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ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

The Cordillera of the Andes Boundary Case (Argentina, Chile)

20 November 1902

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**THE CORDILLERA OF THE ANDES
BOUNDARY CASE**

PARTIES: Argentina, Chile.

COMPROMIS: Agreement of 17 April, 1896.

ARBITRATOR: Edward VII, King of the United Kingdom of Great
Britain and Ireland.

AWARD: 20 November, 1902.

REPORT OF THE TRIBUNAL, APPOINTED BY THE ARBITRATOR:
19 November, 1902.

ADDITIONAL DOCUMENTS: Treaty of 23 July, 1881, and Protocol of
1st May, 1893.

Delimitation of certain portions of the frontier-line between Argentina and
Chile.

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BIBLIOGRAPHY

A. M. Stuyt, *Survey of International Arbitrations, 1794-1938*, The Hague, 1939, pp. 207, 235.

Texts of the Compromis, Award and other documents relating to the case :

Baron Descamps et Louis Renault, *Recueil international des traités du XX^e siècle*, année 1902, p. 372 [English and French texts of the Award and the Tribunal's Report]; pp. 324, 325, 371 and année 1901, p. 445 [French and Spanish texts of other documents relating to the Case].¹

British and Foreign State Papers, vol. XCV, p. 162 [English text of the Award]; Vol. LXXXVIII, p. 553 [English text of the Compromis]; vol. LXXII, p. 1103 [English text of the Treaty of 23 July 1881]; vol. XCVI, p. 379 and vol. XCVII, p. 551 [English texts of other documents relating to the Case].²

Emilio Lamarca, *Boundary Agreements in force between the Argentine Republic and Chili*, Buenos Aires, 1898, Index, pp. 5 and 25 [English and Spanish texts of the Treaty of 23 July 1881 and the Protocol of 1st May 1893].³

La Fontaine, *Pasicrisie internationale, Histoire documentaire des arbitrages internationaux*, Berne, 1902, p. 543 [Spanish text of the Compromis]; pp. 539-543, 585-587 [Spanish texts of other documents relating to the Case].

De Martens, *Nouveau Recueil général de traités*, 2^e Série, t. XII, p. 491 [Spanish text of the Treaty of 23 July 1881].

Papers relating to the Foreign Relations of the United States, vol. for 1881, p. 11 [English text of the Treaty of 23 July 1881].

Tratados, convenciones, protocolos y demás actos internacionales vigentes celebrados por la República Argentina, Buenos Aires, t. I, p. 386 [Spanish text of the Compromis]; p. 232 [Spanish text of the Protocol of 1 May 1893]; t. III, p. 57 [Spanish text of the Award and the Tribunal's Report].

Commentaries :

A. Alvarez, "Des occupations de territoires contestés à propos de la question de limites entre le Chili et la République argentine", *Revue générale de Droit international public*, t. X, 1903, pp. 651-690.

José Arce, *Tradición Internacional Argentina El Arbitraje Amplio*, Academia de Ciencias Económicas, Buenos Aires, 1945, pp. 6-8.

Kenneth S. Carlston, *The Process of International Arbitration*, New York, 1946, pp. 51, 95-97.

N. Politis, *La justice internationale*, 2^e éd., Paris, 1924, pp. 62-70.

¹ The texts of the Award and the Tribunal's Report reproduced below were drawn from that *Recueil*.

² The text of the Compromis reproduced below was drawn from those *Papers*.

³ The texts of the Treaty of 23 July 1881 and the Protocol of 1 May 1893 reproduced below were drawn from that publication.

SYLLABUS ¹

For many years there existed between the Argentine Republic and Chile a difference as to their common boundaries. In 1881, a treaty was made for its adjustment; but this treaty proved not to be final. In the first place, the Argentine Government claimed that the commissioners appointed to run the boundary under the treaty made an evident mistake in placing the landmark of San Francisco. Secondly, the two governments differed as to the principle on which the line from 26°52'45" south latitude to the Straits of Magellan should be determined, whether it should, as the Chileans contended, follow the watershed, or, as the Argentines maintained, pass through the highest peaks of the Andes. Lastly, questions arose as to the line between 23° and 26°52'45" south latitude, in the region known as the Puna de Atacama, which was occupied by the Chileans during the war with Bolivia, but which, as the Argentines claimed, had previously been admitted by Bolivia to belong to the Argentine Republic.

By a protocol signed at Santiago, April 17, 1896, provision was made for ending these disputes. As to Puna de Atacama, it was stipulated that the boundary should be traced with the co-operation of Bolivia. The landmark of San Francisco, as placed by the commissioners, was to be disregarded. As to the long line from 26°52'45" south latitude to the Straits of Magellan, it was agreed that any differences that could not be adjusted by friendly negotiation should be settled by the arbitration of the British Government, who would apply strictly the dispositions of the treaty of 1881 and the protocol of 1893, after previous examination of the locality by a Commission to be named by the Arbitrator.

¹ See J. B. Moore, *History and Digest of the International Arbitration to which the United States has been a Party*, vol. V, Washington, 1898, p. 4854, N. Politis, *La justice internationale*, 2^e éd., Paris, 1924, pp. 62-70.

