance, it becomes of course highly criminal in those who wilfully persist in such acts, and renders them liable to the rigour of the laws ...

On the other hand those who are in want of provision or refreshments, can receive them on moderate terms, by applying at the new colony at the head of Berkeley Sound, where

⁸⁷ *British and Foreign State Papers 1832 – 1833 p. 346.* No answer was ever received.

no port charges are to be paid, desertion of men discouraged, and any assistance rendered to those that may stand in need of it,....

November 20th, Woodbine Parish writes to London to inform them of Vernet's newspaper notice; “ ... *I enclose a copy of an article lately published in one of the papers of this city upon the arrival of a vessel from Mr Vernet's settlement in the Falkland Island. The Captain Brisbane who is stated to give the account in question, is the person who was formerly with Mr Weddell in his voyage to South Georgia. He has since appreciated himself with Mr Vernet in his speculation in the Falklands.*

Upon seeing the notice signed by Vernet, I thought it right to send for this person, and to acquaint him with the protest I had been instructed to enter here against the decree of the Buenos Ayres Government of June 1829, ...

I communicated the tenor of it ..., a warning against his interfering with any of His Majesty's Subjects frequenting those coasts. Mr Brisbane promised me he would take care that my caution should be attended to ..

I thought it better to take this course than to make any further official representation to the Government upon this subject, being satisfied that neither Mr Vernet or Brisbane require orders from the authorities at Buenos Ayres to attend to my advice and caution.

Since my protest in December last the Minister has taken no further notice of this subject, ...

... Mr Vernet's expectations continue to be realised, and that he has found both the climate and soil as good as he could desire. He has ... confined himself to Soledad, the old Spanish settlement where the remains of the buildings originally erected by Mr de Bougainville in the year 1764 still exist.”

1831 – February 10th, Secretary Van Burren writes to John M. Forbes, the US *chargé d'affaires* in Buenos Aires on the subject of the *Decree* of 1829 which has been reported in American newspapers, and is the subject of a complaint to the House of Representatives; “ ... *It appears from the decree, that the Government of Buenos Ayres asserts a claim to the Falkland Islands, and all others near Cape Horn, including that of Terra del Fuego, upon the grounds that they were formerly occupied by Spanish Subjects, were incorporated in the Vice Royalty of Rio de la Plata, under the Spanish Monarchy, and that the said government succeeded to all the rights of that Vice Royalty, as a necessary consequence of the Revolution of 25th May 1810, which rendered it independent of that Monarchy.*

The decree accordingly provides for the civil and military government of the said Islands, by officers to be appointed by the Buenos Ayrean Government, fixes the residence of the officers to be so appointed on the Island of Soledad, and invests them with authority to see to the execution of the regulations concerning the Fisheries upon the coasts of these islands, without defining the character or nature of those regulations.

The principal object of the circular letter of Governor Vernet which is stated by Mr. Trumbull to have been communicated to the captains of American vessels, four or five in number, lately in the region, is evidently intended as a warning to those captain's and others engaged in the whale and seal fisheries there, to desist from the use of those fisheries though they have heretofore always been considered as entirely free to that of all nations whatever and as the exclusive property of none...

In the mean time, it is moreover the wish of the President, that you should address an earnest remonstrance to that Government against any measures that may have been adopted by it, including the decrees & circular letter referred to, if they be genuine, which are calculated in the remotest degree to impose any restraints whatever upon the enterprise of our citizens, engaged in the fisheries in question, or to impair their undoubted right to the freest use of them.

The Government of Buenos Ayres can certainly deduce no good title to these Islands, to which those fisheries are appurtenant, from any fact connected with their history, in reference to the first discovery, occupancy, or exclusive possession of them by subjects of Spain."

June 14th, John Forbes, dies in post, without completing his instructions. George Slacum, the American Consul, without any specific instruction or authorisation to do so, takes over the care of US interests at the legation whilst awaiting a replacement for Forbes.

July 30th, Vernet seizes an American sealer, the *Harriet*, and imprisons its Captain, Gilbert Davison, and his crew, on a charge of illegal sealing.

August 17th, Capt. Don Carew and the *Breakwater* are seized on similar charges.⁸⁸

August 19th, Capt. Stephen Congar and the *Superior* are also taken and accused of 'illegal hunting'; "*.. those 3 vessels continued the same traffic, and were consequently detained, together with every thing belonging to them, to be arraigned before the competent Tribunal; which voluntary violation has been confessed and admitted by the Captains of the Harriet and Superior, ..*"

September 8th, a contract is signed between Captains Davison and Congar, and Vernet, allowing one of them to go sealing on the west coast of South America, on Vernet's behalf, whilst the other ship, and its Captain, sails to Buenos Aires to be tried for the offences that are alleged. Vernet selects the *Superior* and Capt. Congar to go sealing.

In **October**, Stephen Henry Fox, Ponsonby's replacement as Minister, finally arrives in Buenos Aires.

October 22nd, the *Thomas Lawrie* arrives at Berkley Sound. The settlement is described by one of its passengers, who spends an evening with Luis Vernet and inspects the colony the following day; "*The buildings (except some dry grass huts) were all originally constructed by the Spaniards; they are remarkable for their extremely thick walls (of stone,) some being three feet in solidity. They are very straggling, covering a space of half a mile in length, and a quarter of a mile in breadth.*

There are the remains of a building, formerly used as a cathedral, (now uninhabited and in ruins,) a hospital, a general store warehouse, a large oven (in which at present resides a family of five people,) a parade-ground, trenches, several small forts, and the remains of a very thick, straight, stone bridge, lying quite in ruins, in the erection of which, report said, the Spaniards expended twenty-five thousand dollars, the stream which it crossed being, even in rainy weather, never too deep to pass over it by the help of common

⁸⁸ The *Breakwater* managed to escape after Capt. Carew and three of his men over-powered the guards. Capt. Carew remained on the Islands with 4 of his crew and was eventually put on a British ship, *Elbe*, and taken to Rio de Janeiro.

stepping-stones....

Don Vernet's domestic establishment consisted of about fifteen slaves, bought by him from the Buenos Ayrean government, on the condition of learning them some useful employment, and having their services for a certain number of years, after which, by the provisions of the Slave Trade Act, they were free. They seemed generally to be from fifteen to twenty years of age, and appeared quite contented and happy.

The number of persons altogether on the island consisted of about one hundred, including twenty-five gauchos and five charruas, Indians. There are a few Dutch families, the women of which milk the cows, and make the butter. Two or three Englishmen, a German family, and the remainder made up of Spaniards and Portuguese, pretending to follow some trade, but doing little or nothing. The gauchos are chiefly Spaniards: their captain or "the Chief of the Gauchos" is a Frenchman. ...

The five Indians are very powerfully made men, from the country to the north of the Monte Video side of the river La Plate. Being at war with a neighbouring nation in amity with the Buenos Ayrean government, they were made prisoners and sent to Buenos Ayres. Don Vernet seeing them there, applied to the government for them as gauchos, who gave them the option of remaining in prison, or going to the Falkland Islands, which latter alternative they chose."⁸⁹

October 29th, in a written answer to an inquiry, an unnamed US Secretary of State says; "Measures were taken by my predecessor to ascertain on what foundation the claim of jurisdiction to these islands rested; but the sickness and death of Mr. Forbes, our charge d'affaires at Buenos Ayres, had for a time interrupted the investigation. Our right of fishery, however, in those seas, is one that the government considers indisputable, ..."

November 7th, Vernet leaves the Islands aboard the *Harriet*, with Capt. Davison, intent on prosecuting the Americans for their 'illegal' acts. Vernet also takes a number of trustworthy settlers to ensure the vessel reaches its destination. Matthew Brisbane is authorized by Vernet to act as his private agent, and to look after his property while he is away.

November 14th, Ethan Brown, charge d'affaires to Brazil, writes to US Secretary of State, Edward Livingston; " Sir, I have the honor of enclosing to you a paper, handed to me by Mr. Wright, our consul, relating to the seizure of three vessels at the Falkland Islands by the writer of the same; who,..... styles himself Military and Civil Governor of these Islands and the Adjacencies under the authority of Buenos Ayres.

Among the papers shewn to me ... there is one, printed, purporting to be a decree of that Government, for establishing its authority in those Islands etc; and carrying into effect the Regulations in regard to the fishery.

To which is added the said Governor's proclamation, warning masters of vessels not to trespass. this is the first, and the only, information I have had of the aforesaid occupation and establishment at the Falkland Islands. You Sir! will see what authenticity it has. It is certain, however, that this Lewis Vernet has seized these vessels, on accusation of having infringed these pretended Regulations. One vessel, it seems, escaped and the other two are expected to take their trial at Buenos Ayres; ... "

⁸⁹ *The United Services Journal and Naval and Military Magazine* 1832 part III, republished in *The Museum of Foreign Literature, Science and Art* Eliakim Littell 1833 vol.22

November 20th, the *Harriet* arrives at Buenos Aires.

November 21st, Consul George Slacum, demands an explanation. He sends the sworn testimony of Gilbert Davison to the American Minister at Rio de Janeiro, and also to Washington.

The *USS Lexington*, under the command of Captain Silas Duncan, leaves Rio de Janeiro station with instructions to investigate and, if necessary, offer protection to US citizens.

November 26th, following an uninformative response from Minister Tomas Manuel de Anchorena, Slacum formally protests; *"This unexpected reply from His Excellency the Minister can not be viewed .. in any other light than as a virtual avowal on the part of this Government of the right of Mr. Lewis Vernet to capture and detain American vessels engaged in the fisheries at the Falkland Islands, and the islands and coasts about Cape Horn. It, therefore, only remains .. to deny, in toto, any such right, as having been, or being now vested in the Government of Buenos Ayres, or in any person or persons acting under its authority; and to add his most urgent remonstrance against all measures which may have been adopted ... including the Decree issued on the 10th June 1829, asserting a claim to the before-mentioned islands and Coasts and the fisheries appurtenant thereto..."*.

November 29th, the *Lexington* arrives at the Rio de la Plata.

December 1st, Duncan informs Consul Slacum; *"I consider it to be my duty to proceed thither with the force under my Command for the protection of the Citizens and Commerce of the United States, engaged in the Fisheries in question, ... I also learn that in consequence of these Captures, Seven Americans have been abandoned upon the Island of Staten land without the means of subsistence..."*⁹⁰

December 3rd, Anchorena replies, questioning Slacum's authority to make any formal protest and adding; *".. it is an indubitable fact that the Government of the United States possesses no right to the afore-mentioned Islands or Coasts, nor to the fisheries thereon, whilst that vested in this Republic is unquestionable .."*

Immediately, Slacum informs the Buenos Aires Foreign Ministry of Captain Duncan's intention to sail to the Islands in the *Lexington*; however the Consul persuades Capt. Duncan to delay his departure until the 9th.

December 6th, the US President, Andrew Jackson, makes reference to the dispute in his annual *State of the Union* address: *" ... I should have placed Buenos Ayres in the list of South American powers in respect to which nothing of importance affecting us was to be communicated but for occurrences which have lately taken place at the Falkland Islands, in which the name of that Republic has been used to cover with a show of authority acts injurious to our commerce and to the property and liberty of our fellow citizens. In the course of the present year one of our vessels, engaged in the pursuit of a trade which we have always enjoyed without molestation, has been captured by a band acting, as they pretend, under the authority of the Government of Buenos Ayres.*

I have therefore given orders for the dispatch of an armed vessel to join our squadron in

90 It was common for small groups of sealers to be left at different locations and to be collected some time later.

those seas and aid in affording all lawful protection to our trade which shall be necessary, and shall without delay send a minister to inquire into the nature of the circumstances and also of the claim, if any, that is set up by that Government to those islands. ..."

December 7th, Silas Duncan demands that Vernet, "*... having been guilty of piracy and robbery, be delivered up to The United States to be tried or that he be arrested, and punished by the Laws of Buenos Ayres.*"⁹¹

Capt. Davison abandons his trial, and joins Duncan's crew.

December 9th, George Slacum writes to Edward Livingston in Washington; "*Doubtless our Government are well aware that the Government of Buenos Ayres has no legitimate right to the Islands and Coasts in question, and it would be presumption in me to offer any elucidation of the matter.*

I will however remark that I have been informed by the British Consul General that England has never abandoned or given up her right to them, and that at the time of the publication in this place of the Circular letter &c of Vernet he made a proper Communication upon the subject to this Government, hence, the observation of Vernet in the supplement that - "he could not take English Vessels with the same propriety he could American."

..... within a few hours Captain Duncan will proceed to the Falkland Islands to protect our Commerce and Citizens, .. the leader .. Mr. Lewis Vernet is a German, and not long since a bankrupt, .. He received his Authority under the Decree 10th June 1829. during the few months of the Revolutionary Government of General Lavalle Rodriguez ..."

At midday the *Lexington* weighs anchor and sails for the Falkland Islands.

During the afternoon, Minister Anchorena complains that the Consul should not; "*... interpose himself before the Government of this Province in a private contentious affair, in which there are parties who can exercise their rights, either by themselves or through their Agents ... the Government not recognising in him any right to interfere in affairs of this nature. ...*

.. if the Commander of the Lexington, or any other person ... should commit any act, or take any steps tending to set at naught the right which this Republic possesses to the Malvinas, and other Islands and Coasts adjacent to Cape Horn ... the Government of this province ... will use every means which it may deem expedient to assert its rights and cause them to be respected; .."

December 13th, Minister Fox presents his credentials to General Rosas, freeing Woodbine Parish of his responsibilities.

December 14th, Woodbine Parish sends his last letter to London, from Buenos Aires; "*Mr Fox will doubtfully inform your Lordship fully of the circumstances attending the late seizure of three North American Sealers by the Chief of the Buenos Ayrean settlement at Port Soledad in the Falkland Islands, and of the formal Protest which has been presented in consequence by the Consul of the United States here against these Acts, and*

⁹¹ *Commander Duncan to the Buenos Ayres Minister, United States Ship Lexington off Buenos Ayres, River Plate, 7th Demember, 1831 in British & Foreign State Papers 1832 – 1833.*

against any pretensions set up by the Government of Buenos Ayres to appropriate to their own exclusive use the fisheries on those coasts.

It appears that English as well as American vessels have been sealing in the same places, but the warning which I sent to Mr Vernet (as stated to your Lordship in my dispatch No.34 of last year) has saved them from similar consequences:-

It is however no small aggravation in the eyes of the North Americans, that they should have been suffered to continue to do those Acts with impunity, which have led to the seizure of North American vessels, and to the ill treatment of their crews.

The United States Corvette "Lexington" has sailed from this river for Port Soledad, and it is reported that the "Warren" Frigate has also put to sea from Rio de Janeiro with the same destination, and avowedly to protect in the most effectual manner North American vessels from any further interruption whatever...⁹²

In December 15th, Slacum writes, " ... This Protest is rejected by His Excellency the Minister, and if the Undersigned is not charged with having transcended the line of his duty, he is counselled to confine himself within it. But what are the facts that called for a Protest? Have not 3 American Vessels, while engaged in a lawful Trade been captured, and their Cargoes forcibly and illegally taken out of them, and immediately appropriated to the use of the Captors; have not their Officers and Crews, American Citizens, been violently arrested and imprisoned ...

.. and has not this been done without any previous official notice having been given that (Buenos Aires) had set up claims of sovereignty and exclusive jurisdiction to the Islands and Fisheries in question?"

December 20th, Consul Slacum writes to Washington; " You will perceive, Sir, that this Government did not reply to the just and amicable propositions made by Captain Duncan, of the Lexington, until several hours after his departure; although he remained at anchor 'till 12 O'clock, meridian, of the 9th, and sailed from immediately in front of the Government House. The reply, however, of the Minister for Foreign Affairs could not have altered the intentions of the Commander of the Lexington, had he received it; as it not only does not accede to his propositions, but denies him the right to have made them. ...

According to the decision of this Government, neither the Commander of a U. S. vessel of War nor the Consul of the United States will be heard in defence of the most aggravated attack upon the privileges of their nation and the interests of its citizens. ..

I have had a conversation with the British Minister Mr. Fox, and Mr. Parish, the Consul General, and have seen and read the formal Protest made by the latter, acting as Charge d' Affaires, upon instructions sent out by his Government, at the time of the Decree of 10th July 1829.

In that Protest, which was drawn up in London, England asserts her ancient, but dormant, right to the Falkland Islands, which were abandoned by her in 1774, leaving at the time, says the Protest, all the usual emblems of Sovereignty. No answer was given to the Protest by this Government except an acknowledgment of the receipt of it.

92 PRO FO 6 499

The Government of this Province has not the means to establish or to regulate any sort of authority over them, there is not, nor has there been, as far as I can learn, any military establishment belonging to this Province on the Islands; and Mr. Vernet, who, I am informed, has received a sort of grant of them for a term of years, is nothing more than a private adventurer, associated with others here, ... for the purpose of monopolising the seal fisheries ; and it is worthy of remark, that in the correspondence with me he is only once styled "Commandant of the Falkland Islands."

I have never seen any decree of this Government giving him that title. "

December 31st, Silas Duncan in the *USS Lexington* arrives at Port Louis and 'arrests' seven of Vernet's settlers, including Matthew Brisbane. The storehouse is opened and the seal skins seized by Vernet taken aboard the *Lexington*.

Capt. Davison is put aboard a schooner found being outfitted as a fisheries protection vessel, and sent to Staten Land for the men left abandoned there.

