

Cour internationale  
de Justice  
LA HAYE

International Court  
of Justice  
THE HAGUE

YEAR 1991

*Public sitting of the Chamber*

*held on Thursday 30 May 1991, at 10 a.m., at the Peace Palace,*

*Judge Sette-Camara, President of the Chamber, presiding*

*in the case concerning the Land, Island and Maritime Frontier Dispute  
(El Salvador/Honduras: Nicaragua intervening)*

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VERBATIM RECORD

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ANNEE 1991

*Audience publique de la Chambre*

*tenue le jeudi 30 mai 1991, à 10 heures, au Palais de la Paix,*

*sous la présidence de M. Sette-Camara, président de la Chambre*

*en l'affaire du Différend frontalier terrestre, insulaire et maritime  
(El Salvador/Honduras; Nicaragua (intervenant))*

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COMPTE RENDU

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*Present:*

Judge Sette-Camara, President of the Chamber  
Judges Sir Robert Jennings, President of the Court  
Oda, Vice-President of the Court  
Judges *ad hoc* Valticos  
Torres Bernárdez  
Registrar Valencia-Ospina

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*Présents :*

- M. Sette-Camara, président de la Chambre
  - Sir Robert Jennings, Président de la Cour
  - M. Oda, Vice-Président de la Cour, juges
  - M. Valticos
  - M. Torres Bernárdez, juges *ad hoc*
  
  - M. Valencia-Ospina, Greffier
-

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The PRESIDENT: Please be seated. The sitting is open. We proceed with our hearings on the determination of the legal situation on islands. I give the floor again to Professor Keith Highet.

Mr. HIGHET: Thank you, Mr. President. Good morning, Mr. President, Members of the Court. When we wound up yesterday afternoon I had been talking about the very short survey in 1854 and I concluded with the sentence that in the Memorial of El Salvador we also pointed out that El Salvador had conducted surveys of Meanguera in 1854 and that there was no evidence of any protest or reaction to this activity by Honduras. I will now continue.

It is wholly unclear whether Honduras actually proposed to "sell" Meanguera. We do not have, for example, the kind of direct evidence about this 1854 episode that we do about the very obvious, publicized, official offers to sell land on Meanguera by the Salvadorian Government in 1879 (to which, incidentally, Honduras never uttered a word of protest)<sup>44</sup>.

The first piece of evidence that is produced by Honduras about this "important" year - a year that has become key in her oral pleading on Tuesday and that has actually generated a new cut-off date - cannot stand up for a minute. It was mentioned by Professor Sánchez Rodríguez.

It is the report by a Honduran official, a Sr. Zuniga, to his Minister that, in 1854, a Salvadorian surveyor, Sr. Trabieso - to whom applications were apparently being directed for land purchases on Meanguera - had told him, Sr. Zuniga, that: "after examining the papers in conformity with the law, it appears that it [Meanguera] belongs to Honduras..."<sup>45</sup>. That is what Sr. Trabieso is asserted to have said to Sr. Zuniga. We do not know the qualifications of the surveyor. We are not told what documents he examined. We are not even really told what he meant. He was not, apparently, trained in the law. And the report is also second-hand. It is hearsay. Finally, it is from one "interested" party to another - that is where the communication is found.

This supports no position of Honduras. Therefore, it cannot affect the position of El Salvador. It is information, or documentation, if you will, of the same tenor and level as the corn-planting documents that I discussed yesterday. Moreover, it does not even support the idea that "Meanguera" - as opposed to plots of land on Meanguera - was for sale.

The idea that Honduras was offering land on Meanguera for sale in 1854 is also based on inferences drawn from the Opinion of Lucas Rios, the Comptroller of the State of Honduras, in his report to the Director of Revenues dated 11 August 1854 and published in the *Gazeta de El Salvador* on 26 October 1854<sup>46</sup>. In response to the proposal to sell El Tigre to Augustus Follin, the Consul of the United States, Sr. Rios expressed his strongly negative views on the transaction.

He stated, in paragraph 5, that the sale of any one of the islands of El Tigre, Zacate and Meanguera would naturally frighten Nicaragua and El Salvador, by reason of the arrival of a foreign power on their coasts. It was really almost a perception in advance of the Bryan Chamorro treaty problems that came up later. Sr. Rios did not necessarily indicate that it was to have been Honduras that was going to sell Meanguera. His language is not clear. He simply said "the sale" of any of the islands. It could well have meant that if Honduras were to sell Tigre and Zacata on her side, and if El Salvador on her side were to sell Meanguera, then either of those acts would have threatened Nicaragua. El Salvador would obviously have been frightened by a Honduran sale of El Tigre or Zacate and that will be confirmed in a moment.

However, the fact that El Salvador protested the proposed sale of El Tigre<sup>47</sup> does not necessarily imply that El Salvador was thereby making a claim on El Tigre on that ground. Nor should the fact that Sr. Rios recommended against any sale of Meanguera imply that he was making a claim on Meanguera.

An additional point, Mr. President, is worth noting. A formal protest was indeed filed on 12 October 1854 by the Minister of Foreign Affairs of El Salvador to the Minister of Foreign Affairs of Honduras protesting the sale of El Tigre and of Zacata Grande as unwise, and reciting a vigorous protest to the report he had heard from officials in the Department of San Miguel that the President of Honduras had in effect requested bids for lands on Meanguera and other islands which were, he said, the acknowledged and incontestable property of El Salvador<sup>48</sup>.

On the same date the Foreign Minister of El Salvador sent a similar letter, this time in circular form, to the Foreign Ministers of each of the three other Central American countries<sup>49</sup>. The protest was thus sent to Honduras, then also to Nicaragua, Costa Rica and Guatemala. Both letters

unequivocally asserted the sovereignty of El Salvador over Meanguera.

These documents are contained in the Annexes to the Honduran Memorial. The Honduran Annexes do not contain the slightest hint of any response from the Government of Honduras to these two very strong and categorical protests on the part of El Salvador. Surely such a response would have been expected, in particular since the protest was published abroad as well as transmitted directly.

What the Honduran documents do show is an almost immediate withdrawal or cessation of all activity - offers for sale or surveys - by the Honduran Government. The evidence for this is contained in two internal documents dated 17 and 24 October of that famous year, that essentially call a halt to the sale and survey activity. The first<sup>50</sup> was only five days after the Salvadorian circular protest - that is pretty quick for 1854!

It gave, Mr. President, amongst other reasons for suspending auction sales, the fact that the authorities did not have full knowledge of the boundaries of the two States of El Salvador and Honduras. Perhaps this was an understatement? In the second internal note, one may observe with interest that Meanguera is identified as only being claimed to be Honduran, whereas El Tigre is described as "incontestably belonging to Honduras<sup>51</sup>". No sale took place, Mr. President. No further surveys or offers for sale are in evidence. When Honduras's bluff was called, there was then, and for many years thereafter, a deafening silence on the part of Honduras in regard to Meanguera.

If one cuts through all the unnecessary detail, the misleading and tendentious comments in the Honduran written pleadings, the picture becomes quite simple and quite clear. There was, perhaps, to be sure, an abortive attempt by Honduras to offer land on Meanguera for sale. However, no offers were accepted. Protests were immediately issued to all the Governments of Central America. No response was forthcoming, and nothing further happened.

Without making light of this subject, one could well call it a tempest in a teapot. It has all the earmarks of a half-baked attempt by Honduras to make an end-run around the rights of El Salvador in 1854. This was promptly abandoned as soon as opposition became known, and it was never repeated.

