The Malvinas Case. A Diplomatic-Political And Juridical Approach[*]*.*

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"We are unable-to reach to a categorical conclusion with regard to whom has more rights over the Malvinas Islands, whether London or Buenos Aires... The historical and. legal fights put in evidence so many uncertainties that we cannot pronounce a judgment about the legal validity of the historical claims, both from one country and the other one". This paragraph, engaged in a political approach, post factum of the developments of 1982, contains a strong amount of an overwhelming discredit with regard to the permanent assertions of the Foreign Office and also of the Prime Minister, Mrs. Thatcher, whose thesis, both tautologically and in practice, consisted in affirming that "the Government of the United Kingdom has no doubts about its sovereignty over the Falkland Islands (Malvinas)". Within the honourable ambit of the Parliament it appears-with all the value that can be attributed to a committee of study formed by conservative and laborite legislators within the institution that not only legislates, but also enforces the British Constitution- this singular and opportune document which reveals the inconsistence between the declarations made and the essential truth according to the titles which those governments did not ignore. By the end of 1984, a step was taken in the right way by the Empire's legislative authorities themselves: they ignored if the Malvinas Islands belonged to them or not, and so they made it public; one does not know if they did so to pay tribute to the supreme rectification of past mistakes, or as a derision to the world public opinion, to the principles of the organized international community, that has seen two countries engaged in a war because of a prey, a territory whose ownership could not be proved with complete certainty by the

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United Kingdom. In the background of the Foreign Office, there are too many explicit documents and acknowledgements as regards treaties, declarations, orders, etc.; they are also eloquent as regards the mere "manu militari" appropriation carried out in 1833. The instructions given to Captain Onslow ordered:"... to behave in those islands AS IF you were in a possession pertaining to the British crown" (order of November 28, 1832 issued by the Admiral Baker). This demonstrates that the islands did not belong to the United Kingdom.

In this way, without exaggerating the meticulous details that the subject requires, the following can be included among such elements of the legal and diplomatic history whose main personalities were British public agents:

1) A well-established opinion of Mr. Thomas Samuel Wood, who had been consul general of Her Majesty in Montevideo and while he was. in office at the same time of the invasion and appropriation of Malvinas by a war frigate of the United States in 1831, recriminated an authority of this nation for having made an illegal incursion in Malvinas even though... "Luis Vernet (political and military governor) was legally appointed, since his title was granted by persons exercising the government powers and functions of the Argentine Republic, this persons being legally elected and appointed ..." (1) .The communication is so assertive and the officer is so clever both intellectually and professionally, that in the light of the present doctrine of the International Court of Justice (2), that governs itself according to the old Permanent International Court of Justice, it is not doubtful that such a background can be considered as a declaration identifiable as the acknowledgement of the normal argentine sovereignty in the Malvinas Islands or, with the same consequences, by means of the implementation of the "estoppel", that prevents the States from going against their own acts. This clear and categorical position of the British consul general, as an expression of the reality made concrete through the facts, could have determined that, shortly after, the Federal Court of Massachusetts, with all the scientific and juridical rigor of its decisions and their political importance, also considered that the problems arisen in Malvinas' jurisdiction were the ones that could be solved only by the Government of Buenos Aires. In that sense, the remand made by this Federal Court in favour of the judges of Buenos Aires is clearly conclusive in view of a demand presented by Captain Davison, who had been sanctioned by Governor Vernet. The remand said:

"Whereas a navy officer, without any order from his government, in Malvinas Islands took possession of property claimed by the United States' citizens- and as it was alleged that this property had been taken by a person who pretended to be the governor of the islands, it is declared that the said officer had no right, without the precise directions of his government, to enter the territory of a country which is at peace with the United States and to take possession of the property found there and claimed by United States' citizens. The demand for the restitution should have to be presented before the judicial courts of the country". (3)

2) Taking into account the same ideas and although the doctrinaires of the British side omit any allusion to that property, it is relevant to make, due to its direct connection and political importance, the invocation of the Anglo Spanish treaties. Since 1604, these treaties, particularly those of 1667, 1670, 1713, 1729, 1763 and the agreements of 1783, 1786 and 1790- the latter is called "San Lorenzo el Real" or "Nootka Sound", which ratifies the Hispanic ownership, with a British guaranty, of all Southern America, including its coasts and adjoining islands- secured for ever for Spain and its successors, original possessions based on discoveries, first occupation, long period of possession with title of ownership, acknowledgement of the great powers and the Pontiffs of Rome, and geographical-political ascription.(4) Since the Treaty of Madrid and especially since Utrecht (1713, art. VIII), the Hispanic: imperium over the West Indies and adjoining-sees was so well established, that in 1740, when Russia wanted to make discoveries, the United Kingdom opposed to that on the ground that Spain was the owner as far as the Pacific, and England was its surety. See "An argentine land. The Malvinas Islands". Ricardo R. Caillet Bois. Page 132. This is, without any doubt, a respectable support for Argentina, in its capacity of successor because of the principle of succession of States, the achievement of its emancipation from Spain and the comprehensive subrogation of its rights in the same way as Spain enjoyed them and in the same normal conditions as any other State that obtains its emancipation according to the International Law rules (5). In view of the concretion of official acts as regards argentine jurisdiction and sovereignty, other treaties, like that of 1825 entered into between England and the growing state entity called Argentina or Provincias Unidas de Sudamérica (United Provinces of South America) or of the Río de La Plata, make it clear that England did not oppose to them, since the negotiator, W.

Parish, did not introduce any objetion- although he was an outstanding and veteran judge of the reality where he worked- in view of several evident manifestations of the public power over the islands made by the governments of Buenos Aires. (6)

3). Nevertheless, nowadays, the record is growing and the developments make evident that the political declarations of ministers and Prime Ministers are completely unsatisfactory and ineffectual, when they affirm that "Her Majesty's government has no doubts about its sovereignty over the Falkland Islands (Malvinas) As regards that subject, the documental acknowledgements, like the publication of the British Information Services, called "Aspects of the Commonwealth. The Falkland Islands and their possessions" (R-DFS, 4146/66, el.11.3, May, 1966) shed light on the case, by means of official confessions of a truth which is different from the version adopted by the political suitabilities of the conjuncture. In that document, there exist so many concrete and detailed records which wreck the traditional British thesis that insisted on assumed discoveries and the subsequent occupation that it is very difficult to give a better example of historic honesty about the excesses and arbitrariness committed against the integrity of the argentine territory. As a matter of fact, the document, of which importance we made reference to in the edition of our work: "Malvinas the last frontier of colonialism" (EUDEBA, 1975), adjudges the discovery of the islands in question to the Dutch; it recognizes the first occupation by the French (who gave them back to Spain because the islands belonged to the Spanish, as provided in the documents of Bougainville. by order' of the King of France).