1832 – January, Secretary Livingston, requests Ambassador Van Ness in Madrid, to make inquiries with the Spanish Court about the sovereignty of the Falkland Islands.⁹³

January 3rd, Francis Baylies is appointed American *chargé d'affaires* to Buenos Aires, and ordered to depart on the *Peacock* from Boston. His instructions from Edward Livingston are explicit and leave little room for manoeuvre.

February 2nd, Woodbine parish arrives in Montevideo to find the *Lexington* there. He sends Capt. Graham of *HMS Rattlesnake*, to find out what has happened; "He found nearly all the colonists on board; eight of them as prisoners, the rest of their own accord having requested to be conveyed to Monte Video upon the capture of their companions. The prisoners are the parties who were most active in the detention of the North American Vessels by Mr Vernet's orders; the principal person is Brisbane the Englishman whom I have before had occasion to mention in my Dispatches upon the subject of these Islands. ... and the Commander tells Graham that he intends to send them to the United States for trial as pirates; this charge I apprehend, cannot be maintained, acting as they appear to have done under an authority from the Government of Buenos Ayres.

*I have taken upon myself to write a letter in favor of Mr Brisbane to Mr Slacum .. and to say to him that he is a person who has always conducted himself very properly as far as I know, and that I trust his previous good character ..."*⁹⁴

February 3rd, Commander Duncan reports; "In conformity to my instructions I proceeded to Berkley Sounds, East Falkland, in order to ascertain the facts ... Upon my arrival .. I investigated the matters in question and finding them to be of the most inquisitous and illegal character, I determined to break up and disperse the band of pirates ... under the direction of Louis Vernet and Matthew Brisbane.

I have confined the individuals engaged in these transactions, who could be identified, and have besides brought off the whole of the population consisting of about forty persons, with the exception of some Gauchos or Horsemen who were encamped in the

⁹³ It has been suggested that the result of this inquiry supported the subsequent British position. cf. *The Struggle for the Falklands* W. M. Reisman 1983.

⁹⁴ *Woodbine Parish to Viscount Palmerston February 3rd, 1832 PRO FO 6/ 499*

interior.... in taking this step I have consulted their own wishes, and they have embarked on board the Lexington by general consent; they say they have been deceived by Vernet and others ...

I have now on board as prisoners seven individuals who are charged with illegally capturing and plundering the Schooner Harriet..

I found a Schooner lying in Berkley Sound intended there is no doubt, to have been fitted out to suppress our fisheries in the Southern Ocean... I put on board of her Gilbert R. Davison .. and directed her to proceed to the Island of Staten land for the relief of Seven American Seamen who had been left there without the means of subsistence ..

I found some guns lying near to the beach which I suppose were intended to have been put on board the Schooner ..

The guns have been rendered useless for any hostile purposes ..”

February 8th, a letter from Luis Vernet is published in *La Gazeta Mercantil* outlining his view of events.⁹⁵

February 11th, the *British Packet & Argentine News* also publishes an account. The political weekly refers to the archipelago as the '*Falkland Islands*'. Commander Duncan, in a note addressed to the Minister of Foreign Affairs via George Slacum, offers to release the *Lexington's* prisoners on an assurance that they acted under the authority of the Government of Buenos Aires.

February 14th, Manuel Garcia, the new Minister of Foreign Relations, cuts all contact with George Slacum.

A Proclamation is issued, signed by Juan Ramon Balcarce and Manuel J. Garcia:

The Delegate Government of the Province to the People'

" The official details collected by the Government, have confirmed the truth of the scandalous acts, stated to have been committed in the Malvinas. The Commander of the United States' ship Lexington, has invaded, in a time of the most profound peace, that, our infant Colony; destroyed with rancorous fury the public property, and carried off the effects legally deposited there at the disposal of our Magistrates. The Colonists being unexpectedly assaulted under a Friendly Flag, some of them fled to the interior of the island; and others violently torn from their homes, or deluded by deceitful artifices, have been brought away and cast clandestinely upon the shores of the Oriental State which now extends to them a generous hospitality; while others, natives and fellow Countrymen of ours, are conducted as Prisoners to the United States, for the ostensible purpose of being tried there. The unanimous burst of indignation which this outrage has produced in you, is fully justified; and the same feeling will doubtless be evinced by men of honor in every part of the World, when they hear of this transaction

But, Citizens, it is as impossible that the Government of Washington should approve of such aggressions, as that your Government should tolerate them in silence. The former,

⁹⁵ *Malvinas in the Argentine Press: from the creation of the Political Military Commandery to the USS Lexington* Tomas Giudici in *The Question of Malvinas and the Bicentennial* Agustín M. Romero (ed.) Buenos Aires: "Malvinas Parliamentary Observatory Committee", Honorable House of Deputies of the Nation. 2011

acting up to the principles of moderation and justice which characterize it, will doubtless give satisfaction correspondent to the dignity of the two Republics. In the mean time, be assured that, whatever may be the issue of these unpleasant occurrences, your Government will maintain the inviolability of the Persons and Property of North American Citizens, with the same firmness as it will support its own rights, and in no case will stain itself with an ignoble reprisal of innocent men, who are under the safeguard of the national honor."

On the same day, Livingston sends further instructions to Francis Baylies;

"... the United States' sloop of war Lexington, Captain Duncan, put into Buenos Ayres, and after waiting some days for the answer of that Government, sailed, as we understand by advices from Montevideo, to the Falklands with the purpose (avowed to the Government of Buenos Ayres,) of protecting our commerce, and disarming the band whom Vernet had left with orders to seize all Americans who might be found there.

Should this purpose be executed, you are to justify it not only on the general grounds in your instructions, but on the further facts disclosed in the protest of the Captain of the Harriet, which show the lawless, and indeed piratical, proceedings of Vernet and his band ...

These facts, which are clearly stated in the protests, and the further characteristic of his settlement, that it is composed of deserters from our ships, and renegades from all nations, governed by no laws but the will of Vernet, show clearly that it is an establishment, dangerous to our commerce, which it is necessary in self-defence that we should break up...⁹⁶

February 15th, Commander Duncan's offer to release his prisoners is forwarded to the Foreign Ministry by George Slacum. Consul Slacum indicates that the *Lexington* is due to sail for Rio de Janeiro on the 16th.

On the same day, Minister Manuel Garcia responds; *"The Undersigned, Minister of Foreign Relations, ... begs to state that Mr. Vernet was appointed Military and Political Commandant of the Malvinas, in virtue of the Decree of the 10th of June, 1829, published on the 13th of the same month; ..."*

Silus Duncan has already sailed.

February 21st, *El Lucero* calls for a forceful reaction from the Government in Buenos Aires, and *La Gazeta Mercantil* reports the withdrawal of Consul Slacum's exequatur.

February 25th, Consul Slacum informs Washington that; *"... the measure of insult and indignity offered by this Government to my own is now complete; the Consulate of the United States no longer exists."*

April 3rd, Livingston writes to Baylies; *"The Department has received intelligence which will have met you on your arrival at Buenos Ayres, of what was done by Captain Duncan at the Falkland Islands. It is proper you should, as soon as possible, know that the President has signified to Captain Duncan that he entirely approves of his conduct ...*

96 *Diplomatic Correspondence of the United States Latin American Affairs 1831 – 1860* W. R. Manning vol.1 1932

The nature of the establishment, without any legal organization, and its population composed of deserters from all nations, and the inability, or neglect, of the country, (whose citizens they claimed to be,) to restrain their excesses, made it proper and necessary to break it up, and deprive it of the means of annoying our commerce.“

April 24th, the *USS Warren* delivers those arrested by Commander Duncan to Buenos Aires, including Brisbane.

June 5th, Francis Baylies, finally arrives in Buenos Aires.

June 12th, Baylies announces himself to the Foreign Minister, Don Vicente Lopez, who promptly resigns.

June 15th, *La Gazeta Mercantil* reports that Baylies is now recognised by the Government, following the presentation of his credentials to Don Manuel Vincente de Maza, who is acting as Foreign Affairs Minister.

June 20th, Baylies sends a long letter of protest to Argentina's Foreign Minister accusing Vernet, *inter alia*, of interfering in the pursuit of lawful commerce and business by American citizens; unlawful arrest and detention; the seizure and sale of private property without lawful process; forcing American citizens into slavery under a forcibly imposed contract; and the abandonment of seamen on a desolate island.

Baylies also accuses the Government in Buenos Aires of deliberately choosing a time when there was no senior US diplomat available in the city to deal with the matter, and of singling out the United States for attack; “.. *a project was in contemplation involving the destruction of one of the most important and valuable national interests of the United States – the whale fishery – for he (Vernet) declared to Captain Davison, that it was his determination to capture all American ships, as well as those engaged in catching seals, upon the arrival of an armed schooner, for which he had contracted ...*

... another declaration of the governor, from which an inference is fairly to be deduced, that the citizens of the United States were to be selected as the special victims of his power, while the vessels and seamen of other nations were to be unmolested, inasmuch as when he was told that the crew of the Adeona, a British vessel, had taken many seals on the islands, and even some on the Volunteer Rocks, at the mouth of the sound on which his establishment was placed, his reply was, “that he could not take an English vessel with the same propriety that he could an American.”

June 25th, Don de Maza, acknowledges the protest and requires Luis Vernet to make a report of his actions. The Minister informs Baylies of the action that he has initiated.

June 26th, Baylies responds; “... *His excellency has also been pleased to inform the Undersigned that explanations would be asked of Don Luis Vernet; the Undersigned will take the liberty to say, that as to the substantive matter of the complaint no further explanations are necessary, inasmuch as Don Luis Vernet has admitted, in the public newspapers of this city, under his own signature, that he has captured American Vessels, which admissions cannot be unknown ...*

.. the Government of the United States not only deny any right in the said Vernet to capture, or detain, the property or the Persons of their Citizens engaged in Fishing at the

Falkland Islands, ...but also any right or authority in the Government of Buenos Aires so to do."

June 30th, Baylies informs Washington; "You will doubtless perceive the object of the provisional Minister of foreign affairs in his reply to my communication of the 20th which is to evade the main question, ..."

July 4th, Henry Fox writes to Baylies; "... I consider it to be my duty, as His Britannick Majesty's Representative in this Republick, and in order that no prejudice may be done to the rights of my Sovereign, to acquaint you, officially, with His Britannick Majesty's Rights of Sovereignty over the Falkland Islands; and with the steps which were taken at the proper time, by his Majesty's Government, to assert these rights and prevent them from being infringed upon.

With this view, I have the honor herewith to communicate to you an authentic copy of the Protest, which, by order of his Britannick Majesty, was presented by the British Charge d'Affaires to the Government of this Republick on the 19th of November 1829, against a decree that had been issued by the Authorities of the Province of Buenos Ayres on the 10th of June 1829 containing certain provisions for the Government of the Falkland Islands incompatible with the just Rights of the Crown of Great Britain..."

July 6th, *La Gazeta Mercantil* reports an American newspaper, the *Courier & Enquirer of New York*, as publishing an article legitimising the actions of the *USS Lexington* due to America having rights based on Britain's shared right with Spain to the Islands. The editorial in *La Gazeta* says that such is, 'unthinkable, insolent and absurd'. This article goes on to claim that 17 American vessels were warned away from the Islands in 1793 and that Britain had no rights due to the 1790 *Nootka Sound Convention*.

July 10th, Baylies, impatiently writes again to the Foreign Minister; "The undersigned ..., has received no answer to the enquiry which he had the honour to submit to him in his communication of the 26th .. It appeared to the Undersigned that no deliberation was necessary ... and therefore he expressed the hope that the reply might be speedy ...

Great Britain voluntarily abandoned these distant Dominions, taking every possible precaution, when she did so, to give evidence to the World, that, though she abandoned, she did not relinquish them. ... the lapse of time cannot prevent her from resuming possession, ... that she persists in her claim, is evident ...

But, if it be hypothetically admitted that the full and entire right of sovereignty was possessed by Spain - has Spain renounced it?

Has Spain ever, by any acknowledgment whatever, yielded the rights which she once possessed?

Has Spain, as yet, relinquished by any formal Act or acknowledgment any part of her claim to supreme dominion over these islands?

If the rights of Spain are dormant they are not extinct; ..."

The Foreign Ministry urges patience, and on the same day, an editorial in *La Gazeta Mercantil* claims that the United States Government had recognised the independence of the United Provinces and that the recognition had been accompanied by a map clearly

showing the Falklands as part of the territory.⁹⁷

July 24th, Baylies, previously empowered to negotiate a commercial Treaty with Buenos Aires, writes to Livingston opposing any agreement; “... for we should abide by it, and they would consider the violation of a treaty no greater offence than a lie told by schoolboy. With the Bey of Tripoli or the Emperor of Morocco we might for a time maintain unviolated the provisions of a Treaty but with these people if a temporary advantage could be gained they would violate a treaty on the day of its ratification.”

He adds a post script; “It has been currently reported for a fortnight that the *Sarandi*, a small vessel of war mounting 6 or 8 Guns was fitting .. This morning the report has assumed a new shape and it is now confidently said that she is to proceed to the Falklands for the purpose of resuming possession and capturing American vessels.”

August 8th, in an attempt to go over Baylies' 'head', the Argentine Foreign Minister writes to Edward Livingston in Washington about the affair.

August 10th, Luis Vernet submits his report to Argentina's Foreign Ministry; dealing with the charges levelled by the American *chargé d'affaires* in considerable detail.⁹⁸

August 14th, Argentina's Foreign Ministry finally send their answer to Baylies; “Mr. Luis Vernet, Political and Military Commandant of the Malvinas Islands, having rendered the Report that the Government required from him (an authorized Copy whereof is hereby transmitted,) relative to certain charges and complaints ...

All irregularity, injustice, insult and violence have therefore been on the part of Messrs. Slacum and Duncan but the more especially on that of the latter, for having carried to the last extremity his grossness and ferocity, destroying with unspeakable inhumanity and perfidy the Colony of Malvina Islands. ...

In the presence of such evident and scandalous aggressions, which do not admit of doubt or denial, it becomes the duty of the Government of this Province, ..., to demand, before all things, from the Government of the United States of America the most prompt and ample satisfaction for such outrages, and full redress and reparation to the Argentine Republic, to Commandant Vernet, and to the Colonists under his jurisdiction in the Malvina Islands, for all the damages and losses of whatever nature they may be, which they have suffered and are suffering in consequence of the aggressions committed by Captain Duncan ... ”

August 18th, Francis Baylies, responds with an uncharacteristically brief note to the Ministry; “The Undersigned has the honour to acknowledge the receipt of the Note of His Excellency the Provisional Minister of Foreign Affairs, dated the 14th instant.

A Communication addressed to his Excellency which accompanied the Note, appearing to be a Memorial of Lewis Vernet, is returned.

Having no authority to stipulate that reparation shall be made to Lewis Vernet or to the Argentine Republic, for the acts of the Commander of the Lexington at the Falkland Islands; and being expressly directed by his own Government to justify those acts, - the Undersigned must yield to that alternative which His Excellency has made imperative;

97 Giudici 2011. There is no other source for this.

98 cf. *The Falkland Islands - History and Timeline* R. Lorton 2012

and, as his continuance here would be useless to his Country, he asks Passports for himself and his family. ...”

Foreign Minister de Maza is taken aback, both by the return of Vernet's lengthy, and apparently unread, 'Report' and by the request for passports. He asks for a meeting between himself and the American *chargé d'affaires*, to seek an explanation.

August 27th, Francis Baylies and de Maza meet at Government House. Minister de Maza tries to convince Baylies that he should send for further instructions before making a decision to depart, but Baylies declines and restates his wish for his passport.

August 31st, the Admiralty in London issue orders to Rear-Admiral Baker at Rio de Janeiro, requiring the islands to be visited; *"Whereas Viscount Palmerston ... has signified to us the King's Pleasure, that one of H.M. ships should be ordered to proceed to Port Egmont in the Falkland Islands for the purpose of exercising His rights of sovereignty there and of acting at the said islands as in a possession belonging to the Crown of Great Britain; you are hereby required and directed accordingly to dispatch one of the ships of your Squadron forthwith to Port Egmont, with instructions .. for carrying into effect His Majesty's intentions"*⁹⁹

September 6th, passports returned, Francis Baylies appoints, and commissions, George Washington Slacum as Private Secretary to the American Mission.¹⁰⁰

September 10th, Governor Rosas publishes a new Decree;

“The Political and Military Comandant of the Falkland Islands and their adjacencies in the Atlantic Ocean, Don Luis Vernet, being now in this Capital, and not being able yet to return, the Government of Buenos Ayres has resolved and decrees:

Article 1. In the interim, Brevet Sergeant Major, Jose Francisco Mestivier, of the Artillery, is appointed Civil and Military Commandant of the Falkland Islands and adjacencies in the Atlantic Ocean.

Article 2 Let it be communicated through the Department of War and Marine, charged with carrying into effect and publishing this Decree; and by the same Department let the instructions agreed upon be given to Sergeant Major Jose Francisco Mestivier. “

September 18th, the Government of Buenos Aires lays all the papers covering its discussions with the US, before the Legislative Body of the Province of Buenos Aires.¹⁰¹

September 23rd, a garrison of soldiers under the command of the new 'Governor', Major Juan Mestivier, sets sail from Buenos Aires in the *Sarandi*, captained by Lt. Colonel José María Pinedo. A few of Vernet's employees are also on board.