Now what kind of claim was that, Mr. President? Not only was no response to the Salvadorian protests recorded, but no actual claim was ever made by Honduras.

I challenge the Honduran delegation to indicate where they think can be found any official claim or protest made by Honduras to El Salvador, from 1821 up to the negotiations in the 1970s, that unequivocally and actually asserts the sovereign right and title of Honduras to Meanguera. No such claim or protest exists because no such right or title has ever existed.

My conclusion, Mr. President, is that the evidence in support of Honduras's legal position concerning the events leading up to the emergence of 1854 as such an important year, amounts to the following five points. None is sufficient on its own and taken together they form less than the sum of their parts. They are:

- (i) A one-sentence opinion contained in a military report by a British naval officer about the ownership of Meanguera - to be contrasted to a public notice by the British Consul in the name of the Queen.
- (ii) An application for agricultural labour by an unspecified private firm that wanted to plant crops on Meanguera, with no indication as to whether the island was considered Honduran, or Salvadorian, or *res nullias* and with no further indication of what ever happened.
- (iii) One hasty survey of the island undertaken by two men with no indication of who authorized it, what it was precisely intended for, and what became of it - we do not even have a copy in evidence of the survey report, or a report about the survey report. And, after an immediate official reaction by the authorities of El Salvador, no recurrence of that activity.
- (iv) A second-hand report of an oral expression of opinion by a Salvadorian surveyor as to sovereignty over Meanguera, reported in intra-governmental correspondence by one Honduran official to another Honduran official.
- (v) A second-hand report that Meanguera had been offered for sale by Honduras, with no evidence as to when, or how, and — in the face of an immediate official protest from

the Foreign Minister of El Salvador to Honduras and three other Central American Governments — withdrawal of that offer, no reaction to the protest and total subsequent inactivity.

Mr. President, this is not the kind of evidence and these are not the kinds of act that can conceivably represent claims, and in particular claims of real estate, claims of State sovereignty over territory.

And it certainly cannot support - in the language of the Court in *Eastern Greenland* - "a superior claim" to that of El Salvador. If the attribution of territory in international law were to operate on evidence and events as flimsy and inconsequential as these, we would be in pretty bad shape.

It is interesting to contrast this flimsy material with the forthright reports of bids and offers of land for sale, of public auctions, of petitions, of surveys of Meanguera and other islands that were duly published in the *Gaceta del Gobierno del Salvador* in August of 1856<sup>52</sup>. You can see it, there is a photocopy of the *Gaceta*.

Nor is there any evidence of official Honduran reaction to those sales, nor could or did Honduras prevent them. And, ironically, on 29 March 1856 a claim on the island of El Tigre was forwarded to the Surveyor of the Department of San Miguel in El Salvador and was published in the *Gaceta*, but there is not even then any evidence of any reaction on the part of Honduras. It is not known what became of it, but at least El Salvador is not asserting sovereignty to El Tigre on that account.

(e) Sale of land on Meanguera (1878/1879)

I would like to move forward about 20 years to the sale of land on Meanguera in 1878 and 1879. As noted in our Memorial<sup>53</sup>, Mr. President, a public auction of vacant land on Meanguera was announced by the General Court of Hacienda in 1879 and this was again published prominently in the *Diario Oficial of El Salvador*<sup>54</sup>. There is no evidence of any reaction, official or unofficial, on the part of Honduras except for the comment, on Tuesday, by my friend, Professor Sánchez Rodríguez, that these transactions prove or could prove that Meanguera was not then effectively

occupied by El Salvador<sup>55</sup>.

Perhaps he is mistaken in thinking that El Salvador was offering the whole island for sale, if that is what his pleading suggests, but I do not think that is supported by the evidence. But the underlying reason of Professor Sánchez Rodríguez also requires comment because how can anyone sell land if he is not its owner or possessor to begin with? And, moreover, his observation has curious side effects, such as did Honduras's earlier argument about the El Salvador constitutional provision that used the words "enseñada de Conchagua". Just as that argument turned into a boomerang when you notice that the Honduran Constitution contains exactly the same words, so does this argument backfire when it applies to Honduras's desultory attempts to offer land for sale on Meanguera in the famous year of 1854, or in indeed on its own island of El Tigre.

(f) The Cruz-Letona Treaty (1885)

We move forward another decade, roughly, to the Cruz-Letona Treaty. Much has been said, Mr. President, about the abortive Cruz-Letona Treaty. One point, however, needs to be stressed. The line of delimitation that had been agreed between General Letona and Mr. Cruz left Meanguera and Meanguerita clearly on the Salvadorian side of the boundary line. Nevertheless, it does not appear that the attribution of sovereignty over those islands as such was an issue at the time.

A diligent review of all the documentation in the case concerning the bitter controversy that confronted Sr. Cruz after he had signed the Convention has failed to turn up a single comment, either offensive or defensive, that Sr. Cruz misattributed Meanguera to El Salvador. True, there is some general language about "our magnificent constellation of ports on the Pacific<sup>56</sup>", but it is not at all likely that one of those ports was the modest fishing village of Meanguera del Golfo, because, as you can see from the photographs, it could not be described even today as a port as such.

There is nothing - absolutely nothing - to suggest that anyone in Honduras blamed Sr. Cruz for having given away Meanguera to El Salvador. And one would have thought that if that really had been the sincere opinion held in Honduras at the time, then the Honduran National Congress would have taken this finest of all opportunities to make it very clear indeed to Sr. Cruz.

And this is particularly compelling evidence when one reads through the detailed record of the

Memorandum of the Ministry of Foreign Relations presented to the National Congress of Honduras<sup>57</sup> (that is in the record), and the Report of the Commission on Foreign Relations on the Treaty<sup>58</sup> (and that is also in the record) and the Honduran congressional debates<sup>59</sup> (those are also in the record).

The Report of the Commission on Foreign Relations even stated, without comment, that Article 2 of the Treaty established the maritime boundary in the Gulf of Fonseca between the islands (including "Meanguera") "belonging to El Salvador" and the others "belonging to Honduras"<sup>60</sup>. The minutes of the debates in the Honduran Congress do not mention any "give away" of Meanguera. Nor does the Decree disapproving the Convention<sup>61</sup>.

And finally, nor does the detailed, wordy, passionate and - one would have thought - exhaustive defence offered by Sr. Cruz himself before the Honduran Congress, as reproduced as I think the first Annex in the Annexes to the El Salvador Memorial<sup>62</sup>. Keeping this in mind, Mr. President, it was therefore with great surprise that I heard Professor Sánchez Rodríguez imply that the surrender of Meanguera by the proposed Cruz-Letona Convention had a bearing on the rejection of the Treaty:

"On a estimé à l'époque que la solution envisagée initialement par le commissionné M. Cruz allait à l'encontre des droits historiques et des pouvoirs exercés traditionnellement sur l'île par la République du Honduras, ce qui explique que l'opposition parlementaire au traité ait été totale<sup>63</sup>."

It is quite clear: "sur l'île" and "ce qui explique que". This conclusion, with respect, is incorrect. The debate and related material do not mention the question of the island as such. One would have thought that if Honduras held a serious view at the time that she was sovereign over Meanguera and Meanguerita, such a view would necessarily have emerged, or have been expressed clearly - or at least would have been found somewhere in the documents. The implications of this silence on our interpretation of the events 30 years before, in the year of 1854, are that they too were of relative unimportance and certainly of an ephemeral nature in any case.