AGREEMENT BETWEEN THE GOVERNMENTS OF CHILE AND THE
ARGENTINE REPUBLIC, SIGNED AT SANTIAGO,
17 APRIL 1896 ¹

Señor Adolfo Guerrero, Minister for Foreign Affairs, and Señor Norberto Quirno Costa, Envoy Extraordinary and Minister Plenipotentiary of the Argentine Government in Chile, having met in the Office of the Ministry for Foreign Affairs in the city of Santiago of Chile on the 17th day of April, 1896, declared that the Governments of the Republic of Chile and of the Argentine Republic being desirous of facilitating the loyal execution of the existing Treaties, which fix a definite frontier between the two countries, of re-establishing confidence in peace and of avoiding every cause of conflict, pursuing always the aim of obtaining a solution by direct arrangement without prejudice to the other conciliatory measures which the Treaties themselves provide, have arrived at an Agreement which contains the following bases:

Article I. — The operations of frontier delimitation between the Republics of Chile and Argentina, which are to be performed in conformity to the Treaty of 1881 and to the Protocol of 1893 shall extend in the Cordillera of the Andes up to the 23° of south latitude, the dividing line having to pass between the above degree and the degree of 26°52'45", both Governments, and also the Government of Bolivia, which shall be invited thereto, participating in the operation.

II. — Should disagreements occur between the experts in fixing in the Cordillera of the Andes the dividing boundary-marks to the south of the 26°52'45", and should they be unable to settle the points in dispute by agreement between the two Governments they will be submitted for the adjudication of Her Britannic Majesty's Government, whom the Contracting Parties now appoint as Arbitrator to apply strictly in such cases the dispositions of the above Treaty and Protocol, after previous examination of the locality by a Commission to be named by the Arbitrator.

III. — The experts shall proceed to study the district in the region adjoining the 52nd degree of latitude south, referred to in the last part of Article II of the Protocol of 1893, and they shall propose the frontier-line, to be adopted there in the event of the case foreseen in the above-mentioned stipulation. Should there occur divergence of views in fixing the frontier-line it shall be also settled by the Arbitrator designated in the Agreements.

IV. — Sixty days after the occurrence of a disagreement in the cases referred to in the above bases, both Governments by common agreement, or either of them separately, shall be able to solicit the intervention of the Arbitrator.

V. — Both Governments agree that the location of the landmark of San Francisco, between the 26th and 27th degrees of latitude south, shall not be taken into consideration as a basis or obligatory precedent in fixing the frontier-line in that region, the operations and works effected there on various occasions

¹ *British and Foreign State Papers*, vol. LXXXVIII, p. 553.

being considered as studies towards the definitive settlement of the line without prejudice to the other studies which the experts may wish to make.

VI. — The experts, on renewing their work next season, shall undertake the operations and studies referred to in Articles I and III of this Agreement.

VII. — Both Governments undertake to ratify the third Agreement of the deed of the 6th September, 1895, for the continuance of the work of demarcation in the event of disputes in order that the work as desired by the Contracting Parties may never be suspended.

VIII. — Within the period of sixty days from the signature of the present Agreement, the Diplomatic Representatives of the Chilean and Argentine Republics accredited to Her Britannic Majesty's Government shall conjointly beg from them the acceptance of the charge of Arbitrator conferred upon them, for which purpose the respective Governments will issue the necessary instructions.

IX. — The Governments of the Republics of Chile and Argentina will defray in equal shares the expenses incurred in the fulfilment of this Agreement.

The undersigned Ministers in the name of their respective Governments, and duly authorized, sign the present Agreement in two copies, and affix their seals.

[L. S.] Adolfo GUERRERO

[L. S.] N. QURNO COSTA

AWARD BY HIS MAJESTY KING EDWARD VII IN THE ARGENTINE-
CHILE BOUNDARY CASE, 20 NOVEMBER 1902 ¹

WHEREAS, by an Agreement dated the 17th day of April 1896, the Argentine Republic and the Republic of Chile, by Their respective Representatives, determined:

THAT should differences arise between their experts as to the boundary-line to be traced between the two States in conformity with the Treaty of 1881 and the Protocol of 1893, and in case such differences could not be amicably settled by accord between the two Governments, they should be submitted to the decision of the Government of Her Britannic Majesty;

AND WHEREAS such differences did arise and were submitted to the Government of Her late Majesty Queen Victoria;

AND WHEREAS the Tribunal appointed to examine and consider the differences which had so arisen, has — after the ground has been examined by a Commission designated for that purpose — now reported to Us, and submitted to Us, after mature deliberation, their opinions and recommendations for Our consideration;

NOW, WE, EDWARD, by the grace of God, King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India, etc., etc., have arrived at the following decisions upon the questions in dispute, which have been referred to Our arbitration, viz.:

1. The region of the San Francisco Pass;
2. The Lake Lacar basin;
3. The region extending from the vicinity of Lake Nahuel Huapi to that of Lake Viedma; and
4. The region adjacent to the Last Hope Inlet.