Pinedo's orders, signed by Juan Ramón Balcarce, Minister of War, are to; " .. treat with the

99 The phrase, " ... acting at the said islands as in a possession belonging to the Crown of Great Britain .." has exercised some minds, but appears to be merely an instruction for the visiting ships to act in the 'correct' manner, e.g. ensuring that the Union Jack is raised, respecting the property of the inhabitants, etc.

100 This calculated insult 'astonished' the Buenos Aires authorities.

101 *Message of the Government to the Legislative body of the Province of Buenos Ayres, transmitting Correspondence relative to the Misunderstanding with the United States, with respect to the Right of Fishery, &c., on the Coasts of the Malvinas or Falkland Islands 18th September 1832 in British and Foreign State Papers 1831-1832 p.311*

*utmost circumspection foreign warships, never insulting them, but in the case of being being violently attacked ... defend .. never surrendering to superior forces without covering himself with glory in his gallant resistance ... shall not be competent to carry out orders to withdraw from the Falkland Islands."*¹⁰²

September 26th, Francis Baylies leaves the United Provinces, severing diplomatic relations; " ... *He went there; stayed there not 3 months – just long enough to embroil his country in a senseless and wicked quarrel with the Government; and, without waiting for orders from his Government, demanded his passports and came home. Nothing but the imbecility of that South American abortion of a state saved him from indelible disgrace and this country from humiliation ..*"¹⁰³

Baylies writes to Secretary of State Livingston from the US ship, Warren; " ... *The decree investing Don Jose Francisco Mestivier, a Frenchman, with Government of the Falkland Islands was, as I believe, intended a parting salute to me. The Government had not the sagacity to perceive that the decree was not only inoperative as to the United States but was a direct denial of the British claim of sovereignty.*

I had a long conversation with Mr. Fox, the British Minister and informed him distinctly that nothing was claimed by the United States in the Magellanick region, but the right of free fishery, and that right would always be claimed as well against Great Britain as Buenos Ayres, .. and I took the liberty of asking him whether Great Britain, after giving notice to the United States of her rights to the sovereignty of the Falkland Islands, and formally asserting her claim to them as part of His Britannick Majesty's dominions, could, under such circumstances, justify herself for permitting a horde of pirates to harbour there ...

He assured me that he was preparing and should present a remonstrance in strong terms against the second occupation of these Islands by these intruders, which doubtless has been, or will be done. But the armed vessel called the Sarandi sailed on the 23rd, it is said for the Falklands with arms, ammunition and soldiers, apparently with the design of taking formal and military possession.

This measure will compel Great-Britain to act decisively. If she now renounces her sovereign rights she will do what she never yet has done; she cannot yield a right of a character so high and so well founded as hers, to this petty nation to be used for the purposes of piracy.

I am inclined to think that the services of Captain Duncan will not be required in the second subversion of Vernet's establishment..."

September 28th, Henry Fox, presents a letter of protest to Buenos Aires; " *The Undersigned, His Britannick Majesty's Minister Plenipotentiary, has observed, a decree lately published by the Government of Buenos Ayres, bearing date September 10 by which a Civil and Military Commandant, ad interim, is appointed over certain Stations in the Atlantic Sea, including the Falkland Islands.*

His Excellency Senor Don Manuel Vicente Maza, Minister charged with the Department of Foreign Relations is aware that, as soon as the Decree of the 10th June 1829, issued by the Revolutionary Authorities at that period in possession of the Province of Buenos

102 *Cuando un Pinedo entregó las Islas Malvinas a un marino inglés de 23 años* Roberto Bardini 2010

103 John Quincy Adams 1874 vol.IX, pp.446-447.

Ayres, and containing certain provisions for the Government of the Falkland Islands, had been made known to His Britannick Majesty's Government, an official Protest against any assumption of right of sovereignty over those Islands, on the part of the Argentine Republic, was, ... presented to the Government of Buenos Ayres, by the Charge d'Affaires of His Britannick Majesty.

At the time when the events that had occurred at the Falkland Islands during the last year, became known at Buenos Ayres, the Undersigned refrained from making any observation upon those events, out of a sincere and friendly desire not in any way to embarrass the Government of the Republic, in the discussions in which it seemed likely to be engaged with the United States of America.

But, lest the silence of the Undersigned should by possibility be considered as implying an abandonment on the part of his Government, of the Rights of His Britannick Majesty, it becomes his duty now again officially to declare to the Government of Buenos Ayres, that the Sovereignty of the Falkland Islands, ... is vested in the Crown of Great Britain; and that no act of government or authority can be exercised over those Islands by any other power, without infringing upon the Just Rights of His Britannick Majesty."

Fox also informs Lord Palmerston in London that; " ... the North Americans appear to claim, further, for themselves, an original right to freedom of fishery over all the waters adjacent to the Falkland Islands; and moreover to ground this claim (as Co-heirs as it were with Great Britain in America) upon the very fact of right of sovereignty over those islands being vested in the British Crown..."

October 7th, the *Sarandi* arrives at Puerto Louis, and disembarks the garrison before setting out to patrol the Island.

November 29th, *HMS Clio* and *HMS Tyne* are dispatched from the Rio de Janeiro headquarters of the Royal Navy's South American squadron with orders to visit the Falkland Islands.¹⁰⁴

Commander John James Onslow has instructions to direct any foreign force to leave, but, in relation to any settlers; "... you are not to disturb them in their agricultural or other inoffensive employments."¹⁰⁵

November 30th, the Argentine garrison on Soledad mutinies and Mestivier is killed. The offenders are captured by crewmen from the British schooner, *Rapid*, which is at the port effecting repairs, together with those from a French whaler and some of Vernet's gauchos. Seven prisoners are detained on the *Rapid*, which is chartered to take them to Buenos Aires.

December 7th, an American schooner, the *Sun*, is ordered away from the Islands by Lt. Col. Pinedo. Commander Onslow in the *Clio*, arrives off Port Egmont.

December 23rd, the plaque removed from Port Egmont is replaced;¹⁰⁶

104 *Official History of the Falklands Campaign: The origins of the Falklands War* Lawrence Freedman, 2005 vol.1

105 *PRO Adm 1/2276*

106 *History of the British Colonies* Robert Montgomery Martin 1835

*These Islands have been visited by His Britannic majesty's ship Clio,
for the purpose of exercising the rights of sovereignty, 23rd December, 1832*

December 29th, on his return from patrol, Lt. Col. Pinedo restores order amongst the remaining garrison.

The first overt attempt by Buenos Aires to gain sovereignty over the Falklands by the imposition of State authority through Luis Vernet was thwarted by the USA in the form of Commander Duncan; whose assertive protection of American interests left his country in a very difficult position.

Prior to 1825, the Americans had fought hard to convince the United Provinces that the commercial *Treaty* with Britain offered the Argentines no recognition; that the Americans via the *Monroe Doctrine* were more sympathetic to keeping Europe out of the Americas, and that they were prepared to recognise the United Provinces as an independent Sovereign State.

As a result of the *Lexington Raid* however, the Americans were seen to support the presence of a British colony in South America and appeared uninterested in applying the *Doctrine* when it did not suit them. Worse, there was a perception in Buenos Aires of collusion between the British and American Ministers; to be confirmed, in their eyes, by the arrival of the Royal Navy.

Diplomatic relations between Buenos Aires and the USA broke down almost completely.



1833 - 1849



1833 - January 1st, the now ex-charge d'affaires, Francis Baylies writes a private letter to Edward Livingston; “... Jewett, Pirate as he is, having a deadly quarrel with the Govt. of Buenos Ayres on our side, has given Captain Duncan much valuable information respecting the waters of the Rio de la Plata and the best mode of annoying Buenos Ayres”¹⁰⁷

January 2nd, the *Clio* arrives at Puerto Louis at the same time as Capt. Hope in *HMS Tyne* arrives at Port Egmont.¹⁰⁸

Commander Onslow sends a letter to Pinedo; “I must inform you that I have received orders from the Commander in Chief of the naval forces of His Britannic Majesty in South America, to make effective the right of His Britannic Majesty’s sovereignty over the Falkland Islands. Being my intention to hoist the flag of Great Britain in the territory tomorrow, I ask you to kindly lower yours and withdraw your forces with all objects belonging to your Government. I am, Sir, your very humble and very obedient servant.”

Lt. Colonel Pinedo protests.

January 3rd, Commander Onslow orders his men to lower the triband flag and hoist the Union Jack in its place. The triband ensign is folded with due respect and returned to the *Sarandi* with a message that the British had found; “a foreign flag in the territory of His Majesty.”

Pinedo, with only the remains of a mutinous garrison, and a predominantly British crew, offers no resistance other than a further verbal protest.

January 5th, the *Sarandi* evacuates the garrison, while the *Rapid* transports most of the prisoners. Before his departure, Pinedo provides a written order to one of Vernet's settlers, Juan Simon, a Frenchman, promoting him to 'Political and Military Commander' of the Islands. Simon is illiterate and, either unaware of the contents of the order, or disinterested in the responsibility as he takes no action.

Capt. Onslow persuades the majority of Vernet’s settlers to remain, including gauchos whose wages he pays in silver; “I had great trouble to persuade 12 of the Gauchos to remain on the Settlement, otherwise cattle could not have been caught, and the advantages of refreshments to the shipping must have ceased.”¹⁰⁹

He appoints William Dickson, an Irishman and the settlement's store-man, as the British Representative on the Islands. Dickson's instructions are to fly the flag on Sundays and whenever a foreign vessel arrives at the port.

January 10th, the small British force leaves. Dickson is now the only authority in the Falklands.

107 *Diplomatic Correspondence of the United States, Inter-American Affairs: Argentina 1831 - 1860*

108 *Proceeding of the Second Expedition, 1831 – 1836, under the command of Captain Robert Fitz-Roy* P. P. King & Charles Darwin 1839.

109 *PRO Adm 1/2276. & AGN Sala VII legajo 60* p.22

Usurpation was the cry that came from Buenos Aires. It's a word used rather often even today.

The reality is that a garrison sent to seize control over the Falkland Islands in a direct challenge to both British and American claims, had been asked to leave. They did so without a fight.

No usurpation because Buenos Aires had not managed to establish any sovereign authority over East Falkland. No usurpation because there was no right to be usurped. Spain may have been able to claim that its rights to East Falkland had been usurped by the British, but they did not do so.

Nobody got hurt, although some reputations were damaged, and the settlers stayed; all but four of them. The gauchos got paid in cash too, which was the way that they preferred it. Vernet's promissory notes would only lead to trouble.

When Onslow sailed away again, the only emblem of sovereign authority that he left behind was an Irishman with a flag. After all, it was the imposition of sovereign authority that was important, not the presence of a garrison.

January 14th, the Islands are visited by Belford Hinton Wilson who is *en-route* to Peru where he is to be Consul-General. Wilson speaks to the gauchos, who complain about the wages Vernet pays them, mostly in promissory notes; " *These Gauchos would cheerfully remain on the Island under any Englishman whom the Government may please to appoint.*"¹¹⁰

A description of East Falkland, prepared by Luis Vernet, is read by Woodbine Parish to the *Royal Geographical Society* in London. Parish also informs the *Society* that 89 British, American and French vessels visited the Islands for the whale and seal fisheries, between 1826 and 1831.¹¹¹

January 15th, the *Sarandi* and the *Rapid* arrive at Buenos Aires. The *Sun* arrives at Montevideo and informs the new commander of the *USS Lexington*, Capt. Isaac McKeever, that the *Sarandi* forced the vessel to leave the Falklands. Capt. McKeever immediately writes to Levi Woodbury, in Washington, and George Slacum in Buenos Aires, to tell them that he intends to take the *Lexington* back to the Falklands.

January 16th, McKeever hears of the arrival of the *Sarandi* at Buenos Aires and delays his departure whilst enquiries are made.¹¹²

The Government of Buenos Aires sends a protest to Minister Fox at the British Legation, who is unaware of events.

José Pinedo records, in his ship's log, the names of those he has brought back from Puerto Louis; "Capt. D. Juan Antonio Gomila, Miguel Hernandez and his wife Maria Romero, Sgt. Santiago Almandos Almonacid, Soldiers: José Barrera, José Gómez, Manuel Francisco Fernández, Toribio Montesuma, Jose Soto, José Rodríguez, Juan Castro and

110 *PRO CO78/1*, 212-213

111 *The Journal of the Royal Geographical Society of London*, Vol. 3 1834 cf. End-note V

112 *US Archives Naval Record Group 45*, microfilm 18, Doc. 20

his wife Manuela Navarro, Antonio García, Juan J. Rivas and his wife Maria I. Beldaño, Denis Godoy, Hipólito Villarreal and his wife Lucia Correa and two sons, Gregory Durán and his wife Carmen Manzanares, with two sons, Benito Vidal and his wife Maria Saisa. Daniel Molina.

Settlers: Joaquín Acuña, his wife Juana, Matthew González, his wife Marica.¹¹³

Aliens: José Viel, John Quedy, Francisco Ferreyra, plus 1 prisoner.”

Military prisoners removed on the *Rapid* are recorded as: Sgt. José María Díaz, Soldiers: José Antonio Díaz, Manuel Delgado, Mariano Gadea, Manuel Suares, Francisco Ramírez, Bernardino Cáceres, Manuel Saenz, Antonio Moncada, Women: María Rodríguez, with three children; Anastasia Romero; Encarnación Alvarez; Carmen Benitez; Tránsita González, with a son.¹¹⁴

January 22nd, a further protest is lodged with the British Legation. Minister Fox does not reply as he still has neither information, nor instructions.

February 8th, Mestivier's murderer, Sáenz Valiente, is shot after having his right hand cut off. Six other mutineers are executed in public by firing squad, and two others are flogged.

Also in **February**, US Secretary of State, Edward Livingston questions Francis Baylies, about the events during his time at Buenos Aires. Baylies responds, " *The existing Government have repeatedly denounced the intrusive government under which the decree of the 10th of June (was made) as mutinous, and have recognized none of their laws and decrees... It may be asked why should they exhibit such pertinacity in sustaining Vernet?*

In my opinion they should have abandoned him without hesitation, had not the interest of some of the leading men in the Govt. been in a degree involved..."¹¹⁵

March 1st, Charles Darwin and Capt. Fitzroy arrive at Port Louis in *HMS Beagle*. Darwin writes about the remaining settlers in his diary; " *...The present inhabitants consist of one Englishman, who has resided here for some years, & has now the charge of the British flag, 20 Spaniards & three women, two of whom are negresses.*"

March 3rd, Matthew Brisbane, together with Vernet's employees Don Ventura Pasos and Thomas Helsby arrive at Port Louis aboard the *Rapid*.

March 4th, Brisbane presents his papers to Capt. Fitzroy; " *I was quite satisfied with their tenor, and the explanation he gave me of his business. ... Brisbane's instructions from Vernet authorized him to act as his private agent only, to look after the remains of his private property, and they had not the slightest reference to civil or military authority.*"¹¹⁶

March 9th, Lt. Col. José María Pinedo is court-martialed over his lack of resistance, found guilty and suspended.

113 Contrary to subsequent claims, these were the only settlers to leave. Acuña was Brazillian, González from the Banda Oriental. *AGN Sala VII, legajo 136*

114 *AGN Sala III doc 1320*

115 *The Museum of Foreign Literature, Science and Art*, Eliakim Littell 1833 vol.22 p.277

116 *Narrative of the Surveying Voyages of His Majesty's Ship Adventure and Beagle between the Years 1826 and 1836...* Robert Fitzroy 1839 vol.II. Brisbane had no authority to act as 'Governor'.

March 24th, Darwin notes in his diary; “ *The place bespeaks what it has been, viz a bone of contention between different nations. On Friday a sealing vessel arrived commanded by Capt. Lowe; a notorious & singular man, who has frequented these seas for many years & been the terror to all small vessels. It is commonly said, that a Sealer, Slaver & Pirate are all of a trade; they all certainly require bold energetic men; & amongst Sealers there are frequently engagements for the best "rookerys". & in these affrays Capt Lowe has gained his celebrity. In their manners habits &c I should think these men strikingly resembled the old Buccaneers.* “

March 30th, Darwin writes to his sister, Caroline; “ *... We arrived here in the Falkland Islands We found to our great surprise the English flag hoisted. I suppose the occupation of this place, has only just been noticed in the English paper; but we hear all the Southern part of America is in a ferment about. By the awful language of Buenos Ayres one would suppose this great republic meant to declare war against England! ..*”

In **April**, Minister Plenipotentiary to the Court of St James, Manuel Moreno writes to Sir George Shee, Under-Secretary of State for Foreign Affairs, asking whether the British Government ordered the eviction of Argentina's garrison.

April 15th, the 790 prime seal skins, together with 401 pup skins, liberated by Silas Duncan from Vernet's storehouse, and subsequently handed to Capt. Davison; arrive at Stonington in the United States.

April 23rd, Francis Baylies writes to Edward Livingston; “*An expedition prepared with much parade sent out in a national vessel under the national flag composed of national soldiers, a garrison, formally established military possession, taking the claim of sovereignty and the appointment of the Governor, announced by decree; in short, every thing done to announce to the world the solemn character of the measure.*

And yet the first act of these selected colonists and soldiers is the murder of their Governor! the new settlement baptized in the blood of its Chief! Any Colony emanating from Buenos Ayres and established at the Falklands will inevitably become piratical.