I note with interest that Professor Bardonnet, in a portion of his pleading on 21 May, specifically sought support for the Honduran position on the Goascorán from a provision of the Cruz-Letona Convention, and to this end cited with approval a passage from the *Frontier Land* case,

which read as follows:

"The unratified Convention of 1892 [the Court said] did not, of course, create any legal rights or obligations, but the terms of the Convention itself and the contemporaneous events show that Belgium at that time was asserting its sovereignty over the two plots, and that the Netherlands knew it was so doing<sup>65</sup>."

Meanguera should be given equal time on the same principle. Weight should be given to the recognition of Salvadorian sovereignty of the island in the Cruz-Letona treaty, even in general terms, and especially when the issue remained *sub silentio* - it remained uncontested in the subsequent Honduran debate.

(g) The capture of General Saenz (1894)

The final specific incident or episode in this list of facts that still divides the Parties should not detain us for long. It is the capture of General Saenz in 1894. I do not believe that Professor Sánchez Rodríguez mentioned it at all in his pleadings. That again leads me to think, why did he not mention it? The answer is probably that Honduras has realized that she has made a serious mis-statement in the Counter-Memorial and decided to play it down.

The Chamber will recall that following the capture by Salvadorian forces on the island of Meanguera of the Honduran rebel general Jersan Saenz, the Salvadorian Minister of War decided to return substantial quantities of arms and ammunition captured with General Saenz to the Honduran Government in April 1894. This was published in the *Diario Oficial* of El Salvador: again, it was printed, and it is in the evidence.

The Minister also decided at the same time - and it is published in the same notice - to return to the Honduran Government a similar quantity of small arms and ammunition captured after the surrender of the Honduran general Domingo Vasquez to Salvadorian forces on the mainland:<sup>66</sup> quite a different episode - same kind of idea, different place, different person. Both quantities of weapons were returned to Honduran authorities, who accepted them gratefully, and who certainly did not protest the exercise of military power against General Saenz on the island of Meanguera by El Salvador. Far from it.

The Honduran Counter-Memorial, however, says that

"The relevant paragraph of the Annex in fact refers, not to Saenz's action on the island of Meanguera, but to the entry into El Salvador, by the overland route, of President Domingo Vasquez, who had been overthrown by the revolutionary forces<sup>67</sup>."

This just is not true. One may examine the original document, with or without magnifying glass, and one can readily see how the action of the Minister of War pertained to each of the two separate captures of arms and ammunition, in each of the two separate places. And one of them, to be sure, was Meanguera.

(2) THE GENERAL EXERCISE BY EL SALVADOR OF STATE AUTHORITY IN  
THE ISLAND OF MEANGUERA (1890-1991)

Mr. President, Members of the Chamber, I now turn to the exercise and display of State sovereignty over Meanguera.

What does the record show? A brief chronological "tour d'horizon" of the history of Salvadorian activities would, I think, be helpful to the Chamber. I will proceed roughly year by year.

The earliest years are not subject to detailed documentation, for the simple reason that the islands were obviously still then sparsely inhabited, if at all. It was not until the mid-19th century that the activities became more noticeable, as we know.

When you get to 1890, Mr. President, there is a birth record for Santiago Salinas and Ambrocio Galeas, born on Meanguera, that was recorded in the record book of the civil registry of La Union. As the witness testified yesterday, when his father's certificate was registered it was registered in La Unión because at the time of Mr. Avilés's father's birth there had not yet been established a registry of births and deaths on Meanguera, because it was not yet a township. This material is all shown in the Meanguera Dossier, to which I referred earlier.

It would abuse the patience of the Chamber, I am sure, if I read aloud every single year in which official births and deaths records have been recorded for Meanguera by the authorities of El Salvador. I will restrict myself to saying that if the Members of the Chambers will refer to Section VII of the Meanguera Dossier, entitled "Registry of Births and Deaths", they will see that in

addition to the first recorded births I have just mentioned in 1890, we have official records of births for 1891, 1892, 1900, 1901, 1903, 1904, 1906 through 1912, for 1914, for 1916 through 1919 and for most of the subsequent years between 1924 through 1991. I will deal later with the treatment that Professor Sánchez Rodríguez has given to this material.

In 1893, Mr. President, almost a century ago the School for Girls was established on Meanguera by the Government of El Salvador. This was the first institution set up on the island for education and for the following 98 years, without interruption to the present day, the children of the island have been educated by the education authorities of El Salvador and have received their marks and their certificates from teachers and administrators appointed by the Government of El Salvador within the school system of El Salvador. The witness's father went to those schools; his godmother, as he testified - Donna Pastora Grande - attended that school when she was a little girl. Since she was born in 1901, she would have been attending it before the First World War. Mr. Avilés has testified that he too received this same education in the 1940s and 1950s, on the island of Meanguera.

In 1900, the Honduras-Nicaragua Boundary Agreement was signed (I am proceeding chronologically: there is obviously a difference in substance) embodying an ostensible line of equidistance between "the coasts of both Republics", drawn between El Tigre of Honduras and Punta Cosiguina of Nicaragua. If Honduras had then thought, with any conviction, that Meanguera belonged to her, the line could have - and no doubt would have - continued out to sea, and would have followed a path of equidistance between Meanguera and the Farallones. Since this was not reflected in that Treaty, it must be taken as a tacit admission that Honduras's "claim" to Meanguera - if ever there was one - was not taken seriously, even by Honduras.

Professor Sánchez Rodríguez spoke of this two days ago. He asserted that the intention of the parties to that Treaty was to arrive at a line that was equidistant from the coasts of the States concerned. And what he said was this:

"En fin de compte, ce qui a été fait depuis le bout de la ligne de 1900 est équidistant, à la fois, de l'île d'El Tigre, de Punta Cosiguina ou Monypenny, de l'île d'El Tigre et de l'île de Meanguera, c'est-à-dire se situe à un point médian équidistant des côtes des deux Etats<sup>69</sup>."

We have handed out to the Members of the Chamber and for the representatives of Honduras this simple map on which the 1900 "equidistant" line in the Agreement between Nicaragua and Honduras is plotted. Just for illustrative purposes. It is easy enough to make a simple measurement from the points mentioned by Professor Sánchez Rodríguez and I think it is quite rewarding. It is also easy to see that the point on the map, representing the terminal point, right here along the line, does not really take Meanguera into account at all. It is not equidistant from Meanguera, as Professor Sánchez Rodríguez would have us think. And it certainly is not equidistant from Meanguerita.

My question is this. If Honduras had considered that Meanguera was in fact hers, how could she conceivably have been happy with this line? The implication of the line as you can see on the map is that Meanguera and Meanguerita are neither Honduran nor Nicaraguan and, in addition, if Honduras or Nicaragua had thought that Meanguera and Meanguerita were Honduran would they not then as a matter of course, as a matter of practicality - I mean, they are going to a lot of trouble to have this convention and to make these adjustments - have wanted the line shown on the map, adjusted of course to take account of Meanguera and Meanguerita, to continue out at least as far as the midway point between the southern tip of Meanguera and the Farallones for Nicaragua and you can simply see this for yourself by drawing a line from the southernmost extremity of Meanguera down to the Farallones and make a mid-point of the line. Then you connect that mid-point with the terminus point shown on the map of the actual 1900 line and you can see what the delimitation would or should or could well have looked like if Honduras had considered that she was sovereign of Meanguera and Meanguerita. The fact that this was not done, Mr. President, or even suggested, means that Honduras could hardly have taken her claim seriously. And this is congruent with the fact that Meanguera was never mentioned as such in connection with the rejection of the Cruz-Letona Treaty some 15 years before.