Article I. — The boundary in the region of the San Francisco Pass shall be formed by the line of water-parting extending from the pillar already erected on that Pass to the summit of the mountain named Tres Cruces.

Article II. — The basin of Lake Lacar is awarded to Argentina.

Article III. — From Perez Rosales Pass near the north of Lake Nahuel Huapi, to the vicinity of Lake Viedma, the boundary shall pass by Mount Tronador, and thence to the River Palena by the lines of water-parting determined by certain obligatory points which We have fixed upon the Rivers Manso, Puelo, Fetaleufu, and Palena (or Carrenleufu); awarding to Argentina the upper basins of those rivers above the points which We have fixed, including the Valleys of Villegas, Nuevo, Cholila, Colonia de 16 Octubre, Frio, Huemules, and Corcovado; and to Chile the lower basins below those points.

From the fixed point on the River Palena, the boundary shall follow the River Encuentro to the peak called Virgen, and thence to the line which

¹ Descamps-Renault, *Recueil international des traités du XX^e siècle*, année 1902, p. 372.

We have fixed crossing Lake General Paz, and thence by the line of water-parting determined by the point which We have fixed upon the River Pico, from whence it shall ascend to the principal water-parting of the South American Continent at Loma Baguales, and follow that water-parting to a summit locally known as La Galera. From this point it shall follow certain tributaries of the River Simpson (or southern River Aisen), which We have fixed, and attain the peak called Ap Ywan, from whence it shall follow the water-parting determined by a point which We have fixed on a promontory from the northern shore of Lake Buenos Aires. The upper basin of the River Pico is thus awarded to Argentina, and the lower basin to Chile. The whole basin of the River Cisnes (or Frias) is awarded to Chile, and also the whole basin of the Aisen, with the exception of a tract at the head-waters of the southern branch including a Settlement called Koslowsky, which is awarded to Argentina.

The further continuation of the boundary is determined by lines which We have fixed across Lake Buenos Aires, Lake Pueyrredon (or Cochrane), and Lake San Martin, the effect of which is to assign the western portions of the basins of these lakes to Chile, and the eastern portions to Argentina, the dividing ranges carrying the lofty peaks known as Mounts San Lorenzo and Fitzroy.

From Mount Fitzroy to Mount Stokes the line of frontier has been already determined.

Article IV. — From the vicinity of Mount Stokes to the 52nd parallel of south latitude, the boundary shall at first follow the continental water-parting defined by the Sierra Baguales, diverging from the latter southwards across the River Vizcachas to Mount Cazador, at the south-eastern extremity of which range it crosses the River Guillermo, and rejoins the continental water-parting to the east of Mount Solitario, following it to the 52nd parallel of south latitude, from which point the remaining portion of the frontier has already been defined by mutual agreement between the respective States.

Article V. — A more detailed definition of the line of frontier will be found in the Report submitted to Us by Our Tribunal, and upon the maps furnished by the experts of the Republics of Argentina and Chile, upon which the boundary which We have decided upon has been delineated by the members of Our Tribunal, and approved by Us.

Given in triplicate under Our hand and seal, at Our Court of St. James'. this twentieth day of November, one thousand nine hundred and two, in the Second Year of Our Reign.

(Signed) EDWARD R. AND I

REPORT OF THE TRIBUNAL APPOINTED BY THE ARBITRATOR,
DATED 19 NOVEMBER 1902¹

1. May it please Your Majesty,

We, the Undersigned, members of the Tribunal appointed by Her late Majesty Queen Victoria to examine, consider, and report upon the differences which have arisen between the Governments of the Republics of Argentina and Chile, with regard to the delimitation of certain portions of the frontier-line between those two countries — which differences were referred (by a Protocol signed at Santiago (Chile) on the 17th April, 1896), to the Arbitration of Her Majesty's Government, beg humbly to submit the following report to Your Majesty:

2. We have studied the copies of the Treaties, Agreements, Protocols, and documents which have been furnished for the use of the Tribunal by the Ministers of the Republics of Argentina and of Chile in this country.

3. We have sat as a Tribunal at the Foreign Office on several occasions, and have heard oral statements and arguments.

4. We invited the Representatives of the respective Governments to furnish us with the fullest information upon their respective contentions, and with maps and topographical details of the territory in dispute, and we have been supplied with copious and exhaustive statements and arguments in many printed volumes, illustrated by maps and plans, and by large numbers of photographs indicating pictorially the topographical features of the country.

5. We desire to take this opportunity of acknowledging our indebtedness to the Representatives and the experts appointed by both Governments for their laborious researches, for the extensive surveys which they have executed in regions hitherto but little known, and for the historical and scientific information which they have laid before us relating to the controversy; and we wish to express our high appreciation, not only of their skill and devotion, but also of the very courteous and conciliatory manner in which they have approached subjects from their nature necessarily contentious.

6. After a preliminary consideration of this voluminous information, we arrived at the point at which it became advisable that an actual study of the ground — as provided for in the Agreement of 1896 — should be undertaken; and upon our suggestion Your Majesty's Government nominated one of our members, Colonel Sir Thomas Holdich of the Royal Engineers, a Vice-President of the Royal Geographical Society, to proceed as Commissioner to the disputed territory, accompanied by an experienced staff.

