

INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING MARITIME DELIMITATION

AND TERRITORIAL QUESTIONS

BETWEEN

QATAR AND BAHRAIN

(QATAR v. BAHRAIN)

MEMORIAL

SUBMITTED BY

THE STATE OF BAHRAIN

(Merits)

VOLUME 1

30 September 1996

CONTENTS

CHAPTER 1 INTRODUCTION

Section 1.1	Outline of the Memorial.....	1
Section 1.2	Summary geographical description of the region	2
Section 1.3	The core of Bahrain's position.....	3
A.	The territorial questions	3
B.	The maritime delimitation.....	4
Section 1.4	Summary of Bahrain's territorial claims	4
A.	Evolution of the States of Bahrain and Qatar.....	4
B.	Bahrain's claims	8
(i)	The Zubarah region	8
(ii)	The Hawar Islands.....	13
Section 1.5	Expanded geographical description	15
A.	Bahrain	15
B.	Qatar	20

PART I - THE TERRITORIAL QUESTIONS

CHAPTER 2 BAHRAIN'S SOVEREIGNTY OVER THE ZUBARAH REGION

Section 2.1	The geographical extent of the Zubarah region claimed by Bahrain is based on the tribal territory inhabited by the Naim tribe, who recognised the authority of the Ruler of Bahrain.....	27
A.	The Naim tribe and its relationship with Bahrain	27
B.	The tribal dirah of the Al-Jabr section of the Naim tribe.....	35

Section 2.2	The Rulers of Bahrain exercised authority throughout the entire Qatar peninsula during the period 1762-1872.....	42
Section 2.3	The Al-Thani family emerged from being local tax collectors to being chiefs of Doha Town under the authority of Bahrain in 1867.....	58
Section 2.4	Britain's influence in the region was based on protecting trade and keeping the maritime peace.....	60
Section 2.5	The Ottoman Empire expanded into the south-east of the Qatar peninsula through the Al-Thani chiefs of Doha Town in 1871.....	63
Section 2.6	The Ottoman Empire's authority in the Qatar peninsula never expanded beyond Doha Town and its environs.....	69
Section 2.7	The Ottoman Empire and the Al-Thani were rebuffed in six attempts to exercise authority over the Zubarah Region (1874, 1878, 1888, 1891, 1895 and 1903).....	74
Section 2.8	The Ottoman Empire's influence in the region declined from 1905 and the Ottoman Empire finally withdrew from the Province of Qatar in 1915.....	83
Section 2.9	Bahrain continued to exercise authority over the Zubarah region during the Ottoman period of 1871-1915.....	86
Section 2.10	The chief of Doha Town and Britain signed the 1916 Treaty and the State of Qatar slowly emerged thereafter.....	94
Section 2.11	Bahrain continued to exercise authority over the Zubarah region during the period of 1916-1937.....	97
Section 2.12	British and United States oil companies began to compete for oil concessions in Bahrain and Qatar during the period 1933-1936.....	101
Section 2.13	Qatar launched an armed attack on the Zubarah region in 1937.....	108
Section 2.14	The dispute over the Zubarah region has been continuous since 1937.....	129

CHAPTER 3
BAHRAIN'S SOVEREIGNTY OVER THE HAWAR ISLANDS

Section 3.1	Geographical description of the Hawar Islands	153
Section 3.2	Summary of the basis of Bahrain's title to the Hawar Islands 156	
Section 3.3	Bahrain's sovereignty over the Hawar Islands has been res judicata since the British adjudication of 1938-1939.....	160
A.	Introduction.....	160
B.	The probative implications of Qatar's claims in the adjudication	165
	(i) The Ruler of Qatar made his claim without knowing either the location or even the identity of the Hawar Islands	165
	(ii) The Ruler of Qatar's obvious financial and economic motives undermined the credibility of his claim	169
	(iii) The Ruler of Qatar's claim was also made to alleviate domestic problems.....	172
C.	The adjudication was formal, legitimate and comprehensive.....	173
D.	Janan and Hadd Janan islands were included within the ambit of the British adjudication.....	181
Section 3.4	The State of Qatar was created at a great distance from the Hawar Islands and its Ruling Family had never exercised authority there	182
Section 3.5	The Ruler of Bahrain's authority over the Hawar Islands during the century preceding Britain's recognition of Qatar in the 1916 Treaty is well documented	185
Section 3.6	Evidence of Bahrain's authority over the Hawar Islands since 1916 is overwhelming.....	195
A.	Fishing	195
B.	Pearling	198
C.	Animal husbandry	201
D.	Gypsum quarrying.....	202

E.	Additional evidence of the permanent nature of the settlement..	205
F.	Other acts of administration or examples of the authority of Bahrain	209
G.	The exercise of court jurisdiction and other legal procedures	214
H.	Surveys of the Hawar Islands.....	217
I.	Construction by the Government of Bahrain on the Hawar Islands.....	217
Section 3.7	Bahrain has continued to exercise authority in the Hawar Islands from 1939 until today	218
Section 3.8	Qatar's resuscitation of its claim to the Hawar Islands after a hiatus of 19 years was a tactic to counter Bahrain's persistence in seeking the restoration of its rights to the Zubarah region	223

CHAPTER 4 APPLICABLE LAW

Section 4.1	Title is dependent upon possession.....	225
Section 4.2	Unlawful possession cannot create title save in the case of prescription	226
Section 4.3	Possession overrides proximity	229
Section 4.4	Possession through the exercise of effective personal jurisdiction in areas of low habitability	231
Section 4.5	Res judicata.....	234
Section 4.6	Proposals made in negotiations for the settlement of a dispute cannot be invoked by one party against the other in subsequent legal proceedings	236

CHAPTER 5
APPLICATION OF THE LAW TO THE FACTS

Section 5.1	Qatar has never acquired lawful title to Zubarah which therefore remains under Bahraini sovereignty	237
Section 5.2	Qatar is unable to challenge Bahrain's well-established sovereignty over the Hawar Islands	239

PART II - THE MARITIME DELIMITATION

CHAPTER 6
BAHRAIN'S MARITIME BOUNDARY

Section 6.1	The southern sector	247
A.	Characteristics	248
(i)	Bahrain's historical exercise of sovereignty and political control over the areas between its main island and the Qatar peninsula	249
(ii)	Contemporary socio-economic links between Bahrain's main island and the maritime features between it and the Qatar peninsula	258
(iii)	The unique character of the area to be delimited	262
B.	The maritime boundary in the southern sector	264
(i)	Determining the points that generate the median line	266
(ii)	The resultant median line requires neither adjustment nor shifting in order to arrive at an equitable result	271
Section 6.2	The northern sector	273
A.	Characteristics	273
B.	Bahrain's pearling banks	274
(i)	The nature of the Ruler of Bahrain's rights	275
(ii)	The exercise of jurisdiction and control over the pearling banks by Bahrain	276
(iii)	The location of Bahrain's pearling banks	280

C.	The maritime boundary in the northern sector	281
Section 6.3	Bahrain's alternative claim	285
A.	Archipelagic baselines.....	287
(i)	Bahrain is an archipelagic State	289
(ii)	The islands comprising Bahrain are an archipelago	289
(iii)	The Bahrain archipelago is an intrinsic geographical entity	289
(iv)	The Bahrain archipelago is an intrinsic economic entity	292
(v)	The Bahrain archipelago is an intrinsic political entity.....	293
(vi)	Historical evidence of the existence of the Bahrain archipelago as an intrinsic geographical, economic and political entity	294
(vii)	The ratio of the area of water to the area of land falls between 1:1 and 9:1	295
(viii)	The baselines do not depart to any appreciable extent from the general configuration of the archipelago	295
(ix)	No baseline exceeds 100 miles.....	296
(x)	The baselines do not cut off the territorial sea of Qatar from the High Seas or the Exclusive Economic Zone.....	296
(xi)	Any legitimate and traditional rights of passage exercised by Qatar between the coasts of Qatar south of Bahrain's archipelagic waters and the Gulf will continue	296
B.	Normal baselines	297
C.	The alternative maritime boundary	298
(i)	The southern sector.....	298
(ii)	The northern sector.....	300

SUBMISSIONS

APPENDICES

1.	List of People Referred to in Memorial (with references to paragraphs in which they are mentioned).....	303
2.	Ruling Families	309
	(i) Rulers of Bahrain.....	309
	(ii) Chiefs of Doha / Rulers of Qatar	310
3.	British Political Residents and Agents in The Arabian Gulf.....	311
	(i) Political Residents, Bushire, 1822-1960.....	311
	(ii) Political Agents, Bahrain, 1900-1960.....	313
	(iii) Political Agents/Officers Qatar, 1949-1960	314
4.	Administrative Structures.....	315
	(i) Ottoman Empire.....	315
	(ii) British Empire administration in Bahrain/Qatar Peninsula until Independence of India, 1947	316
	(iii) British Empire administration in Bahrain/Qatar Peninsula after Independence of India, 1947.....	317
5.	Chronology of the British 1938-1939 Adjudication	318
6.	List of Historical Maps in the Memorial.....	321
7.	List of Documentary Annexes (including illustrative maps)	322

CHAPTER 1

INTRODUCTION

This Memorial of the Government of the State of Bahrain (hereinafter "Bahrain") is filed pursuant to the Order of the Court of 1 February 1996.

SECTION 1.1 Outline of the Memorial

1. The introductory Chapter 1 begins with a summary geographical description of the region involved in the dispute. This is followed by a concise statement of Bahrain's position. Chapter 1 concludes with an overall description of Bahrain's territorial claim, as well as a fuller exposition of the geography of the Parties.

2. Part One then examines the major aspects of the territorial dispute between the Parties, namely sovereignty over the region of Zubarah and over the Hawar Islands. This case depends largely upon its facts and to a much lesser degree upon differences regarding the applicable law. For that reason the factual substance of Bahrain's case is presented first.

3. The history of the political evolution of the two Parties is a key to this case. In particular, it is important to understand that the extension of the power of the State of Qatar (hereinafter "Qatar") over what has come to be known as the Qatar peninsula is recent, and that it was both gradual and incomplete. Since the modern State of Bahrain had its

genesis in Zubarah, this history is set out initially in Chapter 2 relating to Zubarah, but much of it also applies to the Hawar Islands as will be seen in Chapter 3. The Memorial will seek to avoid unnecessary repetition of this history, but in so far as it occurs, Bahrain asks the Court's indulgence.

4. The subsequent discussion of law in Chapters 4 and 5 is, in the circumstances and at this stage of the case, relatively brief.

5. Part Two sets out Bahrain's case on the maritime boundary.

SECTION 1.2 Summary Geographical Description of the Region

6. Map 1 of Volume 7 shows the Gulf of Arabia, from its north-western end, at the mouth of the Shatt al Arab, to its eastern end north of Oman. Bahrain and Qatar are located approximately in the centre of the southern coast of the Gulf.

7. Map 2 of Volume 7 shows the features that bear directly on the present case. On the south-eastern side is the Qatar peninsula. On the north-western side is the main island of Bahrain. The Hawar Islands are located to the south-east of the main island of Bahrain, off the middle section of the western coast of the Qatar peninsula. On the west side of the Qatar peninsula is the Zubarah region, extending from Umm El Ma in the south to Al Arish in the north, and shown in greater detail on Map 5 in Volume 7. North of the Qatar peninsula and north-east of the main island of Bahrain is the area of the Bahrain pearling banks, as shown on Map 9 in Volume 7.

8. The mainland to the west and south of the main island of Bahrain and to the south of the Qatar peninsula forms part of Saudi Arabia. The mainland on the northern shore of the Gulf of Arabia is Iran.

Bahrain will show that it has continuously exercised more than the contextually appropriate level of occupation and administration required by international law in the Hawar Islands, while Qatar has exercised none. Indeed, in the critical period, the record shows that Qatar was ignorant of the Islands' location.

B. The maritime delimitation

12. Bahrain proposes a maritime delimitation achieved by the construction of a median line upon the baselines of the territories appertaining to the two States.

SECTION 1.4 Summary of Bahrain's Territorial Claims

A. Evolution of the States of Bahrain and Qatar

13. Prior to 1971, both Bahrain and Qatar were British Protected States; that is, Britain was responsible for their international protection and for the conduct of their foreign affairs. That relationship was brought to an end by Exchanges of Notes concluded between Britain and Bahrain on 15 August 1971, and between Britain and Qatar on 3 September 1971. The two States accordingly assumed full international responsibility for the conduct of their foreign affairs, and became Members of the United Nations and Parties to the Statute of the International Court of Justice on 21 September 1971.

14. Bahrain however had emerged as a political entity at a much earlier period than Qatar.

15. Because of its water supply from natural springs Bahrain has been populated for at least 5,000 years. The Qatar peninsula, on the other hand, is arid; with the exception of Zubarah (lasting only a few



DE LA TURQUIE D'ASIE
DE LA PERSE
DE FARGHANISIAN
ET DE L'ARABIE
M. LAVIS, Colonel
Paris 1855

decades), there is little evidence of any population there until the 1800s, and even then its few, small and isolated settlements were largely populated by fishermen and pearl divers on a seasonal basis.

16. Through its ruling family, the Al-Khalifa, the political entity of Bahrain in the 18th Century initially established authority and control in what is known geographically as the "Qatar" peninsula. That name was not then used to refer to the peninsula as a whole. Thus, for example, a 1838 French map drawn up by a Colonel Lapie, reproduced opposite, recognised Bahraini dominance over the peninsula by the simple word "Bahrein" written in capital letters across the entire territory of what is today Qatar. The Al-Khalifa rule was subsequently extended over the entire Bahrain archipelago. This archipelago comprises the main island of Bahrain, its many immediately fringing islands, the Hawar Islands (which appear on Colonel Lapie's map as the "Isles Ouardens", a French adaptation of the then-used English name "Warden's Islands") and certain small islands, islets and low-tide elevations in the Gulf of Bahrain.

17. In addition, all the waters lying within the archipelago and, particularly, between the main island of Bahrain to the west and the Zubarah coast and the Hawar Islands to the east were and are so closely linked with the land domain of Bahrain as to have been subject to the same authority and control.

18. Reference to the "Qatar" peninsula is, it must be emphasised, only to a geographical feature. The fact that this peninsula has in the most recent times come to be equated with the territory of the late emerging political entity of Qatar does not by itself establish the title or sovereignty of Qatar over the whole of that peninsula. In relation to Zubarah, Qatar simply cannot demonstrate any lawful dominion at any

time; as for the Hawar Islands, they have always and in all ways been foreign territory in relation to the State of Qatar.

19. The Al-Khalifa family came from Kuwait to Zubarah in the early 18th Century and firmly established their authority there until they were forcibly expelled in 1937. During the 19th Century, that authority extended also throughout the Qatar peninsula, especially its north western part, and over the tribes living there. In 1783, the Al-Khalifa expelled the Persians from the main island of Bahrain and took control. They moved their central seat of government there from Zubarah in 1796.¹ They developed their authority and control there, as well as in the Hawar Islands, while continuing to rule the much diminished population of the Zubarah region.