And now we come up to 1914. The documents and pleadings make it clear that a law was adopted in that year by the El Salvador legislature authorizing the creation of a free port on the island of Meanguera<sup>70</sup>. It was even referred to in the decision of the Central American Court of

Justice. Shortly thereafter the legislature - of course, as our opponents have pointed out, the free port has never been built but there certainly was an intention to do it at the time - also approved a contract with a Mr. Searing to build and develop that free port<sup>71</sup>. All the records were published in the *Diario Oficial* and may be found at the end of the Annexes of El Salvador, and yet in my research I have not found any protest or communication from Honduras concerning any of them.

In 1916, the legislature passed a law promoting the village of Meanguera to being a township of Meanguera del Golfo. And this again was published in the Official Gazette of El Salvador. And again, no protest or communication from Honduras on the record<sup>72</sup>.

What the Honduras Reply says is that "the actual presence of the Salvadorian State on the island began really, at the administrative level, only in 1916 with the establishment of a commune in the context of the Salvadorian opposition to the Bryan-Chamorro Treaty<sup>73</sup>".

The misleading words in that sentence are "at the administrative level". Why? Because 35 years earlier, the Government of El Salvador had openly sold land on the island without protest by Honduras; 23 years before it had established a school; 22 years before it had captured a rebel general and returned his weapons to Honduras; and 26 years before El Salvador was registering babies born on Meanguera in the registry of births of La Unión. That is all before 1916.

In 1917, Mr. President, as the Members of the Chamber of course know, the judgment of the Central American Court of Justice in the case between El Salvador and Nicaragua, was handed down. Although it referred in several places to Meanguera as Salvadorian, Honduras did not protest this point or reserve her rights against such a designation. For example, the Court referred to the Lawyers' Society of Honduras as an "authoritative source<sup>74</sup>", and the judgment cited the expert report adopted by the Lawyers' Society or the Lawyers' Committee (and printed in the *Foro Hondureño*) which included language unequivocally, unquestionably, identifying Meanguera and Meanguerita as "belonging to El Salvador<sup>75</sup>".

The reservation<sup>76</sup> that Honduras did file was not what Honduras now says it is. In fact it is so general in regard to the islands that its evidentiary value is virtually non-existent. This is a reservation to the proceedings in the Central American Court.

And yet it is, I believe, the first real legal protest or reservation of rights that we have on the part of Honduras. That 100 years after the date of 1821 Honduras was principally concerned at the time, as the Members of the Chamber know, with safeguarding her rights to the "ligua maritima" in the Gulf.

The language of the protest is set forth at page 63 (English translation) of Volume II of the Memorial of Honduras. The relevant portion reads as follows:

"The rights which El Salvador believed it had over a part of the Gulf of Fonseca or over some of its islands have not been identified nor are they recognized by Honduras."

Well, this does not actually make sense. How can one State protest the exercise of rights that have not been identified? This is not merely illogical, Mr. President, it is clearly insufficiently specific, certainly in regard to particular islands like Meanguera and Meanguerita, particularly because there was never any question about Salvadorian sovereignty to many other islands. These words have not been identified, have no content and they are inconsistent; the sentence just does not make much sense. It certainly cannot be raised to the dignity and quality of a specific and actual "protest". It might have been referring to El Tigre. The plain fact is that it is hopelessly vague and surely not a claim of sovereignty over a specific island or islands.

I was then startled to hear Professor Sánchez Rodríguez describe this very same sentence by saying that "ce n'est pas la seule fois que le Gouvernement du Honduras se prononce sans équivoque sur ce point"<sup>77</sup>. Well, to me it sounds very "équivoque" indeed. The Professor's other examples of unequivocal pronouncements have been the total silence on the issue of Meanguera and the rejection of the Cruz-Letona Treaty and the doubt-free letter of Admiral Hornby. Not a very promising collection of certainties.

Indeed, to have Honduran sources cited by the Central American Court (in the very institution of which Honduras was of course a member State) as "authoritative", and identifying Meanguera and Meanguerita as Salvadorian, would surely seem to call for some kind of specific observation or reaction on the part of Honduras, sans équivoque. But there was silence, except of course for the other - unrelated - point about the "ligua maritima".

\* \* \*

Now I have referred, Mr. President, earlier to the "Meanguera Dossier". In his argument about this Professor Sánchez Rodríguez has given me a serious problem. He has criticized El Salvador for not having, in his view, shown a stable and regular presence on Meanguera. He appears to wish to portray El Salvador's exercise in display of State sovereignty as if it were a presence such as that of the Dutch on Aves Island, to which he made reference - a "temporary and precarious occupation".

Well, since he cannot do it in a straightforward manner, because of the whole record of the Salvadorian presence on Meanguera for many years, he attempts to do it, with respect, by mis-stating and mis-characterizing the evidence.

Professor Sánchez Rodríguez is oddly inconsistent of his reading of the evidence when dealing with the material specifically that we had submitted in the "Meanguera Dossier" to which I have referred. At times, he is quite oblivious of the fact that we had very carefully filed only a few representative documents of each type mentioned but have also carefully supplied supplementary certification in each section of the dossier by our Chief Archivist, Dr. Jorge Larde y Larin, and that certification read as follows (and it is present throughout the dossier):

"For reasons of space and brevity the attached documents listed above are only a selection from the archives ... and I hereby further certify [and this is under oath] that the official governmental records and archives of the Republic of El Salvador, include similar documentation presently retained and deposited in the official archives for the following years ..."

and then he specifies the years. The statement was also made in this certification: "Should any such similar documentation be required or requested, it will be immediately supplied to the Registry of the Court." And the whole purpose of this, obviously Mr. President, was to prevent filing a large crate of documents at that stage of the case.

I will be brief about this, but the record cannot be left uncorrected when it was said, for example, by Professor Sánchez Rodríguez, that the Chamber had only been presented with five

extracts from the birth register. Well, that is technically true, there are only five actual extracts in the evidence. And the Professor had a lot of fun with the idea of the island having few inhabitants and so forth but he had evidently failed to look at the second page of the document he was discussing. And the second page lists 78 years of birth records that we did not submit to the Chamber in actual photostatic form, but as to the existence of which we have certified as I have just described. We did not wish to encumber the Chamber with this vast amount of material and we had thought that the certification would be an appropriate and responsible way of making a formal tender of the existence of evidence without supplying the actual documents at this stage. And at the very least the certification is, without question, a formal deposition as to the existence of such records for those years. It cannot therefore be right to argue as if there were only five birth records in existence for Meanguera.

As to taxation Professor Sánchez Rodríguez said that all the documentary references are after 1969, and that the greatest number are from 1986 to 1991. I do not understand this any more than I understand his comments on the birth records. Section V of the dossier identifies tax records for Meanguera for the years 1919, 1930, 1931, 1936, 1939, 1982 and 1989.

As to civil litigation, Annex IX of the dossier identifies ten separate proceedings on Meanguera, of which a representative three were submitted as actual documents - the way we made the selection was to pick them roughly by decades. Professor Sánchez Rodríguez, however, said that between 1922 and 1991 our evidence shows that there were only three civil trials of this nature. Well there were 14 criminal proceedings, we had ten. There were 14 criminal proceedings referred to in the dossier but Professor Sánchez Rodríguez said that the Meanguera court had handled only five, suggesting that this was too little work to justify the existence of a Justice of the Peace.