Spain carried on with this occupation with full rights since 1767 and also during the period between 1764 (the first French settlement) and 1767; and continued ruling the islands until 1810 when, owing to the May Revolution, the transference to the Argentine Republic took place. Therefore, nothing remains of the invoked discovery and the subsequent occupation mentioned by the Foreign Office in its communication of 1829 to the Government of Buenos Aires, if one takes into account that the British settlement of 1766 was not subsequent to the discovery, which took place approximately in 1600, according to the above-mentioned document; the said settlement was illegal -for it went contrary to the treaties-, furtive -since it was made public, only when the Spanish discovered them after a long search-, very brief -since it only lasted until 1774, when there was the definitive abandonment of the site, which

was only an insignificant military outpost-, precarious -because it subsisted only due to Spain's consent. During the negotiations and according to the text of the agreement of January 22 th , 1771, Spain made England recognize a specific restrictive condition of the previous right over the islands before authorizing a British vindictive resettlement, without the meaning of sovereignty. Finally, the settlement, of 1766 was partial outside the great two islands, in the islet Trinidad, called Saunders by the British, where they did not return any more, because in 1833 the islands were invaded in a different and remote place (Puerto Soledad) in a new episode completely separated from the preceding ones. The document R (DFS) 4146/66, issued by the British Information Services^ not only admit that the islands were neither deserted nor abandoned in the moment of the invasion in 1833, but it/concludes that the said invasion took place by means of an act of war, of aggression, with the expulsion of the garrison troops; the above-mentioned situation occurred while a treaty of peace, amity, commerce and navigation was in force and without any previous notice. The British affirm in this document that they had kept some kind of right when the abandoned the islands in 1774, by means of a symbolic lead plate, which was pulled out by the Spanish, taken to Buenos Aires and then to London by Beresford, but it was never put into its original place again. The British government pretends to deny the argentine right to proclaim its continuity in fact and by right over the islands whose ownership never ceased to belong to Argentina, who does not admit to have lost it. Moreover, the United Kingdom, who has lost the credibility with, regard to the above-mentioned "discovery and subsequent occupation of the islands", in the last fifty years has resorted to a new thesis: the prescription. It happens that the so-called prescription of the International Law, whether it can be accepted in certain situations, must never be invoked in the substitution for something else and in order to provide pretexts in the absence of old and trivial arguments. Nobody can undertake the difficult and impossible task of demonstrating that after having proved the inaccuracy of the invoked title, there exist many possibilities for the usurper to try to give successive arguments. It is true that, by virtue of the background established by the famous legal author Max Huber as regards Palmas islands, the identity of the title must adjust itself to the changing requirements of international law. But it is not less true, and one cannot ignore it in no way, that the original link between the State and the territory in question must be legal, or if it were an illegal source, it should have had an efficient confirmation, by means of a treaty and

the lack of protest. The Malvinas case offers a definite situation concerning the presence of the English, which was illegal from the very beginning because it violated the treaties that backed Argentina by virtue of the succession of States. The said presence was also illegal because it breached a peace and amity treaty in order to achieve a territorial conquest over-insular spaces which publicly and pacifically belonged, as real owner, to the argentine jurisdiction, without being discussed neither in the treaty of 1825, nor in the previous acknowledgement of the argentine State.

On the contrary, the British presence was not pacific since the initial aggression made the invaders remain permanently there- and it could not invoke neither a fair reason nor a treaty of acceptation of the situation brought about by force, against which Argentina has protested and strenuously maintained as a valid vindication in the dispute, acknowledged by the United Nations General Assembly (Resolution 2065, XX). As a result of the famous international jurisprudence -Chamizal case, inter alia the diplomatic protests are sufficient to weaken usurpation, whatever the time passed, and to keep the immanent rights of the affected State in force (7). "Ex injuria jus non oritur".

4). As regards the above-mentioned situation, the United Nations definition of the case as a dispute, in which the basis of the British argument foundation remains undefined and the argentine ownership is clearly established, makes it impossible ab initio to pretend to the prescription of the right alleged and proved by Argentina in a historical and carefully elaborated brief submitted to the Special Committee of Decolonization of the General Assembly, exactly when this right was admitted as plausible by the international community. The prescription cannot be neither accomplished (8), nor attempted over a territory whose original owner was deprived against the laws of peace and war, with protests and exposition of rights not refuted by the State that wants to annex those territories.

Nobody, with practical wisdom, would affirm that the Malvinas Islands were unoccupied or abandoned on the critical date of January 2nd, 1833, when it was evident the presence of a prosperous argentine settlement and a military contingent, which were quickly but sacrificially restored by the government of Buenos Aires after the attack by the American frigate "Lexington" (by the end of 1831); in this way, the Government of Buenos Aires adjusted itself to the juridical regulation that created the

political-military government (Decree dated June 10th, 1829). There had also been previous public acts of concrete assumption of international responsibilities some years before, after 1810. The colonial; policy of the United Kingdom has not hesitated about proceeding against firm principles of Law and international relationships, as they thought it would be possible and more practical to change the regulations issued by the organized international community (9), according to their convenience. This can be easily proved by taking into account their pretended acquisition -also appealing to the myth of the prescription- of the territory annexed to the Rock of Gibraltar, which was ceded by Spain only circumstantially and restrictively for humanitarian purposes: care of the wounded and prevention of disasters, such as epidemics, etc. Thus, a new problem called "The second Gibraltar" was created as a consequence of the international natural complication of the colonial crime. This experience, seems to be applicable in Malvinas with the hope of carrying it out in any way, even though the issue is regulated in a certain way and very clearly.-Honestly speaking, which State would have the idea of prescribing in its favor against another State, violating the respect for the principle of territorial sovereignty and juridical equality if the other State continues vindicating its usurped spaces while the British presence is merely an administrative question? According to the Foreign Office's files, brilliantly revealed by Peter Beck and then closed again for the investigation, during one hundred and fifty years, the argentine vindication has had much more force than the one officially admitted at the British Foreign Office.

5). What has been previously said has a foundation. As a matter of fact, the United Kingdom has given up the merit traditionally granted to the assumed discovery and subsequent occupation (10), which is not surprising, due to the total inconsistency of this thesis. It is also worth mentioning the agreement of 1771, which, in opposition to the expectations of the Court of Saint James, stated an acceptance, on the United Kingdom's side (acceptance of Lord Rochford), as regards the previous right of Spain over the islands. This acknowledgement of a treaty freely .. conceived by the Spanish law and transmitted to the Argentine Nation, which was its successor, confirms once again by right the situation allowed by the great powers of that time because of political questions and previous treaties. England itself also made it evident when it asked the Government of Madrid for authorization to visit the Malvinas Islands in 174 9 and the

diplomatic arrangements between the Spanish Minister Carvajal and the Ambassador Keene finished with a refusal of the English purposes, which the English did not dare to contradict. Here we have two successive and exemplary historical and diplomatic milestones: nobody asks for authorization to be present in his territorial possessions, nor obeys the orders coming from somebody who is not the owner itself. In 1749 a double estoppel was created; it prevented England from going against its own acknowledgements.