I find I am denounced in high terms by the renegade who conducts the Gaceta Mercantil for disclosing to Great Britain the extent of her rights, as if Great Britain ...did not know her own rights!”¹¹⁷

April 27th, Moreno receives a reply from Lord Palmerston, to the effect that Commander Onslow had acted in compliance with the instructions given to Admiral Baker.¹¹⁸

In **June**, Vernet sends six more employees to join the settlers on the islands. Brisbane resumes paying the gauchos in promissory notes.

June 17th, Minister Moreno sends an official protest to the British Government, complaining of the eviction of Argentina's garrison. He goes on to have his complaint published in London; “ *The international question respecting the sovereignty of these islands, between Great Britain and the provinces of Rio de la Plata, being again brought under discussion, it is of paramount importance that the public should have a clear, and*

117 *Diplomatic Correspondence of the United States, Inter-American Affairs: Argentina 1831 - 1860*

118 *Minutes of the agreement concluded on July 24, 1833 after the usurpation of the Falkland Islands in El Historiador*

as it were tangible account of them, as well as of the claims of the respective competitors ..."

July 4th, General Lucio Mansilla, at a party to celebrate 57 years of American independence; "after several toasts had been drank, rose, and in the most violent terms, impugned Great Britain for its occupancy of the Falkland Islands."¹¹⁹

July 12th, the British Minister in Buenos Aires is again asked to explain the actions of Onslow. He responds that his Government has only exercised its full and undoubted rights.

August, the settlers on East Falkland are; "Capt. Matthew Brisbane, superintendent; Thomas Helsby, William Dickson, Don Ventura Pasos, Charles Kussler, Antonio Vehingar, (known at Buenos Ayres as Antonio Wagner,) Juan Simon, (Capataz,) Tanstin Martinez, Santiago Lopez, Pascual Diaz, Manuel Coronel, Antonio Rivero, Jose Maria Luna, Juan Brasido, Manuel Gonzales, Luciano Flores, Manuel Godoy, Felipe Salazar, and Latorre (the last five being Indians, having been sent by the Governor of Monte Video to this island for bad conduct); three women, viz. Antonina Roxa, Gregoria Madrid, Carmolita and her two children. Also, Captain William Low, and a boat's crew, late of the schooner Unicorn, were temporary residents ... viz. Henry Channen, John Stokes, Daniel Mackay, Patrick Kerwin, Samuel Pearce, George Hopkins, Joseph Douglas, Francis Machado, and Jose Manuel Pardo; likewise two men of colour honest John and (Antonio Manuel.)

August 26th, Antonio Rivero, a 26 year-old gaucho also known as Antook or Antuco, leads a riot over pay. Dickson and Brisbane are killed, together with Anton Wegner, Jean Simon and Ventura Pasos, all employees of Luis Vernet. "... here we heard an account of the shocking event and its immediate cause. Brisbane employed the Spaniard Antook as a shoemaker, and several Mestizos and South American Indians as herdsmen, bullock-hunters, etc. Failing to pay them promptly, from lack of means, as he said, they were angry, and determined to kill him and all his friends and plunder the village. According to the plot agreed on, Antook came to the door of this room one morning while Brisbane was sitting before the stove lighted with a fire of peat, the principal fuel of these islands, and demanded pay. Brisbane refused, and immediately a bullet went through his body. He grabbed for his pistol, in a cupboard on his left, arose to fire, but staggered and fell, when he received a blow upon his head from a cutlass and three stabs from a dirk. He was then dragged to the door, his feet bound with raw-hide rope, and this being attached to the saddle of a horse, he was drawn out into the field, where he was stripped, mutilated, and left unburied. His clerk was also killed with several others at the same time, and the town was sacked, a few Englishmen escaping .."¹²⁰

The surviving settlers take refuge on Hog Island in Berkley Sound.

September 2nd, the refugees on Hog Island move to the more defend-able Turf Island.

September 29th, King Ferdinand VII dies and leaves the crown to his three year old daughter, Isabella, whose mother, Maria Cristina becomes Regent.

October 23rd, the settlers hiding on Turf Island are relieved by the British sealer *Hopeful*. Mr. Rea RN hoists the Union Jack at Port Louis and writes an urgent letter to Rio de

119 *Caledonian Mercury* Oct 5th 1833

120 *Adventures in Patagonia: A Missionary's Exploring Trip* Titus Coan 1880

Janeiro; “ .. I feel convinced that if an English ship of war does not arrive here soon, more murders will take place.”

November 19th, Philip Gore, in Buenos Aires, sends a note to Minister Guido; *"In compliance with the orders of his court, the undersigned, his Britannic Majesty's Charge d'Affairs, has the honour to notify to the government of Buenos Ayres, that the Rear-Admiral Commander-in-Chief of his naval forces in South America has been directed to appoint a Lieutenant from under his command, with a certain number of men, to reside at the Falkland Islands, for the protection of his Majesty's rights on those Islands."*

December 3rd, in his Annual Message to Congress, US President Andrew Jackson, refers to Buenos Aires; *"The negotiations commenced with the Argentine Republic relative to the outrages committed on our vessels engaged in the fisheries at the Falkland Islands by persons acting under the color of its authority, as well as the other matters in controversy between the two Governments, have been suspended by the departure of the chargé d'affaires of the United States from Buenos Ayres."*

It's a little surprising that Buenos Aires did not send another armed force to make a third attempt during 1833. All they would have faced initially was one symbol of authority waving another. Perhaps the idea of challenging British authority was a more daunting prospect than that of bearding the Americans?

But now the diplomats took over. Ferdinand VII was dead, and his obstinacy died with him. An opportunity for the revolting colonies of Spain to gain legal recognition around the world; by first obtaining that recognition from Spain itself. Perhaps Spain could be persuaded to let go of its claims.

1834 – January 9th, Lt. Henry Smith, together with 4 seamen volunteers, arrives with Capt. Seymour in *HMS Challenger*, as the “Resident Naval Officer” responsible for the administration of the Falkland Islands.

“Captain Seymour, and the consuls, being anxious to visit the settlement of Port Louis, landed some distance from it (the wind being strong from SSW), intending to walk there. About a mile from the houses they were met by an Englishman named Channon, sent by the gauchos to see who they were and whether the ship was a whaler in want of beef, or a man-of-war. He informed them that the gauchos and Indians had murdered Mr. Brisbane: Dickson, who had been left in charge of the flag by Captain Onslow: Simon; and two others: and had pillaged the houses, destroying everything in their search for money.”

January 27th, Smith records in his diary; *”9.30 arrived a gaucho of the name of Santiago Lopez ... with a message from Antonio Rivero, the principal of the murderers, saying if I would promise him pardon... he would give up the horses and himself and assist in capturing the others.”*

January 28th, the Reverend Titus Coan and Capt. Nash, arrive in the American schooner *Antarctic*, hoping to replenish the ship's stores.

January 8th, the British Foreign Secretary, Viscount Palmerston, responds to the Manuel Moreno protest; " *...The undersigned, &c. has the honour to acknowledge the receipt of the note of M. Moreno, &c. dated the 17th of June last, in which he formally protests, in the name of his government, "against the sovereignty lately assumed in the Malvina (or Falkland) Islands, by the crown of Great Britain."*

Before the undersigned proceeds to reply to the allegations advanced in M. Moreno's note, upon which his protest against this act on the part of his Majesty is founded, the undersigned deems it proper to draw M. Moreno's attention to the contents of the protest which Mr. Parish, the British Chargé d'Affaires, at Buenos Ayres, addressed, in the name of his court, to the Minister for Foreign Affairs of the Republic, on the 19th of November 1829, in consequence of the British Government having been informed that the president of the United Provinces of the Rio de la Plata had issued decrees, and had made grants of land, in the nature of acts of sovereignty over the islands in question.

That protest made known to the government of the United Provinces of the Rio de la Plata:—

1st. That the authority which that government had thus assumed, was considered by the British Government as incompatible with the sovereign rights of Great Britain over the Falkland Islands.

2dly. That those sovereign rights, which were founded upon the original discovery and subsequent occupation of those islands, had acquired an additional sanction from the fact, that his Catholic Majesty had restored the British settlement, which had been forcibly taken possession of by a Spanish force, in the year 1771.

3dly. That the withdrawal of his Majesty's forces from the Falkland Islands, in 1774, could not invalidate the just rights of Great Britain, because that withdrawal took place only in pursuance of the system of retrenchment adopted at that time by his Majesty's Government.

4thly. That the marks and signals of possession and of property, left upon the islands, the British flag still flying, and all the other formalities observed upon the occasion of the departure of the governor, were calculated not only to assert the rights of ownership, but to indicate the intention of resuming the occupation of the territory at some future period.

Upon these grounds Mr. Parish protested against the pretensions set up on the part of the Argentine Republic, and against all acts done to the prejudice of the just rights of sovereignty heretofore exercised by the crown of Great Britain. The Minister for Foreign Affairs of the Republic acknowledged the receipt of the British protest; and acquainted Mr. Parish that his government would give it their particular consideration, and that he would communicate to him their decision upon the subject, so soon as he should receive directions to that effect.

No answer was, however, at any time returned, nor was any objection raised, on the part of the government of the United Provinces of the Rio de la Plata, to the rights of Great Britain, as asserted in that protest; but the Buenos Ayrean government persisted, notwithstanding the receipt of that protest, in exercising those acts of sovereignty against which the protest was specially directed.

The government of the United Provinces of the Rio de la Plata could not have expected,

after the explicit declaration which had been so formally made of the right of the crown of Great Britain to the islands in question, that his Majesty would silently submit to such a course of proceeding; nor could that government have been surprised at the step which his Majesty thought proper to take, in order to the resumption of rights which had never been abandoned, and which had only been permitted to lie dormant, under circumstances which had been explained to the Buenos-Ayreal government.

The claim of Great Britain to the sovereignty of the Falkland Islands having been unequivocally asserted and maintained, during those discussions with Spain, in 1770 and 1771, which nearly led to a war between the two countries, and Spain having deemed it proper to put an end to those discussions, by restoring to his Majesty the places from which British subjects had been expelled, the government of the United Provinces could not reasonably have anticipated that the British Government would permit any other state to exercise a right, as derived from Spain, which Great Britain had denied to Spain herself; and this consideration alone would fully justify his Majesty's Government in declining to enter into any further explanation upon a question which, upwards of half a century ago, was so notoriously and decisively adjusted with another government more immediately concerned.

But M. Moreno, ..., has endeavoured to shew that, at the termination of the memorable discussions referred to between Great Britain and Spain, a secret understanding existed between the two courts, in virtue of which Great Britain was pledged to restore the islands to Spain at a subsequent period, and that the evacuation of them, in 1774, by his Majesty, was the fulfilment of that pledge.

The existence of such a secret understanding is alleged to be proved; first, by the reservation, as to the former right of sovereignty over the islands, which was contained in the Spanish declaration, delivered at the time of the restoration of Port Egmont and its dependencies to his Majesty; and, secondly, by the concurrent description of the transaction, as it took place between the parties, given in certain documents and historical works.

Although the reservation referred to cannot be deemed to possess any substantial weight, inasmuch as no notice whatever is taken of it in the British counter-declaration, which was exchanged against it; and although the evidence adduced from unauthentic historical publications cannot be regarded as entitled to any weight whatever with a view to a just decision upon a point of international rights; yet as the allegations above-mentioned involve an imputation against the good faith of Great Britain, to which his Majesty's Government cannot but feel sensibly alive, the undersigned has been honoured with the King's commands to cause the official correspondence with the court of Madrid, at the period alluded to, to be carefully inspected, in order that the circumstances which really took place upon the occasion might be accurately ascertained.

That inspection has accordingly been made, and the undersigned has the honour to communicate to M. Moreno the following extracts, ...

(after the extracts, Palmerston continues¹²¹)

... M. Moreno will perceive that the above authentic papers, which have been faithfully extracted from the Volumes of Correspondence with Spain, deposited in the State Paper

¹²¹ The 'extracts' consist of the letters, orders, communications etc relevant to 1770/71 and these have been placed in their chronological position in this text. Palmerston's original letter can be found here - <http://falklandstimeline.files.wordpress.com/2012/02/palmerston-to-moreno-1834.pdf>

Office, contain no allusion whatever to any secret understanding between the two Governments, at the period of the restoration of Port Egmont and its dependencies to Great Britain, in 1771, nor to the evacuation of Falkland's Islands, in 1774, as having taken place for the purpose of fulfilling any such understanding. On the contrary, it will be evident to M. Moreno, that their contents afford conclusive inference that no such secret understanding could have existed.

The undersigned need scarcely assure M. Moreno, that the correspondence which has been referred to, does not contain the least particle of evidence in support of the contrary supposition, entertained by the Government of the United Provinces of the Rio de la Plata, nor any confirmation of the several particulars related in M. Moreno's note.

The undersigned trusts, that a perusal of these details will satisfy M. Moreno, that the protest which he has been directed to deliver to the undersigned, against the re-assumption of the sovereignty of the Falkland Islands by his Majesty, has been drawn up under an erroneous impression, as well of the understanding under which the declaration and counter-declaration relative to the restoration of Port Egmont and its dependencies were signed and exchanged between the two courts, as of the motives which led to the temporary relinquishment of those islands by the British Government; and the undersigned cannot entertain a doubt but that, when the true circumstances of the case shall have been communicated to the knowledge of the government of the united provinces of the Rio de la Plata, that government will no longer call in question the right of sovereignty which has been exercised by his Majesty, as undoubtedly belonging to the Crown of Great Britain.”

January 22nd, the schooner *Adventure* is directed to survey the Falkland Islands.

February 1st, Reverend Coan encounters three gauchos and negotiates for beef.

February 5th, Lt. Smith, with a party of 6 marines, meets up with the *Antarctic* and hear of the gauchos, who are nearby.

February 12th, the USA's Minister in Madrid, Cornelius Van Ness, presses the new Regent to recognise the independence of the Spanish-American colonies.

In **March**, the frigate, *USS Potomac*, arrives off Port Egmont; “... a person by the name of Smith, of whose office or character nothing is known, has lately warned sealers not to visit these islands, ... If Great Britain should advance any pretensions to the exclusive use of the fisheries at the Falklands, it is to be hoped that such pretensions will be a strenuously resisted as were those of the Argentine Republic – indeed more strenuously ...”¹²²

March 6th, Lt. Smith finds the fugitives, five of whom are Englishmen; “... he (Rivero) determined the following morning to betray his companions, and deliver the horses being his turn to take care of them, which he accordingly did, and the four Indians ... surrendered.”¹²³

March 10th, the *Beagle* returns to East Falkland; “Arrived in the middle of the day at

122 *Voyage of the United States Frigate, Potomac* J.N. Reynolds 1835 p.515

123 *PRO Adm 1/42 doc 12* Letter to Rear-Admiral Sir Michael Seymour dated June 30th, 1834

*Berkeley Sound, .. Mr Smith, who is acting as Governor, came on board, & has related such complicated scenes of cold-blooded murder, robbery, plunder, suffering, such infamous conduct in almost every person who has breathed this atmosphere, as would take two or three sheets to describe. With poor Brisbane, four others were butchered; the principal murderer, Antuco, has given himself up. — he says he knows he shall be hanged but he wishes some of the Englishmen, who were implicated, to suffer with him; ...*¹²⁴

April 7th, the Beagle sails with; “... two prisoners & the “Kings evidence.” All those arrested are sent to Rio de Janeiro.

April 30th, *Gaceta Mercantil*, in Buenos Aires, reports on the “vile” murders of Vernet's employees on East Falkland.

June 12th, Spanish Secretary of State, Martinez de la Rosa, indicates that the Queen Regent is willing to reach a '*just and honorable arrangement*' with any Spanish-American representatives that petition her Ministers.

August, the new Colonial Secretary, Mr. Spring Rice, in considering what to do with Rivero and the other prisoners being held at Rio de Janeiro, states his view that, “ .. as the Falkland Islands are an undoubted possession of Great Britain there can be no question as to the right which His Majesty possesses of ordering the Murderers to be sent home and to be submitted to the ordinary course of the law in this country.”¹²⁵

December 29th, in London, Manuel Moreno protests again but now only asks that Puerto Louis and East Falkland be restored to the United Provinces.

1835 – March, Antonio Rivero, and the other prisoners, are sent to London for trial.

The case over the ownership and salvage rights, if any, of the seal skins removed from Luis Vernet's storehouse in 1832 appears in the Admiralty Court of Connecticut. Circuit Justice Thompson concludes that the actions of Luis Vernet in seizing the skins was not '*piratical*', as he had acted under the authority of the Buenos Aires Government.¹²⁶

May, in Britain, the Home Office seeks legal advice on the prosecution of Rivero, asking the Law Officers¹²⁷ whether the accused can be prosecuted under British law; whether the evidence is likely to be sufficient and whether they would recommend a prosecution.

June 2nd, the Law Officers' given opinion is that the prisoners can be prosecuted and that the evidence appeared to be sufficient but; “ .. under all the circumstances it appears to us that in a case of a conviction the sentence could not justly be carried into execution and therefore we cannot recommend a prosecution.”¹²⁸

124 Extract from the *Diary* of Charles Darwin

125 *PRO CO 399.1 FO.17*

126 *Davison v Seal-Skins*, Case No. 3661, Circuit Court D Connecticut 1835

127 Sir John Dodson (Advocate-General), Sir John Campbell (Attorney-General) and Sir Robert Rolf (Solicitor-General).

128 *Law Officer's Opinion HO 48.30, Case 5, 22-3*. Their reasoning is not very clear but appears to be based on the premise that, at the time of the murders, there was no British authority present, and that therefore, no-one was in receipt of the '*King's protection*'.