In Section XI, we referred to nine instances of the administrative disposition of land. Professor Sánchez Rodríguez implied that the only transfers were the three actually submitted. As to Section VIII of the dossier he expressed surprise that in an agricultural community, such as Meanguera, there had only been four transactions recorded in the Land Registry - but there were a total of 14.

Mr. President, in view of the comments made by Professor Sánchez Rodríguez we ask Honduras to concede or to agree that the documents referred to in the "Meanguera Dossier" do exist as we have asserted and certified.

Now if Honduras is not prepared to do this, then Mr. President, we have no choice but to prepare immediately a complete package of certified photocopies of every single document referred to and certified in the Dossier, to produce these documents as soon as possible and to request the permission of the Chamber for their filing as part of the documentation in the case, in accordance with Article 56 of the Rules.

\* \* \*

What in fact does the "Meanguera Dossier", when actually read carefully, show? It shows the following:

Starting in 1918, the Salvadorian authorities published military appointments and orders in respect of Meanguera. Records of these have been maintained for 1918, 1928, 1930, 1931, 1935 and so forth up to 1989<sup>78</sup>. In 1919, taxes were imposed on the municipality and I have already discussed the other years<sup>79</sup>.

The first Justice of the Peace was appointed in 1922 and if the Members of the Chamber consult this they will see that appointments were made fairly steadily after 1941, beginning in 1951 and then proceeding on an almost annual basis to the present<sup>80</sup>. A census was taken in 1930 and then again in 1950, 1961 and 1971<sup>81</sup>. I am told that the current population estimated for the island is 3,512<sup>82</sup>.

Civil judicial proceedings were held on the island in a number of years<sup>83</sup>, so were criminal proceedings<sup>84</sup>. Elections were held under Salvadorian authorities for municipal or national office in 1939, 1941, 1952 and more recent years<sup>85</sup>. Land titles were registered on Meanguera beginning in 1948 and we have records of 12 other years in the dossier.

In 1952, Mr. President, postal services were brought to Meanguera, and Section XII of the dossier contains additional details. We have also filed with the Chamber the relevant page from the *Annuaire des bureaux de poste* of the International Postal Union, showing that Meanguera is a post

office address in El Salvador. Professor Sánchez Rodríguez has some fun with the fact that there was no postal service on the island before 1952, and he concluded that "les habitants de Meanguera ne semblent pas non plus très doués pour les relations épistolaires". Mr. Aviles in his testimony yesterday described how letters were mailed and received before the postal service was installed. I think it would be more charitable and fair to conclude that before the postal service was initiated it took quite an effort to bring the mail to and from La Unión by rowing a "cayuco" and that this was an excellent reason why the postal service was welcomed in this simple community in 1952.

In 1964 and for subsequent years, various licences were issued in Meanguera<sup>86</sup>. In 1964, public health services were initiated. A clinic was built in 1966<sup>87</sup>. Finally, in 1966, 1967 and in following years there were administrative and judicial proceedings concerning land on Meanguera<sup>88</sup>.

As was shown in our written pleadings, Mr. President, in the year 1966, a person who had been born on Meanguera was naturalized as a Honduran citizen. He was Sr. Medardo Castro Rodríguez<sup>89</sup>. We had drawn the conclusion that Honduras had thereby, by the act of naturalization, conceded that he was not a Honduran citizen; that even though he had been born on the island of Meanguera, that he was Salvadorian.

The rather ungenerous reaction of the Honduran Government was to invalidate poor Mr. Castro Rodríguez's naturalization by decree. What would his nationality be today, I wonder? Presumably he is still of his original and unwanted Salvadorian nationality - unless, *horribile dictu*, he has become stateless.

In 1966, Mr. President, a programme of public works began to bear fruit. The first electrical service for the island, as we heard, was in place in 1966; the City Hall was constructed the next year, and five public schools were built<sup>90</sup>. Educational services, as the Chamber knows, have been provided on the island since 1893<sup>91</sup>. The boys' and girls' school in Meanguera del Golfo was constructed in 1967 with aid from the Alianza para Progreso.

\* \* \*

It is interesting in the light of this material to reflect on the fact that the Honduran Reply says:

"The construction of buildings and the installation of services by the Government of El Salvador on the Island of Meanguera took place after 1969 and, for that reason, cannot be

invoked against Honduras by virtue of Article 37 of the General Peace Treaty...<sup>92</sup>"

To say the least, it is fair to characterize this statement as an "audacious affirmation".

But this is not the only place that inexplicable errors have crept into the Honduran pleadings. For example, I was delighted to note, with my new magnifying glass, that Volume II of the English version of the Honduran Memorial happily refers, on page 7, to an illustrative Annex concerning "Toponymy" of "geographical sites, islands and villages of interest in the present dispute<sup>93</sup>". My reference is to Annex XIII.1.1. When one looks up "Meanguera", one finds that Meanguera del Golfo is actually defined as follows: "MEANGUERA DEL GOLFO (commune): crée en 1916 sur l'île de Meanguera. Elle fait partie du district et du département de La Union, au Salvador. Elle comprend le village de ce nom ...". I was most reassured to find that Honduras had actually got it right, perhaps without even knowing that it had, in her own Annex - and, in addition, that she seems thus also to have recognized the validity of the creation of the township by Salvadorian authorities in 1916.

I cannot close this portion of my pleading - and I would hope to finish before the break - without welcoming in much the same vein the acceptance by Honduras of the Kennedy Report to the First United Nations Conference on the Law of the Sea in 1958. As the Chamber will recall, this was introduced on 22 May by Professor Bardonnnet. He said, concerning it, that "L'autorité du commandant Kennedy ne peut donc en aucun cas être mis en cause<sup>94</sup>".

Honduras has doubtless been smitten by an "excès de zèle" in identifying Dr. Martínez Moreno as the leader of the Salvadorian delegation that Professor Bardonnnet said had failed to protest the statement in the Kennedy Report that the Goascorán River formed the boundary.

This enthusiasm explains why Honduras may have overlooked the fact that its own delegation - not led, I take it, by Professor Bardonnnet - had failed to say a single word about the attribution of Meanguera to El Salvador in that report. It is there, in black and white, and I quote from the French version - this is Commandant Kennedy, whose authority, as you will remember, cannot conceivably be put into jeopardy:

"Parmi les îles, Meanguera, Conchaguita, Martin Perez, Isla Punta Sacate font partie du territoire salvadoregne et Sacate Grande, Tigre, Exposicion, Inglesera, Violin, Coyote et

Garova du territoire de Honduras<sup>95</sup>."

I submit, seriously I submit, Mr. President, that this document should be given great weight by the Tribunal with respect to Meanguera and the other islands of the Gulf, particularly in view of the fact that no contrary view opposing this document has been recorded by Honduras - indeed not even last week.

#### IV. CONCLUSIONS

Mr. President, Members of the Chamber, I come to my conclusions. First, several general inferences about the overall picture should be drawn from the detailed pleadings and exhibits in the case on the subject of islands. One is that Meanguera and most of the other islands in the Gulf were relatively uninhabited at the time of independence, and did not attract much attention from either State until the mid-19th century.