Without prejudice to this background, it is easy to understand, as regards the hypothesis of the prescription, that it would be in favor of Argentina -if it were necessary to put special emphasis on the position of Spain and consequently on the position of Argentina-because of the long period of Spanish possession and of the governments of Buenos Aires until 1833, without any interruption, since the first French settlement ceded by right to the government of Madrid. Then it is reasonable to wonder how the change of arguments set forth by the United Kingdom can be justifiable. (See Note 10). Otherwise, it is illogical and unlawful to suppose that it can be possible to put into effect the prescription over a territory taken away "manu militari" from another State that vindicates it, and with regard to which the United Nations have pronounced judgment proclaiming its litigious character (Resolution A.G. 2065, 3160 and consensus); that is why the presence of the United Kingdom in Malvinas continues to be a question of mere administration, notwithstanding the war of 1982. ("Nul ne peut prescrire contre son titre": Nobody can prescribe against his title).

It happens that the careful and slow studies made by the London's Government advisors reveal the proofs that have led that government to the certainty of the fragility of their initial thesis, since many years ago. As regards the State's behavior, historically applied to an imperial praxis, that situation has brought about the support of futile negotiations, with no certain future, with the mere purpose of slowing down and adjourning their results, knowingly irreconcilable with the intention of remaining in the islands. Thus, almost twenty years of negotiations have passed, precisely for the sake of that diplomacy made up by promises and contrivances; the United Kingdom has constantly tried to put those negotiations out of hierarchy by calling them "conversations". (11).

Although the doctrinaires who support the British cause have made every effort to bring the traditional arguments again under discussion (12), these ones were certainly

so indefensible, that there exist many reports, memoranda and studies that agree on their disqualification.

At the very beginning of this century, in 1910, a plentiful mixture of unexpected probational elements begins to create the perception of the questionable title in which the British governments based their rights. Just as Peter Beck's scientific honesty and excellence has revealed it (13), " the report prepared by Gastón de Bernhardt for the Foreign Office, which was not revealed to the public, makes it evident that Great Britain had seized power of an argentine possession". This report hardly preceded the commentaries of Ronald Campell, who worked at the American department of the Foreign Office, and in July, 1911 he finished his allocution with the following sentence: "We cannot easily allege good reasons, and we have proceeded intelligently on doing everything possible to avoid disagreeing with the issue of Argentina". On December 15, 1927, the British ambassador to Buenos Aires, Sir Malcolm Robertson, for his part, addressed himself by letter-to the governor of the islands, making at the same time an act of contrition and political honesty, which is nowadays invaluable, and expressing the strength of the issue according to Argentina; he also told him that he had supposed that the right of England was unattackable, but it did not prove to be like that. By that time, in his work "The canons of International Law" -London, 1930,' page 390, T. Baty, an authority on that matter, asserted: "the British filched the islands in 1833". (14). In no way one can admit a "repossession" from 1833 onwards, because of the irrelevance of the brief, illegal, precarious and partial military settlement in an islet near Malvinas from 1766 until 17-74. A legal author, as important as Fitzmaurice, has said that Ministers to Argentina. -Quoted by E. Fitte in "The American aggression to the Malvinas Islands", Emece Publishing Company Buenos Aires.- Document № 164, in fine).

Recent diplomatic negotiations, which are really a revelation, attest that that furtive settlement, quickly abandoned from 1766 until 1774, together with the presumed act of military conquest of 1833, which even nowadays exists, were irrelevant and incompatible with the truth of the international law and policy, with the mutual relations of pacific and friendly coexistence, which had been established by the treaties. Actually, in 1884, in view of the Argentine Government's offering of submitting the case to the international arbitration, London refused it because by that time the British diplomatic service already knew how unsustainable its arguments were. The discovery,

invoked by Palmerston (January 8, 1834) in a note submitted to the argentine Minister Manuel Moreno, and also invoked by W. Parish some years before, in 1829, appears to be ridiculous in view of Conway's words, who claims "to have discovered the islands" already discovered, registered in cartography and which belonged to Spain. The document of the British Information Services (R-DFS. 4146/66, of 1966), already mentioned, denies any certitude about that discovery which is adjudged to the Dutch. Herbert Jenner, advisor of the British crown, has said: "Admiral Anson's expedition failed because the islands belonged to Spain" (Muhoz Azpiri- Documents T.. II, page 71).

Therefore, the argentine ownership of the islands has become undoubtedly an inalienable right that constitutes a national cause known by all the Argentineans since their childhood and learnt in detail at every stage of their studies. Moreover, the English policy could neither evade nor refuse certain unavoidable acknowledgements, after the United Nations (by Resolution 2065 and others issued by the General Assembly) submitted the case to negotiation for the purpose of encouraging the decolonization and the restitution of the islands to Argentina. Among the said acknowledgements, there is the memorandum of agreement or joint formula of 1968, which has a great juridical importance and a political certainty.

The Secretary of State Michael Stewart and Ambassador Mc. Loughlin (for Argentina) prepared a text by means of which both governments reached an agreement, to such an extreme that only the terms of a note which would be sent to the United Nations Secretary General were then pending for ratification. In the said memorandum or joint formula (letter A/9121 of 1973)-cited as a previous agreement, without objections at the General Assembly- it was stated that the material restitution of the Malvinas' archipelago by the United Kingdom to Argentina would be made concrete in a minimum term of four years and a maximum term of ten years. It was the possible and fair solution in fact and by right, with the guarantee of protecting the inhabitants' interests that guarantee being always promised and fulfilled. It was certainly an acknowledgement by both parties of what one of them claimed and of what the other one was ready to concede. Although the agreement was not ratified, it had -and still has- the juridical value attached by the former Standing International Court of Justice to that kind of relationships, which constitute "a provisional statute for the benefit of the signatories". That reveals the juridical equation that hinders from

doing anything contrary to its provisions. In that way, the United Kingdom established the acknowledgement of the obvious fate of the islands as a constituent part of the Argentine Nation; the United Kingdom made an act of faith with regard to the fact that it was necessary to restore the islands and moreover, they seemed to be ready to do it within a reasonable term as they were part of the conflict. Nowadays, when the Government of the Prime Minister Mrs. Thatcher supports the change of the preexistent conditions established before 1982, it is convenient to mention an important element: in April, 1982 during the negotiations carried out by Mr. Haig, Secretary of State of the United States, in his capacity as mediator, with all the weight of --his political representation and with the full knowledge of the background taken into account by the State Department, Mr. Haig, before the politicians of the English government, emphasized the existence of documents in which it was stated that London felt obliged to restore the islands and that they would be ready to do it some day (16) before 1978. The argentine ownership over Malvinas, due to the succession of the Rio de la Plata Viceroyalty, was claimed in the reports prepared by the delegates of the United States Government (Mr. Caesar Rodney and Mr. John Graham) before the acknowledgement of the United Provinces of Río de la Plata. According to Professor Harold F. Peterson, from Buffalo, those reports are filed in the State Department in the section "Argentina and the United States" and they were also published in the United Kingdom in the British Foreign and State Papers of I8l8-l8l9. Therefore, the restitution was a proper act that the United Kingdom postponed beyond any reason thus taking advantage of the good faith, patience and flexibility not only of Argentina, but also of the international community as a whole. What happens is that although the matter discussed was a restitution of territories that had never been neither ceded nor recognized as being annexed possessions by another State, not even the situations founded on appropriations ratified by further treaties remained in dispute. This question has been fully explained by the Minister of Foreign Affairs of the Argentine Republic, Licenciate Dante Caputo, during the sessions corresponding to the 39th period of the General Assembly (October 31, 1984, subject 26), when he declared: "Since 1833, we have never ceased protesting against that violation of the International Law committed to our detriment; neither have we agreed on the cession of the islands. So the restitution of Malvinas to the argentine sovereignty does not imply

the revision of any treaty of peace and must not put in danger the principles of any territorial arrangement in another part of the world".