June 16th, the Admiralty is asked to repatriate Rivero and the other prisoners.¹²⁹

July 10th, Admiral Sir Graham Hammond values the properties belonging to Luis Vernet at less than £1,000; “*With regard to his proposal for an advance of £2000 I am of opinion that all the property on the Island (except the wild cattle) even if admitted to be his, would be overvalued at half this sum.*”¹³⁰

September, Antonio Rivero is put ashore near Montevideo.

In 1956, Martiniano Leguizamon Pondal, in his book *‘Toponimia Criolla en las Islas Malvinas’*, raised Antonio Rivero up as the *‘revolutionary hero’* who resisted British rule in the Falklands in 1833 and kept the triband flag flying. Rivero is often confused with a later military leader of the same name and, although now recognised in his true colours by serious Argentine historians, he is still lauded by politicians beating the nationalist drum.

If Ferdinand had been obstinate, no less could be said of Luis Vernet. He never returned to the Falklands, although he directed operations there for a while longer and *‘advised’* Lt. Smith on how things worked. At the same time he pursued the US Government for compensation and prodded Buenos Aires to assist. He harried American ships for sealing on *‘his’* island, and attempted to sell his grants of land to whoever would part with the money.

It is also important that Buenos Aires' claim changed. From demanding the return of the whole archipelago, to just demanding the island of Soledad. Vernet's island.

Of equal importance were the changes taking place in Spain.

1836 – August, the liberal *Constitution* of 1812 is reinstated in Spain.

November 7th, the *Cortes* in Madrid is consulted over recognition of the new States in South and Central America. Secretary Calatrava tells the *Cortes* that the revolted States wish to be considered independent, and that they desired Spain to renounce; “*all territorial or sovereign right*” over them. As this was contrary to the *Constitution*, the *Cortes* is asked to give its authority.¹³¹

Nine members of the legislature form a *Committee* to consider the issue.

November 27th, the *Committee Concerning Treaties with the New States of America*, reports to the *Cortes*; “*...In the opinion of the committee, the honor and dignity of Spain demand that the Cortes should act generously in this important affair, The regret of the mother country on separating forever from her American children is natural and well-founded. But that sentiment is transformed into an agreeable emotion of national pride on considering that, during the brief period of three hundred years in which that large family has been ruled by the laws of Spain, its members have reached that stage .. which enables them to take leave of their mother and to begin their career as independent nations...*”

129 Of the original 7 men indicted, one died at Rio de Janeiro, and two had died while awaiting trial in Britain.

130 *PRO FO 6 501*, p.139

131 *Diario de las Sesiones de Cortes, estamento de ilustres proceres, legislatura de 1835 a 1836*

*The general Cortes of the kingdom authorizes the government of her Majesty that ... it may conclude treaties of peace and amity with the new states of Spanish America upon the basis of the recognition of their independence and the renunciation of all territorial or sovereign rights on the part of the motherland, ..*¹³²

The deputy for Badajoz declares; “*The emancipation of the Americans is de facto accomplished; nations, like individuals, have their periods of vigor and strength; at present the Americans are in that stage. On our part we should give to their separation a legal character; in order to legitimize what they now possess, ..*”

December 1st, the Spanish Cortes meets to consider the conclusions drawn by the Committee. During the debate, Miguel Cabrera de Nevaes, declares that the Spanish-American countries are; “*de facto independent*”, which they owed to themselves, but, “*to be independent de jure they will owe us.*”

December 3rd, the Cortes approves the Committee's work unanimously, allowing for recognition of a Spanish-American State, on application and the successful negotiation of a *Treaty of Recognition* in each case.¹³³

1837 – March, Luis Vernet attempts to impede a ship, the *Elizabeth*, from leaving Montevideo. The vessel, offered protection by the Royal Navy vessel, *Fly*, flees albeit without regaining the ship's Register from the Port authority.¹³⁴

April 11th, Luis Vernet agrees a contract with Samuel Fisher Lafone of Montevideo to '*speculate in the Falkland Islands*'.¹³⁵

In **May**, General Carlos María de Alvear is appointed Minister to the United States. Alvear is instructed;

“(1) *to promote the most satisfactory reparation for the insults inflicted upon Argentine sovereignty by Duncan's destruction of Vernet's colony, ..;*

(2) *to promote reparation to the Argentine Republic, Vernet, and the colonists for all damages caused by Duncan's aggression; and*

(3) *to clarify and defend Argentine rights to the Falklands and to fisheries along their coasts.*”¹³⁶

July 29th, William Hunter, the US *charge d'affaires* in Rio de Janeiro, makes mention in a letter to US Secretary of State, John Forsyth, about the Diplomatic Mission recently arrived from Argentina, “*The mission to the United States from Buenos Ayres is doubtless for the purpose of reviving the old affair of the Falkland Islands, - Vernet's claims - our Captains alledged offences In connection with this case that of the Partheon has come to my notice. The Captain Adams was obliged to leave Monte Video without his papers, being pursued by Vernet for sealing on 'one of his' islands ...*”

132 *Diario de las Sesiones de Cortes, 1836 a 1837, I. Apendice al Numero 40, 1, 2.*

133 Spain still hoped to exchange recognition for favorable trade agreements.

134 The *Elizabeth* had been chartered by M. Burrows, previously the owner of the vessel *Superior*, when it had been seized by Vernet in 1832. The *Superior's* cargo of seal skins, taken to Vernet's storehouse, had been '*liberated*' by Commander Duncan of the *Lexington* and Burrows had received the value of the skins in 1835. *Army & Navy Chronicle* vol.4 p.325

135 *Monsieur Vernet's Case 1852 - 1860* National Archive CO 78 43

136 *AGN, BA, SI-A1-A1 – num 5.* Quoted in *Argentina and the United States, 1810 – 1960*, Harold F. Peterson 1964.

1838 – January 3rd, John Henry Mandeville, British Minister at Buenos Aires, writes to Lord Palmerston about the opening session of Argentina's House of Representatives; “*It adverts to the worn out question of the Falkland Islands, and declaims as usual upon the injustice of its occupation by Great Britain – without, I believe, receiving much sympathy or support from the public, except the very few persons who have speculated on an establishment there. It will make an annual paragraph in the message until the subject dies of exhaustion, ..*”

Argentina offers to abandon any claim to the Falklands in exchange for the cancellation of the national debt owed to Barings Bank. The British Government declines.¹³⁷

Lt. Robert Lowcay is placed in charge of the islands as Military Administrator. Lowcay imposes the rule of law and announces that fishing rights extend to 3 miles from the shore. He also states that the cattle, horses and wild animals are protected and that any trespassers will be “... *proceeded against* ...”.

Whereas Lowcay's predecessor had been happy to communicate with Vernet, the new Administrator took a different view. There is a suggestion that he banned Vernet from ever returning to the Islands, and denied Vernet's expansive claims to land, property and compensation.

Lt. Sullivan surveys the Islands. He reports a population in Port Louis of 45.

July, a prospectus is published; “*The objects contemplated by this association are, to form a colony on the most easterly of the islands, the unusual facilities and advantages of which are demonstrated in the subsequent remarks to create in the magnificent and secure harbours of Berkeley Sound and Fort William that important national object- a naval and commercial depot for the shelter and repair of the numerous vessels now navigating the South Seas; to erect an establishment for supplying fresh and cured provisions, naval stores, water, fuel, and other requisites; to select parties properly qualified for carrying into effect extensive and most valuable fisheries, cattle farms, &c...*”¹³⁸

July 9th, the *Arrow* sails from Falmouth Harbour. The ship is fitted out to survey the Falklands and has seeds, agricultural implements and 2 bloodhounds on board.¹³⁹

October 14th, *Arrow* arrives at Port Louis; “*At 5 o'clock we came-to off the settlement, Port Louis, and were much disappointed at its insignificance, as it only consisted of two small houses, in one of which lived the governor, Lieut. Lowcay, and three or four mud huts, occupied by three gauchos and their families.*”

1839 – January, the case concerning the loss of the *Harriet*, following its seizure by Vernet in 1831, reaches the Supreme Court. The insurance company argue that, in accordance with the Connecticut case concerning the seal skins, Vernet was acting legally and that therefore they have no duty to compensate the owners. However, the court finds

¹³⁷ 10 years after Argentina defaulted on the loan, it was worth, with interest, rather more than the Islands were.

¹³⁸ *The Colonist (Sydney)* July 21st

¹³⁹ *Some Account of the Falkland Islands, from a six month residence 1838* Laughlan Bellingham Mackinnon 1839.

for the owner; “ ... it is the opinion of this Court, ..., That, inasmuch as the American government has insisted and still does insist, through its regular executive authority, that the Falkland islands do not constitute any part of the dominions within the sovereignty of the government of Buenos Ayres, the action of the American government on this subject is binding on the said Circuit Court,..”¹⁴⁰

March 21st, General Alvear, in Washington, submits a claim for compensation.

September 18th, Lt. Lowcay reports; “ ... on 22nd July last I left Port Louis, in the Sparrow, for the Westward, principally with the Intention of observing the cattle put last Summer on West Falkland, and to look after the American Vessels generally cruising here... During the cruise no American or other Vessels were seen, nor have I heard of any Outrages having been committed by them.”¹⁴¹

Lowcay leaves the settlement in the charge of Lt. Robinson, until his successor can arrive.

Robinson reports that the American vessel, *Benjamin de Wolf*, is taking cattle.

December 23rd, Lt. John Tyssen takes over as Military Administrator. George Whittington founds the *Falkland Islands Commercial Fishery and Agricultural Association*, to put pressure on the Government to permit colonisation.

1840 – January 14th, the *Colonial Land and Emigration Commission* is created to oversee the colonies, grants of land, and assist the outward movement of settlers.

The first sealing licence, for the rookery off Volunteer Point, is issued by Lt. Tyssen.

February 29th, Tyssen reports that there are 25 settlers on the Islands. George Whittington sends 2 vessels to the Islands, under the direction of his brother, John Bull Whittington, with settlers, stores and a few sheep.¹⁴²

August 22nd, the *Colonial Land and Emigration* officers report;

“..There appear to be Four Grounds upon which the Establishment of a regular Colony at these Islands has been urged upon the Government.

- 1) The usefulness of affording to the Merchant Vessels which sail round Cape Horn a Port for Refit and Refreshment.
- 2) The Expediency of having a British Port placed as it were between the Atlantic and the Pacific Oceans, to which our naval Force on the South American Station could resort.
- 3) The Peculiar Advantages which the Islands afford for the Establishment of a Penal Colony.
- 4) their Fitness generally as a Settlement for agricultural and commercial purposes.

On the Three first Grounds above stated, we entirely agree as to the Value and Importance of these Islands. On the Fourth, we think that considerable Doubt still rests.”¹⁴³

140 *Charles L. Williams v The Suffolk Insurance Company* 38 US 13 Pet. 415 415 (1839)

141 *Sessional Papers Printed by Order of the House of Lords* 1841

142 *Accounts & Papers: Thirty Two Volumes* 1843

143 *Sessional Papers of the House of Lords* 1841

December 15th, Lt. Tyssen writes; “... *I firmly believe that American Vessels visit this Island to the Westward solely for the Purpose of killing wild Cattle, and from the Difficulty in detecting them in the Act they pursue this Robbery with Impunity...*”

December 27th, the Governor's message to Argentina's Legislature reaffirms their claim to the Falkland Islands.¹⁴⁴

1841 – January 16th, John Whittington, now in Port Louis, presents Lt. Tyssen with a claim for 10 square miles of land which he says is the property of his brother, George Whittington, following an arrangement with Luis Vernet.

March 5th, Capt. John Onslow, in London, suggests the relocation of distressed “*Scotch Islanders*” to the Falklands, as the climate will suit them.

March 22nd, George Whittington complain to the Admiralty about the activities of American vessels operating illegally around the Islands.

March 30th, the *Colonial Land and Emigration* Commissioners make extensive recommendations regarding the establishment of a proper settlement, and the siting of a suitable port and Capital on the Islands. Port William is proposed as one option. They also suggest that Marines should be retained to bring law and order to the Falklands. The Commissioners close their report by quoting from Capt. Fitzroy; “.. *there can be no Doubt that Industry will be well rewarded; that Health, Safety and a frequent Communication with the Mother Country will be as certain as in any other Colony; and that the only Drawbacks to be contemplated are those likely to be caused by Wind, and Deficiency of solar Heat.*”

Juan Manuel de Rosas again offers to abandon Argentina's claims to sovereignty in exchange for forgiveness of the 1824 Baring Brothers' loan.

August 23rd, Lt. Richard Moody is appointed to head the administration of the islands. He receives his orders from Lord John Russell; “.. *you will turn your attention, immediately upon your arrival, to the means of administering law and justice within the colony. You will inform the inhabitants of the Falkland Islands, by proclamation, that the law of England is in force within the islands; you will ascertain whether there are any persons in the islands fit to be entrusted with the functions of judges or magistrates.*”

October 14th, Capt. Russell in the *Actaeon*, arrives at Port Louis with more horses and supplies for the settlement; “*On my arrival here I ... found its inhabitants to consist of 27 men and women and 12 children. With the exception of the settlement-house (which is a very miserable one), the whole of the habitations are mere hovels.*”

December 4th, the US Department of State replies to General Carlos de Alvear's submission for compensation of 1839; “*The undersigned, Secretary of State of the United States, has ... taken into consideration the note of General Alvear to Mr. Forsyth of the 21st of March, 1839, asking reparation for the conduct of Captain Duncan at the Falkland Islands in 1831, when in command of the United States sloop of war Lexington,*

144 Los mensajes, Historia del desenvolvimiento de la nacion argentina, redactada cronologicamente por sus gobernantes 1810-1910.

and in respect to certain persons found by him there whom General Alvear claims to have been citizens of Buenos Ayres.

The undersigned has been directed to represent to General Alvear as the result of that consideration, that it is presumed the propriety of suspending, still further, a decision upon the application contained in his note will be obvious, ... for it is notorious that Great Britain soon afterwards entered upon and has ever since continued in formal and actual possession of that territory, claiming under a previously existing right.

The right of the Argentine Government, therefore, to jurisdiction over it being contested by another power, and upon grounds of claim long antecedent to the acts of Captain Duncan which General Alvear details, it is conceived that the United States ought not, until the controversy upon the subject between those two governments shall be settled, to give a final answer to General Alvear's note, ...”

December 18th, Ambassador Manuel Moreno writes to the Earl of Aberdeen; “... it may be permitted to the Undersigned to state summarily that the spoliation of which the United Provinces complain, refers:

1st. To the sovereignty and dominion of the Malvina Islands, particularly the Eastern Island, or Soledad, and Port Luis;

2ndly. To the legal, bonâ fide, and peaceable possession enjoyed by them for more than half a century of the said Eastern Island, or Soledad, and Port Luis;

2 points which it is of consequence to avoid confounding, as the complete possession, evidently protected by the best tides and most just right (that is, the purchase from France by a public and well-known contract, the subsequent colonization and cultivation, and, finally, the creation and collection on the spot of property, buildings, and cattle) must give to the United Provinces an incontrovertible right to an immediate and equitable compensation.

The Undersigned may be also permitted to say, that while the note of Viscount Palmerston, the Minister who directed the spoliation complained against, presents nothing but vague and erroneous ideas and assertions in regard to the question of the Malvinas, his Excellency mistaking the geography of the islands, and appearing to assume that the Eastern Island, or Soledad, at all times in possession of the Spaniards, which is 130 miles long and 80 miles broad, is, or has been, a dependency of the Western Island, or Port Egmont, which is only 100 miles long, and about 50 broad; the Government of the United Provinces confirming, on every occasion, the indisputable titles which it produced in its protests of the 17th of June, 1833, and the 29th of December, 1834, has never desisted from declaring, in its annual messages to the Legislature of the State, its great regret that it has not hitherto obtained that satisfaction to which it believes itself entitled..”¹⁴⁵

December 27th, Ministers Felipe Arana and Manuel Insiarte, reaffirms Argentina's claim to the territory of the Falkland Islands at the opening of the Legislatura.

December 29th, Lord Aberdeen tells Moreno that his letter, has been referred to the, “proper Department.”

145 *British & Foreign State Papers* 1843 vol.22 p.1366 - 1381

1842 – January 15th, Lt. Richard Moody arrives in the Falklands, and formally addresses the 78 settlers there; “... *to remove the erroneous ideas that might still linger in the mind of any one concerning Mr. Vernet's fancied claims upon Great Britain; I have been given to understand that some of the residents have claims upon Mr. Vernet, many of his paper dollars being in their possession, and some even in the government treasury of the colony, ...*”¹⁴⁶

In **February**, Ambassador Manuel Moreno, protests the forming of a colony as “.. *contrary to law.*”

April 14th, Lt. Moody, sends a comprehensive report back to the Admiralty, describing his observations in detail. He notes that; “*The hair and fur seals which were formerly so abundant in these islands have decreased considerably in number, in consequence of the wanton destruction as all times of the year .. neither old seals nor pups are spared by the sealers.*”

Capt. James Clark Ross, the Antarctic explorer, over-winters at Port Louis in the *Erebus*. He assists Lt. Moody in surveying Port William and assessing its potential as a site for the main town and port.