Then there emerged problems involving national debt, gunboat diplomacy (the Chatfield affair), foreign interlopers in Central America (the Walker affair), the pressing need to raise capital to make deals in contemplation of the inter-oceanic railway. All of these elements are understandable. They are historic. They help to explain the events of the last century. And the Honduras Memorial really said it well:

"There is no doubt whatever that successive Honduran governments then tried, using their best endeavours in view of the extremely difficult circumstances, to realize their plans to develop maritime trade in the Pacific<sup>96</sup>."

The record in this case shows a heated period of roughly five years, from 1849 to the famous year, 1854, during which Honduras was attempting urgently to resolve her debt problems and also to raise capital and attract investment - an old and perfectly understandable story. It was a smaller, Central American version of the Klondike gold rush, except that instead of gold nuggets here we are dealing with railways, islands and potential ports on the Pacific.

Honduras even went to the extent of offering her islands - her own islands - for sale: possibly also El Salvador's and perhaps even some other countries' as well. To quote the Honduran Reply:

"The dispute between El Salvador and Honduras arose in 1854, probably because at that time there was a greater awareness on the part of the Governments and of public opinion of the importance of control of the islands in connection with the projects for an inter-oceanic railway through Honduras; in both countries, applications for the concession of lands on the islands were made both by Honduran and by Salvadorian nationals<sup>97</sup>."

The storm then appears to have abated. There was virtually a dead silence on the part of Honduras on this issue of the islands of the Gulf, for 120 years, from 1854 to the 1970s. Meanguera was never mentioned in connection with the criticism of the Cruz-Letona Treaty in 1885, as I have said. It was not mentioned in connection with the protest at the decision of the court of the Central American Court of Justice. Meanguera was never taken into account in the boundary delimitation with Nicaragua in 1900, as it had been claimed by Honduras.

And before the Cruz-Letona Treaty, in 1879, as I pointed out, the Juzgado General de Hacienda of El Salvador had proceeded with the official sale of uncultivated land on Meanguera. On the part of Honduras there was once again dead silence. These sales had been noticed in the Official Gazette, but no comment was received from Honduras.

Ten years after the rejection of the Cruz-Letona Treaty, a rebel general was captured by El Salvador; his weapons were returned to Honduras. He was taken, as I said, on Meanguera. Honduras accepted them without protest. Now Honduras in her written pleadings tries to pretend that the weapons were really somebody else's weapons.

At just about that time, El Salvador had created the elementary school for girls on the island. It also began to keep a registry of births and deaths.

From then until the 1960s there was virtually complete acceptance of the status quo of the 19th and 20th centuries. Although there had been, from time to time, internal rumblings, and I mark those words, internal rumblings, within Honduras, such as the Vallejo Report of 1899<sup>98</sup> - these opinions never really ripened into anything close to a diplomatic claim until much later. And even the reservation of rights made in 1916 as I have said was expressed in wholly ambiguous, if not illogical, terms. And it cannot certainly justify the conclusion, Mr. President, that Honduras was laying claim to Meanguera, or that she was telling El Salvador to get out.

And, moreover, only a few years later, in 1925, as late as 1925, we had statements by

Policarpo Bonilla in the Honduras/Guatemala Arbitration that Honduras originally had no coast on the Pacific - a position consistent with the Constitutions of Honduras, of course, until 1848.

Those internal discussions, however, never added up to an international claim. There is no evidence that any of them were formally communicated, as real international claims, or as concrete international protests, or as statements of sovereignty of any kind, to be taken seriously, to El Salvador or to any other State. They just formed part of the shifting sands of political and nationalistic opinion, ambitions and debates of those times.

And indeed, it was not until the 1960s that the issue really seems to have arisen for the first time. And in fact, the negotiations following the General Peace Treaty occurred just as the Third United Nations Conference on the Law of the Sea was under way, and the new expanding maritime claims of coastal States were achieving dramatic recognition. A sort of replay, in a sense, of that five to ten-year period of excitement about the inter-oceanic railroad in the 19th century.

It may be no accident, Mr. President, that Honduras's new interest in pressing such a flimsy case about Meanguera has coincided almost precisely with the development of the new law of the sea and the extension of patrimonial maritime zones such as the continental shelf and the exclusive economic zone to 200 nautical miles from the coasts. In short: by the 1970s a possible window on the Pacific Ocean, that had not existed before, became unlocked. The question now was: how to open it? And it is obvious that Meanguera was an essential component of any claim by Honduras on Pacific Ocean spaces, on the rest of this case, since she could see Honduras could not very well hop over Meanguera if it remained Salvadorian.

And thus, not surprisingly, we see the full-blown claims of Honduras on Meanguera emerging in negotiations and otherwise. They bore no relationship to historical realities or the actual state of affairs on the island. And yet they were still put forth by Honduras. Why? Or why not? What is there to lose?

\* \* \*

Six final conclusions can be drawn from the factual record.

First: El Salvador has, since the earliest date, exercised continuous and peaceful sovereignty

over the islands of Meanguera and Meanguerita that is manifested in a wide variety of ways.

Second: Honduras has never exercised *any* meaningful sovereignty or control whatever.

Third: even if it were the case - which it is not - that Honduras had once had title to the island under the doctrine of *uti possidetis juris*, the applicable law under the General Peace Treaty and the compromis would have to take into account the effective occupation and control, and the peaceful and continuous display of State authority, on the part of El Salvador over Meanguera since at least the mid-19th century. That law would also have to take into account the total *absence* of any such factors on the part of Honduras.

Fourth, Mr. President: the length of time during which the continuous and peaceful exercise of State sovereignty was manifested by El Salvador and during which *none* was manifested by Honduras, operates so as to consolidate an irrebuttable presumption of legitimate sovereignty on the part of El Salvador over Meanguera and Meanguerita. Even if Honduras did have a technical historical title in 1821, which we deny, even if she did, that title has long since been extinguished by the total inactivity of Honduras in respect of the islands.

The Chamber will recall, Mr. President, that in the *Beagle Channel* case Chile argued successfully that various acts of Chilean jurisdiction were well known to the Argentine authorities and that the failure of the Argentine authorities to make any response "constituted an adoption or recognition of the allocation effected by" the provisions of the Treaty in question<sup>99</sup>.

In the present case the legal significance of these facts needs hardly to be spelled out to this Chamber. It was expressed in a very pertinent way by President Sir Robert Jennings in his book on *Acquisition of Territory*, at pages 23 to 28, as well as at page 46<sup>100</sup>.

Fifth: this result is confirmed by the extent of the exercise of government functions over Meanguera performed by El Salvador since the 19th century, the total lack of government functions on the part of Honduras, the acquiescence of Honduras in a variety of ways to the exercise of such government functions by El Salvador and the unequivocal situation of the human population of the island.

And finally, it appears undeniable that Honduras has realized - although only over the past

20 years - that she should perhaps have bought Meanguera from El Salvador in the first place. Her latter-day enthusiasm perhaps can be explained by a belief or hope that use might be made of the island in combination with some theoretical construct said to be based on new developments of the law of the sea.

In contrast to the long-standing real disputes between the countries over land boundaries, the ambitions of Honduras on the key Salvadorian islands - and thus to the maritime areas beyond the Gulf, on the assumption that ownership of those islands can be of assistance - are mere parvenus.