Raúl de Cárdenas, in his work "The United States Policy in the American Continent", quotes the thought of John Quincy Adams when on July 22, 1823 he ordered Minister Middleton, who was in Russia: "With the exception of the British colonies at the north of the United States, the rest of the two continents must be governed only by American hands", (page 101).

The true and well -established character of those rights is found in the legal and diplomatic history we have outlined, and it has the approval of the Federal Court of Massachusetts and of the British diplomats themselves. It is important to mention that the allegation of argentine rights presented to the United Nations could, not be refuted by the United Kingdom; the Inter-American Juridical Committee has concluded that "the argentine rights of sovereignty over Malvinas Islands are indisputable"; the Secretary of State; Mr, Haig, in a meeting with members of Mrs. Thatcher's cabinet, laid stress on the fact that they had recognized those rights and therefore, because of that, they had been ready to restore the islands. The majority of people in the world have pronounced themselves in favour of the primacy of the argentine right by means of declarations of the non-aligned movement, which are included within the context of the General Assembly Resolutions. The technical and political agencies of the Organization of American States, States of all parts of the world and the most important doctrine also recognize the argentine rights. Among all the scientists writers, Julius Goebel's quotation is worth mentioning. This outstanding American juridical researcher in the field of international legality, politics and diplomacy has examined the case deeply and neatly and he finished his work with a v sentence that becomes a definition in itself: "The law that the States have forged at the cost of so many efforts to govern their relationships, is a too precious heritage to be corrupted with the purpose of disguising the imperialist plans of some nation". But the United Kingdom does not forgive this studious and upright American for his truth, his categorical opinion which opposes to the British pretensions. Since then, in a recent reprint of "The fight for Malvinas Islands", with a clear political intention and owing to the lack of arguments that could be set up against that important work which deals with that issue, the British have tried to undermine it by accusing the renowned Julius Goebel of being "a representative of a vociferous isolationism". In this way appears the bare lack of

arguments of the United Kingdom, which from the very beginning contended fiercely against the United States for the continental hegemony.

The Inter-American Juridical Committee also agreed on "The indisputable argentine rights over Malvinas" (January 26, 1976), whereas the United Nations General Assembly established the right foundation of the dispute by the argentine part, including in the context of the background the declarations of most of the countries that supported those rights. (Resolution 31/49, inter alia).

In view of those circumstances, when more than seventeen years of unsuccessful negotiations have passed notwithstanding the urgencies of the world organization, on one hand the argentine anxiety appears to be reasonable

at the same time as it has been warning the United Kingdom of its "crescendo" in view of the dilatory-actions (17); on the other hand, the United Kingdom has tried to develop a new thesis: the "prescription" of the illegal presence as of 1833,but this thesis has disqualified itself, and at the same time they have invoked the opinions or wishes of the inhabitants with the intention of introducing a captious and sensational element.

6). The anxiety and the longing of Argentina do not need an explanation. It is sufficient to mention the historical and legal pattern and Julius Goebel's conclusions which confirm that it is reasonable that Argentina considers of her- own an insular territory which is so close to her and which has a related consistency as, for example, the succession of States, the first occupation, the pontifical confirmation, the long ownership, the political, civil and military dependence of Buenos Aires, the acknowledgements of other nations and even of the United Kingdom, etc. The pronouncements of most countries in support of that ownership and the need of restitution, as opposed to the diplomatic hesitation and contumacy and also the deforcement by the United Kingdom, encourage a persevering and energetic policy with the aim of the material restitution of Malvinas Islands. Besides, during all the time of negotiations which have been deliberately undermined by the British government, it is widely known that a new international reality has been created in America, with the inclusion of many supporting little States of the British Empire, These States pretended to provide the islands in question with an independence statute, unilaterally agreed upon., in violation of the text and spirit of Resolution 2065 (18), with the purpose of depriving Argentina of all right and participation. It is exceptionally respectable the

fact that a State that owns a territory must endure such a dangerous and offensive situation and that even in that case it perseveres in the negotiations. It is also worth mentioning the dose of controlled temperance of that conduct in consideration of the international peace. The counterpart shows itself as recalcitrant, opposed to a faithful and frank negotiation (19)and ready to continue an ancient exploitation of the usurped islands' people and resources, according to the irrefutable opinion of Professor Ferns (20) The counterpart also performs many activities, including the military ones, that violate the "non-innovation", principle; it makes up new juridical and political pretexts to remain in the islands, facing the eventual risks of conflicts and a certain damage to the security and to the political definitions of Latin America. Finally, when the security and hegemony of the United States is subject to the circumstance considered as possible by Summer Welles more than forty years ago (21)then the reaction due to the rescue of the islands becomes normal and even unavoidable (22). It' is essentially a question of tutelage of the integrity and self-protection of the State. The armed attack of 1833, produced by the arrival of the English frigate "Clio" at Malvinas, was repeated at the end of March 1982, when the United Kingdom made use of the force by means of the "Endurance", supported by nuclear submarines, in the attack against a civil and pacific group of argentine people who were at Georgias Islands (23) The restricted notion of legal defense accepted by the United Nations' Charter cannot be separated from the concept expressed in the historic note of the renowned Secretary of State Kellog: "The right of self-defense is inherent of every State and is implicit in every treaty. Every nation is free in every moment, beyond the conventional conditions of defending her territory from an attack or invasion". The attacks against the argentine territory which took place in 1833 and in 1982 are objectively proved and therefore they constitute a real and proper hypothesis of its legal defense. The naval, logistic, nuclear and diplomatically strategic deployment of the United Kingdom to justify the attack of 1982-first use of the force- with all the implicit risk of bringing about a world war, was politically and juridically disproportionate, unjustified, iniquitous because of its aim and also immoral, as it formed a compulsory coalition among the members of the Treaty of Rome of the European Economic Community, which objective is "to improve the life standard of the peoples" (Preamble) and not to promote the imperialism in any form or manifestation.

The accumulated colonial experience makes possible a successful handling of the international relations on the basis of a constant influence upon the public opinion, especially in the university and political domain. Mot only the supporters of "the improvement of the life standard of the peoples" have taken the case into account according to the version planned by the United Kingdom with its long-term colonial policy. Perhaps the most important objective was the public opinion, of the United States and that was precisely the target of a campaign.