7. Sir Thomas Holdich and his officers were received with great cordiality and friendliness by the Presidents of the two Republics, and were given every assistance and facility by the officials and experts of both Governments.

8. The Technical Commission so appointed visited all the accessible points in the territory in dispute which were material to a solution of the question, and acquired a large stock of additional information upon questions which presented certain difficulties. Their Reports have been laid before the Tribunal, and the information contained in them, supplementing as it does that afforded

¹ Descamps-Renault, *Recueil des traités du XX^e siècle*, année 1902, p. 372.

by the respective Representatives, is in our opinion sufficient to enable us to make our recommendations.

9. Before setting forth the conclusions at which we have arrived, we shall briefly review the essential points upon which the two Governments were unable to arrive at an agreement.

10. The Argentine Government contended that the boundary contemplated was to be essentially an orographical frontier determined by the highest summits of the Cordillera of the Andes; while the Chilean Government maintained that the definition found in the Treaty and Protocols could only be satisfied by a hydrographical line forming the water-parting between the Atlantic and Pacific Oceans, leaving the basins of all rivers discharging into the former within the coast-line of Argentina, to Argentina; and the basins of all rivers discharging into the Pacific within the Chilean coast-line, to Chile.

11. We recognized at an early stage of our investigations that, in the abstract, a cardinal difference existed between these two contentions. An orographical boundary may be indeterminate if the individual summits along which it passes are not fully specified; whereas a hydrographical line, from the moment that the basins are indicated, admits of delimitation upon the ground.

12. That the orographical and hydrographical lines should have been accepted as coincident over such a long section of the frontier as that which extends from the San Francisco Pass to the Perez Rosales Pass (with the exception of the basin of Lake Lacar), may not improbably have given rise to the expectation that the same result would be attained without difficulty in the more southern part of the continent, which, at the date of the Treaty of 1881, was but imperfectly explored.

13. The explorations and surveys which have lately been carried out by Argentine and Chilean geographers have, however, demonstrated that the configuration of the Cordillera of the Andes between the latitudes of 41° south and 52° south, i.e., in the tract in which the divergencies of opinion have mainly arisen, does not present the same continuities of elevation, and coincidences of orographical and hydrographical lines, which characterize the more temperate and better known section.

14. In the southern region the number of prominent peaks is greater, they are more widely scattered, and transverse valleys through which rivers flow into the Pacific are numerous. The line of continental water-parting occasionally follows the high mountains, but frequently lies to the eastward of the highest summits of the Andes, and is often found at comparatively low elevations in the direction of the Argentine pampas.

15. In short, the orographical and hydrographical lines are frequently irreconcilable; neither fully conforms to the spirit of the Agreements which we are called upon to interpret. It has been made clear by the investigation carried out by our Technical Commission that the terms of the Treaty and Protocols are inapplicable to the geographical conditions of the country to which they refer. We are unanimous in considering the wording of the Agreements as ambiguous, and susceptible of the diverse and antagonistic interpretations placed upon them by the Representatives of the two Republics.

16. Confronted by these divergent contentions we have, after the most careful consideration, concluded that the question submitted to us is not simply that of deciding which of the two alternative lines is right or wrong, but rather to determine — within the limits defined by the extreme claims on both sides — the precise boundary-line which, in our opinion, would best interpret the intention of the diplomatic instruments submitted to our consideration.

17. We have abstained, therefore, from pronouncing judgment upon the respective contentions which have been laid before us with so much skill and earnestness, and we confine ourselves to the pronouncement of our opinions and recommendations on the delimitation of the boundary, adding that in our view the actual demarcation should be carried out in the presence of officers deputed for that purpose by the Arbitrating Power, in the ensuing summer season in South America.

18. There are four distinct subjects upon which we are called upon to make recommendations, viz.:

- (1) The region of the San Francisco Pass in latitude $26^{\circ}50'$ S., approximately,
- (2) The Lake Lacar basin, in latitude $40^{\circ}10'$ S., approximately,
- (3) The region extending from the Perez Rosales Pass, in latitude 41° S., approximately, to the vicinity of Lake Viedma,
- (4) The region of Last Hope Inlet to the fifty-second parallel of south latitude.

19. Our recommendations upon these four subjects are as follows¹:

The San Francisco Pass

20. The initial point of the boundary shall be the pillar already erected on the San Francisco Pass.

From that pillar the boundary shall follow the water-parting which conducts it to the highest peak of the mountain mass, called Tres Cruces, in latitude $27^{\circ}3'45''$ S.; longitude $68^{\circ}49'5''$ W.

Lake Lacar

21. From the point of bifurcation of the two lines claimed as boundaries respectively by Chile and Argentina, in latitude $40^{\circ}2'0''$ S., longitude $71^{\circ}40'36''$ W., the boundary shall follow the local water-parting southwards by Cerro Perihueico to its southern termination in the valley of the River Huahum.

