

THE ANTARCTIC TREATY 1959

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United States proposal of 1948 for internationalisation of Antarctica

THE multilateral Antarctic Treaty, signed in December 1959 in Washington at the conclusion of a remarkably successful twelve-nation international conference, has its origins in a proposal first put forward by the United States in 1948. This early American initiative was unsuccessful; but it is worthwhile to examine the diplomatic negotiations carried on during 1948-53 as they reveal significant differences in political opinions about the acquisition and maintenance of territorial sovereignty; and these divergent attitudes have been largely responsible for the repeated shelving of the "Antarctic Question" at the United Nations, and for the many difficulties finally overcome during the 1958-59 conversations which culminated in the Treaty.

In the wake of growing friction¹ among several of the States claimant to overlapping areas of Antarctica—a friction characterised by the Press as "a scramble for Antarctica,"² and a result

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¹ During the Antarctic summer seasons of 1946-47 and 1947-48 Argentina and Chile sent naval expeditions into the British-claimed area known as the Falkland Islands Dependencies. The greater part of the latter is also claimed by Argentina and Chile. See *Polar Record*, Vol. 5, Nos. 35-36, Jan.-July, 1948, pp. 228-240, for texts of the resulting diplomatic correspondence, in which the U.K. formally protested against Argentine and Chilean "acts of trespass." These two governments, in their several replies, rejected the British assertion and also the offer of the U.K. to submit the entire question of conflicting Antarctic claims to the International Court of Justice. For a discussion of these incidents and correspondence see Hayton, Robert D., "The 'American' Antarctic," *American Journal of International Law*, Vol. 50, No. 3, July 1956, pp. 590-592. For a careful and comprehensive review of the conflicting claims of the three States see Waldock, C. H. M., "Disputed Sovereignty in the Falkland Islands Dependencies," *British Yearbook of International Law*, 1948, Vol. 25, pp. 311-353.

² See *Washington Post* editorial, "Antarctic Claims," January 2, 1947, and *New York Times* correspondence, February 26, 1947, "Antarctic Sovereignty." For a discussion of Press reports of a supposed dispute between the U.S. and the U.K. see U.S. Department of State Press Release No. 936, December 27, 1946, in connection with an "alleged diplomatic dispute" over U.K. activities at

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P Two months later, in January 1956, the New Zealand Prime Minister, Mr. Walter Nash, made the first of his proposals suggesting a U.N. trusteeship over the area and the establishment of Antarctica as a "world territory" under the control of the U.N.⁵⁰

Although this proposal met with many favourable comments, including statements from Admiral Byrd in the U.S.⁵¹ and Sir Edward Shackleton in the U.K.,⁵² there was little official response, except obliquely from Australia. In June a lead editorial of the *Sydney Morning Herald* concerned itself⁵³ with the question of placing the entire Antarctic continent under U.N. control, and with the rejection by the Australian Government of that suggestion. The editorial, commenting on the growing importance of Antarctica and the rapidly increasing interest in it, warned that the "rather vague national titles" cannot long remain unchallenged. The ideal solution from the Australian point of view, the *Herald* asserted, would be international recognition of existing claims, which would "leave Australia in control of the great area directly south of her." Nevertheless, the editorial concluded on a hopeful note: "a realistic assessment of the prospects indicates" that international control may one day appear a more attractive proposition than it does at present.

Official British response was as little favourable as that of Australia. On April 25, 1956, in the House of Commons, the Secretary of State for Foreign Affairs was again asked⁵⁴ the Government's position on whether it would "consider making the suggestion to the U.N. organisation that they should propose to all the nations now making claims to territory in Antarctica that such claims should be transferred with benefit to the U.N. . . ." Mr. Anthony Nutting replied that "it was unlikely that any proposals to entrust Antarctica to the U.N. would have any prospect of success. . . . There is no provision in the United Nations Charter for accepting the sovereignty of this or any other part of the world."⁵⁵ From the opposition front bench, Mr. Kenneth Younger then inquired if it "would not be worth while trying to get some kind of international negotiation to put an end to this absurd situation" (meaning the conflicts with Argentina and Chile arising

⁵⁰ "Remarks by P.M. Nash Suggesting a U.N. Trusteeship," *The Times* (London), p. 8.

⁵¹ *The Times* (London), February 17, 1956, p. 9.

⁵² *The Times* (London), February 17, 1956, p. 6, for a further exposition of Shackleton's views see "Antarctica, the Case for Permanent International Control," *World Affairs*, May-June 1958, No. 243, pp. 23-25.

⁵³ "Antarctica's Future," *Sydney Morning Herald*, June 1, 1956.

⁵⁴ *Hansard*, Parliamentary Debates, House of Commons, Oral Answers to Questions, April 25, 1956, Vol. 551, cols. 1760-1761.

⁵⁵ See *supra*, note 6.