7). That indoctrination campaign was founded on a supposedly ideological and emotional basis, which was very effective as regards the objectives pursued, but it had a doubtful authenticity. Although it sounds paradoxical, nothing can be asserted with more certainty than the fragility and discontinuance of the "close ties" that the United Kingdom has invoked throughout history, though they were based on concrete needs.

The meaningful silence concerning questions that would thwart the scheming of those close ties, makes evident the political intentions of domination over essential decisions in the United States.

With the purpose of defining with accuracy the special relation with the United Kingdom, it is important to know in a better way its condition of "mother country", which declared the cruelest colonial war to the United States resorting to the aid of Spain (Jose de Galves) and France (Lafayette). Jefferson, possessed by a great anger, made the representatives that approved the Declaration of independence of the United States from England say their accusing anathema: "when a long series of abuses and usurpations leads invariably to the same purpose and makes evident the intention of submitting it to a power that goes contrary to its right, it has the obligation of overthrowing that government and "... the history of the present sovereign is full of unforgivable injustices and usurpations, among which there is no individual or isolated fact that contradicts the uniform drift of the rest ..."; "... has refused to approve other laws for the improvement of large sectors of the population, unless that people waived their rights of representation which was an invaluable right for them and only feared by the tyrants "... has dissolved Houses of Representatives., has tried to hinder the settlement of people in those States... has put obstacles in the administration-of justice... has got our judges to depend on its sole will... has sent here many officials in order to harass our people and to exhaust their substance... has tried to separate the

military power from the civil power and also to put it in a higher position, has conspired together with others to subject us to a jurisdiction alien to our constitutions... to interrupt our trade with all parts of the world ...(24) to deprive us of our statutes, postpone our legislature's terms and declare itself vested with the power to legislate instead of us... has devastated our sees (25)and destroyed our coasts, has set fire to our towns and ruined the lives of our people... transporting large armies made up of foreign mercenaries(26)to finish the works of death, desolation and tyranny already started with signs of cruelty and perfidy(27), which are contemptible for a civilized nation... has tried to put the inhabitants of our frontiers at the mercy of pitiless wild indians.. Has made a cruel war against- the nature itself, violating the most sacred rights of life and freedom of the people, capturing them and subjecting them to slavery with .the purpose of maintaining an open market for the buy and sale of men.

This is not the complete list of offenses against England, but an outline. It can be illustrative and it is undoubtedly the basis of the expression "Good-bye forever", which appears at the end of the Charter, pawning the honor, the lives and. fortune of the Americans on beginning a new life separately from the metropolis.

Nevertheless, the ties above mentioned and the historical fatalism brought as a consequence the fact that all the international political developments of the new State were totally impregnated with the military and diplomatic confrontations with England, in spite of the content of Washington's farewell speech, which advised to remain far away of the alliances and complications of the rest of the world.

After the independence, England continued to sink the ships of its former colonies and at the end of the war declared to the United States and which took place between 1812 and 1814, they had not only occupied the capital and set fire to the Capitol, but also made all the United States' fleet sink . That is why the States represented in the Declaration of Independence had declared: "We dissolve and break definitely any political link that could have existed up to the present time between us and the people and the Parliament of Great Britain'.' The Secession War had a third protagonist: England, which according to the expression coined by Lapradelle and Pdlitis, "looked after its own interests speculating on the benefits obtained from trade and the reciprocal destruction of the North and the South" (Vide reference 24). Just at the beginning of the 20th century, the. United States could get rid of the heavy ballast of the British power which had hindered their coast-to-coast integration by means of the

navigation through an interoceanic channel of their own, when the Clayton-Bowler Treaty was renegotiated favorably because of the difficulties originated in the situation created by the Boers in South Africa.

This background does not help to understand easily the existence of "close ties", which were also refuted by the history of Oregon, California, Yucatan and Texas, where the opposition of interests and policies brought about the painful confrontation between the United States and England, whose perfidy not in vain has been proverbial(29) In the diplomatic note sent to the Government of Guatemala on October 1st, 1859, the delegate Beverly Clarke made reference to the reasons why the United States signed the Clayton-Bowler Treaty in 1850: "... It is sufficient to say that one of the aims was the establishment of a free, safe and uninterrupted transit throughout the territory of Central America from one ocean to the other one: another reason consisted in the abandon and cessation of activities in every British possession and the fortifications established in every part of Central America. As a consequence of that, the United States' trade with our main neighbors would be safe from British interventions and depredations..." The note finished with a serious protest against the rude violation consummated by the United Kingdom as regards the previous link with the United States, established in 1850, by means of the treaty of April 30, 1859 between the United Kingdom and Guatemala (30). The long-term colonial policy has taken advantage of the United States in spite of that background and in the limit of its exorbitance, has led the country to two World Wars(31) and has obliged it to refuse the fulfillment of previous commitments of hemispheric security (32), in opposition to well-established principles of morality of the international community. The aftermath of this was the loss of power and credibility in the delicate flank of Latin America - in a moment when the precedent of Iran and the overthrow of the Shah are still present in every mind - only because the supposedly "closest ally" imposed what he thought was the most convenient and practical thing in that moment, without taking into account other interests but the own ones and taking no notice of the treaties freely agreed upon among all the American countries. For the same reason, the international legal structure also became virtual and illusory when the Ascension Island was ceded to establish a base of operations in order to attack - in a bellicose coalition violating the jus cogens - an allied nation included in the Inter-ameriean Treaty of Reciprocal Assistance and in many bilateral treaties and world conventions of different nature.

The normal republican constitutional North American dynamic Itself remained subject to the subversion of the predominance of military decisioneinan anxious assistance in anticipation of England's bellicose undertakings, when the intermediary role of the Secretary of State Mr. Haig was still being arranged; those decisions were taken by the heads of the Pentagon before being taken by the Government, without taking account of the total political panorama of the commitment assumed, which finally yoked the civil government to the justification and political support of the initial stages of the direct participation in the British military action. The States' institutions protested as never before in this unfortunately frequent case of wrong functionalism and concrete predominance of the uncontrolled military power over the civil power dragged by the fait accompli, which led the United States to a conflict originated in the imperial and colonial policy of the United Kingdom, whose version of the case was the only one produced and heard (33).

That version, officially produced by the United Kingdom, concealed all the historical and diplomatic acknowledgements (that stated that the islands did not belong to them) from the world public opinion and especially from the United States.

AT the same time as the United Kingdom declared in a flagrantly counterfeiting way that they had no doubts about the sovereignty, over the islands, they also concealed the fact that the private and furtive doubts, the technical reports and the political reality refuted and at the same time delayed and undermined the negotiations established by the General Assembly, even at the risk of continuing to stir up the disturbing situation created by those problems, while they relied on the convenience - advised by their lawyers - not to offer proofs and not to accept any comparison of rights because they did not possess those rights (34).

8). The campaign of Mrs., Thatcher - who had evident reasons to fear the real risk run by the family private interests (35) - and of the British Information Services put emphasis on the fact that a dictatorial military government reacted against the British abuses, rather than insist on the rights that they could put forward as regards the islands in question. That campaign also put stness on another support, handled since long ago and which consisted in the invoked need to take into consideration the wishes of the islands', inhabitants.