From that point it shall cross the river in longitude $71^{\circ}40'36''$ W., and thenceforward shall follow the water-parting, leaving all the basin of the Huahum above that point, including Lake Lacar, to Argentina, and all below it to Chile, until it joins the boundary which has already been determined between the two Republics.

Perez Rosales Pass to Lake Viedma

22. The southern termination of the boundary already agreed upon between the two Republics, north of Lake Nahuel Huapi, is the Perez Rosales Pass connecting Lago de Todos los Santos with Laguna Fria. Here a pillar has been erected.

From this pillar the boundary shall continue to follow the water-parting southward to the highest peak of Mount Tronador. Thence it shall continue to follow the water-parting which separates the basins of the Rivers Blanco and Leones (or Leon) on the Pacific side from the upper basin of the Manso and its tributary lakes above a point in longitude $71^{\circ}52'$ W., where the general direction of the river course changes from north-west to south-west.

Crossing the river at that point, it shall continue to follow the water-parting dividing the basins of the Manso above the bend, and of the Puelo above Lago

¹ All co-ordinate values expressed in terms of latitude and longitude are approximate only, and refer to the Maps attached to this Report. Altitudes quoted in the text are in metres. Where the boundary follows a river the "thalweg" determines the line.

Inferior, from the basins of the lower courses of those rivers, until it touches a point midway between Lakes Puelo and Inferior, where it shall cross the River Puelo.

Thence it shall ascend to, and follow, the water-parting of the high snow-covered mountain mass dividing the basins of the Puelo above Lago Inferior, and of the Fetaleufu above a point in longitude 71°48' W. from the lower basins of the same rivers.

Crossing the Fetaleufu River at this point, it shall follow the lofty water-parting separating the upper basins of the Fetaleufu and of the Palena (or Carrenleufu or Corcovado) above a point in longitude 71°47' W., from the lower basins of the same rivers. This water-parting belongs to the Cordillera in which are situated Cerro Conico and Cerro Serrucho, and crosses the Cordon de las Tobas.

Crossing the Palena at this point, opposite the junction of the River Encuentro, it shall then follow the Encuentro along the course of its western branch to its source on the western slopes of Cerro Virgen. Ascending to that peak, it shall then follow the local water-parting southwards to the northern shore of Lago General Paz at a point where the Lake narrows, in longitude 71°41'30" W.

The boundary shall then cross the Lake by the shortest line, and from the point where it touches the southern shore it shall follow the local water-parting southwards, which conducts it to the summit of the high mountain mass indicated by Cerro Botella Oeste (1,890 m.), and from that peak shall descend to the Rio Pico by the shortest local water-parting.

Crossing that river at the foot of the water-parting, in longitude 71°49' W., it shall ascend again in a direction approximately south and continue to follow the high mountain water-parting separating the upper basin of the Rio Pico above the crossing from the lower basin of the same river, and from the entire basin of the Rio Frias, until it effects a junction with the continental water-parting about the position of Loma Baguales, in latitude 44°22' S., longitude 71°24' W.

From this point, it shall continue to follow the water-parting dividing the basins of the Frias and Aisen Rivers from that of the Senguerr until it reaches a point in latitude 45°44' S., longitude 71°50' W., called Cerro de la Galera in the Map, which marks the head of an affluent flowing south-eastwards into the main stream of the Rio Simpson or southern branch of the Aisen. It shall descend this affluent to its junction with the main stream, and from this junction shall follow the main stream upwards to its source under the mountain called Cerro Rojo (1,790 m.) in the Map. From the peak Cerro Rojo it shall pass by the local water-parting to the highest summit of the Cerro Ap Ywan (2,310 m.).

From Cerro Ap Ywan it shall follow the local water-parting determined by the promontory which juts southwards into Lago Buenos Aires in longitude 71°46' W.

From the southern extremity of this headland the boundary shall pass in a straight line to the mouth of the largest channel of the River Jeinemeni, and thenceforward follow that river to a point in longitude 71°59' W., which marks the foot of the water-parting between its two affluents, the Zeballos and the Quisoco. From this point it shall follow this water-parting to the summit of the high Cordon Nevada, and shall continue along the water-parting of that elevated cordon southwards, and thence follow the water-parting between the basins of the Tamango (or Chacabuco) and of the Gio, and ascend to the summit of a mountain known locally as Cerro Principio, in the Cordon Quebrado. From this peak it shall follow the water-parting which conducts it to the southern extremity of the headland jutting southward into Lago Pueyrredon (or Cochrane), in longitude 72°1' W.

From this headland it shall cross the Lake passing direct to a point on the summit of the hill, in latitude $47^{\circ}20'$ S., longitude $72^{\circ}4'$ W., commanding the southern shore of the Lake. From this summit it shall follow the lofty snow-covered water-parting, which conducts it to the highest peak of Mount San Lorenzo (or Cochrane), (3,360 m.). From Mount San Lorenzo it shall pass southward along the elevated water-parting dividing the basin of the River Salto on the west from that of the River San Lorenzo on the east, to the highest peak of the Cerro Tres Hermanos.