Professor Bardonnet, in his pleading of 21 May 1991 (C 4/CR 91/27), addressed himself to the Salvadorian claim on the Goascorán in the following harsh terms:

"En réalité, cette revendication salvadorienne, formulée pour la première fois le 11 juin 1972, n'est guère qu'un 'paper claim'. La Partie adverse aurait mauvaise grâce à s'abriter derrière elle aujourd'hui pour jeter le doute sur le statut d'un territoire sur lequel le Honduras a exercé, sans la moindre interruption et sous la moindre équivoque, ses activités gouvernementales et face auxquelles elle n'a rien, je dis bien rien, à opposer."

This language perfectly describes, *mutatis mutandis*, the attitude and position of Honduras with respect to Meanguera. Because of Meanguera's obvious geographical importance, Honduras has constructed a "paper claim" on that island since the 1970s. It is based on no more than internal speculations and wishful thinking. It has never been manifested in any juridical act, or in any claim or demand or manifestation sufficient to attract legal consequences in international law. All the Honduran evidence is unilateral, or internal.

And I would recall here the excellent citation that Professor Bardonnet gave us to the dictum of Chief Justice Hughes in the 1933 Guatemala/Honduras Frontier Award, to the effect that: "Aucun Etat ne peut acquérir de souveraineté territoriale à l'encontre d'un autre Etat par de simples déclarations émanant de sa propre autorité"<sup>101</sup>. The Honduran evidence is, at best, no more than this and, in most instances, does not even rise to this level.

Indeed, the best evidence that Honduras can produce to shore up her paper claim is meagre and - when carefully examined - not probative of any serious claim and certainly no act of exercise of sovereignty, over Meanguera since 1821.

We have been given unpublished internal Honduran memoranda and documents from the 19th century; we have been given internal Honduran Government correspondence relating to the potential sale of islands; we have been given internal documents about ambiguous and uncompleted plans to render agricultural assistance in some unspecified manner; we have been given one expression of opinion contained in a letter about naval depots by a British officer and another second-hand report of what appears to have been an oral expression of opinion by a surveyor. That is all.

There are no diplomatic protests, even when the situation screamed for them. The one reservation made to the Central American Court of Justice proceedings is Delphic in meaning and wholly unspecific in form. There is no diplomatic claim, when one readily could have been made. There is not a single response, counter-claim, or answer to any of the actual protests made by El Salvador to Honduras and published to the other Governments of Central America. There is no Honduran legislation. There is not a shred of evidence that any Honduran Government official ever did anything that had any direct effect whatever on the island of Meanguera or on any of its inhabitants.

In fact, there is nothing whatever here but an oxymoron. It is a genuine "paper claim". If the Honduran action of 1854 in advertising lots for sale on Meanguera, and then desisting, were to be considered as having created a genuine claim, then I fear for the orderly and predictable development of international law. What else is there in this record? The one-day survey? When one breaks it down like this, it is really hard to believe.

Turning to the protest side, I would recall the citation that Professor Bardonnet gave us from the Conseil fédéral suisse, in the Colombia/Venezuela Frontier Award, when the Conseil fédéral said: "L'absence de protestation est, en droit international, une des formes de l'acceptation ou de la reconnaissance de certain faits<sup>102</sup>." Honduras failed to protest Chatfield's announcement, or seizure, of Meanguera. Honduras failed to protest the Salvadorian action to prevent any further "survey" activity. Honduras failed to protest the Note of El Salvador to the Foreign Minister in the other countries.

Honduras failed to protest the 1879 land sales, duly published for everybody to see. Nor did

Honduras protest the capture of the General, the return of the weapons. Honduras failed to comment on the attribution of Meanguera to El Salvador by the Cruz-Letona Treaty. Honduras failed to protest the establishment of Meanguera del Golfo as reflected in her own Annex. And nor did she, at any time and in any manner, protest any of the long list of governmental activities undertaken by El Salvador from 1890 on, as described in the Meanguera Dossier.

In conclusion, Mr. President, Members of the Chamber, I thank you for your patient listening to my pleading and in conclusion I would say that Honduras has failed to make out any claim - whether offensive or defensive - to sovereignty over the islands of Meanguera and Meanguerita. This concludes, Mr. President, the Agent has asked me to say, the presentation of the Republic of El Salvador, the initial presentation on the section of the case involving islands.

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The PRESIDENT: I thank Professor Keith Highet. I would like to know from the delegation of Honduras when it would be prepared to reply to the presentation of El Salvador.

Mr. VALLADARES SOTO: Mr. President, Honduras will be ready to reply tomorrow morning. Thank you.

The PRESIDENT: So, the sitting is adjourned until tomorrow morning at 10 o'clock.

*The Chamber rose at 11.25 a.m.*

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NOTES

1. Island of the Palmas (or Miangas) Arbitration (Netherlands/United States) (1928); 2 R.I.A.A. 829; 2 Hague Court Reports 83; 22 A.J.I.L. 867 (1928); repr. in R. Y. JENNINGS, ACQUISITION OF TERRITORY IN INTERNATIONAL LAW (1963), (Appendix), pp. 88-126.
2. Frontier Dispute (Burkina Faso/Mali) *I.C.J. Reports 1986*, p. 544 (Judgment of 22 December) at 557 (first preambular paragraph of compromis).
3. *Ibid.*
4. Minquiers and Ecrehos (France/U.K.), *I.C.J. Reports 1953*, p. 47 (Judgment of 17 November).
5. Sovereignty over Certain Frontier Land (Belgium/Netherlands), *I.C.J. Reports 1959*, p. 209 (Judgment of 20 June).
6. Temple of Preah Vihear (Cambodia v. Thailand) (Preliminary Objections), *I.C.J. Reports 1961*, p. 17 (Judgment of 26 May); (Merits), *I.C.J. Reports 1962*, p. 6 (Judgment of 15 June).
7. Frontier Dispute (Burkina Faso/Mali) *I.C.J. Reports 1986*, p. 544 (Judgment of 22 December).
8. Sovereignty over Certain Frontier Land (Belgium/Netherlands), *I.C.J. Reports 1959*, p. 209 at 229 (Judgment of 20 June).
9. Minquiers and Ecrehos (France/U.K.), *I.C.J. Reports 1953*, p. 47 (Judgment of 17 November). See Memorial of El Salvador, Part III, Chapter 10, para. 10.8 at page 155.
10. Clipperton Island Case (France/Mexico), (1931), Award of the King of Italy, 2 R.I.A.A. 1105; 26 AJIL 390 (1932); BRIGGS, THE LAW OF NATIONS (2nd ed., 1952) at 247, 248.
11. *I.C.J. Reports 1953*, p. 70.
12. See R. Y. JENNINGS, ACQUISITION OF TERRITORY IN INTERNATIONAL LAW (1963), (Appendix), pp. 120-21.
13. Argentina/Chile, 52 I.L.R. 93 (1977).
14. *Id.*, p. 220.
15. *Id.*, p. 226, para. 174.
16. *Id.*, p. 55.
17. R. Y. JENNINGS, ACQUISITION OF TERRITORY IN INTERNATIONAL LAW (1963), (Appendix), p. 92.
18. See citation at AJIL (1917), 702.
19. *I.C.J. Reports 1953*, p. 99.