20. In all this activity, the Al-Khalifa family, or "Bahrain" as one may thereafter properly call the developing political entity, met no opposition from any authority whatsoever in the Qatar peninsula. There was no indigenous political entity in that peninsula. No entity claiming to call itself "Qatar" emerged until late in the 19th Century. Even then its geographical authority was limited to Doha, the small settlement on the eastern coast of the peninsula. The State of Bahrain existed and was recognised as a sovereign entity in the early 19th Century. In 1820, Britain and Bahrain concluded a Treaty by which Bahrain became a party to the Treaty of Peace between Britain and the Sheikhs of Ras al-Khaimah.² The Sheikhs of Ras al-Khaimah had been crushed by three naval expeditions before they signed this Treaty of Peace, the aim of

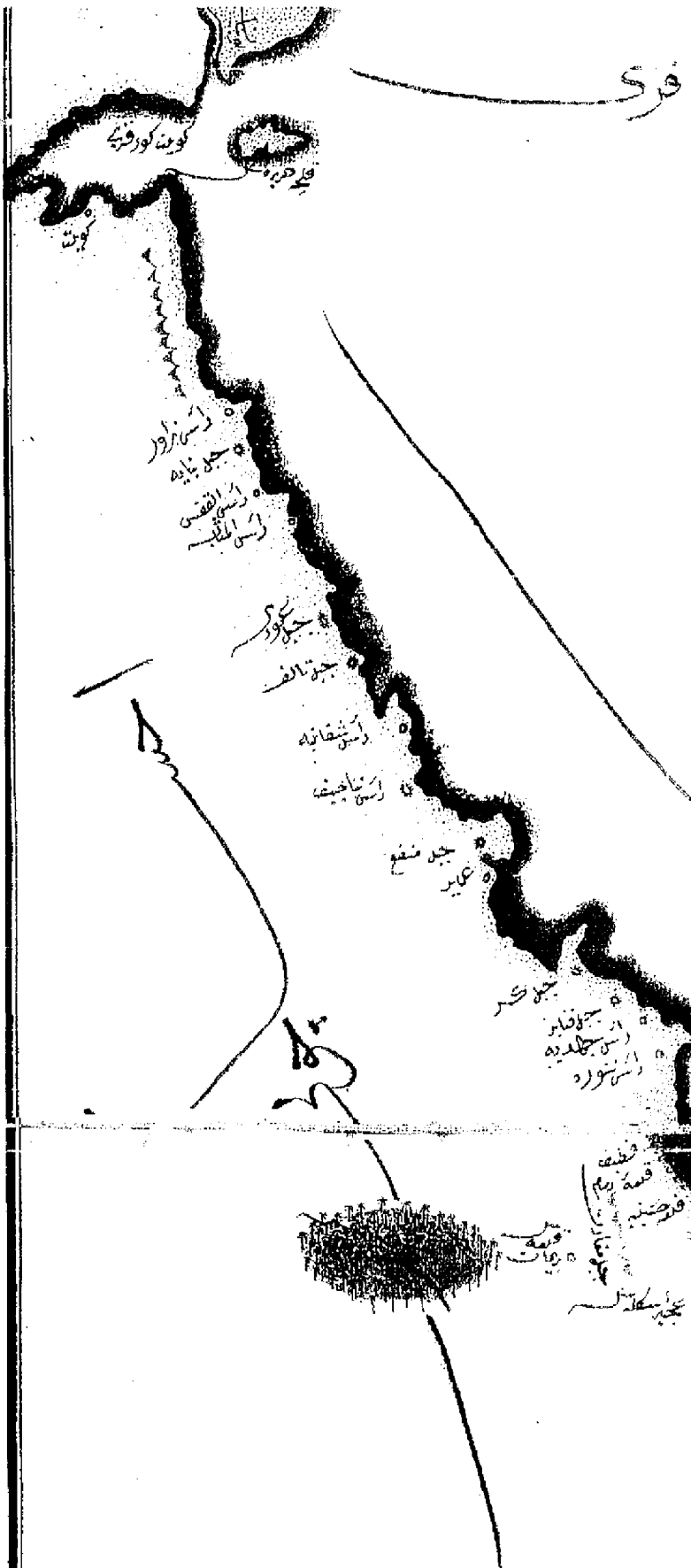
¹ A. Montigny-Kozłowska, Evolution d'un groupe bédouin dans un pays producteur de pétrole: les Al Naim de Qatar, (Paris, 1985 PhD thesis), p. 53, Ann. 229, Vol. 4, p. 983.

² Aitchison, Treaties, Engagements and Sanads relating to India and Neighbouring Countries, (1933), Vol. XI, p. 233, Ann. 1, Vol. 2, p. 2.

بصره کور فری

بدر من سکه کفایه مضایقه

خریطة ولایت بصره فارس



بصره کور



اینجا رودی همواره در دریا می پیوست
 و اینک برخی دریاها
 نوری اشکای غیرت است
 معروف است
 و قله اش
 و قله اش
 و قله اش
 و قله اش

بصره کور فری

بکره سکا کھنڈا مضابیس

خریطہ وراثت
بصرہ
۱۲۹۵

Map of THE VELAYAT
of Basra year 1295 H.
(1878)



بحرین

SEA OF
BAHRAIN

Bahrain
Island

HAWAR
Islands

رئس ماروہ
رئس زبارہ
ZUBARAH

RAS
Maroo

Jebel Ak
Biddah

قطر
Qatar

Map by Captain Izzet of the Imperial
Army of the Ottoman Empire

ایچی اردی کھراوند در وچی صیبادہ
اولیای برنجی در وچی صیبادہ
نوی اغای عزیزت اوردی
مرفقہ در وچی صیبادہ
نوی صیبادہ
نوی صیبادہ
نوی صیبادہ

which was the prevention of piracy in the Gulf. According to one commentator, Bahrain was made a party to this treaty not because the Al-Khalifa practised piracy, but because Bahrain was a marketplace for plundered goods.³ This was followed by further treaties between Britain and Bahrain in 1856 and 1861. During this time, the authority of the Rulers of Bahrain was acknowledged and exercised throughout the islands of Bahrain, including the Hawar Islands, and in the Qatar peninsula. Bahrain continued to exercise authority over the Qatar peninsula's tiny population of scattered tribes until 1871, when the Ottoman Empire took control of the area around Doha Town (referred to as the "*kaza*" or province of "Qatar").

21. It was in this period (specifically 1878) that a Captain Izzet of the Ottoman Army prepared a primitive but highly instructive map of the region, reproduced after page 6, which on the one hand shows the Hawar Islands as a part of Bahrain and on the other hand clearly locates "Qatar" as a place in the far south-east corner of the peninsula.

22. After 1871, the Al-Thani chiefs of Doha attempted to use the Ottomans, to whom they were subservient, to help them expand their influence over the peninsula beyond what the Ottomans called the province of "Qatar". The authority of the Rulers of Bahrain receded from Doha, but remained intact *inter alia* in the Zubarah region. Attempts by the Ottomans and the Al-Thani to establish authority in Zubarah were consistently resisted.

23. The Ottoman Empire withdrew from the province of "Qatar" in 1915. In 1916, Britain and the Al-Thani chief of Doha entered into a

³ Fuad I. Khuri, Tribe and State in Bahrain, (1980), p. 27, Ann. 227, Vol. 4, p. 967.

treaty whereby Britain recognised Abdullah Al-Thani as the "Shaikh of Qatar". However, as will be seen in paragraph 28 and discussed in greater detail in Chapter 2, the 1916 Treaty did not define the area of "Qatar" or indicate that it was larger than that of the previous Ottoman province of "Qatar". The authority of the Al-Thani did not extend much beyond Doha and certainly not as far as the western shores of the Qatar peninsula. No political entity called "Qatar" existed even in theory that could be assumed to be in control of the entire Qatar peninsula.

24. Some time after 1916, the Rulers of Qatar began expanding their control northwards from Doha along the east coast of the Qatar peninsula, to include scattered settlements found there. It was not until the 1930s that this expansion reached the Zubarah region. In 1938, the Ruler of Qatar, eager to expand his new oil fields, made an express claim to the Hawar Islands.

B. Bahrain's Claims

(i) The Zubarah Region

25. The Zubarah region includes the now abandoned town of Zubarah and its defined outlying areas (see paragraphs 89 to 103 and map 5 of Volume 7). It has been an integral part of the territories dependent on the Al-Khalifa family since they settled in the area in the 1760s. After the Al-Khalifa moved their capital from Zubarah to the main island of Bahrain in 1796, the Zubarah region remained under their authority and control. The Naim tribe inhabited the Zubarah region from

the end of the 18th Century at the invitation of the Rulers of Bahrain.⁴ The Naim recognised the authority of the Rulers of Bahrain and regularly migrated between the main island of Bahrain and Zubarah.⁵

26. The situation remained unchanged until 1871. In that year, the Ottoman Empire attained some measure of control over the south-east part of the Qatar peninsula by establishing a garrison in Doha. In the last quarter of the 19th Century and the early 20th Century, six attempts were made by the Ottoman Empire and the Al-Thani chiefs of Doha to expand their authority to include the Zubarah region. Each of these attempts was rejected by Bahrain and by Britain.

27. In 1905, the British Political Agent, Captain F.B. Prideaux, undertook a detailed study of the Qatar peninsula and its tribes for Lorimer's Gazetteer of the Persian Gulf. He wrote:

"My predecessor, Mr. Gaskin, has of late years tried to show that all the towns of the Peninsula are politically subordinate to Sheikh Jasim [Al-Thani], but I do not think his arguments are convincing, and I am told that the people of Khuwer Hassan, Abu Dthuluf, Ruwes, Fuwerat, Dthakhira, Dthaayan, Sumesma and Khor Shaqiq [in the north of the peninsula] have never paid revenue to the Sheikhs of Bida and will [scoff at] the idea of

⁴ Lorimer's Gazetteer of the Persian Gulf, the standard reference work for the early history of the Gulf, notes that the Al Naim had been invited to the peninsula from Oman by the Al-Utub (the tribe of the ruling Al-Khalifa family). J.G. Lorimer, Gazetteer of the Persian Gulf, Oman and Central Arabia Vol. II (1908), p. 1306, Ann. 74, Vol. 3, p. 397.

⁵ Lorimer's Gazetteer of the Persian Gulf notes:

"The nomadic Na'im outside Oman are believed to number about 2,000 souls. In winter they live in Qatar, chiefly in the neighbourhood of Zubarah; in the hot weather most of them remove to Bahrain and form camps in the northern part of the main island..."

Ibid., p. 1305, Ann. 74, Vol. 3, p. 396. As Klaus Ferdinand confirms: "the special relationship between the Al Naim and the Bahraini Sheikhs' family, the Al-Khalifah, goes back to the very coming of the Al Naim to Qatar and to their co-residence around Zubarah", in Bedouins of Qatar (1993), p. 41, Ann. 232, Vol. 4, p. 1013.

being their subjects. Business relations many of their pearl merchants have certainly had with the Thani family but nothing more ...".⁶

Negotiations for a treaty between the Ottoman Empire and Britain in 1913 included a proposal for an entity called "Qatar" assumed to have control over the entire Qatar peninsula, but the First World War intervened and the treaty was never ratified.⁷

28. In 1916, Britain concluded a treaty directly with the Al-Thani.⁷⁶

⁸ This was the first acknowledgement of independent political status on the part of the Al-Thani chiefs of Doha. The Treaty referred to Abdullah Al-Thani's "territories and port of Qatar", but contains no definition of those territories. This document cannot, therefore, support any claim that the chiefs territories necessarily included the Zubarah region. The 1916 Treaty does not acknowledge the existence of a State of Qatar territorially coextensive with the Qatar peninsula. Nor can such a territorial extent be assumed. Indeed two facts serve to contradict any such assumption. The first is that the effective control of the Zubarah region continued to be exercised by the Rulers of Bahrain after the 1916 Treaty, as it was before. The second is contained in an easily overlooked aspect of the Treaty. In the preambular paragraph, the Sheikh of Qatar acknowledged that he was bound by unilateral personal undertakings

⁶ Letter, Capt. Prideaux, British Political Agent, to Sir Percy Cox, British Political Resident, attached to the latter's despatch to the Govt. of India, 16 July 1905, Ann. 71, Vol. 3, p. 357. Prideaux uses the phrase "the people ... will scout the idea of being their subjects". The word "scout" means "to reject with scorn or ridicule" (Concise Oxford Dictionary).

⁷ Unratified Convention between United Kingdom and Turkey regarding the Persian Gulf and adjacent territories, 29 July 1913, Ann. 81, Vol. 3, p. 431.

⁸ Treaty between the British Govt. and the Shaikh of Qatar - 3 November 1916, Aitchison, *op. cit.*, p. 258, Ann. 84, Vol. 3, p. 513.

signed by his grandfather in 1868.⁹ Among these undertakings was a promise (in paragraph 5th of the 1868 document) to maintain towards the Chief of Bahrain "all the relations which heretofore subsisted between me and the Sheikh of Bahrain." The "relations" in question included a commitment to pay an annual levy to the Ruler of Bahrain evidenced by an undertaking signed by the chiefs of Doha as well as six Chiefs from other parts of Qatar.¹⁰ The fact that this 1868 obligation subsisted and was recognised in 1916 means that the Ruler of Bahrain was recognised as still retaining dominion and authority in parts of the Qatar peninsula. It follows that the area of rule of the Chief of Qatar could not in 1916 have been regarded as coterminous with the peninsula as a whole.

29. As a matter of fact, for 20 years following the British Treaty with Abdullah Al-Thani the authority of the State of Qatar did not extend to the western part of the Qatar peninsula. As before, the Zubarah region remained under Bahrain's authority and control. Qatar's occasional efforts to subvert the Naim tribe living there from their allegiance to Bahrain failed.

30. In 1936, Qatar became actively interested in the Zubarah region. This was coincident with exploration for oil in Qatari territory. In that year, the government of Qatar attempted to impose a tax on the Naim tribe inhabiting the Zubarah region. The Al-Jabr branch of the Naim tribe, ever loyal to the Ruler of Bahrain, rejected this attempt to impose

⁹ Agreement of the Chief of El-Kutr (Gutter) engaging not to commit any Breach of the Maritime Peace, 12 September 1868, Aitchison, *op. cit.*, pp. 183 to 184, Ann. 12, Vol. 2, pp. 157 to 158. This document is further discussed in paragraphs 127 to 129.

¹⁰ Agreement of the Chiefs of Qatar, 13 September 1868, Aitchison, *op. cit.*, p. 193, Ann. 13, Vol. 2, p. 159.

the tax and appealed to the Ruler of Bahrain as their sovereign. Negotiations commenced in May 1937 between the State of Bahrain and the State of Qatar, often involving Britain as mediator, on the status of the Zubarah region.

31. These negotiations were interrupted in July 1937, when Qatar mounted an armed expedition against the Zubarah region and expelled the Bahraini subjects who then inhabited it. This act of aggression was inconsistent with then prevailing principles relating to the renunciation of the use of force enshrined in the Covenant of the League of Nations and the Kellogg-Briand Pact. Bahrain protested against the attack and has never since waived, or wavered in, its claim to the Zubarah region.

32. The events of 1937 were a violation of international law, incapable of terminating existing rights or generating inconsistent rights.

33. In 1944,¹¹ the Parties agreed that the status of the Zubarah region would "remain, without altering anything which did not exist before." The understanding failed because each Party interpreted it to support its own view of the issue of sovereignty.

34. The State of Bahrain's claim to the Zubarah region has never been adjudicated. Bahrain has over the years put several proposals to the State of Qatar in an attempt to promote a peaceful dialogue about the status of Zubarah. Negotiations have been unsuccessful. Bahrain is fully entitled, under international law, to plenary sovereignty over Zubarah.

¹¹ Agreement between the Ruler of Bahrain and the Ruler of Qatar, Ann. 167, Vol. 4, p. 752.

(ii) The Hawar Islands

35. Though close to the shores of the Qatar peninsula, the Hawar Islands are part of the Bahrain archipelago. They are only a few minutes away from the main island of Bahrain by helicopter, less than an hour by motor boat. By sail boat the journey is no more than three or four hours. Socially, culturally, economically and politically, the islands constitute an appendage of the main island of Bahrain. The comprehensive links between the Hawar Islands and the other islands of the Bahrain archipelago are well documented.

36. In about 1800, members of the Dowasir tribe sought and obtained permission from the Qadi of Zubarah, an official of the Al-Khalifa family, to settle on the islands. They thus acknowledged their allegiance to the Rulers of Bahrain. Occupation of the Islands by Bahraini subjects has ever since been open and continuous. No rival presence has appeared there at any time.

37. Bahrain's jurisdiction and control over the Hawar Islands thus commenced two centuries ago. The economic activities of the islanders - gypsum extraction, fishing and pearl diving - were all dependent on the markets in the main island of Bahrain. In contrast, there is no documentation of any contact between the inhabitants of the Hawar Islands and the settlements of the east coast of the Qatar peninsula. The latter are more than 150 kilometres sailing distance around the peninsula, or an arduous 80 kilometres land journey across desert sand and rock .

38. With the development of the oil industry in Bahrain starting in the early 1930s, life on the main island became more attractive than life on the Hawar Islands. As a result, the Hawar Islands lost much of their

population. The traditional way of life declined. Nevertheless, there are still people alive who remember life on the Hawar Islands half a century ago. These Hawar Islanders - principally from the Dowasir tribe, many of them distinguished and influential members of Bahraini society - now live on the other islands of Bahrain.