From this peak it shall follow the water-parting between the basin of the Upper Mayer on the east, above the point where that river changes its course from north-west to south-west, in latitude $48^{\circ}12'$ S., and the basins of the Coligué or Bravo River and of the Lower Mayer, below the point already specified, on the west, striking the north-eastern arm of Lago San Martin at the mouth of the Mayer River.

From this point it shall follow the median line of the Lake southwards as far as a point opposite the spur which terminates on the southern shore of the Lake in longitude $72^{\circ}47'$ W., whence the boundary shall be drawn to the foot of this spur and ascend the local water-parting to Mount Fitzroy and thence to the continental water-parting to the north-west of Lago Viedma. Here the boundary is already determined between the two Republics.

Region of Last Hope Inlet

23. From the point of divergence of the two boundaries claimed by Chile and Argentina respectively in latitude $50^{\circ}50'$ S., the boundary shall follow the high crests of the Sierra Baguales to the southern spur which leads it to the source of the Zanja Honda stream. Thence it shall follow that stream until it reaches existing Settlements. From this point it shall be carried southward, having regard, as far as possible, to existing claims, crossing the River Vizcachas and ascending to the northern peak of Mount Cazador (948 m.). It shall then follow the crest-line of the Cerro Cazador southwards, and the southern spur which touches the Guillermo stream in longitude $72^{\circ}17'30''$ W. Crossing this stream, it shall ascend the spur which conducts it to the point marked 650 m. on the Map. This point is on the continental water-parting, which the boundary shall follow to its junction with the fifty-second parallel of south latitude.

24. All which we beg humbly to submit for Your Majesty's gracious consideration.

Signed, sealed, and delivered at the Foreign Office, in London, this nineteenth day of November, one thousand nine hundred and two.

(Signed) [L. S.] MACNAGHTEN,
*Lord of Appeal in Ordinary, and a Member of
Your Majesty's Most Honourable Privy Council*

(Signed) [L. S.] JOHN C. ARDAGH,
*Major-General, and a Member of Council of
the Royal Geographical Society*

[L. S.] T. HUNGERFORD HOLDICH,
*Colonel of the Royal Engineers, and a Vice-President of
the Royal Geographical Society*

[L. S.] E. H. HILLS,
*Major of the Royal Engineers, head of the Topographical Section of the Intelligence
Division, Secretary to the Arbitration Tribunal*

SCHEDULE OF MAPS ¹

1. San Francisco Pass.
2. Lake Lacar.
3. Perez Rosales to Lake Buenos Aires.
4. Lake Buenos Aires to Mount Fitzroy.
5. Last Hope Inlet.

¹ Not reproduced in this volume.

ADDITIONAL DOCUMENTS

a) Boundary Treaty signed in Buenos Ayres on the 23rd July 1881 ¹

In the name of Almighty God! The Governments of the Argentine Republic and of the Republic of Chili, animated by the purpose of resolving in a friendly and dignified manner the boundary-controversy that has existed between both countries, and in fulfilment of Article 39 of the Treaty of April 1856,² have decided to conclude a Boundary Treaty and named to that effect their plenipotentiaries, to wit:

His Excellency the President of the Argentine Republic Doctor Bernardo de Irigoyen, Minister and Secretary of State in the Department of Foreign Affairs, and His Excellency the President of the Republic of Chili Mr. Francisco de B. Echeverria, Consul General of said Republic.

Who, after having produced their full powers and finding them sufficient for the performance of this act have agreed upon the following articles:

Article 1. — The boundary between the Argentine Republic and Chili from North to South as far as the parallel of latitude 52° S., is the Cordillera of the Andes.—The frontier line shall run in that extent along the most elevated crests of said cordilleras that may divide the waters and shall pass between the slopes which descend one side and the other.—The difficulties that might arise from the existence of certain valleys formed by the bifurcation of the cordillera, and in which the watershed may not be apparent, shall be amicably settled by two experts, one to be named by each party. Should they not come to an understanding, a third expert, named by both governments, shall be called upon to decide. A record, in duplicate, of the operations carried out by them, embodying the points upon which they may have agreed, shall be drawn up and signed by the two experts, and besides by the third one as regards the points decided by him. This record, once signed by them, shall produce full effect and shall be held firm and valid without necessity of further formalities or proceedings. A copy of the record shall be presented to each of the two governments.

Article 2. — In the southern part of the continent, and to the north of the Straits of Magellan, the boundary between the two countries shall be a line, which starting from Point Dungeness, shall be prolonged overland as far as Mount Dinero; thence it shall continue westward, following the highest elevations of the chain of hills existing there, until it strikes the height of Mount Aymont. From this point the line shall be prolonged up to the intersection of meridian 70° W., with parallel 52° S. and thence it shall continue westward

¹ Emilio Lamarca, *Boundary Agreements in force between the Argentine Republic and Chili*, Buenos Aires, 1898, Index, p. 5.