December 27th, at the opening of Congress, President of the Province of Buenos Aires, Juan Manuel de Rosas, restates his claim to the Falkland Islands.

1843 – March 24th, after deliberation, Lord Stanley advises Lt. Moody that he has decided that, “.. *the seat of government should at once be fixed at Port William.*”

April, an Act is gazetted; ‘*to enable Her Majesty to Provide for the Government of Her settlements on the coast of Africa and in the Falkland Islands*’.

In **June**, Richard Clement Moody, Corps of Royal Engineers, is gazetted Governor and Commander-in-Chief of the Islands, with powers to appoint officials and judges.

December 27th, General Rosas restates Argentina's claim in his speech at the annual opening of Congress.

1844 – August 13th, diplomatic relations between the Argentine Republic and the United States resume with the appointment of William Brent as *charge d'affaires*.

December 27th, General Rosas makes his annual claim to the Falkland Islands.

1845 – January 17th, the newspaper *La Gaceta Mercantile de Buenos Ayres* publishes an editorial; “*The support of the perfect right of the Republic to the territory of the Falkland Islands that the government perseveres to is not contradicted by the fact that the British government has not settled so just claim.*”

On no occasion has the Argentine government stopped asserting its proper right, and this is not the first act of illegal and violent occupation deplored by the new American States, awaiting reparation.”

146 January 22nd

July 18th, the new capital is named after Lord Stanley, Secretary of State for the Colonies.

September 18th, a blockade of the *Rio de la Plata* is declared by French and British forces to put pressure on General Rosas over his involvement in the civil war raging in Montevideo.

The reasons for this particular dispute are long, complicated and not directly relevant to the Falkland Islands. Not, at least, until its resolution in 1849 by a peace treaty that resolved '*all differences*'.

As had been foretold in January 1838, the issue of sovereignty came up every year at the opening of Argentina's Congress and appeared set to do so *ad infinitum*.

A negotiated treaty that dealt with all outstanding issues between Britain and Argentina was the only way in which the sovereignty issue could be resolved.

September 23rd, the Reverend James Moody is gazetted as Her Majesty's Colonial Chaplain at Stanley. On the same day, a letter written by resident Thomas Edmondston, puts the population at 150 men, women and children.

December 27th, General Rosas, on the opening of Congress, makes his annual claim to the Falkland Islands.

1846 – March 16th, Samuel Lafone, is contracted to hunt the wild cattle, horses, sheep and pigs on East Falkland, to the south of Choiseul Sound. An area that becomes known as Lafonia. His part of the bargain is to pay £60,000 to the Crown, and deliver to the Governor; “.. *yearly in good health the following stock: in 1847, 500 cows, 5 bulls, 4000 wild sports of the Falklands, 263 sheep, 40 rams, 20 horses. In 1848, 1000 cows, 10 bulls, 5000 sheep, 50 rams, 20 horses, 50 mares, 5 stallions, 30 sows, and 10 boars. In 1849, 1500 cows, 5 bulls, 5000 sheep, 50 rams, 50 mares. In 1850, 6000 sheep, 60 rams.*”

In **May**, *Legislative* and *Executive Councils* are formed at Stanley, a police force is introduced and a room in the barracks designated as a school.

November, Lafone sends a party of gauchos to the Islands to hunt cattle.

December 27th, General Rosas makes his annual claim.

1847 – Government House opens as an administrative center and Governor Moody introduces a grazing scheme to encourage small-scale farming.

In **May**, Count Walewski, for France, and Lord Howden, arrive in Buenos Aires to mediate between Buenos Aires and Montevideo in an attempt to end hostilities and lift the Anglo-French blockade. Their initial proposals includes recognition of an independent Uruguay which is unacceptable to Buenos Aires.

July 15th, following a failure to get agreement in either Buenos Aires or Montevideo, Lord Howdon unilaterally instructs Commodore Sir Thomas Herbert to raise the British

blockade of the Rio de la Plata.

The blockade was harming trade and therefore the British gave it up. Now there was a need to try to bring matters to some state of normality so that commerce could restart.

The important point is that General Rosas had won and was in no mood to give anything away in exchange for an agreement with Britain and France which would be of more benefit to them than to him.

Rosas would dictate the speed and nature of the negotiations over the next two years and would get exactly what he asked for.

In **December**, Ministers from Colombia, Chile, Bolivia, Ecuador, and Peru meet at Lima.¹⁴⁷

Lt. George Rennie takes over as Governor in the Falkland islands.

December 27th, General Rosas repeats his annual claim to the Falkland Islands.

1848 – January 29th, “... since the substitution of Stanley for Anson, as the chief settlement, some very marked alterations and improvements have become apparent in the position and prospect of the settlers; and Governor Moody has taken fresh courage ... The amount invested by the Government, and individual colonists at the new settlements is between £10,000 and £20,000; ... we shall not be surprised to learn that a considerable increase of population has taken place.”¹⁴⁸

In **March**, the Lima Conference concludes. *Article 7* of the final agreement adopts a political arrangement to define the borders between the new States in South America; “*The confederated Republics declare that they have a perfect right to the conservation of their territories as they existed at the time of independence from Spain, those of the respective Viceroyalties, captaincies-general or presidencies into which Spanish America was divided.*”¹⁴⁹

Under the doctrine of *terra nullius* (no man's land), territory that was not appropriated was susceptible to occupation.

Relying on former colonial boundaries to serve as their state boundaries, the emerging Latin American nations claimed to be legally entitled to all the territory within these boundaries, irrespective of whether it had actually been explored or settled.

This principle became known as *uti possidetis juris*, a political tenet which declared that no

147 Buenos Aires sent only minor officials who were unable to sign the final agreement. The USA sent an observer.

148 *The Perth Gazette and Independent Journal of Politics and News*

149 The arrangement has been described as 'a legal fiction of constructive possession'. “*Uti possidetis juris* was a rough and ready agreement between the new Latin American states to establish their respective territorial limits. As a principle, it could be applied only to a dispute between Latin American nations. For example, it could be invoked if Uruguay claimed the Falklands on the grounds that, at the 'critical date', the islands were, in fact, administered from Montevideo, and it was the Governor of Montevideo who withdrew the garrison and settlers. Whether it is applicable in a dispute with a non-Spanish American nation is open to doubt.” Metford 1968. “*This doctrine — possibly, at least at first, a political tenet rather than a true rule of law — is peculiar to the field of the Spanish-American States whose territories were formerly under the rule of the Spanish Crown...*” Beagle Channel Arbitration February 18th 1977

territory in former Spanish America was without an owner and thus no territory was open to further European colonisation under the doctrine of *terra nullius*.

Backdated to each country's declaration of independence, the agreement bound the signatories and only the signatories. Britain has never accepted this political arrangement and it remains controversial.

Uti possidetis juris does, however, form the basis of Argentina's claim of 'inheritance', despite the fact that, in 1848, Spain still held its own claim to the Falkland Islands, and, come that, Argentina. Recognition of an independent Argentine Republic was still some way off.

In **October**, Henry Southern, arrives in Buenos Aires to negotiate a deal with Rosas.

December 27th, the General sends his annual message to Congress; referring to the current situation with France and Britain, and citing the 1825 *Treaty of Amity*. He also makes mention of the arrival of Henry Southern and of the, “*unquestionable rights of the Republic to the Falkland islands.*”

1849 – the population in Stanley reaches 200.

In **April**, General Rosas submits the terms under which the Argentine Confederation is prepared to resume diplomatic relations with Britain.

April 29th, Earl Harrowby, in the House of Lords, raises the issue of the negotiations taking place between Buenos Aires and London, and demands to know the what is happening; “*.. It will not be enough for the noble Marquess opposite to tell us that this information cannot be given, on account of public inconvenience, arising from the circumstances that negotiations are now pending, that Her Majesty's Government are sanguine of success, that they believe the President of the Argentine Confederation will alter his tone, and receive our addresses in a more conciliatory manner than he has hitherto evinced. ...*

... Are we to agree to give a compensation of about three millions sterling for the very grave offences and the very serious damages which our Government, in concert with that of France, has inflicted on Buenos Ayres during the Anglo-French intervention? Are we prepared to give up the Falkland Isles? .. For these, it appears, are the only terms upon which President Rosas will deign to receive an accredited Minister from Her Majesty? In what position are our interests now?”

The Marquess of Lansdowne replies on behalf of the Government; “*.. negotiations ... recently assumed a very promising aspect, so far as it relates to the probability of the modifications founded upon the basis of Mr. Hood being agreed to. ..*

What those modifications are, the noble Earl cannot expect, nor can any one of your Lordships expect, that I should now state. I can only say that those modifications do not go at all to the extent that the noble Earl has assumed Rosas is likely to ask. ..”¹⁵⁰

150 *HL Deb 23 April 1849 vol. 104 cc602-17*. There is no evidence that the Falklands were ever mentioned during the negotiations.

May 17th, the *Colonial Land and Emigration Commission* reports that 14 more settlers had departed for the Falkland Islands during 1848.

June 1st, in a Parliamentary debate on the costs of the Falklands, Mr. Cobden says he; “ .. could not refrain from reading over the manner in which the money was expended in the government of those islands. There was a governor, 800l.; magistrate, 400l.; chaplain, 400l.; surgeon, 300l.; first clerk, 200l.; second clerk, 150l.; schoolmaster, 20l.; surveyor's department, 1,230l.; public works, 1,050l.; Guachos, 300l.; purchase of stores, freight of vessels, and incidental expenses, 1,100l.; rations, 750l.—in all, 5,700l. Really, if this country had more money than it knew what to do with—if it were the most flourishing nation in the world, it would be impossible to throw away its money in a more wanton manner than they were doing.”

July 28th, an answer by Lord Palmerston to a question by Mr. Baille MP, is reported in *The Times*: “ ... a claim had been made many years ago, on the part of Buenos Ayres, to the Falkland Islands, and had been resisted by the British Government. Great Britain had always disputed and denied the claim of Spain to the Falkland Islands, and she was not therefore willing to yield to Buenos Ayres what had been refused to Spain.

10 or 12 years ago the Falkland Islands, having been unoccupied for some time, were taken possession of by Great Britain, and a settlement had ever since been maintained there; and he thought it would be most inadvisable to revive a correspondence which had ceased by the acquiescence of one party and the maintenance of the other.”

Argentina's Ambassador in London, Manuel Moreno, protests, stating that the discontinuance of correspondence should not be interpreted as acquiescence; “.. the Government of Buenos Aires and Confederation Argentina has never consented to the divestment of its sovereignty in the Falkland Islands made by the English Government in 1833; and that far from withdrawing their protest on June 17 of that year, reiterated in the (letter) of 29 December 1834 he has kept his undisputed rights to that possession by all media who have been in his possession, and constantly has stated its just complaint for lack of satisfaction...”

August 8th, Palmerston responds; “I have always understood the matter in question to stand exactly in the way described by you in your letter.”¹⁵¹

November 24th, a peace Treaty, the; “ *Convention for re-establishing the perfect Relations of Friendship between Her Britannic Majesty and the Argentine Confederation*”, (the 'Southern-Arana Treaty'), is signed in Buenos Aires.

“Article 7: Under this Convention perfect friendship between Her Britannic Majesty's Government and the Government of the Confederation, is restored to its former state of good understanding and cordiality.”

No mention is made of the Falkland Islands. ¹⁵²

151 “In other words, Palmerston himself had indeed mentioned Argentina's acquiescence just as Moreno had said, and the Argentine protests had indeed been made just as he had stated too, so Moreno's letter was a correct statement of the case – including Palmerston's mention of Argentina's acquiescence. Palmerston did not say the question was “unsettled” – indeed quite the reverse; he said it had been ended by Argentina's acquiescence.” Pascoe & Pepper 2008 p.23

152 “a concession to Britain or a culpable oversight?”, *Cuando Rosas quiso ser inglés* Alfredo R. Burnet-Merlin 1974.

December 27th, in his annual Message to Congress, General Rosas mentions the exchange between Lord Palmerston and Manuel Moreno, and explains that the British are unprepared to give to Buenos Aires that which they would not concede to Spain in 1771.¹⁵³

In 1836, American jurist Henry Wheaton stated the accepted position in international law with regard to peace treaties, that; "*If nothing be said about the conquered country or places, they remain with the conqueror, and his title cannot afterwards be called in question.*"

General Rosas did not negotiate; he demanded. In December 1848 Rosas clearly restated Argentina's claim to the Falklands, and yet, in April 1849 he did not include them in his demands. Perhaps he saw them as one demand too far. Perhaps he was thinking about his own future.

In any case, as stated in the preamble to the *Treaty*, existing differences were ended, and peace returned between Britain and Argentina.

A peace destined to last until 1982.

The disputes over the Falklands appeared finally at an end, resolved by a '*perfect friendship.*'

But then again, appearances may be deceptive.



153 This was the last mention of the Falkland Islands in the annual *Message to Congress*, for 91 years.

1850 - 1892



1850 – May 15th, ratifications of the *Treaty* are exchanged.

1851 – Samuel Lafone and his creditors establish the *Royal Falkland Land, Cattle, Seal and Whale Fishery Company* under a Royal Charter. Lafone sells his rights on the Islands to the new company for £20,000, remaining a Director and Manager. A population census estimates the peoples present on the Islands at 287, including 78 gauchos working for Lafone.

1852 – January 10th, the *Royal Falkland Land, Cattle, Seal and Whale Fishery Company* becomes the *Falkland Islands Company* and introduces Cheviot sheep to the Islands. The Company also signs a 7 year contract with the British Government for the conveyance of mail.

In **February**, Capt. Hiram Clift, of the whaling ship *Hudson*, returns to New England with 2,382 barrels of whale oil and 18,000 lb of bone, taken from around the Falkland Islands.

April 28th, Plymouth newspapers report the arrival of ex-General Rosas in England as a political refugee.¹⁵⁴

May 7th, Luis Vernet, now in London, submits a claim for compensation to the British Government. He states a case for £14,295 to cover lost horses, domesticated cattle, stone houses and beef left at the settlement, which, with interest, he puts at £28,000.

He also complains about the inefficient practices employed by Samuel Lafone in exploiting the wild cattle; “*Whereas if the £100,000 sterling or even only £50,000 of the Company was invested and managed judiciously, the Company would prosper and the Colonization of the Falkland Islands would no doubt be effectively accomplished.*”¹⁵⁵

Cattle loss, to trespassing whalers, increases; “*.. this is the very locality now resorted to by marauders for stealthily obtaining beef, not merely for present supply, but for committing so wholesale a destruction as will enable them to salt down sufficient for a long cruise. It is pretty well known that in numerous vessels from England, America, and other places, a stock of salt is taken out for the purpose of curing a supply of provisions at the expense of these islands.*”¹⁵⁶

1853 – January 8th, Governor Rennie writes to Sir John Packington;

“*.. I have the honour to report a continuance of the same steady, though not very rapid progress, which has prevailed in this small community during the last four years.*

The resort of shipping to these islands for supplies and repairs, forming one of the chief

154 *HL Deb 29.4.1852 vol.120 cc1278-83* Hansard. There is some evidence that the British Minister, Robert Gore, facilitated Rosas' escape from Buenos Aires, following his defeat by the forces of General Urquiza in February, 1852.

155 *Monsieur Vernet's Case 1852 - 1860* National Archive CO 78 43

156 *Atlantic and transatlantic: sketches afloat and ashore* L.B. Mackinnon. 1852

sources of prosperity, it is gratifying for me to observe the progressive increase shown by the returns of the year just ended over that of the previous year. ..

*The transference to the Falkland Islands Company of the large interests held by Mr. Lafone, and the commencement by that corporation of a more comprehensive system of operation, supported by a large capital, gives me very favourable hopes of benefit to the colony, ...*¹⁵⁷

May 26th, the Department of State, Washington, makes an announcement; “ *Official information has been received at this Department that the British authorities at the Falkland island having complained to their Government that the wild cattle on those islands are frequently killed, and that other depredations are committed there by persons landing from vessels under the flag of the United States, it is the intention of the British Government to send a force thither competent to prevent a repetition of such acts.*

*Consequently, masters of vessels and other citizens of the United States resorting to that quarter are warned that, if they commit spoliations in the Falkland islands, they will incur the penalties which may be prescribed therefor.*¹⁵⁸

October 31st, Port Stanley is described as a, “ .. *really decent-sized little town, with its church, exchange, two public houses called hotels, and two billiard-rooms, with a port full of vessels at anchor, including two large American ships; all had put in for repairs, for which the port affords every facility... Nine hundred thousand acres of land in these islands are sold or leased, and three million acres remain to be sold.*¹⁵⁹

1854 – January, deserters from the US whaler *Hudson*, and her tender, *Washington*, arrive in Stanley. They make a statement to the effect that in addition to hunting whales, the captains of the two vessels have authorised the killing of a large number of pigs, on which they'd lived for some eight months. The pigs are the property of the *Falkland Islands Company*.

Warrants are issued for Captains, Clift and Eldridge, and the Constable sails to New Island in *HMS Express*, to effect the arrests.

February 26th, the warrants are executed, the offending ships detained and taken to Port William. Commander Lynch in the *Germantown*, is ordered by the US Consul in Montevideo, to go to the Islands and protect its citizens.

March 2nd, the American ship arrives off the Islands and an acrimonious exchange of letters takes place between Commander Lynch and Governor Rennie. The offending Captains are fined £22 each by the local magistrates' court, and then the *Germantown*, *Hudson* and *Washington* depart without further incident.