39. The Ruler of Qatar first made a formal claim to the Hawar Islands in May 1938. Over the next year, the British Government adjudicated the dispute over the Hawar Islands. Britain sought the views of both Parties. It concluded that there was overwhelming evidence in support of the sovereignty of Bahrain over the Hawar Islands and none to support the claim put forward by Qatar. Indeed, apart from Qatar's bald - and legally irrelevant - assertion that the Hawar Islands belonged to it because of their proximity to the coast of the Qatar peninsula, Qatar produced no evidence to support its case. No Al-Thani, Ottoman, or Qatari authority has ever been exercised over the Hawar Islands. No Al-Thani, Ottoman or Qatari adherents have ever lived in the Hawar Islands or, before the opening of the Dukhan oil field in 1939, on the coast of the Qatar peninsula opposite these islands. No government action other than that of Bahrain has ever taken place on the Hawar Islands.

40. The British adjudication is *res judicata* and the confirmation of Bahrain's title to the Hawar Islands is legally binding on the Parties. Indeed, it was once again so viewed by Britain in 1947 when it stated its views as to the maritime delimitation between the Parties.

41. Bahrain does not, however, rely exclusively upon the 1939 British adjudication. Bahrain's title ultimately rests upon the fact of its continuous, uninterrupted and exclusive exercise of jurisdiction over the Hawar Islands from the beginning of the 19th Century to the present day, especially in comparison with the absence of Qatari activities there.

Bahraini laws operate in the Hawar Islands; Bahraini justice is administered in relation to disputes arising there; Bahrain has always regulated fishing and mining activities (gypsum and oil); Bahraini police are present there, as are Bahraini forces; Bahrain provides public services, such as the water supply; the residents carry Bahraini passports, are included in the Bahrain census and are eligible to vote in Bahraini elections. By reference to the criteria of sovereignty operative at all relevant times, there is no doubt that the Hawar Islands belong to Bahrain.

SECTION 1.5 Expanded Geographical Description

A. Bahrain

42. The State of Bahrain is comprised of an archipelago which includes more than 50 islands, low-tide elevations and shoals situated in the Gulf of Bahrain off the Arabian peninsula, and the territory on the north-west coast of the Qatar peninsula referred to as the Zubarah region.

43. The land area of the archipelago is approximately 701 km². The main island of Bahrain, sometimes called Awal Island, has an area of 591 km². Today it is connected by causeways to most of the immediately neighbouring islands, such as Muharraq, Sitra, Umm Al Na'san and Nabih Saleh. A causeway has also been built from the main island to the coast of Saudi Arabia. The other principal islands of the Bahrain archipelago are in the Hawar Islands group, located about 11 nautical miles to the south-east of the main island of Bahrain about half-way up the western coast of the Qatar peninsula. The Hawar Islands have a land area of nearly 51 km².

44. Between the south-west of the main island of Bahrain and the Arabian peninsula, there is a relatively deep and featureless stretch of sea. These waters have traditionally acted as a barrier between Bahrain and the Arabian peninsula. In contrast to this natural frontier to its west, to the east and south-east of the main island of Bahrain lie the calm and shallow waters which extend to the western coast of the Qatar peninsula. These eastern reaches of the Gulf of Bahrain rarely exceed ten metres in depth, with great expanses less than two metres deep. Sheltered in the west by the main island of Bahrain and in the east by the western coast of the Qatar peninsula and abundant in pearl-oysters and fish, the eastern reaches of the Gulf of Bahrain have for many centuries effectively been a Bahraini lake.

45. The seas within the Bahrain archipelago contain a number of relatively small islands, including notably Jazirat Ajirah, Al Mu'tarid, Jazirat Mashtan, Jabbari, Umm Jalid and Qit'at Jaradah.¹² They also contain the low-tide elevations of Fasht Bu Thur, Qita'a el Erge, Qit'at ash Shajarah and Fasht ad Dibal. Each of the latter two low-tide elevations is several miles in extent. Fasht al'Azm, a large reef which constitutes an integral part of Sitrah Island and is exposed at low tide,¹³ extends for over ten miles in an east-south-easterly direction towards Qit'at ash Shajarah.

46. The mainland component of Bahrain, the Zubarah region, is located on the north-western coast of the Qatar peninsula, facing the main island of Bahrain. The region is composed of the tribal "dirah" - the lands inhabited and used for grazing livestock - of the Al-Jabr branch

¹² The status of Qit'at Jaradah is discussed more fully at paragraphs 580 to 598 and 622 to 624.

¹³ The status of Fasht al'Azm is discussed more fully at paragraphs 620 to 626.

of the Naim tribe, which has consistently recognised the authority of the Ruler of Bahrain. The members of this branch of the Naim tribe defended the Zubarah region against Qatar's armed attack in July 1937. The extent of the Zubarah region is shown on Map 5 in Volume 7. It stretches from Al Arish, about 10 kilometres north of the town of Zubarah on the coast, to Umm El Ma, about 20 kilometres south of the town of Zubarah. Inland from the coast of the Gulf of Bahrain, the region stretches to Al Na'man, Masarehah and Al Thagab (see further paragraphs 89 to 103).

47. Until 1937, the main population centres of Bahrain completely encircled the eastern reaches of the Gulf of Bahrain: the main island of Bahrain in the west, the Hawar Islands in the south-east and, in the past, Zubarah in the north-east. The ensemble constituted a protected maritime enclave. The waters of the Gulf of Bahrain have for centuries been dominated politically and economically by the Al-Khalifa family and their subjects. This historical reality is a key to understanding the territorial as well as the maritime issues in this case.

48. Although subterranean aquifers enable substantial irrigation on both the main island and Muharraq, the life of the people of Bahrain was, and remains, inextricably linked with the sea. In the era before the development of oil, the pearling industry was the major source of wealth. The main pearling banks were to the north and north-east of the archipelago. Income from pearling provided not only most of the wealth of the country but was also the major source of government revenue. In the 1930s, however, cultured pearls were developed in Japan and threw the Bahraini pearling industry into a depression from which it has yet to recover. However, as late as the 1960s the industry still continued. Feasibility studies are under way in order to determine how to revive it.

49. In contrast with the pearling industry, the Bahrain fishing industry has not diminished in importance. Fish account for a major part of the population's diet. There are numerous significant traditional fishing areas to the east of the main island of Bahrain. In 1996, there are no less than 506 fishing vessels in the country, and the industry is a significant provider of employment.

50. Seaborne commerce has always been important to Bahrain, the major port and entrepôt in the central section of the Gulf of Arabia until oil revenues enabled the construction of modern harbours in each Gulf State. Thus, most goods for Saudi Arabia or Qatar would be shipped first to Bahrain in ocean-going vessels, and then transhipped in small, local craft to the ports of these other countries.

51. Although the extensive irrigation on the main island and Muharraq enabled part of the population to be engaged in agriculture, the society of Bahrain was essentially pastoral until the exploitation of oil transformed the economy. Because of the archipelagic nature of the country and its arable resources, however, complete nomadism, after the pattern of some of the inhabitants of the Arabian mainland (including the Qatar peninsula), was unnecessary.

52. Many of the Bahraini Dowasir would spend the summer at Zellaq and Budaiya on the main island of Bahrain and the winter on the Hawar Islands. The journey to the Hawar Islands from the main island of Bahrain was easy. When the Hawar Islanders travelled from the main island of Bahrain, they would sail from island to island in the Gulf of Bahrain until they reached the Hawar Islands. Ibrahim bin Salman Al Ghattam, a former resident of the Hawar Islands, now resident in the main island of Bahrain, has described the journey in the following terms:

"When we travelled from Zellaq to the Hawar Islands, we used to sail to Ra's al Barr on the southern tip of the main island of Bahrain and then towards the east until we reached Halat Noon, a very small island. After Halat Noon we sailed on to Al Mu'tarid. Then we sailed east until we arrived from a northerly direction at the two Rabad islands which are to the north of the main Hawar Island. We would pass to the west of the Rabad Islands and enter the main Hawar Island from a bay in the north. We would put a stick in the sea-bed to tie the dhows in the bay of the North Village because we didn't use anchors."¹⁴ (This traditional route is shown on Map 3 in Volume 7.)

53. Similarly, the Naim and others would migrate between north-west Qatar and the main island of Bahrain. One hundred years ago Zubarah was several days' journey cross-country from Doha Town, while it was "only four hours' sail from Bahrain in fair weather."¹⁵ Moreover, it was a long established practice of the Al-Khalifa ruling family, following seasonal rains, to send their flocks from Bahrain to graze on the western side of the Qatar peninsula. This practice was a regular feature of the pastoral economy of Bahrain in the pre-oil era.¹⁶

54. The population of Bahrain was estimated in 1995 as approximately 580,000 of whom approximately 370,000 (64%) were Bahraini citizens. Bahrain is one of the world's five most densely populated countries, and by far the most densely populated in the Gulf. The population is expanding rapidly.

¹⁴ See statement of Ibrahim bin Salman Al Ghattam, para. 3, Ann. 316(a), Vol. 2, p. 1400.

¹⁵ Précis of news received from Bahrain Agent in August 1873, Ann. 18, Vol. 2, p. 172, .

¹⁶ See correspondence between Maj. Daly, British Political Agent, and Lt. Col. Knox, the British Political Resident, 17 October 1923, Ann. 88, Vol. 3, p. 525. The Sheikh of Bahrain's 'grazing rights in the Qatar peninsula were recognised in a 14 July 1911 report of the British Standing Committee of the Imperial Defence. "It appears inexpedient to make any concessions to Turkey in regard to the El Katr Peninsula, since the Sheikh of Bahrain has grazing and other rights there...", Ann. 77, Vol. 3, p. 411.

55. Although Bahrain was the first Arab Gulf State to produce oil after the first discovery there in 1932, there have been no significant discoveries since. From a peak of 70,000 barrels/day in 1970, Bahrain's oil production declined by 5% per year until it stabilised at around 40,000 barrels/day in the mid-1980s. (The output in 1995 was 39,000 barrels/day.)

56. Bahrain's total oil reserves in 1995 were estimated at 210 million barrels, 18 times less than the oil reserves of Qatar. Unlike Qatar, Bahrain is not a member of OPEC.

57. Bahrain has nothing to compare to Qatar's vast liquefied natural gas (LNG) projects (see paragraph 71).

B. Qatar

58. The Qatar peninsula is a large, desolate body of land that stretches into the Gulf of Arabia at the Gulf's mid-point on its southern side. About 160 kilometres long and up to 70 kilometres wide, the Qatar peninsula is low lying and formed of limestone rock. It has a surface area of approximately 11,400 km² and a maximum elevation of 40m above sea level with extremely high temperatures and humidity. It is a desert territory, relentlessly barren. The virtual absence of natural vegetation has effectively excluded any permanent human presence in the interior.¹⁷

59. The State of Qatar comprises the territory of the Qatar peninsula, with the exception of the Zubarah region which is part of the territory of the State of Bahrain.

¹⁷ R.S. Zahlan, The Creation of Qatar, (1979) pp. 13 to 15, Ann. 226, Vol. 4, pp. 947 to 948.

60. The small populations living on the Qatar peninsula during the 19th Century centred on Doha,¹⁸ on the south-east coast of the Qatar peninsula, and Bahrain's Zubarah region, on the north-west coast. Today, Zubarah is abandoned and an estimated 80% of Qatar's population live in Doha.¹⁹ The country's second most important town is Wakrah, which is in reality a southern extension of the Doha agglomeration, and the third is the industrial centre of Umm Said 30 kilometres to the south of Doha. Estimates of the population of Qatar in the 1950s placed the number between 20,000 and 25,000. According to the Economist Intelligence Unit Country Profile for Qatar, the indigenous population of Qatar at the end of 1995 was "believed to be around 155,000;" the overall population includes nearly three times as many foreigners. Qatar's total population has a particularly high proportion of immigrant workers; 38% of the people living in the country come from India or Pakistan alone.²⁰

61. Excluding expatriates in both cases, the relative population densities of Bahrain and Qatar are dramatically different: 521 Bahrainis per km², 14 Qataris per km².

62. Small settlements - little more than encampments of fishermen - were recorded on the east coast of the Qatar peninsula during the early 19th Century. As these settlements developed into permanent villages, notably Doha, they remained quite isolated from the Gulf of Bahrain on the far side of the peninsula. The inhabitants of the east coast, in and

¹⁸ Doha was known during much of the 1800s as Al Bidda.

¹⁹ Economist Intelligence Unit Country Profile for Qatar 1996-97, p. 33.

²⁰ *Ibid.*

around Doha itself, were primarily concerned with the exploitation of the pearling banks in the waters due east of Doha.

63. In addition to the settled population on the Qatar peninsula, there were nomadic and semi-nomadic tribes. It is not possible to make a clear distinction between the settled and the nomadic populations. The important Naim tribe - subjects of the Ruler of Bahrain - would migrate by sea between the Zubarah region on the north-west corner of the Qatar peninsula and the Bahrain archipelago. Other tribes migrated overland between the mainland of Arabia and the Qatar peninsula, recognising and being aware of no frontier between peninsula and mainland. Many of them admitted no superior authority within the peninsula, as the Al-Thani Sheikhs repeatedly acknowledged (see paragraphs 133, 146 and 158 to 159). From early in the 20th Century until 1937 and later, they were more likely to recognise the authority of Ibn Saud than that of Sheikh Abdullah bin Jasim Al-Thani. These tribes paid the tax of *zakat* to Ibn Saud and acknowledged his authority. The inhabitants of the northern villages paid taxes out of their income from pearling directly to marauding tribes in order to be left in peace. There was no central authority in the Qatar peninsula able to deal with the tribesmen on behalf of all the inhabitants of the peninsula until after the Al-Thani had extended their authority through many other parts of the peninsula in the second half of the 1930s; but the Al-Thani did not, even then, establish a permanent presence in Zubarah.

64. Until well into the 20th Century, the ecology of the Arabian peninsula inhibited the emergence of States or rulers whose territory could be defined by reference to specific boundaries. Tribes moved through the arid and semi-arid areas in cycles determined by the sustainability of life and not by abstract borders. Given the reality of

transient populations, political authority in the area was exercised over people and evidenced by the allegiance of tribal groupings. The territory occupied by tribes owing allegiance to a ruler was thereby under the authority of that ruler - for as long as that occupation and that allegiance would last. Sovereignty over territory did not arise from a meaningless assertion of lordship over the desert. Nowhere was this more true than in the case of the arid and scarcely populated Qatar peninsula. It is therefore possible to identify the territory over which the Rulers of "Qatar" exercised authority only on the basis of tribal allegiance. The population of the peninsula owing allegiance to the Al-Thani was originally very small and centred on Doha and its environs. Only later, as the Al-Thani authority gradually expanded, did that of the Sheikhs of Bahrain within the Qatar peninsula recede.

65. Doha is of course on the eastern side of the Qatar peninsula, separated from the Gulf of Bahrain by 80 kilometres of barren desert wasteland. Originally, "Burr Kutr", "Gatr", "Katr" or perhaps most commonly "Guttur", was the name given to the eastern coast of the peninsula that is now known in its entirety as the Qatar peninsula. Indeed, some contemporaneous sources used "Qatar" to refer simply to Doha; see, e.g. the Ottoman map reproduced after page 6. Until relatively recently, there was no need to refer to the Qatar peninsula as a whole because it comprised neither a single geo-political nor a single geo-economic unit. Indeed, the Ottoman Empire, which ruled the southern area of the Qatar peninsula around Doha as a "*kaza*" (district) until 1915, referred to it as "Qatar" and considered it a unit distinct from the other two sub-districts (*nahiye*) on the peninsula, which it referred to as "Zubarah" and "Odaid".

66. Until 1937, the Zubarah region was inhabited by Bahraini subjects: the Naim tribe.²¹ There is nothing to indicate that the peoples of the north-east and north-west of the Qatar peninsula owed any form of allegiance to the Al-Thani Sheikhs.

67. Old residents of the Hawar Islands who are still living in Bahrain recall that they occasionally ventured to the coast of the Qatar peninsula opposite Hawar half a century ago, notably to search for desert truffles - a popular recreational activity. They all say that there were no signs of human habitation in that harsh land. As one former Hawar Islander, Hamoud bin Muhanna al Dosari, recalled:

"... if we were fishing near the west coast of the Qatar peninsula we would go to Zekrit. There was a spring there where we could get fresh water. We never met anyone or saw any signs of human life when we went to Zekrit. Along all the shore opposite the Hawar Islands you would not meet another person except the occasional itinerant bedouin. Even when we occasionally went to the place called Dukhan, on the coast of the Qatar peninsula south of the Hawar Islands, to look for desert truffles, we rarely met anyone."²²

68. The situation is no different today. There is little sign of life except Dukhan, a recent oil town of prefabricated buildings where people have gone to work, not to live. There is still no road up the western coast.²³ Only a negligible proportion of the population of Qatar lives on the west coast.