The truth is that any argentine government has the sacred obligation to rescue Malvinas; the terrible mistakes and inconsistencies of the military "process" cannot take the force away from a vindication that becomes stronger with the passage of time, because the administrator nation - the United Kingdom - finds itself permanently in default, and tries to conceal it invoking a change of circumstances due to the war actions.

As regards the opinion of the inhabitants, it was categorically put aside in the debates and in the text of the General Assembly resolutions in the following way: a) those inhabitants do not constitute the real sense of the word "people", included in Resolution 1514, Magna Charta of the decolonization, but they constitute an amount of persons whose ancestors were taken there and then transported periodically after the elimination of the original population of the legitimate and proper colonization of Argentina, whose citizens were forbidden, to settle in the islands, in the context of a long-term imperialistic policy; b) there exists no genuine link between the inhabitants of the islands and the territory, which was subjected to a dispossession by means of an armed attack against Argentina in 1833. which was continuously refuted; c) those inhabitants are subjected to a system which deprives them of their personality; they are isolated not only because of the geography, but also -and worse still- because of an official stratagem or trick against them, which consists in depriving them of the means of communication with the rest of the world that, wants to know about their individual rights; nobody in the islands can have a radio without the authorities' consent and nobody receives the fair price for the property or for the work, since the payments are made in Malvinas pounds, which do not have any value or convertibility outside the islands; d) nowadays the United Kingdom tries to overcome the reproaches of the international community and has granted the islanders certain political rights; that is why it is even less possible to conceive the idea that a minority of a State can set itself up as an arbiter of the destiny of the territory occupied by it and this is impossible both for the British constitutional law and for the general international law. Therefore, there exists a serious damage in the domain of human rights under the control of the United Kingdom. This situation becomes worse with the establishment of an enormous military and nuclear base of operations, and the islanders become simple dependent supporters.

Nevertheless, Argentina has guaranteed and put into practice a whole system of economic, social and cultural rights in favour of the islanders for many years and; a till maintains that situation in a virtual or potential way, with the full acknowledgement of the United Nations. Whenever the islanders had the opportunity to pronounce themselves they have made it protesting against the terrible conditions of exploitation to which they were subjected by the Government of London and by its secular agent, the "Company" (Falkland Islands Company, F.I.C.) , which at present belongs to the Caolite firm; Mrs. Thatcher's husband is member of the Board of Directors of the said enterprise. Therefore the invocation of self-determination is inconsistent with the right of decolonization, emphasized above all by its Magna Charta (Resolution № 1514), as regards the injured argentine territorial integrity (paragraph VI). During the discussions which took place before Resolution. № 2065, the United Kingdom put in doubt the self-determination (37) denying its quality of established principle. There exists no right to proceed against one's own acts (estoppel).

9). Finally, Argentina's rights and titles can be said to be certain and consistent although they are not sufficiently well-known, into account important elements in the planetary context, such as Suez's teachings: in view of another incitement, the United Kingdom had proceeded in a different way; so had done the United States; their guilt complex, due to the sanction applied against their "closest ally" in 1956, led them to support the United Kingdom whenever possible. President Reagan would not hesitate about assuming an attitude totally opposed to Carter's temporizing attitude in order to enhance his policy. The "close alliance", though created pro domo sua by the United Kingdom in order to attach its former colonies to its imperial car (38), was also in force, but it was rejected. The same thing can be said of the preferential conception of certain States, which feel inclined to the conveniences rather than the binding-provisions of the treaties. The same happens as regards the uninformation of the whole world concerning this case, and the. own uninformation of the argentine services and governors, who did not praise the inviability of the Soviet Union's veto, because their interests were not directly and crucially at stake. The historical events that point out concealed Anglo Russian affairs (39) were not even examined ; the decisive pith of the influential public opinion of the United States and other circumstances were not examined either (40). Ambassador Tackas' appearances on television during the war

were really disappointing, as well as his incompetence to face the diplomacy of the State Department, as he violated the jus cogens when he formed a coalition with another power in order to attack an American ally. If effective negotiations concerning this matter had been made, the United Kingdom would not have received the decisive support of the Ascension Island (41) and that would have actually reduced their diplomatic and war capacity to strict limits.

It is left as a teaching, among others (though it is not the least important one), the fact that one must respect the value of the intelligence and that the United States should get rid of the heavy ballast which consists in the improper assignment of roles.

REFERENCES

(1) British Consulate General Montevideo, February 3, 1832. To Captain Duncan, of the ship "Lexington" of the United States. Source: Public Record Office -Foreign Office 118/28 -Quoted by E. Fitte, doc. nfi 59.

(2) Standing Court of International Justice. Denmark v. Norway, declaration of the Norwegian Minister Ihlen.

(3) Source: Francis Wharton: "A Digest of the International Law of the United States, etc.", second edition, Washington., 1887, volume I. Quoted by E. Fitte, doc. nQ 97.

(4) The version put forward by J.C.J. Metford, professor of the Spanish language, omits all this argumentation. He asserts that the islands were abandoned and makes reference to a counter declaration of Lord Rochford during the Anglo Spanish agreement of -1771; this falsehood was totally clarified by Dr. Bonifacio del Carril in his work "The dominion over Malvinas Islands (Emece Publishing Company, Buenos Aires). Professor Metford also invents an impossible "res nullius" to justify the violent act of 1.833, but that cannot be coherent since the violence shows that the islands were not abandoned; finally he makes an audacious attempt to proclaim the new British argument: the pretended prescription due to the continuous presence in the islands. (Foreword of the English reprint of Julius Goebel's work "The fight for Malvinas Islands". Idem: vide International Affairs, July 1968).

(5) A jurist like E. Jimenez de Arechaga, who has presided the International Court of Justice, recognizes the force of this argument tendency, putting special emphasis on the Anglo Spanish treaty of 1790. Vide "Course of International Public Law", Volume II, page 396, note 45 infine.

(6) Profusion of acts of land allotments and grants, settlement, even with the consent cf the British Consulate, which approved the translation of the said acts into English (for instance, the document of the British Consulate of January 30, 1828, with the signature of the vice-consul Charles Griffits, published by the journal "La Nacion", of Buenos Aires, on April .11, 1975, page 4). Besides the historic decree that created the political and military Command of Malvinas Islands (June 10, 1829), the political and administrative activity continued with ostensible manifestations of effective sovereignty, such as the exercise of the jurisdiction and maritime control -which was so legitimate that the Court of Massachusetts decided in favour of that right, in the case Davison v. Government of Buenos Aires- and proper proclamations which were not protested in the rest of the world, such as the one made on November 6, 1820 by Captain David Jewett, who was sent for that purpose by the argentine government, in order that he might let it be known by the seamen of all the pavilions.

(7) "The International Public Law maintains the right of territorial sovereignty even when its exercise is made impossible as a consequence of an illegal annexation". (Verdross-International Public Law --4 th edition enlarged and amended. Translation by A. Truyol y Serra,1967, first reprint, page 84).

