

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°50' S., approximately,
 - (2) The Lake Lacar basin, in latitude 40°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°3'45" S.; longitude 68°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°2'0" S., longitude 71°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°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°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°20' S., longitude 72°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°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°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°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°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.
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¹ Not reproduced in this volume.