²¹ Since the 1937 armed attack by Qatar on Zubarah, the Zubarah region has been virtually uninhabited.

²² See statement of Hamoud bin Muhanna al Dosari, para. 16, Ann. 313(a), Vol. 6, p. 1366. See also statements of Ibrahim bin Salman Al Ghattam, para. 10, Ann. 316(a), Vol. 6, p. 1402, Nasr bin Makki al Dosari, para. 10, Ann. 314(a), Vol. 6, p. 1379, and Salman bin Isa al Dosari, para. 4, Ann. 315(a), Vol. 6, p. 1392.

²³ See Oxford Map of Qatar, Vol. 7, Map 16.

69. Oil was discovered in Qatar in 1939. Production has in recent years averaged above 400,000 barrels/day (422,000 in 1995), more than ten times the production of Bahrain. Taking a constant value of US \$20 per barrel for purposes of comparison, this represents an annual per capita value of US \$18,830 for the native Qatari population. The corresponding figure for Bahrain is US \$769.

70. Qatar also has three major liquefied natural gas (LNG) projects in its vast North Field, the world's largest known single deposit of non-associated natural gas. The first (Qatargas) will reportedly supply 4 m tons/year of LNG to Japan beginning in 1997. The second (Rasgas) will supply 2.4 m tons/year to Korea beginning in 2001, with a further production capacity of 7.5 m tons/year. The third project is led by the well-known United States company Enron; it contemplates production of more than 5 m tons/year to commence in 1999, intended to supply customers in Israel, Jordan, and India.

71. If these projects materialise as planned, Qatar's LNG output will easily exceed that of Algeria, one of the world's leading on-stream LNG producers. Algeria generally exports about 15 m tons/year, which translate into export earnings on the magnitude of US \$2.5 to 2.8 billion. For the Qatari population, these projects thus hold the promise of additional annual revenues of well over \$20,000 per capita. By way of comparison, Bahrain's sole gas liquefaction plant is expected to produce 0.38 million tons in 1996.

PART I

THE TERRITORIAL QUESTIONS

CHAPTER 2

BAHRAIN'S SOVEREIGNTY OVER THE ZUBARAH REGION

72. The principal elements of Bahrain's title to the Zubarah region are:

- a) evidence of the exercise of authority and control by or on behalf of the Ruler of Bahrain over the people inhabiting the Zubarah region and thus over the region itself;
- b) recognition by the inhabitants of the Zubarah region of the authority of the Ruler of Bahrain over themselves and over the area in which they lived; and
- c) absence of any competing exercise of authority by Qatar in the Zubarah region until its armed attack and forcible expulsion of Bahrainis of the region in 1937.

SECTION 2.1 The geographical extent of the Zubarah region claimed by Bahrain is based on the tribal territory inhabited by the Naim tribe, who recognised the authority of the Ruler of Bahrain

A. The Naim tribe and its relationship with Bahrain

73. Before turning to the substance of Bahrain's claim to sovereignty over the Zubarah region, it will be helpful to describe the geographical extent of the area over which Bahrain asserts its sovereignty.

74. Identification of the area of the Zubarah region and the question of title to it is closely linked to the character of tribal allegiances in the

Bahrain.²⁹ In describing the event, the senior British official stationed in the Gulf of Arabia³⁰ observed:

"Zobarah is held by the Naim Tribe who are allies and in some degree dependants of the Bahrain Chief. The sovereignty over all this Coast is undefined, but the Chiefs of Bahrain have always looked on Zobarah as a feudal dependency of Bahrain. Sheikh Esau [the Ruler of Bahrain; usually spelled "Isa"] accordingly allowed the body of the Naim Tribe who had come to his assistance to return to the relief of their comrades at Zobarah. Sheikh Ahmed the Chief's brother accompanied these Naim allies to Zobarah but did not land."³¹

80. The allegiance owed by the Naim tribe to the Ruler of Bahrain was central to the security of the main island of Bahrain, since the Ruler could depend on them to defend Zubarah. If Zubarah were to fall, they could rapidly remove to the poorly defended main island and increase the forces there. The Political Resident also recognised this:

"Shaikh Esau necessarily relies much on the Naeem tribe of Zubara who came to his aid in his late dangers, and if he were to be deprived of their support, his means of defence would be greatly weakened."³²

It was for this reason that the Ruler of Bahrain had sent reinforcements to Zubarah in response to the 1874 attack and repaired the fort thereafter.

²⁹ J.A. Saldana's Précis of Katar Affairs (Simla, 1904), p. 4, Ann. 70, Vol. 2, p. 292.

³⁰ For a description of Britain's political and diplomatic involvement and administrative structure in the Gulf of Arabia, see Section 2.4 starting at para 136. See also App. 4(II) for an organigramme of the British administrative and diplomatic hierarchy in the Gulf of Arabia prior to 1947.

³¹ Letter from British Political Resident to the Secretary to the Govt. of India Foreign Department 12 September 1874, Ann. 21, Vol. 2, p. 180.

³² Letter from Lt. Col. Ross, British Political Resident, to Secretary to Govt. of India, 10 November 1874, Ann. 24, Vol. 2, p. 184.

81. In February 1875, the Naim sent their cattle to the main island of Bahrain for protection. The cattle were transported in boats provided by the Ruler of Bahrain.³³

82. During 1876 and 1877, the Ruler of Bahrain:

a) distributed provisions and cattle to 100 members of the Naim tribe in order to assist them to return to the Zubarah region from the main island of Bahrain;³⁴

b) subsidised the income of the Naim tribe and permitted them to frequent other parts of Bahrain, treating them as his subjects;

c) used 100 of the Naim tribesmen as regular soldiers in the Bahrain army;³⁵ and

d) sent "a strong party of armed men" to Zubarah "supplied with arms [and] provisions".³⁶

83. In a report on Qatar dated September 1893, the Ottoman authorities admitted that the inhabitants of the Zubarah region owed allegiance to the Ruler of Bahrain. In describing the tribes of the province of Qatar and its vicinity, the Ottoman authorities recognised that:

³³ Translated purport of a letter from News Agent Bahrain, to Lt. Col. Ross, British Political Resident, 9 February 1875, Ann. 28, Vol. 2, pp.194 to 195.

³⁴ Letter from Capt. Prideaux, British Political Resident, to Secretary to the Govt. of India, 7 October 1876, Ann. 34, Vol. 2, p.203.

³⁵ Letter from Maj. Grant, British Political Resident, to Ruler of Bahrain, 17 September 1877, Ann. 35, Vol. 2, p. 205.

³⁶ *Ibid.*

"The third [tribe] is the Naim. Although this tribe goes about on the Katar coast, that is between the town of Katar and Zubara, because they go to Bahreyn in the date season and because Bahreyn sheikh Isa presents them with some dates and coffee and other things every year, this tribe is really to be counted among the tribes of Bahreyn."³⁷

84. In January 1906, a Persian boat had been obliged to seek shelter from a storm at Abu Dhuluf, just north of the ruined town of Zubarah. It was attacked by the local inhabitants. Because this was considered as constituting an act of piracy, the British Political Agent, Captain Prideaux, investigated the matter. Prideaux visited Abu Dhuluf and requested an interview with the local chief. The chief refused the interview and declared himself to be a "subject of the Shaikh of Bahrain". Captain Prideaux then wrote to him and requested that he appear in Bahrain to explain the acts of piracy. He complied and appeared in Bahrain on 1 March 1906,³⁸ thus evidencing his allegiance to the Ruler of Bahrain.

85. The Naim tribe consisted of several branches. The next most important branch was called the Al-Ramzan.³⁹ The tribal *dirah* of the Al-Ramzan was situated far to the south of Zubarah, along the coast of the Qatar peninsula to the south of Umm El Ma and inland as far as Al Ga'iyah.⁴⁰ But the branch which traditionally led the Naim tribe was called the Al-Jabr.⁴¹ The tribal *dirah* of the Al-Jabr branch of the Naim was situated in and around the ruined town of Zubarah (see paragraphs

³⁷ Ottoman report on Katar, September 1893, Ann. 52(a), Vol. 2, p. 255.

³⁸ Lorimer Vol. I, *op. cit.*, p. 833, Ann. 83, Vol. 3, p. 486.

³⁹ Ferdinand, *op. cit.*, p. 44, Ann. 232, Vol. 4, p. 1013a.

⁴⁰ See map prepared by Montigny-Kozłowska, *op. cit.*, Ann. 229, Vol. 4, p. 983a.

⁴¹ Ferdinand, *op. cit.*, p. 44, Ann. 232, Vol. 4, p. 1013a.

89 to 103). By 1937, the Al-Ramzan branch of the Naim tribe had switched its allegiance to the Al-Thani Rulers of Qatar as a result of an internal tribal dispute. According to a report of the British Political Agent of 3 May 1937:

"Sometime ago a man called Ramazan of the Ramazin sub-section of the Na'im tribe divorced his wife. The woman remarried into the Al Jabor section of the Na'im tribe. As a result of this there was friction between Ramazan and Shaikh Rashid bin Mohammad, the alleged leader of the Na'im. As a result of this friction the Ramazin sub-section left the Na'im and joined the Shaikh of Qatar."⁴² (Emphasis added.)

The Al-Jabr branch of the Naim tribe maintained its allegiance to the Ruler of Bahrain.

86. The Ruler of Qatar sought to become active in the Zubarah region in early 1937, intending to impose his authority on the region. Concerned at that development, the Ruler of Bahrain and the headman of the Naim tribe, Rashid Al Jabr, kept in close communication. Like all of the Al-Jabr Naim, the headman was a Bahraini subject. Like many of the Naim he had been born on the main island of Bahrain. As a leader of a tribe dependent on Bahrain, he was entitled to an allowance from the Bahraini Civil List.⁴³ At the time of the Zubarah conflict in 1937, the Naim headman turned to his sovereign both to warn him of the threat to his interests and to seek protection in deterring the Qatari aggression. He

⁴² Report entitled "Zubarah Incident" by Capt. Hickinbotham, the British Political Agent, on the Zubarah incident, 3 May 1937, Ann. 126, Vol. 3, p. 653.

⁴³ Telegram from British Political Agent to Lt. Col. Fowle, British Political Resident, 23 April 1937, Ann. 119, Vol. 3, p. 642.

warned in his letter to the Ruler of Bahrain that:

"Bin Thany has displayed his enmity towards you and what is more is his idea to take Zubara and other places..."⁴⁴

87. Thereupon, Bahraini soldiers, arms⁴⁵ and food⁴⁶ for the Naim were sent to Zubarah by the Ruler of Bahrain. The Bahraini flag was planted conspicuously on the beach by the old fort in Zubarah. Repairs to the fort were commenced by Bahrain.⁴⁷ In a letter to the British Political Agent, Charles Belgrave, Adviser to the Government of Bahrain, explained:

"The Naim and their relations, who are claimed by the Bahrain Government and themselves claim to be Bahrain subjects, have always in the past received financial subsidies and food from the Ruler of Bahrain. During the recent disturbances in Qatar ... they had difficulty in obtaining food supplies, some of them were given rice and dates, and others, in Bahrain, were given money with which they purchased food for their families and relations in Zubarah.

Arms and ammunition were issued by the Bahrain Government to all the villages on the south coast of Bahrain [for fear of]... an attack from the mainland. Certain inhabitants of these villages and islands whose relations and in some cases wives and children were with the Naim tribe at Zubara crossed over to Zubara and joined the Naim and were present at the surrender when arms and

⁴⁴ Letter from Rashid bin Mohamed Al Jabor, headman of Naim, to Ruler of Bahrain, 3 Safar 1356 (15 April 1937), Ann. 116, Vol. 3, p. 636.

⁴⁵ Letter from Ruler of Qatar to Capt. Hickinbotham, British Political Agent, 11 July 1937, Ann. 149, Vol. 4, p. 714. See also statement of Mohammed bin Mohammed bin Theyab Al Naimi, para 14, Ann. 233(a), Vol. 4, p. 1017.

⁴⁶ Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to Capt Hickinbotham, British Political Agent, 19 August 1937, Ann. 158, Vol. 4, p. 729.

⁴⁷ Telegram from British Political Agent, to Lt. Col. Fowle, British Political Resident, 26 April 1937, Ann. 122, Vol. 3, p. 646.

ammunition were handed over as part of the terms of surrender."⁴⁸

88. In the aftermath of Qatar's armed attack on the Zubarah region in 1937, the Ruler of Qatar forced the tribesmen either to switch allegiance to him or to leave the Qatar peninsula. The majority fled to Bahrain, including the headman (for an analysis of Qatar's 1937 attack, see Section 2.13 starting at paragraph 253).

B. The tribal *dirah* of the Al-Jabr section of the Naim tribe

89. The geographical extent of the Zubarah region claimed by Bahrain is that area over which Bahrain continuously and openly exercised authority by virtue of the allegiance of the Al-Jabr branch of the Naim tribe. Their tribal *dirah* constitutes the area over which Bahrain had sovereign title at the time of Qatar's 1937 armed attack and to which Bahrain still asserts title. It is shown on Map 5 in Volume 7.

90. The tribal *dirah* of the Al-Jabr section of the Naim tribe in 1937 may be determined by: (a) interviews with members of the Al-Jabr branch of the Naim tribe who lived in Zubarah prior to the 1937 attack and who are still alive, and (b) contemporaneous documents describing the limits of the tribal area.

91. An elderly member of the Al-Jabr branch of the Naim tribe born in 1920 and now living in Bahrain recently recalled the area within which his tribe moved, depending on the season:

"When I was young, I would spend the winter with my family towards the north of the Qatar peninsula, and move further south in the summer. We lived mainly in the area between Hulwan and

⁴⁸ Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to Capt. Hickinbotham, British Political Agent, 19 August 1937, Ann. 158, Vol. 4, pp. 729 to 730.

Lisha (about four kilometres from the shoreline of the Gulf of Bahrain) and Masaicha [Masarehah] but wandered up as far north as the ruined city of Zubarah, Al Arish and Al Thagab. At other times in the year we would reach places further south such as Al Na'man, Al Judaydah, Al Maharaqa and Umm Gabrain (Umm al Ghubbur). We would set up a camp wherever we could find water nearby. This was our homeland."⁴⁹

92. Another former Zubarah resident, Saleh bin Muhammed Ali bin Al Naimi, recalled in 1996:

"The Zubarah region included Al Na'man, Lisha, Hulwan, Ain Muhammed, Zubarah and Al Faraihah. There were about 3000 Al Naim who lived there, about 2000 of whom were bedouin and about 1000 of whom were *hadar* (settled). My family was *hadar*. The Zubarah region was part of the Ruler of Bahrain's territory and people were free to come and go between the main island of Bahrain and Zubarah."⁵⁰

93. In addition to the testimony of living witnesses who are members of the Al-Jabr Naim, many documents of the earlier period indicate the extent of their tribal territory. In his 1909 Gazetteer of the Persian Gulf, Lorimer referred to Zubarah as a "ruined and deserted town". He noted that its site was still frequented by "the Naim of Bahrain and Qatar" and that it was surrounded by dependent forts "within a radius of 7 miles" from the main town including "Faraihah, Halwan [Hulwan], Lisha, 'Ain Muhammed, Qal'at Murair [the main Zubarah fort], Rakaiyat, Umm-ash-Shuwail [Umm Al Shuwyyi] and Thagab."⁵¹

⁴⁹ Statement of Mohammed bin Mohammed bin Theyab Al Naimi, para. 2, Ann. 233(a), Vol. 4, p. 1014.

⁵⁰ Statement of Saleh bin Muhammed Ali bin Al Naimi, para. 3, Ann. 234(a), Vol. 4, p. 1025.

⁵¹ Lorimer Vol. II, *op. cit.*, p. 1952, Ann. 74, Vol. 3, p. 398.

94. Three decades later, a telegram from the British Political Agent to his superior described Zubarah as an "area marked by certain known wells and towers":

"I cannot say ... to what extent jurisdiction is actually exercised at Zubarah but I rather think that the Shaikh [of Bahrain] sends orders if occasion arises to people who live there. Shaikh' Isa certainly used to do so.