20. Memorial of Honduras, Vol. II, Chapter XIII, para. 8, p. 12 of English trans.
21. Mavrommatis Palestine Concessions, 1924, *P.C.I.J., Series A, No. 2*, p. 11, cited in Memorial of Honduras, Vol. II, Chapter XIII, para. 4, p. 10 of English trans.
22. "For 'tis the sport to have the engineer Hoist with his own petar; and it shall go hard. But I will delve one yard below their mines, and blow them at the moon." (Hamlet, Act III, Scene iv, l. 206.)
23. Reply of Honduras, Vol. II, Ch. X, para. 12, p. 178 of English trans.
24. Reply of Honduras, Vol. II, Ch. X, para. 13, pp. 178-179 of English trans.
25. See Legal Status of Eastern Greenland (Denmark v. Norway), *P.C.I.J., Series A/B No. 53*, 1933 (Judgment of April 5th), p. 52.
26. Reply of Honduras, Vol. II, Part II, Ch. X, Sec. IV, Part B, para. 81, pp. 242-243.
27. Island of Palmas (or Miangas) Arbitration (Netherlands/ United States) (1928); 2 R.I.A.A. 829; 2 Hague Court Reports 83; 22 A.J.I.L. 867 (1928); repr. in R. Y. JENNINGS, ACQUISITION OF TERRITORY IN INTERNATIONAL LAW (1963), (Appendix), pp. 88-126, p. 102.
29. Legal Status of Eastern Greenland (Denmark v. Norway), *P.C.I.J., Series A/B, No. 53*, 1933 (Judgment of April 5th), p. 46.
30. Minquiers and Ecrehos (France/U.K.), *I.C.J. Reports 1953*, p. 71 (Judgment of 17 November).
31. *Id.*, p. 70.
32. *Ibid.*
33. *Ibid.*
34. *Ibid.*
35. Reply of Honduras, Vol. II, pp. 236-237 (English trans.).
36. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.5.B., p. 2231 (letter of 21 March 1849).
37. Memorial of Honduras, Annexes, Volume I, Annex VII.15, p. 427 (letter of 17 December 1847).
38. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.5.A, p. 2229 (letter of 20 October 1847).
39. Counter-Memorial of Honduras, Vol. IV, Part II, Chapter XII, Sec. III, p. 137, para. 20.
40. C 4/CR 91/32, 28 May 1991, p. 28.
41. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.5.B, p. 2231-2232 (letter of 21 March 1849).

42. C 4/CR 91/32, 28 May 1991, p. 28.
43. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.11, p. 2248 (letter of 21 October 1854).
44. Memorial of El Salvador, Annexes, Vol. I, Chapter 11, Annex 6.
45. Reply of Honduras, Vol. II, Part Two, Chapter X, Section IV, Part A, p. 239, para. 77 (English translation); see also Reply of Honduras, Annexes, Vol. I, Annex VII.16.A and B, pp. 428-429 (French original).
46. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.10, pp. 2246-2247 (letter of 11 August 1854).
47. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.12.A, pp. 2249-2250 (letter of 12 October 1854); Counter-Memorial of El Salvador, Part. II, Chapter VI, para. 6.58, p. 198.
48. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.12.A, pp. 2249-2250 (letter of 12 October 1854).
49. Memorial of Honduras, Annexes, Volume V, Annex XIII.1.12.B, p. 2251 (circular letter of 12 October 1854).
50. Reply of Honduras, Annexes, Volume I, Annexes VII.16.A, p. 428.
51. Reply of Honduras, Annexes, Volume I, Annex VIII.16.B, pp. 428-429.
52. Memorial of El Salvador, Annexes, Vol. I, Chapter 11, Annex 5.
53. Memorial of El Salvador, Part III, para. 11.5, p. 161.
54. Memorial of El Salvador, Annexes, Vol. I, Chapter 11, Annex 6.
55. C 4/CR 91/32, 28 May 1991, p. 32.
56. Memorial of Honduras, Vol. II, Ch. XIV, Section II.B, para. 26, p. 25 (English trans.).
57. Memorial of Honduras, Annexes, Volume I, Annex XIII.1.59, pp. 195-196.
58. Memorial of Honduras, Annexes, Volume I, Annex XIII.1.60, pp. 195-208.
59. Memorial of Honduras, Annexes, Volume I, Annex XIII.1.61.A, pp. 209-215.
60. *Id.*, p. 5.
61. Memorial of Honduras, Annexes, Volume I, Annex XIII.1.61.B, pp. 216-217.
62. Memorial of El Salvador, Annexes, Vol. I, Chapter 4, Annex 1.
63. C 4/CR/ 91/32, 28 May 1991, p. 33.
64. C 4/CR 91/27, p. 42.

65. Sovereignty over Certain Frontier Land (Belgium/Netherlands), *I.C.J. Reports 1959*, p. 209 at 229 (Judgment of 20 June).
66. Memorial of El Salvador, Part III, para. 11.7, p. 161.
67. Counter-Memorial of Honduras, Vol. II, Part II, Ch. XII, Sec. II, Part D, para. 19, p. 136, (English translation).
68. *Id.*, para. 11.6.
69. C 4/CR 91/32, 28 May 1991, p. 36.
70. Memorial of El Salvador, Part III, para. 11.8, p. 162.
71. *Ibid.*
72. Memorial of El Salvador, Part III, para. 11.9, p. 162.
73. Reply of Honduras, Volume II, Part II, Ch. X, Sec. I, Part C, pp. 179-180 and 242.
74. Central American Court of Justice, *El Salvador v. Nicaragua*, Judgment of 9 March 1917, trans. and repr. in 11 *American Journal of International Law* (1917), p. 674.
75. Central American Court of Justice, *El Salvador v. Nicaragua*, Judgement of 9 March 1917, reprinted in 11 *American Journal of International Law* (1917). , p. 674, at 702.
76. Memorial of Honduras, vol. II, Ch. XVII, Section II.C, paras. 15-16, p. 63 (English trans.); Annex XII.2.,40, p. 26354.
77. C 4/CR 91/32, 28 May 1991, p. 32.
78. Meanguera Dossier, Section II.
79. Meanguera Dossier, Section V.
80. Meanguera Dossier, Section I.
81. Meanguera Dossier, Section VI.
82. Meanguera Dossier, Section VI.
83. Meanguera Dossier, Section IX.
84. Meanguera Dossier, Section X.
85. Meanguera Dossier, Section IV.
86. Meanguera Dossier, Section III.
87. Meanguera Dossier, Section XIV.
88. Meanguera Dossier, Section XI.
89. Memorial of El Salvador, Part III, para. 11.14, p. 164, and Memorial of El Salvador, Annexes, Vol. I, Chapter 11, Annex 12.

90. Meanguera Dossier, Section XIII.
91. Meanguera Dossier, Section XV.
92. Reply of Honduras, Vol II, Part II, Ch. X, Sec. IV, Part B, para. 81, pp. 242-243.
93. Memorial of Honduras, Ch. XII, para. 18, p. 7 (English translation).
94. C 4/CR 91/28, at 31. The Kennedy Report is of course Doc. A/CONF.13/15, and was dated 13 November 1957.
95. Doc. A/CONF.13/15 at 204.
96. Memorial of Honduras, Ch. IV, para. 3, p. 15 (English translation).
97. Reply of Honduras, Vol. II, para. 77, p. 238 (English trans.).
98. Counter-Memorial of El Salvador, Part II, Ch. VI, para. 6.72, p. 206.
99. Argentina/Chile, 52 I.L.R. 93 (1977) at 222 (para. 167).
100. R. Y. JENNINGS, ACQUISITION OF TERRITORY IN INTERNATIONAL LAW (1963).
101. C 4/CR 91/28, at 36, citing RSA, Vol. II, p. 1327.
102. C 4/CR 91/28, at 32, citing RSA, Vol. I, p. 251.