² Art. XXXIX. — Both the contracting parties acknowledge as boundaries of their respective territories, those they possessed as such at the time of separating from the Spanish dominion in the year 1810, and agree to postpone the questions which may have arisen or may arise regarding this matter in order to discuss them later on in a peaceful and amicable manner, without ever resorting to violent measures, and in the event of not arriving at a complete arrangement, to submit the decision to the arbitration of a friendly nation.

coinciding with this latter parallel as far as the *divortium aquarum* of the Andes. The territories lying to the north of said line shall belong to the Argentine Republic, and to Chili those which extend to the south, without prejudice to the provisions of Art. 3d concerning Tierra del Fuego and the adjacent islands.

Article 3. — In Tierra del Fuego a line shall be traced which, starting from the point named Cape Espíritu Santo in latitude 52°, 40' S., shall be prolonged southward coinciding with meridian 68°. 34' W. Greenwich, until it strikes Beagle Channel.

Tierra del Fuego, divided in this manner, shall be Chilian on the western and Argentine on the eastern side. As regards the islands, Staten Island, the islets in close proximity to same, and the remaining island lying in the Atlantic to the east of Tierra del Fuego and of the eastern coasts of Patagonia, shall belong to the Argentine Republic; and all the islands south of Beagle Channel down to Cape Horn, as well as those lying to the west of Tierra del Fuego, shall belong to Chili.

Article 4. — The same experts referred to in Art. 1st shall fix on the ground the lines indicated in the two previous articles, and shall proceed in the same manner as therein established.

Article 5. — The Straits of Magellan are neutralized for perpetuity, and their free navigation is secured to the flags of all nations. With the view of securing said liberty and neutrality, no fortifications nor military defences which may thwart that purpose shall be erected on the coasts.

Article 6. — The governments of the Argentine Republic and of Chili shall exercise full dominion and for perpetuity over the territories which respectively belong to them according to the present arrangement. Any question which might unfortunately arise between the two countries, whether it be on account of this transaction, or owing to any other cause, shall be submitted to the decision of a friendly power, the boundary established in the present arrangement to remain at all events immovable between the two republics.

*Article 7.*¹ — The ratifications of this treaty shall be exchanged within the term of sixty days, or sooner if possible, and the exchange shall take place in the city of Buenos Aires or in that of Santiago, Chili.

In witness whereof the plenipotentiaries of the Argentine Republic and of the Republic of Chili signed and sealed with their respective seals, in duplicate, the present treaty in the city of Buenos Aires on the twenty third day of July in the year of our Lord 1881.

[L. S.] BERNARDO DE IRIGOYEN

[L. S.] FRANCISCO DE B. ECHEVERRIA

b) Additional and Explanatory Protocol of the Boundary Treaty of 1881 signed in Santiago on the 1st May 1893²

In the city of Santiago, Chili, on the first of May 1893, Mr. Norberto Quirno Costa, Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic, and the Minister of War and Marine Mr. Isidoro Errázuriz in his character of Plenipotentiary *ad hoc*, having met in the Department of Foreign

¹ A Protocol was signed at Buenos Ayres on the 15th September 1881, extending for 30 days the limit of time fixed by Article VII for the exchange of the ratifications of this Treaty, such extension to date from the 22nd September 1886.

² Emilio Lamarca, *Boundary Agreements in force between the Argentine and Chili*, Buenos Aires, 1898, Index, p. 25.

Affairs, after having considered the present state of the work of the experts entrusted with the demarcation of the delimitation between the Argentine Republic and Chili, in accordance with the boundary treaty of 1881, and animated by the desire of removing the difficulties which have embarrassed or might embarrass them in the fulfilment of their commission, and of establishing between both States a complete and cordial understanding in harmony with the antecedents of brotherhood and glory common to both, and with the ardent wishes of public opinion on either side of the Andes, have agreed as follows:

FIRST — Whereas Article 1 of the treaty of 23 July 1881 provides that “ the boundary between Chili and the Argentine Republic from north to south as far as parallel of latitude 52° S. is the Cordillera of the Andes ” and that “ the frontier line shall run along the most elevated crests of said Cordillera that may divide the waters, and shall pass between the slopes which descend one side and the other ”, the experts and the subcommissions shall observe this principle as an invariable rule of their proceedings. Consequently all lands and all waters, to wit: lakes, lagoons, rivers and parts of rivers, streams, slopes situated to the east of the line of the most elevated crests of the Cordillera of the Andes that may divide the waters, shall be held in perpetuity to be the property and under the absolute dominion of the Argentine Republic; and all lands and all waters, to wit: lakes, lagoons, rivers and parts of rivers, streams, slopes situated to the west of the line of the most elevated crests of the Cordillera of the Andes to be the property and under the absolute dominion of Chili.

SECOND — The undersigned declare that, in the opinion of their respective governments, and according to the spirit of the boundary treaty, the Argentine Republic retains its dominion and sovereignty over all the territory that extends from the east of the principal chain of the Andes to the coast of the Atlantic, just as the Republic of Chili over the western territory to the coasts of the Pacific; it being understood that by the provisions of said treaty, the sovereignty of each State over the respective coast line is absolute, in such a manner that Chili cannot lay claim to any point toward the Atlantic, just as the Argentine Republic can lay no claim to any toward the Pacific. If in the peninsular part of the south, on nearing parallel 52° S. the Cordillera should be found penetrating into the channels of the Pacific there existing, the experts shall undertake the study of the ground in order to fix a boundary line leaving to Chili the coasts of said channels; in consideration of which study, both governments shall determine said line amicably.