2. Two sons of late Shaikh Khalid, some of Qatam family of Rifa [main island of Bahrain] and bin' Ali of Hidd [island of Muharraq] live there and have fishtraps and boats and sometimes take animals there. No Qatar customs are levied nor are passports required."⁵²

95. Two months later, on 3 May 1937, as the tension in the region increased, the Political Agent prepared a briefing note for the British Political Resident on the situation and the physical location of Zubarah:

"The town of Zubarah consists of a number of ruined houses on the sea coast surrounded by the remains of a mud wall which at one time was guarded by towers, and an enclosed corridor runs inland for about a mile to the remains of a large fort ... which contained a mosque and dwelling quarters. The whole of this is completely ruined and there is no sign of recent occupation.

East and south east from Zubarah there are situated the wells of Halwan, Masaichah [Masarehah] and Lashi [Lisha]. There is good grazing in the neighbourhood and the wells number five.

The Na'im informed me that Zubarah was bound on the north by Faraihah and on the south by Rubaijah [Rubayqan]. They seem to include the wells mentioned above, ie Halwan [Hulwan] etcetera, as part of Zubarah. This is not improbable as there are ruined houses near these wells. ...

For the purposes of this note the Zubarah area may be taken to be an enclave running from the coast south of and including Rubeijah, inland to include the wells at Halwan [Hulwan], Masaichah [Masarehah] and Lashi [Lisha] returning to the coast at and including Faraihah village. The ruined town of Zubarah

⁵² Telegram from Lt. Col. Loch, British Political Agent, to Lt. Col. Fowle, British Political Resident, 30 March 1937, Ann. 113, Vol. 3, p. 633.

and the ruined fort of Umm Rear [Murair] will be seen to be included within this area."⁵³

96. Thagab, mentioned by Lorimer as one of the dependent forts, does not appear within the area described by the Political Agent, yet it clearly formed part of the tribal area as one of the Naim guard posts where they gathered on the day of the historic Qatari assault of 1937.⁵⁴ Immediately after the battle of Zubarah, the Ruler of Bahrain informed the Political Agent that the extent of Zubarah included:

- Al Thagab
- Fureiha [Al Faraihah]
- Ain Muhammed
- Umm al Sheweel [Umm Al Shuwyyl]
- Al Zubarah
- Qala Umm Rear [Murair]
- Al Rabaija [Al Rubayqan]
- Halwan [Hulwan]
- Lisha
- Masuchhi [Masarehah]

⁵³ Report entitled "Zubarah Incident" and a memorandum entitled "Possible basis of a Compromise" by Capt. Hickinbotham, British Political Agent, 3 May 1937, Ann. 126, Vol. 3, pp. 654 and 665. Umm Rear was another name given to Murair, the Al-Khalifa fort in the town of Zubarah.

⁵⁴ See statement of Mohammed bin Mohammed Al Naimi, para. 12, Ann. 233(a), Vol. 4, p. 1016.

- Al Maharaqa.⁵⁵

97. In the context of the 1944 settlement negotiations between Bahrain and Qatar (see paragraph 304), it was proposed that the historical claims of the Al-Khalifa to the forts at the wells of Umm El Ma, Al Naman, Al Lisha, Halwan [Hulwan], Umm Sika [Masarehah], and Al Furiha [Faraihah], over which the Naim had roamed at their invitation, be recognised.⁵⁶

98. In November 1946, the Ruler of Bahrain described his ancestral territories and the extent of Bahraini land to the British Political Agent, Lieutenant Galloway, as:

"the port of Zubara territory, the houses in Zubara and the Lisha, and Halwan [Hulwan] and Um Saicha [Masarehah] and Um-Alma [Umm El Ma] and the mosques and the graveyards and his freedom and that of his people on the sea coast from Al Arish to Um Alma [Umm El Ma] and in the desert of the land without interference."⁵⁷

99. In March 1948, the Ruler explained the background to his rights over these territories to the British Political Agent:

"Firstly there is Zubarah, which was a city built by our ancestors and which contains the tombs of our ancestors including six Shaikhs of the ruling family who are buried in the cemetery near the Fort...On the shore there are fish traps which belong to our subjects which were used by our people until the time of the quarrel...

Secondly, there are the houses at Omrair [Al Murair Fort - very close to the ruins of the town of Zubarah] also the fish traps at

⁵⁵ See Letter from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 4 July 1937, Ann. 141, Vol. 4, p. 701.

⁵⁶ Capt. Hickinbotham's 1944 proposal for the settlement of the Zubarah dispute, February 1944, Ann. 166, Vol. 4, p.751, sent under cover of a letter to Ruler of Qatar, 8 February 1944, Ann. 165, Vol. 4, p. 749.

⁵⁷ Note by Lt. Col. Galloway on his meeting with Ruler of Bahrain on 2 November 1946, Ann. 182(a), Vol. 4, p. 790.

that place. It was here that our uncle, Sheikh Khalid and his sons were living until recently. Here too is the house of 'Al Matawa' and his family who are our subjects and now living in Bahrain.

At Lishar there are houses and wells which belong to us and which we built...

Fourthly, there are the fish traps at Om al Ma [Umm El Ma], Rabaijah [Rubayqan] and Farachls [Faraihah] which belong to our subjects and which have passed in inheritance from father to son.

Fifthly, we own the wells at Zeraat and at Lisha and Helwan [Hulwan], which we dug and used for cultivating the land.

All these places are known to the Arabs of Bahrain and Qatar and we do not think that anyone can deny that [they] were in our possession before the dispute. Members of our family lived at these places and Arabs belonging to us worked their fish traps as they did in the days when the Khalifas lived at Zubarah. Never until the dispute, did we suffer any interference from the Shaikh of Qatar and we and our people passed freely between Bahrain and Zubarah unhindered and unmolested."⁵⁸

100. In December 1946, the Ruler of Bahrain asserted to Britain that Umm El Ma was "one of the ports belonging to our State Zubarah" and complained about Qatari activity there.⁵⁹ Further complaints were made by the Ruler of Bahrain in October 1947 that the Ruler of Qatar had visited Zubarah and was intending to cultivate at the oases of Hulwan and Lisha "where our houses are and which are our property".⁶⁰

⁵⁸ Letter from Ruler of Bahrain to C.J. Pelly, British Political Agent, 2 March 1948, Ann. 186, Vol. 4, p. 798.

⁵⁹ Report entitled "Note on Developments in the Zubarah case", British Political Resident's Office, 1948, Ann. 185, Vol. 4, p. 795.

⁶⁰ *Ibid.*

101. In June 1948, Mr. Ballantyne adviser to the Bahraini oil concessionaire BAPCO located the southern boundary of the Zubarah area at "Omm al Mai" (Umm El Ma).⁶¹

102. These contemporaneous documents and the recollections of the former inhabitants of Zubarah now resident in Bahrain establish the following wells and places (none of which are inhabited today) to be subject to the sovereignty of the Ruler of Bahrain as part of the tribal *dirah* of the Al-Jabr section of the Naim tribe:

- Al Arish
- Rakaiyat
- Al Faraihah
- Al Thagab
- Ain Muhammed
- Masarehah
- Lisha
- Zubarah
- Umm al Shuwyyl
- Hulwan
- Al Rubayqan
- Umm al Ghubbur

⁶¹ See letter from Mr. Ballantyne (Adviser to BAPCO), to Charles Belgrave, Adviser to the Govt. of Bahrain, 2 June 1948, Ann. 188, Vol. 4, p. 802.

- Al Maharaqa
- Al Judaydah
- Al Na'man
- Umm El Ma

103. The tribal *dirah* of the Al-Jabr branch of the Naim tribe is shown in red on Map 5 in Volume 7. The line that links the wells, oases and place-names along the edge of the *dirah* of the Al-Jabr section of the Naim tribe constitutes the boundary between the Zubarah region, to which Bahrain is entitled, and the State of Qatar. This is the region which Qatar seized from Bahrain by armed force in 1937.

SECTION 2.2 The Rulers of Bahrain exercised authority throughout the entire Qatar peninsula during the period 1762-1872

104. The authority of the Rulers of Bahrain over Zubarah may be viewed as an aspect of the wider authority which they exercised over the Qatar peninsula for more than a century.

105. Along with other families of the Al-Utub tribe, the Al-Khalifa family established Kuwait at the beginning of the 18th Century.⁶² The Al-Utub settlement in Kuwait prospered; indeed the modern State of Kuwait is ruled by the Al-Sabah family of the Al-Utub tribe. Much of its early prosperity was derived from the commercial efforts of the Al-Khalifa family, who were responsible for trade and commerce in

⁶² A useful summary of the early history is provided in Lienhardt "The Authority of Shaykhs in the Gulf", in Arabian Studies, Vol. II (1975), Ann. 225, Vol. 4, p. 937.

Kuwait. The Al-Khalifa's principal commercial activity at that time involved the pearling industry.⁶³

106. Seeking to develop its pearling activities, the Al-Khalifa family decided to reside closer to the centre of the pearling industry, which was located in the Gulf of Bahrain. In 1762, therefore, the Al-Khalifa family left Kuwait and moved to the north-western region of the Qatar peninsula. With the assistance of the Naim tribe, they were quickly able to pacify the local bedouin tribe of Al Musallam.⁶⁴ The Al-Khalifa established the fortified town of Zubarah on the north-west coast of the Qatar peninsula.⁶⁵

107. Zubarah quickly emerged as the principal settlement on the virtually unpopulated Qatar coast. It was advantageously located beside the pearl-grounds of Bahrain and at the mid-point of the Gulf of Arabia. That enabled the Al-Khalifa to profit from the lucrative pearl and Indian trades. The importance of Zubarah and the Al-Khalifa rapidly increased as "a great part of the pearl and Indian trade ... centered at Zobara".⁶⁶ It was through Zubarah that the Al-Khalifa acquired their power and wealth.⁶⁷ Under the governance of the Al-Khalifa, the Zubarah region prospered and the city and its environs grew quickly.

⁶³ Francis Warden, Historical Sketch of the Uttoobee Tribe of Arabs (1716 to 1853) (from Selections from the Records of the Bombay Govt., No. XXIV, New Series, (1856) pp. 362 to 363, reproduced in Records of Bahrain, Vol. 1, pp. 20 to 21), Ann. 5, Vol. 2, pp. 14a to 15.

⁶⁴ Lorimer Vol. II, *op. cit.*, p. 1306, Ann. 74, Vol. 3, p. 397 and, Khuri, *op. cit.*, pp. 24 to 25, Ann. 227, Vol. 4, pp. 964 to 965. The Naim later assisted the Al-Khalifa in their occupation of Bahrain in 1783, Lorimer Vol. I, *op. cit.*, pp. 839 to 840, Ann. 83, Vol. 3, pp. 492 to 493.

⁶⁵ Khuri, *op. cit.*, at pp. 23 to 25, Ann. 227, Vol. 4, pp. 963 to 965.

⁶⁶ Warden, *op. cit.*, p. 363, Ann. 5, Vol. 2, p. 15.

⁶⁷ *Ibid.*

108. Zubarah's prosperity, however, made it an attractive target for raids and piracy. In response to these threats, and in order to consolidate the Al-Khalifa's rising influence in the region, Sheikh Mohammed Ben Khalifa, Sheikh of Zubarah, built the Murair Fort in Zubarah in 1768.

109. Despite this safeguard, Zubarah was, over the next two decades, the subject of relentless attacks from the Persian and Arab littorals. Two attacks were launched against Zubarah by Nasr bin Madhkur, who governed the main island of Bahrain as a dependency of the Persian Empire.⁶⁸ The Al-Khalifa recognised that they needed to control the islands of Bahrain as well as Zubarah in order securely to dominate the Gulf of Bahrain and its lucrative pearling industry. Consequently, in 1783, having enlisted the assistance of their cousins the Al-Utub tribe from Kuwait as well as scattered tribes from the Qatar peninsula, the Al-Khalifa attacked and defeated the Persian garrison on the main island of Bahrain.⁶⁹

110. Following the victory over the Persians, the Al-Khalifa quickly consolidated their control over all of the islands of Bahrain. The leader of the Al-Khalifa, Sheikh Ahmad bin Mohammed Al-Khalifa (known as Ahmad the Conqueror), appointed a representative to govern the islands of Bahrain and returned to the Al-Khalifa capital of Zubarah. The expulsion of Persia from the islands of Bahrain had removed one of the principal threats to the Al-Khalifa's control of the area. The Al-Khalifa controlled the islands of Bahrain, the Zubarah region, and, through the allegiance of local tribes, the remainder of the Qatar peninsula. Thus the

⁶⁸ Khuri, *op. cit.*, pp. 23 to 24, Ann. 227, Vol. 4, pp. 963 to 964.

⁶⁹ Lorimer Vol. 1, *op. cit.* p. 788, Ann. 83, Vol. 3, p. 441.

Al-Khalifa were able to rule over the Gulf of Bahrain and its lucrative pearl industry.

111. From 1783-1794, the Al-Khalifa Sheikhs of Zubarah continued building defences in the town of Zubarah. The town was reinforced by the construction of a channel from the sea to the entrance of the fort (a clear depression marking its route can still be seen). Fortifications and towers along the sides of the channel were built to protect vessels on their way to the fort. At the same time, a mosque and several freshwater wells to support cultivation were constructed. Walls were built to protect road access to the fort from the city gate. Thirty-five houses for the servants of the Al-Khalifa rulers were located alongside the fort.⁷⁰

112. Sheikh Ahmad the Conqueror and his successors divided their time equally between their two principal possessions, preferring to reside in the islands of Bahrain during summers and in Zubarah during winters.⁷¹ Towards the end of the 18th Century, the Al-Khalifa Sheikhs decided to establish their court permanently on the main island of Bahrain and then Muharraq Island. They appointed a governor to rule the province of Zubarah under their direction.⁷² There were several reasons for this administrative shift. The islands of Bahrain were easier to defend than Zubarah which was vulnerable to landward attacks by wandering bedouin tribes and also by the Sultanate of Muscat, located at the mouth of the Gulf of Arabia. Furthermore, the abundance of fresh

⁷⁰ Parts of the mosque and the fort were still standing as late as the early 1920s when the Al-Khalifa would go to Zubarah to hawk. See Interview of Sheikh Jasim bin Abdullah Al Khalifa by Dr. Ali Aba Hussein, Director of the Historical Documentation Centre, Bahrain, conducted on 14 December 1980, Ann. 228, Vol. 4, p. 976.

⁷¹ Khuri, *op. cit.*, p. 25, Ann. 227, Vol. 4, p. 965.

⁷² *Ibid.*

water, vegetation and agriculture coupled with a significant population base made the islands more habitable than the Qatar peninsula.

113. After the relocation of the Al-Khalifa court and the centre of its commercial activities away from the town of Zubarah, the population of Zubarah declined. The town's days as a major pearling and trading centre were over. It was overrun in 1809 by bedouin from the Arabian peninsula and again in 1811 by the Sultan of Muscat in the course of regional warfare.⁷³ After this, the town of Zubarah was largely abandoned, notwithstanding the Ruler of Bahrain's attempt to reconstruct the town of Zubarah in the 1840s.

114. Although the town became deserted, the region around it did not. The Naim owed allegiance to the Al-Khalifa Rulers of Bahrain, and recognised their authority. They continued to inhabit the region and to recognise the authority of the Rulers of Bahrain (see paragraphs 77 to 88).

115. Despite the decline of the town of Zubarah and the scattering of its population, the Zubarah region maintained its strategic importance. It was the only harbour and settled area along the coast of the Gulf of Bahrain. As such, it was a potential base from which enemies of the Al-Khalifa could attack the islands of Bahrain or raid the pearl-grounds. Attacks on Zubarah usually came from the south of the Qatar peninsula. In consequence, the Rulers of Bahrain maintained their authority throughout the entire Qatar peninsula in order to safeguard the security of the Zubarah region.

⁷³ Lorimer Vol. I, *op. cit.*, pp. 790 to 791, Ann. 83, Vol. 3, pp. 443 to 444.