Reports vary. In one very 'explosive' newspaper report there is a suggestion of shots being fired over the Magistrate's Court building by the *Germantown*. Lynch appears to have lacked the determination of the *Lexington's* commander though and the offenders were fined.

157 *Brazil, the river Plate, and the Falkland Islands, with the Cape Horn Route* William Hadfield 1854

158 *The New York Times* May 28th, 1853

159 *Three Years Cruise in the Australasian Colonies* R. E. Malone 1854

Arguments about American rights of access to the fisheries rumbled on until 1871, although it never quite came to a real fight. Of course it was about oil, in this case that which could be boiled down from seals, whales and penguins. It's always about oil.

There is little doubt that Commander Duncan had put the USA into a difficult position with his 'raid' of December 1831. The Americans never really felt comfortable with the way it had worked out. They still don't.

Luis Vernet remained annoyed about Duncan's actions too. Having failed to gain compensation in the USA, he tried in London. He would go on to contract with his son to pursue the various claims long after his death.

As a result of the threat posed by the American navy, a volunteer defence force is established on the Islands, referred to locally as the '*Stanley Volunteers*'. The first resident garrison on the Falkland Islands in 80 years.

June 12th, Sir George Grey takes over as the new, *Secretary of State for the Colonies*.

Sir Robert Phillimore considers some legal aspects of sovereignty; “ .. *writers on international law agree that the Use and Settlement, or, in other words, continuous use, are indispensable elements of occupation so called. The mere erection of crosses, landmarks and inscriptions is ineffectual for acquiring or maintaining an exclusive title to a country of which no real use is made*

A different opinion appears, indeed, to have been entertained by the officers of Great Britain in 1774, at the period of her temporary abandonment of the Falkland Islands.”¹⁶⁰

1855 – Capt. Thomas Laws Moore becomes Governor.

1856 – May 5th, Luis Vernet writes to Lord Harrowby; “... *the wish, to get my Colony under the British Flag, was in accordance with my own interests and those of my colonists, which required such change of flag; because situated as we were on the Highway of Nations, we could not expect permanent prosperity, unless placed under the sovereignty of a Government capable of protecting us against filibustering or other aggressions.*

As to the grants of Land, wild cattle, and privileges, these were originally obtained not with the view to establish any claim to the Islands on the part of Buenos Ayres, but merely to secure the best protection I could for my new colony, from the Authorities for the time being, regardless who they might be.”¹⁶¹

May 10th, Vernet has a letter published in the *Illustrated London News*; “... *I am at present in London, and in correspondence with the present Government, for the purpose of claiming British protection and justice against the arbitrary acts and misrepresentation of certain British authorities, which have been the cause of my remaining, for these last eighteen years, dispossessed of my private property in the East Falkland Islands, after an honourable possession of very many years previous...*

I possess ample evidence to convince every impartial man that I was perfectly justified in pursuing the course I did with regard to the Falkland Islands.”

160 *Commentaries upon International Law*, London, 1879

161 *AGN, Buenos Aires, Sala VII, F.131, doc. 46* quoted in Pascoe & Pepper 2008

1857 – Compensation of £2,400 is awarded to Vernet, reduced to £1,850 because of outstanding promissory notes.¹⁶²

Juan Bautista Alberdi, Minister to the Court of London, initiates negotiations with Spain for an acknowledgment of Argentina's independence. Britain mediates.

July 27th, in *The New York Times*, “*That Great Britain entertains for a moment the abandonment or relinquishment of the Falkland Islands as has been intimated, is not to be conceived for a moment.*”

August 7th, a detachment of troops is sent to Stanley.¹⁶³

1858 – July 5th, *The New York Times* estimates that there are 20 – 30,000 wild cattle on the Islands, compared to only 800 inhabitants.

July 9th, a 'Treaty of Recognition, Peace and Friendship' is signed in Madrid between Spain and the Argentine Confederation.

Queen Isabella acknowledges the Argentine Confederation as a; “*free, sovereign and independent nation,*” renouncing, for herself and her successors, sovereignty over the territory of the Argentine Confederation.

The Confederation did not include the Province of Buenos Aires at this time, as, once again, Buenos Aires had fallen out with the others over its refusal to take part in the Convention that adopted the Constitution of 1853.

*“.. When, finally, Spain agreed to recognise the independence of Argentina in 1859, it was Argentina without the Falklands, with no explicit transfer of any rights which Spain may have held over the archipelago. As Britain was mediator between the newly constituted nation and the former mother country, it would have been most unlikely that she would have permitted any such transfer or allowed into the treaty of recognition anything which could be interpreted as a challenge to British sovereignty in the islands.”*¹⁶⁴

This agreement with Spain was based upon the territory that the United Provinces had held on May 25th, 1810. The Falkland Islands, which had never been a part of the *Viceroyalty*, although dependent upon it, were not evacuated by Spain until 1811.

Spain still held her claim to East Falkland, although with the British having been in firm control for 30 years there was no possibility of regaining sovereignty.

All that was left for Spain to do, was to salute reality.

1859 – November, the Province of Buenos Aires negotiates to rejoin the Confederation.¹⁶⁵

162 'Monsieur Vernet's Case 1852 – 1860' National Archives CO 78/43

163 *The London Gazette*, No. 22029

164 Metford 1968

165 “*Buenos Aires was eventually defeated by Confederation forces ... As a condition of peace, Buenos Aires agreed to join the Confederation, but subject to changes in the constitution.*” *Don't Copy Me Argentina: Constitutional Borrowing and Rhetorical Type* Mitchell Gordon 2009

1860 – in *June*, a *Treaty of Union* between the Argentine Confederation and Buenos Aires is signed. United finally, the country is to be known as the *República Argentina*. Changes to the 1853 *Constitution* are also agreed, and these, in turn, require a new treaty with Spain.

1861 – population on the Islands is estimated at 541. A '*Shipping Register*' is opened.¹⁶⁶

1862 – a French map shows Patagonia as *terra nullius*.

September 10th, Capt. James George Mackenzie takes over as Governor.

1863 – *January*, Vice-Admiral Luiz Hernández de Pinzón leads a diplomatic mission to Buenos Aires to discuss the new treaty.

February 27th, the diplomatic mission moves on to Stanley, the capital of the British Falkland Islands. Admiral Pinzón fires a salute to the British ensign and invites Governor Mackenzie on board his Flag Ship. Diplomatic gifts are exchanged and the mission stays for 6 weeks. Spain has finally relinquished its claim.

September 21st, Argentina's independence recognised after 53 years by the '*Treaty of Recognition, Peace and Friendship*' .

"Article 1: Your Catholic Majesty recognises the Republic or Confederation of Argentina as a free, supreme and independent nation that consists of all the provinces mentioned in its present federal Constitution, ... According to the Spanish Parliament Act of December 4th 1836, the kingdom renounces any rights and actions on the territory of the Republic".

1865 – **May 1st**, Argentine President, Bartolomé Mitre, in his address to Congress, refers to the treaties signed in 1850 between Britain, France and Buenos Aires; " ... *there was nothing to prevent the consolidation of friendly relations between this country and those governments.*"¹⁶⁷

1866 – **May 1st**, Vice-President Marcos Paz refers to an old dispute with some British citizens; "*The British Government has accepted the President of the Republic of Chile as arbitrator in the reclamation pending with the Argentine Republic, for damages suffered by English subjects in 1845. This question, which is the only one between us and the British nation, has not yet been settled.*"¹⁶⁸

USS Kansas makes an official visit to the Falkland Islands.¹⁶⁹

May 19th, William Robinson becomes Governor.

1869 – **May 1st**, Argentina's President Domingo Sarmiento announces; "*The state of our foreign relations fulfills the aspirations of the country. Nothing is claimed from us by other nations; we have nothing to ask of them except that they will persevere in manifesting their sympathies, with which both Governments and peoples have honored*

166 Now part of the *Red Ensign* Group.

167 i.e. France and Britain. *Los Mensajes 1810-1910* Heraclio Mabragaña Buenos Aires 1910, vol.III, p.227

168 *British and Foreign State Papers 1866-1867* 1871, p.1009; original in H. Mabragaña, 1910, vol.III, p.238

169 *The New York Times*, *June 30th* There had been an American Consul at Stanley since 1857.

the Republic, both for its progress and its spirit of fairness.. ¹⁷⁰

Antonina Roxa, one of Vernet's original settlers, dies on her farm in the Falklands.

In **November**, an article by a José Hernández, is published in the *El Rio de la Plata*:
*"Meanwhile, the Argentine government, which has fully paid all debts arising from injury to foreign nationals, which has to date had close and cordial relations with all European and American governments, except in Paraguay, has not obtained redress for the serious damage caused to a citizen of Argentina for the destruction of the colony Soledad, not least by the usurpation of the Falkland Islands, seized by the British We believe that this is due to the indifference of our government, or the weak efforts that have been submitted to the foreign cabinets."*¹⁷¹

Nothing lasts.

Argentina had not made any claim since 1850 following the resolution of all differences. 19 years in which the colony on the islands had grown sufficiently prosperous to excite a little envy perhaps.

A few vested interests in Buenos Aires still held out hope of regaining East Soledad. Luis Vernet had not forgotten, and his family would continue to lobby for reparations, particularly from the USA, for Duncan's 'raid'.

1870 – **February 24th**, William Kooli D'Arcy is gazetted Governor.

1871 – **January 7th**, Luis Vernet dies, aged 79, in San Isidro, Argentina.

1876 – **May 18th**, Jeremiah Callaghan becomes Governor.

1877 – **April 1st**, the Falkland Islands join the *General Postal Union*.¹⁷²

1878 – **June 19th**, a Falkland Islands stamp is issued featuring the head of Queen Victoria. The GPU is renamed the *Universal Postal Union* and Argentina joins.

1880 – **September 13th**, Thomas Kerr is gazetted Governor.

1882 – Argentina finances and distributes the '*Latzina Map*' to its consulates worldwide. This map highlights the territory of Argentina in one colour; while the other States in South America, are all in a different colour. The Falkland Islands are shown in the same colours as Argentina's neighbours.

1884 – **January 28th**, at the prompting of Vernet's family, Foreign Minister Francisco Ortiz, instructs his Ambassador in Washington to raise the issue of the *Lexington raid* once again.

170 Heraclio Mabragaña 1910, vol.III, p.286

171 The article adds, "*Few Argentines have been in the Falklands after the unjust British occupation. Those that still exist there are no more than twenty,*"

172 And then there were the stamp wars. cf. *Minature Messages: the semiotics and politics of Latin American postage stamps* J. Child 2008

April 25th, Ambassador Dominguez responds that the matter was resolved by the 1853 *Treaty of Friendship* between Argentina and the USA. Ortiz insists, and the Ambassador registers an official protest with the United States Government, complaining of the actions of the *USS Lexington*, 53 years earlier. He receives no reply.

May 30th, Ortiz, in a conversation with British Ambassador Edmund Monson, suggests that, “*now the country was consolidated and rounding off its territory,*” the Falklands should be handed over, “*by reason of their geographical position.*”¹⁷³

Monson reports to Earl Granville; “*In the interests of civilisation they may have been justified in dividing with Chile the unexplored Pampas, hitherto only populated by nomad indians. The pretext does not serve with regard to the Falklands which have by English occupation been converted into a peaceable and prosperous settlement.*”

In **December**, the *Argentine Geographical Institute*, following an announcement in *La Nacion*, includes the Falkland Islands on a map showing Argentina's sovereign territory. Britain protests.

1885 – January 2nd, in a response to the protest, Ortiz suggests that; “*... the postponed discussion be reopened again... and resolved by the friendly means and law that today civilized nations adopt to solve questions of this type.*”

December 8th, Argentina's protest regarding the actions of *USS Lexington* is dismissed by US President Cleveland in his State of the Union address; “*The Argentine Government has revived the long dormant question of the Falkland Islands by claiming from the United States indemnity for their loss, attributed to the action of the commander of the sloop of war Lexington in breaking up a piratical colony on those islands in 1831, and their subsequent occupation by Great Britain. In view of the ample justification for the act of the Lexington and the derelict condition of the islands before and after their alleged occupation by Argentine colonists, this Government considers the claim as wholly groundless.*”

Argentina's new Ambassador, Vincente Quesada, protests again, saying that his country's claim cannot be called “*wholly groundless*”, without it being adjudicated. Secretary

1886 – January 16th, Arthur Cecil Stuart Barkly takes over as the new Lieutenant-Governor of the Islands.

March 18th, US Secretary of State Bayard writes to Minister Quasada; “*This Government is not a party to the controversy between the Argentine Republic and Great Britain; and it is for this reason that it has delayed, with the tacit consent of the former, a final answer to its demands. For it is conceived that the question of the liability of the United States to the Argentine Republic for the acts of Captain Duncan, in 1831, is so closely related to the question of sovereignty over the Falkland Islands, that the decision of the former would inevitably be interpreted as an expression of opinion on the merits of the latter. Such an expression it is the desire of this Government to avoid, so far as an adequate reference to the points of argument presented in the notes recently addressed to this Department on behalf of your Government will permit. . . .*”

¹⁷³ Monson to Foreign Office PRO FO 6/503. Argentina's expansion into Patagonia, also known as *The Conquest of the Desert*, was finally over in 1884 when the last tribes surrendered.

As the resumption of actual occupation of the Falkland Islands by Great Britain in 1833 took place under a claim of title which had been previously asserted and maintained by that Government, it is not seen that the Monroe doctrine, which has been invoked on the part of the Argentine Republic, has any application to the case. By the terms in which that principle of international conduct was announced, it was expressly excluded from retroactive operation.

If the circumstances had been different, and the acts of the British Government had been in violation of that doctrine, this Government could never regard its failure to assert it as creating any liability to another power for injuries it may have sustained in consequence of the omission. . . .

But it is believed that, even if it could be shown that the Argentine Republic possesses the rightful title to the sovereignty of the Falkland Islands, there would not be wanting ample grounds upon which the conduct of Captain Duncan in 1831 could be defended. . . .

On the whole, it is not seen that the United States committed any invasion of the just rights of the Government of Buenos Ayres in putting an end in 1831 to Vernet's lawless aggressions upon the persons and property of our citizens."

1887 – yet again, the Argentina's Embassy in Washington complains about the *Lexington Raid* and demands compensation for losses suffered by Vernet and his investors. The complaint refers to Argentine sovereignty over East Falkland island only, based upon the rights of Spain which Buenos Aires claims to have inherited; “... *the undersigned will prove with documents, that possession of East Falkland or Soledad, was never disputed by Britain, until the unfounded protest of Parish in 1829. .. such protest did not weaken the title of the first occupant in that it was based on the possession that the Argentine Government, as successor of Spain, had East Falkland in 1831.*”

1888 – **January 20th**, Foreign Minister Norberto Quirno Costa protests against Britain's possession of the Falkland Islands in a letter addressed to the British Minister, Francis Pakenham, in Buenos Aires; “*The Argentine Government maintains its protest with respect to the illegitimate occupation of the Malvinas Islands; it does not abandon, and never will abandon, its rights to these territories; and at all times, until justice is done, it will regard them as forming an integral part of the Argentine dominion, founded on priority of discovery, on priority of occupation, on possession initiated and exercised, on tacit and explicit recognition, and on acquisition by treaty of those titles which belonged to Spain.*”¹⁷⁴

June 12th, Foreign Minister Costa complains about the silence that the British Government is maintaining in the face of Argentina's suggestions of arbitration.¹⁷⁵

There is no evidence that the Government of Argentina actually issued a formal invitation for the two nations to take the issue of sovereignty over the Falklands to international arbitration.

In matters of sovereignty it had become quite normal to approach a third party, such as the pope or another monarch, and ask them to oversee a process of arbitration.

174 *The South American Journal* April 14th 1888, quoted in the *Scottish Geographical Magazine*, v.4 issue 5 1888.

175 There is no evidence that a formal invitation to arbitration was ever made.

This was certainly the case in 1895 when Britain and Venezuela went to arbitration over the border with British Guiana; while a Permanent Court of Arbitration was established in 1899 following the first Hague Peace Conference.

In the 1950's when Britain attempted to get Argentina to agree to arbitration over the Falkland Islands Dependencies and the Antarctic Territories, Argentina refused to recognise that a sovereignty dispute could be arbitrated by a court.

1889 – October 2nd, the first Pan-American Conference meets in Washington. Argentina asks the US to protest Britain's occupation of the Falkland Islands.¹⁷⁶

1891 – February 3rd, Sir Roger Tuckfield Goldsworthy takes over as Governor. A population census identifies 1,789 settlers.

1892 – March 2nd, the Falkland Islands celebrates becoming a Crown Colony with a 17 gun salute: “*The Queen has been pleased to direct Letters Patent to be passed under the Great Seal of the United Kingdom, erecting Her Majesty's Settlements in the Falkland islands and their dependencies into the Colony of the Falkland Islands, constituting the office of Governor and Commander in Chief, and providing for the Government thereof.*”¹⁷⁷



176 *The Sydney Morning Herald* Nov. 16th

177 *The London Gazette*, No.26264

Counter-Claims



France

First settlement – there is no doubt that the French placed a settlement on the the Falkland Islands first, ahead of the English by some 10 months. Indeed there's good evidence that French privateers and merchants had been making use of the Islands from around 1700.