THIRD — In the case foreseen in the second part of the first article of the treaty of 1881, where difficulties might arise “ from the existence of certain valleys formed by the bifurcation of the Cordillera, and in which the watershed may not be apparent ” the experts shall endeavour to settle them amicably, seeing that a search be made on the ground for this geographical condition of the demarcation. For that purpose, of joint accord, they shall draw up with the assistant engineers a map which may help them to resolve the difficulty.

FOURTH — The demarcation of Tierra del Fuego shall commence simultaneously with that of the Cordillera, and shall start from the point called Cape Espiritu Santo. At that point, visible from the sea, there are three heights or hills of medium elevation, of which the central or intermediary one, which is the highest, shall be taken as point of departure, and on its summit shall be placed the first landmark of the line of demarcation, which shall continue towards the south in the direction of the meridian.

FIFTH — The work of demarcation on the ground shall be undertaken next spring simultaneously in the Cordillera of the Andes and in Tierra del Fuego in the direction previously agreed upon by the experts, that is to say, starting from the northern region of the former, and from the point denominated Cape Espiritu Santo of the latter. To that effect the commissions of assistant engineers shall be ready to commence the work on the fifteenth next October. On that date the experts shall also have prepared and signed the instructions which the aforesaid commissions shall bear, according to article four of the convention of the twentieth August one thousand eight hundred and eighty eight. These instructions shall be framed in accordance with the agreements set forth in the present protocol.

SIXTH — For the purpose of demarcation, the experts, or in their stead the commissions of assistant engineers who act under the instructions given them by the former, shall seek on the ground the boundary line, and fix the demarcation by means of iron landmarks of the kind previously agreed upon, placing one in each pass or accessible point of the mountain which may be situated on the boundary line, and shall draw up a record of the operation, specifying the fundamental reasons of same, and the topographic indications for recognizing at all times the point fixed, although the landmark might have disappeared by the wear of time or atmospheric action.

SEVENTH — The experts shall direct the commissions of assistant engineers to collect all the necessary data to design on paper, of joint accord, and with all possible accuracy, the boundary line as they may demark it on the ground. To that effect, they shall indicate the changes of altitude and azimuth which the boundary line may suffer in its course, the beginning of the streams or quebradas that descend one side and the other, writing down the names of same whenever it were possible to know them, and shall distinctly fix the points on which the boundary landmarks are to be placed. These maps may contain other geographical accidents, which without being actually necessary in the demarcation of boundaries, such as the visible course of rivers when descending into the neighbouring valleys, and the high peaks that rise on one side and the other of the boundary line, are easily indicated in the places as signs of location. The experts in the instructions given to their assistant engineers shall point out such facts of a geographical character as it may be useful to collect, provided that this does not interrupt nor delay the demarcation of boundaries, which is the main object of the commission of experts, and upon which speedy and amicable operation both governments are intent.

EIGHTH — The Argentine expert having manifested that, in order to sign with full knowledge of the matter the record of 15th April 1892, by which a mixed Chilian-Argentine commission fixed on the ground the point of departure of the demarcation of boundaries in the Cordillera of the Andes, he considered it indispensable to make a fresh reconnaissance of the locality in order to verify or rectify said operation, adding that this reconnaissance would not delay the progress of the work, which could be simultaneously continued by another sub-commission, and the Chilian expert having on his part manifested that, although he believed that the operation had been carried out in strict conformity with the treaty, he had no objection to acquiesce in the wishes of his colleague as a proof of the cordiality with which this work was being performed — the undersigned have agreed that a revision be made of what had been done, and that in the event of errors being found, the landmark shall be transferred to the point in which it should have been fixed according to the terms of the boundary treaty.

NINTH — With the desire of expediting the work of demarcation, and believing that this can be attained through the employment of three sub-commissions instead of the two which up to the present have been working, without the need of increasing the number of assistant engineers, the undersigned agree that henceforward, as long as the creation of others should not be decided on, there shall be three sub-commissions, each one composed of four persons, two on the part of the Argentine Republic and two on the part of Chili, and of the auxiliaries which by mutual agreement might be considered necessary.

TENTH — The tenor of the preceding stipulations does not in the least impair the spirit of the boundary treaty of 1881, and consequently it is hereby declared that the conciliatory means provided by Arts. 1 and 6 of same for obviating any difficulty subsist in full force.

ELEVENTH — The undersigned ministers understand and declare that, given the nature of some of the foregoing stipulations, and in order to invest with a permanent character the solutions arrived at, the present protocol shall be previously submitted to the consideration of the Congresses of both countries, which shall be done in the next ordinary sessions, keeping it reserved in the meanwhile.

The undersigned ministers, in the name of their respective Governments, and duly authorized, sign the present protocol in duplicate, one for each party and affix their seals to same.

[L. S.] N. QUIRNO COSTA

[L. S.] ISIDORO ERRÁZURIZ