116. By 1829, Britain had determined and accepted that the Rulers of Bahrain held authority in the Qatar peninsula.⁷⁴ Indeed, in his Arabian Coast Survey (meticulously conducted in 1821-1829⁷⁵), Captain George Brucks of Britain's Indian Navy recorded that, along the entire coast of the Qatar peninsula from the village that was later to become Doha on the one side up to the northern tip (Ra's Rakan) and on to the Hawar Islands on the other, "the authority of the sheikh of Bahrain is acknowledged" by all the tribes living there.⁷⁶

117. The Rulers of Bahrain encountered little resistance to their authority. In the 1820s, Captain Brucks estimated the population of the main island of Bahrain to be some "sixty thousand men".⁷⁷ In contrast, he noted only a few inhabited places along the coast of the Qatar peninsula.⁷⁸ The largest settlement observed by Captain Brucks on the Qatar peninsula was "Al-Bidder Town", (later to become Doha), which contained "about four hundred Arabs, ... in the pearl season ... augmented to about twelve hundred".⁷⁹ Even there, Captain Brucks

⁷⁴ Capt. George Brucks of the British Indian Navy, Memoir Descriptive of the Navigation of the Gulf of Persia with brief notices of the manners, customs, religion, commerce and resources of the people inhabiting its shores and islands, 1821-1829 (from Selections from the Records of the Bombay Govt., No. XXIV, New Series, (1856), reproduced in Records of Bahrain pp. 104 to 121), Ann. 7, Vol. 2, pp. 92 to 109. In Zubarah, in the 1820s, Capt. Brucks found a settlement of bedouin who acknowledged that they were "subject to Bahrain." *Ibid*, p. 112, Ann. 7, Vol. 2, p. 100.

⁷⁵ "My information has been obtained in the following manner: I have proposed to the chiefs certain questions relative to the tribes, and their localities, of the revenues, trade &c, which I have noted, with their replies. This I have done to several other persons at different periods, and then taken such of the substance as appeared to agree the best; " *Ibid*, p. 105, Ann. 7, Vol. 2, p. 93.

⁷⁶ Brucks, *op. cit.*, pp. 107 to 114, Ann. 7, Vol. 2, pp. 95 to 102.

⁷⁷ *Ibid*, p. 116, Ann. 7, Vol. 2, p. 104.

⁷⁸ *Ibid*, pp. 107 to 112, Ann. 7, Vol. 2, pp. 95 to 100.

⁷⁹ *Ibid*, p. 109, Ann. 7, Vol. 2, p. 97.

confirmed that the inhabitants were, after his usual careful enquiries, "subject to Bahrain".⁸⁰

118. During the 1820s, Britain signed treaties for the suppression of piracy with all of the Arab sheikhdoms along the coast of the Gulf of Arabia. No such treaty was signed between Britain and any entity having authority over the Qatar peninsula other than the Sheikh of Bahrain. This reflected the understanding shared by both parties that the Ruler of Bahrain held authority over the inhabitants of that peninsula. These treaties included the Agreement not to Permit the Sale in Bahrain of Property Procured by Plunder and Piracy, dated 5 February 1820, and the General Treaty for Cessation of Plunder and Piracy by Land and Sea, dated 23 February 1820.⁸¹

119. The Rulers of Bahrain exercised their authority over the inhabitants of the Qatar peninsula in conformity with traditional local custom. Even as close an observer of the history of the Gulf of Arabia as Lorimer noted, when describing the situation in the Qatar peninsula in the 1820s, that the authority of the Rulers of Bahrain in the Qatar peninsula was not questioned and the Rulers were able to enforce their authority on those who resisted it.⁸²

⁸⁰ Brucks, *op. cit.* p. 109, Ann. 7, Vol. 2, p. 97. Doha Town was, at that time "a most miserable place: not a blade of grass nor any kind of vegetation near it" as observed by Lieutenant Grubb of Britain's Indian Navy in 1822, in Lt. Kemball's Memoranda on the Resources, Localities and Relations of the Tribes inhabiting the Arabian shores of the Persian Gulf, reproduced in Records of Qatar Vol. I, p. 99, Ann. 6, Vol. 2, p. 90.

⁸¹ Aitchison, *op. cit.*, p. 233, Ann. 1, Vol. 2, p. 2, and Ann. 2, Vol. 2, p. 4 respectively.

⁸² Lorimer Vol. I, *op. cit.*, p. 794, Ann. 83, Vol. 3, p. 447.

120. The Qatar peninsula was frequently used as both refuge and power base for members of the Al-Khalifa Rulers of Bahrain during the turbulent period from 1799 to 1851. Despite dynastic and other struggles, the Rulers of Bahrain continued to exercise authority over the entirety of the Qatar peninsula from their base in the Zubarah region. This is borne out by a review of some of the historical events of the period:

(a) In 1800, the Imam of Muskat attacked the main island of Bahrain, and Sheikhs Abdullah and Salman, the joint rulers of Bahrain following the death of their father Ahmad the Conqueror, known as the "Uttoobee Sheikhs", proceeded to Zubarah with their followers. The following year, they retook the main island of Bahrain.⁸³

(b) On the death of Sheikh Salman, his son, Sheikh Khalifa, assumed joint power with Sheikh Abdullah. When Sheikh Khalifa died, Sheikh Abdullah ruled alone for a few years. In 1837, alarmed by unruliness on the main island of Bahrain, he "prepared for his removal to Khor Hassan⁸⁴ [on the west coast of the Qatar peninsula north of Zubarah] by despatching to that place two of his wives, with their families, together with the furniture of the houses, even to the very doors."⁸⁵

(c) Shortly after the death of Sheikh Khalifa, his son Mohammed began to challenge the authority of Sheikh Abdullah

⁸³ Warden, *op. cit.*, Ann. 5, Vol. 2, p. 18.

⁸⁴ A locality whose population had been estimated in the 1820s at "about one hundred" by Capt. Brucks, (modern day Khuwayr), Brucks *op. cit.*, p. 112, Ann. 7, Vol. 2, p. 100.

⁸⁵ Warden, *op. cit.*, p. 44, Ann. 5, Vol. 2, p. 38.

as Ruler of Bahrain. Anxious for the return of his loyal subjects who had fled to Abu Dhabi during an Omani raid on the main island of Bahrain in 1799, Sheikh Abdullah in 1838 encouraged his subjects to settle in his dominions "on the coast of Guttur."⁸⁶

(d) In 1841, the dissident Sheikh Mohammed began to establish pockets of opposition to the Ruler of Bahrain on "the Guttur Coast."⁸⁷

(e) In 1842, Sheikh Abdullah conducted reprisals against the dissident Sheikh Mohammed and then "with a view to concentrating and strengthening his resources on the Guttur Coast, planned and commenced the rebuilding of Zobara."⁸⁸

(f) In 1843, Sheikh Mohammed seized Zubarah from Sheikh Abdullah and launched a successful offensive on the main island of Bahrain from Fuwairat, a small settlement on the northern coast of the Qatar peninsula, and thus took power on the main island of Bahrain.⁸⁹

(g) Later in 1843, the British authorities welcomed the arrival of an ally of Sheikh Mohammed, by then Ruler of Bahrain, in Doha Town because "it took Dohah out of the hands of a

⁸⁶ Letter from Lt. Hennell, British Political Resident, to I.P. Willoughby, Secretary of the Govt. of Bombay, 11 December 1838, Ann. 3, Vol. 2, p. 9 and confirmed at Warden, *op. cit.*, pp. 44 to 45, Ann. 5, Vol. 2, pp. 38 to 39.

⁸⁷ Warden, *op. cit.*, p. 49, Ann. 5, Vol. 2, p. 43.

⁸⁸ *Ibid.*, p. 53, Ann. 5, Vol. 2, p. 47.

⁸⁹ Lorimer, *op. cit.*, p. 799, Ann. 83, Vol. 3, p. 452.

headman of the Sudan tribe who was more addicted to piracy than to regular war."⁹⁰

(h) In 1851, there was an apparent defection of "the towns on the Guttur Coast" from the Ruler of Bahrain to the Wahhabi Emir on the Arabian coast. Sheikh Mohammed, then Ruler of Bahrain, sent his brother to make peace with the Emir's envoy. The two Rulers reached an agreement which enabled the defectors once more to become vassals of the Rulers of Bahrain provided that they paid a tribute "for the return of all [the Ruler of Bahrain's] forts". In a report by Commodore JP Porter of Britain's Indian Navy:

"all the [Doha] people came to Ally ben Khuleefa [Ali Al-Khalifa] to ask pardon and he pardoned them all except Sheikh Fuldal, the Sheikh of Wukra ...After this Ally ben Khuleefa wanted to bring all the Guttur people to Bahrein, but they said excuse us for 2 months while we go to fish for pearls after which we will go wherever you like."⁹¹

(i) As described above (see paragraph 75), the Naim tribe had been living in the Zubarah region since the late 18th Century at the invitation of the Rulers of Bahrain.⁹²

121. These events demonstrate the link between the Al-Khalifa family and their ressortissants on the Qatar peninsula. The territorial extent of the authority held by the Al-Khalifa over the inhabited section of the

⁹⁰ Lorimer, *op. cit.*, p. 799, Ann. 83, Vol. 3, p. 452.

⁹¹ Letter from Commodore Porter, to Lt. Col. Hennell, British Political Resident, 31 July 1851, Ann. 4, Vol. 2, p. 13.

⁹² Lorimer Vol. 2, *op. cit.*, pp. 1305 to 1306, Ann. 74, Vol. 3, pp. 396 to 397.

Qatar Peninsula encompassed both the Zubarah region and the region around Doha Town as well as all the territory in between.

122. The Persian Gulf Pilot (1864), an official record of the geography and political configuration of the Gulf of Arabia compiled by the British Navy, documented the authority of the Rulers of Bahrain over the Al-Thani and Doha, noting the limited Al-Thani role:

"The [Al-Thani] Sheikh of [Doha], who is under Bahrein, has some authority over the chiefs of [Doha]."⁹³ (Emphasis added.)

123. Events in the region were tumultuous during this period and the authority of the Rulers of Bahrain over the scattered tribes of the peninsula did not go unchallenged. Indeed, there was considerable rivalry between the Wahhabis of the Arabian peninsula and the Bahrainis. In 1862, a letter from a British official stationed in the Gulf of Arabia to the Ruler of the Wahhabis requested that the Wahhabis desist from:

"sowing dissension amongst the tribes subject to Bahrain on the Gutter coast ... the quiet of the Chiefs and people of Bahrein being thus constantly disturbed ... [Bahrain will declare war on you in order to stop your interference] and independent as we recognise the Chief of Bahrein to be I shall I fear be unable to restrain him from the exercise of his legitimate rights and prerogatives ... Nay it will be my duty to respect and even uphold those rights and prerogatives ..." ⁹⁴ (Emphasis added.)

In this letter, Britain once again confirmed its assessment that the Ruler of Bahrain had authority over the Qatar peninsula and that the people living there were the "people of Bahrain".

⁹³ Capt. C.G. Constable and Lt. A.W. Stiffe, The Persian Gulf Pilot (1864), p. 105, Ann. 11, Vol. 2, p. 135.

⁹⁴ Letter from Capt. Jones, British Political Resident, to Ruler of Wahabees, 8 February 1862, Ann. 9, Vol. 2, p. 114.

124. The Rulers of Bahrain exercised their authority on the Qatar peninsula in a variety of ways. In 1863, as a result of complaints against the lawlessness of the inhabitants of the south-east coast of the Qatar peninsula, the Ruler of Bahrain appointed his cousin Muhammed bin Ahmad to act as his governor. In 1863, a British dispatch noted that the Ruler of Bahrain had exercised his authority in order to prevent the east coast of the Qatar peninsula from being used as a pirate haven:

"(T)he Sheikh of Bahrein has, without any urging from me, caused the evacuation of a place named Wukra on his main coast, where ... disreputable characters, used to collect and injure Trade, or disturb the peace. The Sheikh has brought the Chief of Wukra to Bahrein in custody."⁹⁵ (Emphasis added.)

The dispatch is further evidence from a disinterested third party that the Bahrain Ruler's territory included the Qatar peninsula, the eastern part of which was considered his "main coast".

125. At some time in the mid-1860s - it is not possible to determine precisely when - the Ruler of Bahrain entered into an agreement with the Ruler of the Wahhabi tribe in order to protect his subjects in the Qatar peninsula from Wahhabi raids. The terms of the agreement were that the Ruler of Bahrain would pay to the Ruler of the Wahhabis a yearly sum of money and in return the Wahhabis would not molest the inhabitants of the Qatar peninsula.⁹⁶ This arrangement ended the Wahhabi attacks.⁹⁷

126. The Rulers of Bahrain imposed taxes and religious tithes on the inhabitants of the Qatar peninsula as a matter of course. In 1866, the local tribal chiefs of the area known as the "Guttur coast" (Doha and its

⁹⁵ Letter from Lt. Col. Pelly, British Political Resident, to H. Anderson, Chief Secretary of the Govt. of Bombay, 13 April 1863, Ann. 10, Vol. 2, p. 116.

⁹⁶ Lorimer Vol. I, *op. cit.*, p. 800, Ann. 83, Vol. 3, p. 453.

⁹⁷ *Ibid.*

environs), dissatisfied at the level of taxation imposed by the Ruler of Bahrain, rebelled against Bahrain. The Ruler of Bahrain was incensed at this disloyalty. In order to punish this insubordination, the Ruler of Bahrain (in coordination with the Sheikh of Abu Dhabi as his ally) largely destroyed Doha and Wakrah in 1867.⁹⁸ When the incident threatened to escalate further, Britain, which was concerned to maintain the maritime peace of the region, intervened. In 1868, Britain sent its Political Resident, Colonel Pelly, to the city of Wakrah on the east coast of the Qatar peninsula in order to meet with the local tribal chiefs in the area around Doha Town.⁹⁹

127. Colonel Pelly heard the grievances of the rebel Sheikhs and then compelled them to return to the Bahraini fold. He made them formally express their recognition of the authority of the Ruler of Bahrain by agreeing to return to the practice of paying taxes and tribute to the Ruler of Bahrain. Colonel Pelly imposed these unilateral personal undertakings on the local chiefs in two documents, dated 12 and 13 September 1868.¹⁰⁰ In the 12 September 1868 unilateral undertaking, entitled Agreement of the Chief of El-Kutr (*Gutter*) engaging not to commit any breach of the maritime peace, 1868, Muhammed Al-Thani, whose descendents became the Rulers of Qatar, bound himself to "maintain towards Sheikh Ali bin Khalifeh, Chief of Bahrain, all the relations

⁹⁸ Lorimer Vol. 1, *op. cit.*, pp. 800 to 801, Ann. 83, Vol. 3, pp. 453 to 454.

⁹⁹ *Ibid.*, p. 801, Ann. 83, Vol. 3, p. 454.

¹⁰⁰ The terms imposed by Britain have occasionally been referred to erroneously in the past as constituting a treaty. This is not possible, however, because while Britain regarded Bahrain as independent at that time (see para 123) it regarded the Qatar peninsula and its inhabitants as part of Bahrain (see para 124).

which heretofore subsisted between me and the Sheikh of Bahrain".¹⁰¹ In the related unilateral undertaking dated 13 September 1868, the principal local chiefs, including Mohammed bin Thani, undertook that the taxes and tribute payable by them to Bahrain would be collected from all the local chiefs on behalf of the Ruler of Bahrain by Mohammed bin Thani and paid to the Ruler of Bahrain through the British Government:

"We, the undersigned Chiefs, all residing in the province of Qatar, do hereby solemnly agree and bind ourselves to pay to Sheikh Ali bin Khalifa, Chief of Bahrein, the sums of money per annum heretofore paid by us to the Chiefs of Bahrein, as follows: this total sum to be paid by us to Muhammad bin Thani of Doha and by him to the Resident for delivery to the agent of the Chief of Bahrein, at Bushire:

1,700 Krans on account of the Mahanda tribe,

1,500 Krans on account of the Al Bu Aainen and Nayim tribes,

500 Krans on account of the Semsemieh tribe (i.e. the Al Bu Kuwara, who live at Sumesma),

500 Krans on account of the Keleb tribe,

1,500 Krans on account of the Sudan tribe,

2,500 Krans on account of Muhammad bin Thani (Chief of the Maadhid) and the Musallam tribe,

800 Krans on account of the Amamera tribe.

9,000 Krans total

And we, the said Chiefs, understanding that the Bahrein Chief claims from us a total of 15,000 Krans per annum in lieu of 9,000 as above set forth, we do hereby further agree to pay any extra sums not aggregating a total larger than 15,000, which the Resident after judicial investigation may decree.

¹⁰¹ Article 5, Agreement of the Chief of El-Kutr engaging not to commit any Breach of the Maritime Peace, 1868, in Aitchison, *op. cit.*, p. 183, Ann. 12, Vol. 2, p. 157.

Written on the 25 Jamadi-ul-Awal 1285/13th September 1868."¹⁰² (Emphasis added.)