(8) "Nul ne. peut prescrire contre son titre" (= Nobody can prescribe against his title). Prescription cannot be declared on a territory retained for the purposes of mere administration under the observance of the United Nations when at the same time it is in dispute because of the sovereignty (General Assembly Resolutions 2065, 3160 and consensus). No one can declare the prescription either, while one acts as a leader, etc. (Vide Jimenez de Arechaga, Course of International Public Law, Volume II, page 411). It is also forbidden to appeal for the colonial | plebiscite and to make changes, in some way, in the situation in order to modify the domain of the respective rights.

(9) From the author: "Gibraltar and Malvinas. Implications and affinities, etc...", published by the Institute of Ibero-American Studies, volume II, 1981, Buenos Aires.

(10) Mrs. Thatcher has indistinctly invoked three argument aspects that contradict with respect to the British archives and the official confession that stated that the

islands did not belong to the United Kingdom. The document R (DFS) 4146/66 of the British Information Services disqualifies any attempt of the Foreign Office^ to invoke a title based upon the discovery, the first settlement or the continuous and ancient permanence of the United Kingdom, because the said document adjudges the first sight of the islands to the Dutch Sebaldo de Wert -though the islands appeared in the Spanish cartography since the beginning of the J 6th century- and also recognizes that the first settlement was the French one, made in 1764 by Bougainville, who restored the islands to Spain. The document acknowledges the violent expulsion of the argentine forces and population; therefore the thesis of the "res nullius" or abandonment is disqualified and any pretension to further prescription thus has no foundation. These acknowledgements are sanctioned in the light of the estoppel (Vide, by the author, "Malvinas, the last frontier of colonialism", Eudeba, Buenos Aires, Chapter I). Fitzmaurice and Westlake disqualify the brief and ideal former British presence before 1833 (1766-1774), which is ineffective as possessory background. The profuse work-consisting in research contributions, made by Professor Peter J. Beck and which can be found in the official archives of the United Kingdom, has made evident that the different British governments did not ignore the inconsistency of their arguments. Moreover in 1936, Antony Eden, who was at the head of the Foreign Office, proposed to change those "wrong arguments" for a new formulation with a new foundation putting stress on the long permanence in the islands, without taking account of the other requirements demanded by the International Law (Vide, by the author "The law", October 14 and 18, 1985).

(11) There exist affinities with the United Kingdom's behavior towards Spain with respect to Gibraltar. Although in this case there exists a treaty (Utrecht), there are remarkable delays and actions that infringe the statutes established by the General Assembly Resolutions, for example: the convocation for a colonial plebiscite (1967), with respect to which the United Nations had not given any value beforehand. A change in this situation destroyed the political equation of that moment and then it was necessary to obey the order of non-innovation. The United Kingdom violated the Utrecht Treaty when they left the possibility of deciding the case to a population which was artificially established. In view of any modifying instance, the Utrecht Treaty gave priority of territorial sovereignty to Spain. Spain's claim dates from the 18th century.

(12) The partiality and bad faith of J.C.J. Metford, above mentioned, are recorded by us in a study published by the Magazine "University" (La Plata), year II, № 21, which is called "An unequalled work with, an unmatchable technique and a definite impartiality" (in fine) and which speaks about Julius Goebel's book "The fight for Malvinas Islands". There are also records of that in the foreword of Goebel's reprint, made by the Malvinas Islands Institute, Buenos Aires (separated edition).

(13) "The Anglo-Argentine dispute over title to the Falkland Islands: Changing British Perception on Sovereignty since 1910" in the journal of International Studies, volume 12, № 1, quoted in the pithy synthesis of "The law", by Emilio J. Cardenas, Buenos Aires, August 30, 1983. In the doctrine, there are other authors besides Goebel: Jeffrey D. Myhre, who appraised again the Spanish reservation of previous right accepted by England in 1771 ("Title to the Falklands-Malvinas under International Law", Millenium, volume 12, № 1, spring of 1983, pages 25/38); Raphael Perl: according to Roberto Etchepareborda, in the introduction to his documental compilation, he concludes that there exists a strong presumption concerning the greater weight of the Spanish rights. (Vide Inter-American Magazine of Bibliography, volume XXXIV, 1984, № 1, page 11); Hector Gros Espiell: with his scientific authority as jurist and diplomat, he concludes, in view of the estoppel, that the acts of 1790 and 1825 -treaties of England with Spain and Argentina, respectively- constitute the acceptation of the inexistence of the British titles ("The Malvinas issue and the right of the free determination of the peoples" and other studies quoted by Etchepareborda, op. cit. page 47, note 74); Augusto Sinagra: ("Controversie territoriali tra stati e decolonizzazione. Il contenziose anglo-argentino per le isole Falkland-Malvine"; Milano, Dr. A. Giuffré, published in 1983, Università degli Studi di Genova, Facoltà de S. Politiche, serie Giuridica, №3). He establishes very clearly the substantive value of the argentine titles and besides he considers the act of April 2, 1982 as an act of "recovery" that cannot be aprioristically defined as illegal in the international domain. Apart from this, the author's opinion about this study is properly founded.

(14)"The law", Buenos Aires, January 30 ,1983. "Again Malvinas; the honesty of Peter Beck", by Emilio J. Cardenas.

(15)Enrique Fitte: "Chronicles of the South Atlantic".

(16)Journal "Clarin", Buenos Aires, April 10, 1982, dispatch of Francois Lepot.

(17)The diplomatic background includes successive suggestions and warnings of the argentine part as regards the need to find a solution to the case, as opposed to the pretexts and the intransigence of the United King lorn, which tries to find the most convenient situation in order to get the right respected.

(18)Barbados' proposal at the meeting of the Organization of American States, held in Atlanta, Georgia, 1974.

(19)In 1887, the United Kingdom refused the arbitration proposed by Argentina, because of the lack of consistency in the British allegations.

(20)H. S. Ferns (professor of Political Sciences at the University of Birmingham) in "The Argentina", Sudarnericana Publishing Company, Buenos Aires, page 338.

(21)Article published in Buenos Aires in 1944.

(22)The international jurisprudence has clearly established that the manu military occupation over an illegal appropriation does not produce rights. Vide, inter alia, the cases of Eastern Greenland, Danzig;: and Gex, where the principle "ex injuria jus non oritur" prevails. (Quoted by Oppenheim -. Lauterpacht) .

(23)See the study made by the Descendants of the British and the Irish in Argentina, in order to read about the proof and condemnation of the first use of the force by the United Kingdom and the exercise of the. legitimate defense by the Argentine Republic.

(24)The British intention of maintaining an universal commercial predominance did not have any scruples. During the Secession war between the Yankees and the Confederates, England only looked after her own interests speculating with the reciprocal destruction of both factions and gaining profit from the neutral commerce. (Lapradelle and Politis, Histoire des Arbitrages Internationaux: History of the International Arbitrations volume II, page 717).

(25)During the war of 1812-1814, England destroyed the whole fleet of the United States.