But then after 2 years residence Bougainville was forced to sign over his investment and, having been compensated for their “.. *intrusive establishments in the Malvina Islands..*”, the French gave up and left. They did not sell any right to sovereignty as Spain already claimed that, nor could they sell 2 years of history; just the buildings and livestock and the effort involved.

France has not made any claim since the 1760's.

America

Inheritance – on the face of it, a strange idea. But then the Americans, following independence, could be said to have inherited, *inter alia*, England's old common law legal traditions. Those traditions included rights to take 'seafish' over the foreshore and high seas.; “*a right enjoyed by common practice since time immemorial.*”¹⁷⁸

*"Prima facie every subject has a right to take fish found upon the seashore between high and low water mark.."*¹⁷⁹

Whether, in 1831, the Americans still had common rights to the seals on the foreshore of a British territory is a moot point. They certainly, with regard to the Falklands fisheries, claimed the continuation of such a right between the 1770's and 1853, when they publicised the new British prohibitions. And as the incidents with both the *Lexington (1831)* and the *Germantown (1854)* demonstrate, America was prepared to defend those rights.

The American Senate was still debating the issue in 1871, although they appear to have given up on it after that. Sadly, this inheritance was never tested in a court of law.

Spain

Abandonment – at the end of the diplomatic stand-off in 1771, Spain came away with an impression that England was prepared to evacuate the Falklands and leave the area to Spain. This was a view held onto by Madrid, in the face of its Ambassador in London repeatedly informing them that no such deal had been agreed.

Julius Goebel's research published in 1927 focused heavily on this supposed, 'secret promise', but his conclusions were flawed by lack of access to the Royal archive at Windsor. He did appear to have been vindicated however, by the withdrawal of the garrison from Port Egmont in 1774, as a result of Lord North's drive to balance the books. Goebel's primary conclusion about the existence of an agreement rather collapses, however, before

¹⁷⁸ *Attorney General for British Columbia v. Attorney General for Canada* [1914] AC 153

¹⁷⁹ *Bagott v. Orr* 2 [1801] B&D 472

the plaque left to proclaim British sovereignty to the world.

Goebel's work undoubtedly raised doubts about Britain's claims in the early part of the 20th century, but close analysis soon dispelled those questions.

It does not take a garrison to maintain a claim of sovereignty. If it did, Britain would have lost quite a few distant and isolated islands; Tristan da Cunha and Pitcairn not the least. Sovereignty is proven by acts, an imposition of control, the application of laws, recognition, settlement and use.

One misconception is that the British left West Falkland abandoned for 55 years between 1774 and the protest to Buenos Aires in 1829. This is inaccurate. Although few and far between, there were acts of sovereignty

To bring in the oil to light London's streets, the bounty system was extended to the southern fishery by the *Whale Fishery, etc. Act 1776*, and was renewed every few years. To the same end, the seal fishery around the Islands grew at a remarkable rate after 1775 with sealers like Francis Rotch operating under a British Government guarantee of protection. Spain did not interfere.

In 1786, Lt. Edgar of the Royal Navy surveyed West Falkland over the austral summer, and his charts were published for all to see. Surveying is a slow business so it is unlikely that the Spanish did not know he was there.

There was even some consideration of regulating the seal fisheries around the islands in 1788.

On the other hand, a Spanish force nipping over to Egmont from their penal colony at Soledad, and stealing the plaque is not an act of sovereignty. Not that much is known about Spain's penal colony other than its reputed existence.

When Onslow left in 1833, all he left behind was an Irishman with a Union Jack. Garrisons are not the only means by which sovereignty may be displayed.

Cession from France – Spain argued that the French should leave, because sovereignty already belonged to Spain and France was trespassing. Sovereignty, therefore, could hardly have been purchased or ceded.

France sold the nuts and bolts of Bougainville's settlement, and gave up any future claim or right. And that was all. Spain's occupancy of East Falkland began when they took over and set up the penal colony in 1767; not before.

First Discovery – the claim that Estêvão Gomes discovered the Falkland Islands in 1521 rather falls apart when Martin Waldseemuller placed them with reasonable accuracy on his map of 1507.

Settlement & Use – there is little doubt that, despite England's claim to the whole of the archipelago, Spain's long occupancy of East Falkland gave them unchallengeable sovereignty over that island and the islets around it.

It is notable that when Spain withdrew its garrison in 1811, it also left a plaque stating the rights claimed. And the only claim was to the Island of Soledad.

As to West Falkland, the claim of Spanish sovereignty would have been easily asserted by the settlement of a small colony, the raising of a flag or even by sending the prisoners from the penal colony at Soledad over, on a regular basis, to cultivate the gardens at Port Egmont. The sort of actions that destroy another's claim to prescription for example. Yet the Spanish forces on East Falkland made no more than a couple of petty raids to remove the plaque and burn a few buildings. Those are not the acts of a Sovereign power.

Treaty – this refers initially to the Tordesillas agreement of 1494. Easily dispelled as a treaty only binds those that sign it. The *Treaty of Tordesillas* therefore imposed restrictions upon Portugal and Spain. No-one else.

Spain also attempted to claim exclusive rights in the South Seas based on the *Treaty of Utrecht* 1713. The contentious section says; "... it is hereby further agreed and concluded, that neither the Catholic King, nor any of his heirs and successors whatsoever, shall sell, yield, pawn, transfer, or by any means, or under any name, alienate from them and the crown of Spain, to the French, or to any other nations whatever, any lands, dominions, or territories, or any part thereof, belonging to Spain in America." England never recognised Spain's ownership of territory under either the Papal Bull or Tordesillas. Nor did Britain ever accept any restriction on its ability to discover and settle new land. Spain knew this.

The last agreement usually raised up for debate is the *Nootka Sound Convention* of 1790. There are many arguments regarding its applicability to the Falkland Islands, particularly to West Falkland which was already claimed by Britain, although the English complied with the spirit of Nootka between 1790 – 1796, forming no permanent settlements to the south of Puerto Soledad. Egmont lying a little to the north of the Spanish colony.

All the arguments are unnecessary however, as there is little doubt that the provisions of the Nootka Convention were long dead by 1833. Treaties do not last forever, and wars have a knack of disposing of old peace treaties. If the Nootka agreement had survived to 1833, the British action at East Falkland would still have been justified by the secret clause.

In any case, Nootka laid out very clearly the process for dealing with complaints by either signatory; but then Spain never did complain, although it did send a diplomatic mission in 1863 to salute the Union Jack.

Britain

First Discovery – John Davis got there in 1592, so no, not an English discovery although at the time, what with Portuguese and Spanish secrecy, it seemed plausible enough. Spain did not announce its supposed discovery until 1765, while Portugal's probable discovery as early as 1500 is still down to circumstantial evidence. As we tend to under-estimate our ancestors the archipelago may have been discovered long before 1500 – we'll probably never know.

First Settlement – Byron's claim was quickly followed up by a settlement at Port Egmont. The first then to occupy West Falkland, and the second to place a settlement in the archipelago. Spain came in a poor third.

With some ups and downs the settlement lasted until the garrison was withdrawn in 1774, although it was used regularly by whalers and sealers right up until 1832, when the *Clio* replaced the plaque. And beyond of course.

Use – the evidence is very clear. British vessels, mainly commercial, made extensive and uninterrupted use of the islands from 1766 until ... well today actually, if we miss out a few weeks in 1982.

Acquiescence/Prescription – there seems to be much confusion here. Argentina has protested any suggestion that their lack of comment, at any time or for any period, could possibly be viewed as 'acquiescence'.

What if it was not Argentina but Spain that was being referred to? Then the picture changes rather dramatically.

Britain, before the *Decree* of 1829 certainly, viewed Spain as the only other competitor to East Falkland. Argentina was never considered a player at all.

'*Prescription*' is more commonly known in England as '*squatters rights*;' a legal situation where an owner, aware of a trespass, does not object and, after a suitable period of time, title to the property in question passes to the trespasser.

With regard to East Falkland, Britain may arguably be seen as the trespasser after 1833; Spain as the owner. There was no objection.

Argentina

Inheritance – the claim is that Argentina inherited everything that had belonged to the *Viceroyalty* and Spain before its independence in May, 1810.

A number of problems with this massive assumption immediately leap out:

1. the Island of Soledad was still Spanish in 1811.
2. Soledad was never part of the *Viceroyalty*.¹⁸⁰
3. the tenet of *uti possidetis juris* 1810 was, in fact, a muddled political solution to a problem of boundaries; cobbled together in 1848 by a number of South American States in the hope that it would deter any further European colonization of territory that they would like to call their own and backdated to a State's date of independence.
4. Like all agreements, it only bound those who signed it. Britain did not.
5. The supposed benefactor, Spain, was alive and well and asserting its own claims.

Contentious now, *uti possidetis juris* was a non-starter in 1833. Not that Argentina actually signed up to it in 1848 - General Rosas still had designs on Uruguay.

Claim, Settlement & Use – this assertion is that, regardless of inheritance, Argentina staked its own claim in 1820 and followed it up with a settlement that persisted until it was usurped in 1833.¹⁸¹

History rather speaks for itself here. Jewett did not do enough in that he imposed no rule of law and left no signs of sovereignty behind him; Vernet's 1824 expedition failed and was not attempted again until 1826, and no act of sovereignty was envisaged by him before 1828. Attempts to impose sovereign authority between 1828 and 1833 were confined to East Falkland and failed. Vernet was prepared to fly two flags in 1828, but was ignored by the sealers and whalers as Jewett had been in 1820. He got assertive after the '*null and void*' *Decree* of 1829 but fell before the American claim of a right to fish. Before Buenos Aires could recapture the initiative, the Royal Navy arrived and removed a, '*foreign flag*.'

In addition, the *Decree* of 1829 had been properly protested by Britain, as was Mestivier's departure in 1832. There is also some evidence that Vernet sought to '*hedge his bets*' by seeking British protection for what he saw as '*his*' colony.

180 Check out the wording of the *Decree* of 1829.

181 Most recently asserted at the annual Decolonization Committee meeting held at the United Nations in New York on June 14th, 2012

Sometimes you should be careful what you wish for; you may get it.

Usurpation – the emotive claim. Poor, youthful Argentina is bullied by the old colonist and has its property stolen from under its very nose. Argentine settlers carried off and replaced by British implants; gauchos as revolutionary heroes; the destruction of '*territorial integrity*.'

Once again, the detail of history rather puts the lie to this; the most vocal of Argentina's claims.

1. Buenos Aires had taken no interest in the Falklands prior to 1823 when it starting making land grants on East Falkland incompatible with its status as a revolted colony; and in defiance of the claim retained by Spain since 1767.
2. Luis Vernet had recognised the British claim in 1828 and obtained a licence from the Vice-Consul compatible with the permissions granted by the 1825 Treaty. He also sought protection after 1829. Indeed, there is evidence of an extensive liaison between Vernet and the British *charge d'affaires*, Woodbine Parish, between 1826 and 1829.
3. After 1826, the settlers were a mixed bunch from many countries, particularly European. Less than half could be claimed to be citizens of the United Provinces.
4. Buenos Aires was clearly warned in 1829 that if they should pursue their pretension regarding the Falkland Islands then Britain would take action. The Government there had merely acknowledged the protest; making no attempt to argue any claim, nor negotiate in any way. Sending Mestiver in 1832 was an act of defiance; an act of force; an invasion.
5. After Captain Onslow's arrival at Port Louis in January, 1833 only four settlers opted to leave. More than 20 chose to stay. Mestivier's mutinous armed force was '*invited*' to leave peacefully, an option they wisely took.
6. For a country to have its '*territorial integrity*' usurped, it would need to own the territory being stolen.

Spain may have had good cause for complaint; although they never made one, however the Falkland islands have never been a part of Argentina's territory. Never.



Conclusion



A conclusion seems to be required. But what? Can there be any conclusion?

The 1849 Treaty should have resolved the matter. It was a peace treaty, it purported to resolve all differences; and it did – for 34 years. Which, of course, meant that some differences had not been resolved.

Strangely enough I have some sympathy. Treaties do not live forever. Like New Year Resolutions, they are subject to changing circumstances. Like modern day United Nations' Resolutions, things change. A peace treaty dies when the two (or more) parties go back to war. Treaties, Resolutions, agreements – all wither and die in the face of changing circumstances.

I've talked about France and Spain, and even America, but this is really about Britain and Argentina.

Does Britain have a genuine claim to the Falkland Islands?

I believe that it does. Perhaps a better claim to West Falkland than its neighbour, before 1833, but in all circumstances, a claim better than Argentina has.

Does Argentina have a claim to the Falkland Islands?

No! I do not believe so. The concept of inheritance is just a suitable myth. Spain did not hand over its claim to the United Provinces at any time. So all that Argentina can possibly have, is whatever she did for herself.

If there's no inheritance, then we are talking about Argentina after 1816. Declaring for far away kings is not an act of independence. We also have the '*critical date*' in 1829 when both sides fully recognised that there was a competitor.

Britain's claim goes back to 1765. 1765 – 1829. Argentina's starts in 1816. 1816 – 1829.

Within the period Britain can prove a claim, a settlement, a dispute and the threat of war, a withdrawal of the garrison but continued use, via its whaling and sealing fleets, up until the critical date. It has sovereign acts in the form of changing laws, a survey and the consideration of conservation regulations. Mostly, after sovereignty was established, it has use.

Between 1816 and 1829, the UP/Buenos Aires/Argentina had Jewett and Vernet.

It is difficult to take the claim based on Jewett seriously. Buenos Aires has never been able to produce any authority for Jewett to make any claim on its behalf. In fact, Argentina says that it considered the Falkland Islands its own property after 1810, so why would they send a privateer to make a claim for them? An observer at the time, Weddell, didn't take the claim seriously either. All he saw was a pirate/privateer after the salvage rights over a French ship. And Jewett himself, on getting back to his Masters, forgot to mention the claim in his final report. Besides, a claim on its own has no meaning unless it is followed up, and quickly. There was no follow-up. No public announcement of sovereignty, no settlers, no authority. All there was, was Vernet.

Contemporary reports clearly show that Luis Vernet was an articulate and intelligent man,

a business man, a man with some vision. What he was not, was Buenos Aires' *follow-up* to Jewett. No link has ever been made between Jewett's claim and Vernet's idea of making a quick buck hunting cows. His first attempt failed. His second, still a purely commercial venture, and one permitted under the 1825 Treaty with Britain, was more successful. His venture. Not something from the United Provinces which had not previously established sovereignty.

It was still his venture when he sought to upgrade its status in 1828. In fact, Luis Vernet only ever referred to the colony on East Falkland as HIS colony. He saw the advantages, he saw the profit, he had the vision. And Vernet was quite prepared to play both sides against the middle in pursuit of his project.

Pascoe and Pepper concluded in their 2008 work that Vernet offered Argentina its best hope of having any claim at all. I agree - with qualifications. Luis Vernet, between 1826 and 1829 gave himself the best hope of sovereignty. He was not working for Buenos Aires although he sought their protection. He was not working for the British when he also sought their protection. He was working for Luis Vernet.

Unfortunately what Luis Vernet was not; was lucky. His attempt in 1828 to apply sovereign authority over the assets of East Falkland were ignored by the whalers and sealers who had been working the islands for decades. Buenos Aires had not given him enough. So he sought more, and Buenos Aires went public in 1829, to British and American protests.

Even that was not enough. Silas Duncan destroyed Vernet's first serious attempt to apply some sovereign authority. By the time that Buenos Aires recognised that an opportunity was slipping away, and had a second go, the Royal navy was on its way.

Jewett did too little, and Luis Vernet did it too late; and never quite made up his mind whose side he was on.

Spain had a claim to East Falkland, but let it go. Britain's claim was half forgotten for a period. Argentina never managed to obtain a claim.

So why does Argentina, in the face of all the evidence, continue with its non-claim?

Why would it start a shooting war in 1982, when historically, and legally, it never had a leg to stand on?

That's the problem of course. In Argentina, the Falkland Islands are not viewed as an historical issue, or a legal problem, or even a geographical anomaly that needs to be put right. Argentina's right to the Falklands is an act of faith, and like most religions it's not based on fact, truth, reality, or very much else. It just is.

It still is. Thirty years after close to 1000 young men lost their lives in the short-lived Falklands War the skirmishes continue. The superficial arguments haven't changed one iota – history, law, oil, etc.

Today, the community on the Islands has grown to some 3,000 men, women and children enjoying a degree of independence and self-determination that they have never previously known. Some of the families there can trace their ancestors back 8 or 9 generations.

The problem with religious wars though, is that they never seem to stop.

So my conclusion must be; that there is unlikely to be any conclusion.

But I will add this into the mix - any account of the *Falklands War* after 1945 must add one further '**Claim**' to the lists above. It would read:

Falkland Islanders

Self Determination – an incontestable right included in the United Nations founding Charter of 1945 and granted to all peoples as a fundamental '*Human Right*' by Resolution. Although spuriously challenged by Argentina, this right applies to the people of the Falkland Islands as any other. A right they have taken up, intending to take a further step towards independence in 2013 with a referendum on what they want to be.

They'll probably decide to stay British.

Spain's claim, to East Falkland, lasted 370 years, from 1493 to 1863. Argentina claims 202 years from 1810 while Britain's goes back 247 years to 1765.

The Islanders' claim goes back 179 years.

I hope their claim wins.

Those of you interested in the full 532 years may like to go here - <http://falklandstimeline.wordpress.com/>