128. Following the meeting with the rebel chiefs, Colonel Pelly addressed a letter to all of the rebel chiefs of Qatar, confirming to them the nature of the terms imposed on them and warning them of the consequences of any future breach of the maritime peace.¹⁰³ The tax and tribute terms placed Muhammed Al-Thani on a stature equal to the six other local tribal chiefs subject to the Ruler of Bahrain's authority.

129. The 12 September 1868 document was similar to the undertakings signed by the Sheikh of Bahrain on 6 September 1868 and by the Sheikh of Abu Dhabi on 16 September 1868.¹⁰⁴ All three were imposed by Britain (through Colonel Pelly) in response to the breaches of the maritime peace described above. These unilateral undertakings were of a personal character. They were not treaties between Britain and sovereign political entities. This is evident by contrasting the documents manifesting the 1868 unilateral undertakings with various British treaties with Bahrain and Abu Dhabi. British practice in relation to Bahrain and Abu Dhabi both before and after the 1868 incident shows that from the mid-19th Century onward Britain concluded treaties with them following recognised international formalities. Thus, the 31 May 1861 Friendly Convention entered into between Sheikh Mohamed bin Khuleefa, independent Ruler of Bahrain, on the part of himself and

¹⁰² Aitchison, *op. cit.*, p. 193, Ann. 13, Vol. 2, p. 160.

¹⁰³ Lorimer Vol. I, *op. cit.*, p. 802, Ann. 83, Vol. 3, p. 455.

¹⁰⁴ Agreement entered into by Ali bin Khuleefa, Sheikh of Bahrain - 1868 6 September 1868, Aitchison *op. cit.*, pp. 236 to 237 Ann. 317, Vol. 6, pp. 1415 to 1416. Agreement of the Aboo Dhebbie Chief engaging not to commit any breach of the Maritime Peace, 1868 16 September 1868, Aitchison, *op. cit.*, pp. 254 to 255, Ann. 14, Vol. 2, p. 161.

successors, and Captain Felix Jones, Her Majesty's Indian Navy, Political Resident of Her Britannic Majesty in the Gulf of Persia on the part of the British Government was signed by Bahrain and Britain as Parties; approved by the British Governor-General-in-Council on 9 October 1861; and ratified by the Government of Bombay on 25 February 1862.¹⁰⁵ Such formalities were also observed by Britain in the Anglo-Bahraini Treaty of 22 December 1880,¹⁰⁶ and in the Exclusive Agreement of the Shaikh of Bahrein with the British Government of 13 March 1892,¹⁰⁷. So, too, the Exclusive Agreement of the Chief of Abu Dhabi with the British Government of 6 March 1892 was signed by the Parties and ratified by the Viceroy and Governor-General of India.¹⁰⁸ In marked contrast, no such formalities were observed in relation to any of the 1868 unilateral undertakings.¹⁰⁹

130. The formalisation of the taxes payable by the dependent tribes of the Qatar peninsula to the Ruler of Bahrain in this manner confirmed him as the sovereign authority on the peninsula. This included the Al-Thani chief of Doha who, although he had been informally identified as a spokesman and tax collector for the local tribes, had expressly

¹⁰⁵ Friendly Convention entered into between Sheikh Mohamed in Khuleefa, independent ruler of Bahrain, on the part of himself and successors, and Capt. Felix Jones, Her Majesty's Indian Navy, Political Resident of Her Britannic Majesty in the Gulf of Persia on the part of the British Govt., 31 May 1861, Aitchison, *op. cit.*, pp.234 to 236, Ann. 8, Vol. 2, pp. 111 to 113.

¹⁰⁶ Agreement signed by the Chief of Bahrein, 22 December 1880, Aitchison, *op. cit.*, p.237 for ratification procedure, Ann. 37, Vol. 2, p. 215.

¹⁰⁷ Exclusive Agreement of the Shaikh of Bahrein with the British Govt., 13 March 1892, Aitchison, *op. cit.*, p. 238, Ann. 318, Vol. 6, p. 1418.

¹⁰⁸ Exclusive Agreement of the Chief of Abu Dhabi with the British Govt., 6 March 1892, Aitchison, *op. cit.*, p. 256, Ann. 50, Vol. 2, pp. 247 to 248.

¹⁰⁹ The acceptance of the unilateral undertakings by Mohamed bin Thani and the Ruler of Abu Dhabi were merely witnessed by Col. Pelly and Capt. R. Brown of the British Navy.

acknowledged the continuing authority of the Rulers of Bahrain and their right to claim taxes from him.

SECTION 2.3 The Al-Thani family emerged from being local tax collectors to being chiefs of Doha Town under the authority of Bahrain in 1867

131. It is not entirely clear how the Al-Thani family became prominent in Doha Town. Lorimer's 1909 Gazetteer of the Persian Gulf, in describing the history of the Qatar peninsula, noted:

"Nothing is known of the manner in which the Al-Thani had attained by 1868 to predominant influence in Qatar; they were Maadhid and therefore of the Al bin-Ali, the tribe of Isa-bin-Tarif."¹¹⁰

132. The Al bin Ali tribe had originally been important followers of the Al-Khalifa family in their 18th Century defeat of the Persians and conquest of the islands of Bahrain. They remained loyal subjects of the Rulers of Bahrain for many years after that. One of the Rulers of Bahrain, Sheikh Abdullah, married a woman from the Al bin Ali tribe and had three sons by her. Some of the Al bin Ali tribe fell out with the Rulers of Bahrain during a dynastic struggle.¹¹¹ At some point thereafter, the Al-Thani family began to exercise influence in Doha as its principal pearl merchants and tax collectors. In 1864, the Persian Gulf Pilot described the Al-Thani chief as having some authority over the chiefs in the towns of Doha, Little Doha and Al Bida (settlements

¹¹⁰ Lorimer Vol. I, *op. cit.*, p. 802, Ann. 83, Vol. 3, p. 455.

¹¹¹ Lienhardt, *op. cit.*, pp. 66 to 67, Ann. 225, Vol. 4, p. 941 referring to Shaykh Muhammed bin Khalifah al-Nabhani, Al-Tufhat al-Nabhaniyah fi Ya'rikh al-Jazirah al-Arabiyyah, (1914).

located within a one-mile stretch of the coastline).¹¹² By 1868, the Al-Thani family were recognised as chiefs of Doha.¹¹³

133. While Mohammed bin Thani had been identified as having some standing over the other local chiefs, the geographic extent of that standing was limited. An internal report of the Ottoman Empire dated 8 June 1871 described the role of the Al-Thani in the following terms:

"[Mohammed bin Thani] residing in [Doha] has no rule over the other villages. The leadership of each village has been left to the local sheikhs. As for [Mohammed bin Thani], in respect of the dependent villages, he holds the position of tax collector and his duty consists of collecting the annual taxes and the taxes from pearl fishing from the people."¹¹⁴

In a letter to the British Political Resident, Mohammed bin Thani's son Jasim, who had succeeded his father as the chief of Doha Town, described the geographic limitations of his father's influence as Chief in 1868, as well as his own in 1881:

"... I have no power over [the Katar coast]. You are aware of the treaty made in the time of my father [1868] between us and the British Govt. namely that we were only to be responsible for [Doha Town] and Al Wakra.

The Al Katar Coast is very large and extensive and I have not the power to forbid anyone from landing or embarking and unless you give strict orders to all the people of Al Katar ... to migrate and settle in my country and be subject to me."¹¹⁵ (Emphasis added.)

¹¹² Capt. Constable and Lt. Stiffe, *op. cit.*, at p.105, Ann. 11, Vol. 2, p. 135.

¹¹³ Lorimer, *op. cit.*, p. 801, Ann. 83, Vol. 3, p. 454.

¹¹⁴ Extract from Ottoman Official Gazette "Takvimi Vekayi", 8 June 1871, Ann. 16(a), Vol. 2, p. 167.

¹¹⁵ Letter from Sheikh Jasim bin Thani to Lt. Col. Ross, British Political Resident, 9 March 1881, Ann. 38, Vol. 2, p. 216.

134. There is thus no historical basis for the assertion that by 1868 Mohammed Al-Thani was a chief independent of the Ruler of Bahrain, or that there existed even a nucleus of an independent State of Qatar.¹¹⁶ Any possible pretensions to that effect were dispelled by Mohammed bin Thani himself. When confronted with troubles from other local Qatari tribes in 1870, he turned to the Ruler of Bahrain for assistance.¹¹⁷ In doing so, Mohammed bin Thani expressly confirmed his subordination to the Ruler of Bahrain in the following correspondence:

"I am your [the Ruler of Bahrain's] subject and want you to inform [Britain] of the troubles we undergo..."¹¹⁸

In this manner, the chief of Doha acknowledged the Ruler of Bahrain to be his sovereign as of 1870.

135. Taking all of these factors into account, one must conclude that, as of 1871, when the Ottoman Empire took control of Doha and its environs (see paragraphs 140 to 142), the Rulers of Bahrain exercised authority over the Qatar peninsula as a whole (and *a fortiori* of the Zubarah region). The Al-Thani Chiefs controlled only Doha Town and its environs.

SECTION 2.4 Britain's influence in the region was based on protecting trade and keeping the maritime peace

136. Britain became involved in the political affairs of the Arabian peninsula and the Gulf of Arabia from the 1820s principally due to its

¹¹⁶ Capt. Constable and Lt. Stiffe, *op. cit.* had concluded that Mohammed bin Thani was a local chief "who is under Bahrein", p. 105, Ann. 11, Vol. 2, p. 135.

¹¹⁷ Translated purport of a letter from Mahommed bin Thani, Chief of Doha Town, to Ruler of Bahrain, 10 March 1870, Ann. 15, Vol. 2, p. 164.

¹¹⁸ *Ibid.*

commercial interest in protecting maritime trade routes to India. Britain did not interfere formally in the internal affairs of the States in the region, but insisted that they refrain from piracy or maritime warfare. Britain concluded anti-piracy treaties in the 1820s with the regional States and rulers, including Bahrain. The treaties were aimed at ensuring the safe passage of the British ships of the East India Company. In return for ensuring their maritime peace, Britain agreed to protect the States from attack.

137. In order to exert influence over the course of events in the Gulf of Arabia, Britain established a regional administrative centre at Bushire on the Persian coast where Britain's interests in the Gulf of Arabia were supervised by an official with the title of "Political Resident". Other subordinate officials, with the title of "Political Agent", functioned under the authority of the British Political Resident in Bushire. British Political Agents were stationed throughout the Gulf of Arabia, including Bahrain. The entire British administrative apparatus in the Gulf of Arabia reported to the British Government through the British Indian Government, and after India's independence directly to London.¹¹⁹

138. The issue of control over the Qatar peninsula had never been a significant concern for Britain until the Ottoman Empire expanded its control into Doha in 1871. Before then, Britain had supported the authority of the Rulers of Bahrain in the peninsula (see Section 2.2 starting at paragraph 104 and Section 2.3 starting at paragraph 131). Following the Ottoman expansion, Britain's assessment of the issue of

¹¹⁹ See App. 4(II) for an organigramme of the British administrative structure in the region. Prior to Indian independence in 1947, the British Govt. of India was responsible for colonial administration of India and Britain's possessions and protectorates in the Middle East. It was answerable to the British Govt. in London. No substantive distinction is made in this Memorial between the two.

control over the Qatar peninsula was informed by its larger strategic interests in relation to the general expansion of the Ottoman Empire in the Arabian region. Initially, Britain was complacent about the Ottoman advance into Doha expecting the Ottomans to cooperate in maintaining order in the Gulf of Arabia.¹²⁰

139. Although Britain did not want to antagonise the Ottoman Empire over what it considered to be the relatively unimportant question of who exercised authority over the northern edge of the barren Qatar peninsula, Britain was firm in its conviction that it would not tolerate Ottoman expansion north of the region of Doha (which was referred to by the Ottomans as the "*kaza*" or province of Qatar). There was, however, no point in making the question of authority over the northern part of the Qatar peninsula an issue until the need arose. In 1871, the British Political Resident, Lieutenant-Colonel Pelly, obtained the agreement of the British Government to defer the question of control over the Qatar peninsula.¹²¹ He argued that it seemed probable at that point that the Ottoman Empire would soon withdraw from the southern Arabian peninsula in any event. His reluctance to press the issue was reiterated in 1873 when he advised that Britain should defer questions of territorial sovereignty in the Qatar peninsula for as long as possible. His reasoning was that the time to confront the issue would be if or when the Ottoman Empire evidenced any definite interest in expanding beyond Doha and its environs.¹²²

¹²⁰ Saldana, *op. cit.*, p. 1, Ann. 70, Vol. 2, p. 289.

¹²¹ Letter from Lt. Col. Ross, British Political Resident, to Secretary to the Govt. of India, 4 September 1873, Ann. 20, Vol. 2, p. 175.

¹²² Letter from Col. Pelly to Secretary to Govt. of India, 27 October 1873, Ann. 22, Vol. 2, p. 182.

SECTION 2.5 The Ottoman Empire expanded into the south-east of the Qatar peninsula through the Al-Thani chiefs of Doha Town in 1871

140. The expansion of the activities of the Ottoman Empire into the south of the Qatar peninsula is an important episode in the history of the region.

141. The Ottomans moved into the Arabian peninsula from the north during the latter half of the 19th Century. Shortly after the chief of Doha's avowal of fealty to the Ruler of Bahrain in 1870 (see paragraph 134 above), the armies of the Ottoman Empire reached the base of the Qatar peninsula. The Al-Thani saw in this development an opportunity to break free from Bahrain's authority. The chief of Doha, Mohammed bin Thani, was understandably reluctant to risk punishment for a second rebellion against Bahrain's authority in the Qatar peninsula. However, at the urging of his ambitious son Jasim, Mohammed bin Thani accepted the umbrella of protection that might be afforded by the Ottoman Empire.¹²³

142. Thus it was that in 1871, one year after he had appealed to the Ruler of Bahrain for help, the chief of Doha repudiated the authority of the Ruler of Bahrain and invited the Ottoman Empire to take control of his territory. The agreement between the Ottoman Empire and Mohammed bin Thani provided for the Ottoman Empire to establish a garrison in Doha Town and to fly the Ottoman flag there. In return, the chief of Doha was appointed the Ottoman assistant governor - *Kaimmakam* - of the city and was given Ottoman protection.

¹²³ Lorimer Vol. I, *op. cit.*, p. 803, Ann. 83, Vol. 3, p. 456.

143. As things transpired, the submission of the chief of Doha to the authority of the Ottoman Empire weakened rather than strengthened his political position. He was subject to Ottoman administrative procedures and was given no authority to control the conduct of the Ottoman soldiers and officials. For example, in reply to a complaint from the Chief of Dubai over robberies of Dubai ships in the Ottoman colony, the British Political Resident observed that "the robberies were apparently committed by disorderly Turkish soldiers over whom the Arab Chiefs of Guttur themselves have no control."¹²⁴ The local chiefs were subservient to the Ottoman Empire in every respect.

144. In referring to the situation prevailing in Doha in September 1875, the British Political Resident's Second Assistant, Lieutenant Fraser, made the following observation:

"Mahomed bin Thani [the chief of Doha], though now averse to, and desirous of freeing himself from the thralldom of Turkish control, is afraid of exhibiting outward symptoms of disaffection, which would probably result in his removal to Constantinople and detention there for an indefinite period.

Jasim Agha, the Turkish officer, is consulted in all matters connected with the Chief's policy and administration and nothing can be done without his concurrence. Such curtailment of power is extremely irksome to Mahomed bin Thani, and also to his ambitious son, Jasim ... The Turkish flag is flown of course."¹²⁵

145. Even the limited authority the Ottomans assigned the chief of Doha were not, in fact, exercised. In 1887, the Ottoman Council of State - Department of Internal Affairs noted:

"Sheikh Jasim has for a long time functioned only in name as provincial governor in the Qatar District between Oman and Bahrain. He stays in Qatar two or three months a year...and he

¹²⁴ Saldana, *op. cit.*, Ann. 70, Vol. 2, p. 291.

¹²⁵ *Ibid.*, Ann. 70, Vol. 2, p. 299.

spends the rest of his time with the tribes in the desert...It is essential that you ... immediately relieve Sheikh Jasim of his official authority and appoint in his place a different governor."¹²⁶

As will be recalled, the Ottoman Empire used the term "Qatar" (and similar spellings) to refer to Doha and its immediate environs.