(26)The presence of mercenaries in the South Atlantic war makes evident an immoral practice already showed in the times of the United States' Independence. The "Gurkhas" accomplished the costliest missions as regards the lives despicably saved for England, and committed acts of barbarism.

(27)The perfidy constitutes an international crime; the United Kingdom declared a war of aggression in Malvinas on creating an "exclusion zone" around the coasts and then violated the rules of the game that it had unilaterally established and which,

nevertheless were obligatory. In this way, the cruiser "Belgrano" was sunk outside the exclusion zone, when it was .in its route towards the continent, that is to say that it did not represent any danger to the Royal Navy, Mrs. Thatcher gave direct orders to sink the "Belgrano" and that costed hundreds of lives and caused the loss of a certain opportunity to consider the peace by means of the proposal of the Peruvian President Belaunde. That is why Mrs. Thatcher has committed an international crime (Geneva Convention, article 37).

(28)The United Kingdom had sunk the danish fleet and had set fire to Copenhaguen under the pretext of legitimate defense, which basically concealed the determination to remain the first naval power of the world. During the Second World War, the United Kingdom sank all the French fleet at the North of Africa, with the same pretext.

(29)In "Malvinas and the British policy" (published by "Geosur", Montevideo, Uruguay , May 1982, year III, n2 33), the author made the analysis of the English State's behavior, even before the international courts, where it has been repeatedly punished.

(30)Vide Carlos Garcia Bauer: "The controversy about the territory of Belize". It is important to mention the British depredations of the Rio de la Plata Viceroyalty's areas, and even of the Argentine Republic; the piratical incursions of Narbourough; the thwarted invasions of Buenos Aires in 1806 and 1807, which resulted in costly defeats of the Empire and ended with the martial trial of Marshal Achmuty; the audacious anglo-portuguese attempt of 1762/1763 in the Colonia del Sacramento, where Admiral Me. Namara died together with almost five hundred of his men; the Malvinas invasion in 1833; the anglo-French blockade at the port of Buenos Aires.

(31)The United States did not go to the First World War until 1917, and that happened as a consequence of the determination of the Reich's Chancellery to create a situation of vindictive war on the part of Mexico. That diplomatic stratagem was really fatal to Germany.

(32)The Inter-American Treaty of Reciprocal Assistance is not only a link previous to the Pact of the N.A.T.O., but in the negotiations that took place before it. the United States were warned of the possible conflicts due to the future agreement with the countries of Western Europe which were bound by the Pact of Brussels, and in that moment the incompatibility was put aside, although nowadays it is really evident. Putting aside the precept "pacta sunt servanda", the United States omitted to respect

the organic disposition expressed within the forum of the Organization of American States in 1982, when the support for the argentine cause was established. From the very beginning the United States made every effort to support, even in the matter of military assistance,'• what they considered their' "closest ally".("The economist", March 3, 1984), translated and published ir; "El Economista", Buenos Aires, March 9, 1984, pages 10 and 11. In that article, appears the following: "The British operation to recapture Malvinas in 1982 would not have been neither prepared nor won without the North American support. This support did rot begin, as it is generally supposed, after the failure of Haig's mission of peace on May 1st and Reagan's well-known "inclination" to Great-Britain; this support started even before the Task Force weighed anchor, by means of a confidential agreement between the British and the north American navies, which was encouraged and personally approved by the Secretary of Defense, Caspar Weinberger. Here it came the crucial determination of the United States, pre-established by the military commands, which were out of control and induced by another power, in opposition to the international political philosophy contained in Washington's farewell speech.

(33) The Malvinas Department of the Ministry of Foreign Affairs of Argentina could not give the case an academic and diplomatic world promotion. The ignorance of this situation affected the vote in the United Nations' agencies. Nobody has ever published an official book, like those printed for the purposes of information, persuasion and public justification. Faced with the doubt and in view of the only source of information -the British one-, it was expected that the United States' public opinion and also the university and the ruling class would incline towards the country that had the historical, cultural and idiomatic affinities, besides the security of the Northern Hemisphere and the world commitments, including the fact that the United Kingdom belongs to the aristocratic group of five members of the Security Council which functions permanently. This privileged situation, of somewhat dubious democratic nature, allowed the United Kingdom to be judge and party at the same time during the discussions that took place in the said organization, by means of the vote and the veto of resolutions with the clear purpose of making evident the disproportionate colonialist reaction of the Task Force, also to maintain the threat and the attacks of that force during all the diplomatic negotiations for the pacification. Nothing reveals the fact that

the diplomacy has considered an estimate of alternatives with respect to a material rescue operation.

(34) On January 12, 1976, the United Kingdom considered that the dispute for the sovereignty was "sterile", thus rebelling against the whole system instituted by the United Nations. Argentina made successive warnings -the last one was in January 1982- stating clearly that she would make use of the methods that contemplated her rights in a better way, apart from the request of the corresponding reply in the month of February. This reply never appeared.

(35) In the magazine "University", op. cit. (note 12), I made reference to Mrs. Thatcher's reasonable fear about the possibility that the family investments and interests in the F.I.C. (Falkland Islands Company), which is controlled by the Caolite group, would be affected by an eventual nationalization by the argentine government and would not receive a compensation for that. The International Law does not establish the compensation when the matter discussed involves property subjected to the profits with the implication of an international crime, such as colonialism. The intention of the total war can be found in that concise selfish motivation of not having to lose the value (in sterling pounds) of the papers of the F.I.C. and the Caolite, Mr. Thatcher being member of their Boards of Directors.

(36)"Times", London, March 25, 1968.

(37)General Assembly, 9^7s plenary session. Official documents, XV2 period, volume 2, page 1330.

(38) "It will be the same old ; ;story" -stated a British official at the beginning of the conflict of Malvinas in April, 1982. "There we go to another war and the americans will have to come and take us out of it". (Vide Note 12: "El Economists", March 9, 1984, page 10).

(39)Vide book by Lord Curzon: "Persia and the Persian issue" (1892), where the Anglo Russian symbiotic operation in Central Asia is conceived. Gros Espisll's studies let us know about the Anglo Russian agreement that allowed the russian professor De Martens to decide the arbitration about the Esequibo issue in favour of the Government of London. That decision resulted in the loss of a large Venezuelan territory, not withstand ing the forgery of the Schomburk map, made by the Foreign Office and proved by the Venezuelan experts.

(40)Since the times of Lenin, the communist revolution considered that the russian-Japanese war belonged only to the czarism and that it was an imperialist and plundering war by both parties (V.P. Potemkin and others, "History of the Diplomacy", Grijalbo Publishing Company, page 459 and the following ones). In spite of that, it would be foolish to suppose that the people of the Soviet Union can be indifferent to the ill-fated fact and the peace of Portsmouth with the great losses for the country. And Japan obtained the victory in 1905 by destroying the russian fleet with the battleships proceeding from the discreet disarmament of Argentina.

(41) The importance of this point can be understood in a better way if one takes account of the neutrality established by South Africa, which did not allow the United Kingdom co benefit from the use of the strategic base of Simonstown or the Silvermine's complex of logistic support and marine information.

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