146. The status of the chief of Doha had deteriorated by 1888. He lived in fear of the Ottomans and was concerned that their erosion of his power and their onerous occupation might combine to drive away the local inhabitants. The Political Resident, Lieutenant-Colonel Ross, observed that:

"he does not know what the Turks may do to him and the inhabitants of El Katar; the latter are Bedouins and own no date plantations or other landed property, that might compel them to patiently bear any oppression; and possibly they may leave the place and go elsewhere, as it is intimated."¹²⁷

147. The Ottomans and the Al-Thani shared a mutual interest in expanding the range of their authority beyond Doha and its environs. But they were jointly and severally unsuccessful in realising that interest (see Section 2.6 starting at paragraph 156 and Section 2.7 starting at paragraph 167). Relations between the Ottomans and the Al-Thani deteriorated and the chief of Doha began to seek other ways to ensure his independence and perhaps expand his jurisdiction. In 1893, Jasim Al-Thani, who had succeeded his father as Chief, began courting Britain in an attempt to escape from his relationship with the Ottoman

¹²⁶ Report, 18 January 1887, from Ottoman Council of State - Department of Internal Affairs concerning reforms in the province of Nejd, Ann. 39, Vol. 2, p. 217.

¹²⁷ Letter from the British Political Agent, to Lt. Col. Ross, British Political Resident, 27 June 1888, Ann. 43, Vol. 2, p. 234.

Empire,¹²⁸ even though that might have meant risking that Britain would continue to support the Ruler of Bahrain's sovereignty over the entire Qatar peninsula, possibly including Doha.

148. In 1893, in a meeting held with the British Political Resident in Wakrah, the chief of Doha offered to return to paying tribute to the Rulers of Bahrain. It was reported by the Political Resident that:

"Shaikh Jasim at once acknowledged the rights of Bahrain and expressed his willingness to pay tribute as before."¹²⁹

The British Political Resident also reported that the Chief would like British protection:

"When Shaikh Jasim had finished what he had to say about past events, I asked him what his views were as to the future. He said that he wished for British protection, and a place of safety to which he might retire."¹³⁰

149. In 1898, the chief of Doha took a leading part in an attack against the Ottoman garrison in Doha.¹³¹ As punishment, the Ottomans confiscated the Chief's property.

150. Relations between the Ottomans and the Al-Thani continued to deteriorate and the Al-Thani continued to cultivate contacts with Britain. In November 1898, Ahmed Al-Thani, a brother of the chief of Doha made it clear in an interview with a British naval officer, Lieutenant Robinson, that it was their wish to turn out the Ottomans "and they

¹²⁸ See letter from Lt. Col. Talbot, British Political Resident, to Secretary to Govt. of India, 7 May 1893, referring to his meeting with Chief of Doha at Wakrah, Ann. 51, Vol. 2, pp. 249 to 253.

¹²⁹ *Ibid*, Ann. 51, Vol. 2, p. 251.

¹³⁰ See letter from Lt. Col. Talbot, British Political Resident, to Secretary to Govt. of India, 7 May 1893, referring to his meeting with Chief of Doha at Wakrah, Ann. 51, Vol. 2, p. 250.

¹³¹ Saldana, *op. cit.*, p. 45, Ann. 70, Vol. 2, p. 333.

would be pleased to enter into the same treaties with the British Government as have the Trucial Chiefs".¹³²

151. By 1900, Ottoman interest in the Qatar peninsula was decreasing. Britain began reconsidering its policy towards the chief of Doha and the Qatar peninsula. British officials commented on the desirability of obtaining a better hold on Qatar and of coming to some permanent arrangement with Sheikhs Jasim and Ahmed.¹³³

152. In 1902, the Al-Thani renewed their offer to switch allegiances from the Ottomans and come under British protection. They expressly acknowledged that the Ruler of Bahrain had a significant and authoritative presence on the Qatar peninsula. The Assistant British Political Resident, J.C. Gaskin, reported in July 1902 that the chief of Doha had promised that:

"if [the chief of Doha] were taken under the protection of His Majesty's Government, he would reside at any place in Katar approved by the Government and further that he would hold himself responsible to keep the seas round Katar free from pirates and would co-operate with His Majesty's Government and the Chief of Bahrein in any matters which might concern them on the main land."¹³⁴

153. By 1902, some British officials had begun occasionally to refer to the chief of Doha as the "Chief of Qatar". Nonetheless, Britain remained uncertain of the precise status that could properly be attributed to the Al-Thani. In 1902, the British Political Resident, Colonel Kemball, requested authority from the British Secretary of State for India to make enquiries about the precise status and extent of jurisdiction

¹³² Saldana, *op. cit.*, p. 46, Ann. 70, Vol. 2, p. 334.

¹³³ *Ibid*, p. 48, Ann. 70, Vol. 2, p. 335.

¹³⁴ Saldana, *op. cit.*, p. 49, Ann. 70, Vol. 2, p. 337.

of the chief of Doha. In July 1902, the Government of India observed that:

"should it prove that the Sheikh is established as Chief of Katar, we would propose to authorise Colonel Kemball to conclude with him an Agreement similar to those which have been executed with the Trucial Chiefs of the Arab Coast."¹³⁵

154. However, despite Britain's interest in developing relations with the Al-Thani, the investigations of British officials in the region revealed that their authority was still not extensive. Indeed it was, in fact, diminishing. The Assistant British Political Resident, J.C. Gaskin, observed in 1903 that:

"the influence of the Thani family was likely to decrease in Katar because most of the Arabs being pearl divers, who had grown rich by the bounty of Sheikh Jasim, would soon be less dependent upon his bounty."¹³⁶

155. The precarious position of the chief of Doha and his family in terms of their limited authority in the Qatar peninsula, even at that time, was underscored by the British Political Resident, Colonel Kemball. He concluded that an agreement between Britain and the chief of Doha would enable the latter to consolidate his standing with the local tribes because he could thereby offer them protection against the Ottomans.¹³⁷ Ultimately, Britain decided not to enter into such an agreement for fear of creating an Anglo-Ottoman crisis.¹³⁸

¹³⁵ Suldana, *op. cit.*, p. 50, Ann. 70, Vol. 2, p. 338.

¹³⁶ *Ibid.*, p. 55, Ann. 70, Vol. 2, p. 343.

¹³⁷ *Ibid.*, p. 56, Ann. 70, Vol. 2, p. 344.

¹³⁸ *Ibid.*, pp. 52 to 53, Ann. 70, Vol. 2, pp. 340 to 341, citing a report from the British Ambassador to Turkey, Sir N. O'Connor, to the Secretary of State for India of 14 March 1903.

SECTION 2.6 The Ottoman Empire's authority in the Qatar peninsula never expanded beyond Doha Town and its environs

156. At this point it may be helpful to consider in greater detail the geographical extent of the Ottoman and Al-Thani authority on the Qatar peninsula.

157. At the time that the Ottoman Empire sent its garrison to Doha in 1871, the local Chief's authority was limited to the town and its environs. Britain's evaluation was that the Al-Thani family only had the power to grant a limited "foothold" on the Qatar peninsula. A secret report to the British Secretary of State for India dated 22 May 1879, emphasised that:

"...whatever foothold [the Ottoman Empire] may have acquired in El Katr was obtained ... by the invitation of the local chiefs of (Doha)."¹³⁹

158. This evaluation can be confirmed by reference to a similar evaluation by the Ottoman Empire. In a report dated 8 June 1871, the Ottomans confirmed the limited extent of the area controlled by the Al-Thani:

"the leader residing in (Doha) has no rule over the other villages."¹⁴⁰

159. In 1881, even after nine years under the control of the Ottoman Empire, the chief of Doha acknowledged in a letter dated 9 March 1881 to the British Political Resident, Lieutenant-Colonel Ross, that his

¹³⁹ Govt. of India Foreign Dept. Memorandum No. 127, 22 May 1879, Ann. 36, Vol. 2, p. 210.

¹⁴⁰ Extract from Ottoman Official Gazette "Takvimi Vekayi", 8 June 1871, Ann. 16, Vol. 2, p. 167.

authority on the Qatar peninsula was limited to Doha Town and Wakrah. In it, the chief of Doha described the geographic limitations of his own authority in the following manner:

"You write to me that I should keep guard over the whole of the Katar Coast but I have no power of it. You are aware of the treaty made in the time of my father [1868] between [the Al-Thani family] and the British Govt. namely that we were only to be responsible for [Doha] and Al Wakra.

The Al Katar Coast is very large and extensive and I have not the power to forbid anyone from landing or embarking unless you give strict orders to all the people of Al Katar ... to migrate and settle in my country and be subject to me. I should then be able to prevent disturbances on the Katar Coast. I have before reported you this state of the case and that I am powerless. I even fear for myself and my property." (Emphasis added.)¹⁴¹

160. As was described above, Britain's primary interest in the area since 1820, when it had organised the anti-piracy treaty system with the sheikhdoms along the southern shores of the Gulf of Arabia, had been to secure the trade routes to India (see paragraph 136). It became apparent to Britain that the Ottoman Empire was unable effectively to control even the part of the Qatar peninsula that it occupied. The local chiefs around Doha sheltered under Ottoman protection, but the Ottomans had not assumed governmental responsibilities in order to control the activities of the local chiefs. In a letter dated 19 December 1874, Lieutenant-Colonel Ross, the Political Resident, observed:

"The chief cause of embarrassment as regards the maintenance of peace and neutrality by sea between Bahrein and Katar lies in the present uncertainty as to the question with whom responsibility rests. The various mainland Sheikhs may shelter themselves under Turkish protection whilst the latter power has not formally assumed Government duties. Were the responsibilities more

¹⁴¹ Letter from Sheikh Jasim bin Tani, Chief of Doha Town, to Lt. Col. Ross, British Political Resident, 9 March 1881, Ann. 38, Vol. 2, p. 216.

decidedly fixed the constant inconvenient anxiety about Bahrein would disappear."¹⁴²

161. By December 1887, Britain had concluded that it would not recognise Ottoman sovereignty over the "sea coast of Katar",¹⁴³ i.e. over the settled parts of the peninsula, as there were no inland settlements. Britain had decided that the Ottomans were unable to control the tribes in the areas in which they exercised authority, or to maintain security over the adjacent waters. By December 1887, the British Political Resident, Lieutenant-Colonel Ross observed:

"after his further experience and observation of the mode of procedure and policy of the Turkish authorities on the Arabian side of the Gulf, it seemed hopeless to expect a state of security to result from Turkish exclusive control, even where they were firmly established."¹⁴⁴

162. In the modern era, the term "Qatar" refers to the peninsula of that name and the State that occupies most of the territory on the peninsula. The Ottoman Empire, however, used the term *kaza* (or province) of "Katar" to refer only to Doha and its environs.¹⁴⁵ The Ottoman Empire considered the province of Qatar to be distinct from the Zubarah and Odaid regions. An example of this is a report of the Ottoman assistant to the governor of Qatar that distinguished between "Zubarah and Udaid" and "the town of Katar itself".¹⁴⁶

¹⁴² Saldana, *op. cit.*, p. 3, Ann. 70, Vol. 2, p. 295

¹⁴³ *Ibid*, p. 32, Ann. 70, Vol. 2, p. 320.

¹⁴⁴ *Ibid*.

¹⁴⁵ Ottoman Report, 1891-92, referring to "Town of Katar" and its "dependent villages", Ann. 49, Vol. 2, p. 245. See map of the *Velayat* of Basra prepared by Capt. Izzet of the Imperial Army of the Ottoman Empire (1878), reproduced following page 6.

¹⁴⁶ Letter dated 7 November 1891 from the Ministry of the Assistant *Kaimmakam* of Qatar, Ann. 48, Vol. 2, p. 243.

163. A map of the Ottoman Empire, drawn up in 1878, described three political entities on the Qatar peninsula: Qatar, Zubarah and Odaid.¹⁴⁷ An Ottoman report of 1891-1892 notes the existence of the *kaza* of "Katar" and its "dependent villages".¹⁴⁸ Not only did the Ottoman Empire distinguish between the three parts of the Qatar peninsula, it also recognised that it did not exercise authority in Zubarah. A letter of 7 November 1891 from the Ministry of the Assistant *Kaimmakam* of Qatar notes:

"If a government is now established in Udaid and Zubarah then the Kaza of Qatar will be able to benefit from the pearl fishing in this area."¹⁴⁹

Thus, the appointment of Jasim Al-Thani as the *Kaimmakam* (or governor) of "Qatar" by the Ottoman Empire referred only to his appointment as Ottoman governor of Doha Town and its environs. As late as 1909, the Ottoman Empire and Britain were both operating under the same understanding that the Ottoman province of Qatar was distinct from Zubarah and Odaid. In a report concerning Ottoman jurisdiction in the Qatar peninsula dated 27 January 1909, the Ottoman Foreign Minister confirmed:

"The British Government has always repeated her right to protect the shores of Zubarah and Udaid..."¹⁵⁰

¹⁴⁷ See map of the *Velayat* of Basra prepared by Capt. Izzet of the Imperial Army of the Ottoman Empire (1878), reproduced following page 6.

¹⁴⁸ Ottoman Report, 1891-92, referring to "Town of Katar" and its "dependent villages", Ann. 49, Vol. 2, p. 245.

¹⁴⁹ Letter from the Ministry of the Assistant *Kaimmakam* of Qatar, 7 November 1891, Ann. 48, Vol. 2, p. 243.

¹⁵⁰ Report of Ottoman Foreign Minister, 27 January 1909, Ann. 75, Vol. 3, p. 402.

164. By 1893 the chief of Doha wanted to be rid of the Ottoman Empire and also leave Doha because he could not control its inhabitants.¹⁵¹ He negotiated with Britain for protection in the event that he expelled the Ottoman garrison from Doha and then left to settle elsewhere. The British Political Resident expressly excluded Zubarah and Odaid as possible places for his resettlement. When the British Political Resident raised the issue of Bahrain's claims to "Katr": "(the chief of Doha Town) at once acknowledged the rights of Bahrein, and expressed his willingness to pay tribute as before."¹⁵²

165. Internal Ottoman documents from 1900 confirm that the Ottomans believed that Britain was not content only with influence over the principal islands in the Gulf of Bahrain but had "widened its claim and tried to include Zubara and Ujeyd [Odaid] territories under its influence".¹⁵³ As Britain could only claim influence over Al-Khalifa lands, the attitude reflected a recognition of the Ruler of Bahrain's sovereign rights over that territory. This recognition of Britain's influence (and accordingly Al-Khalifa sovereignty) over the Zubarah region was practically demonstrated by the placing of five British flags on the shores of Zubarah in 1902, an event reported by the Commander of the 6th Ottoman army and passed on to the *Grand Vizir* by the Minister of the Interior.¹⁵⁴ Britain's position was confirmed to the new governor of Odaid when he called at Bushire on the Persian coast and

¹⁵¹ Letter from Lt. Col. Talbot, British Political Resident, to Secretary to the Govt. of India, 7 May 1893, para. 7, Ann. 51, Vol. 2, p. 249.

¹⁵² *Ibid.*, Ann. 51, Vol. 2, p. 251

¹⁵³ Ottoman "Report on Bahrein" from Council Chamber, 22 April 1900, Ann. 64, Vol. 2, p. 273.

¹⁵⁴ Memorandum from Ottoman Chief Clerk's Office, 30 March 1902, Ann. 65, Vol. 2, p. 277, and a letter from Minister of the Interior to *Grand Vizir*, 6 April 1902, Ann. 66, Vol. 2, p. 279.

met with the assistant to the British consul (the Political Agent) at Bahrain. The assistant confirmed that Zubarah was attached to Bahrain, that Bahrain was under British protection and that no Ottoman official would be allowed to go there.¹⁵⁵ Diplomatic efforts in London in April 1903 resulted in an agreement by the Ottoman Empire that a governing official would not be sent to Zubarah.¹⁵⁶

166. The modern usage of the word "Qatar" to refer to the State of Qatar, and to encompass the peninsula as a geographic unit, did not gain currency until after the 1916 Anglo-Qatari Treaty discussed in Section 2.10 (starting at paragraph 215). Thus, the fact that the Ottoman records might occasionally refer to the province of Qatar does not mean that they or anyone else conceived that their authority, even less so that of the chiefs of Doha Town, extended throughout the Qatar peninsula any more than the modern use of the word "America" to refer to the United States of America means that the speaker thinks that the United States of America exercise jurisdiction throughout the American continent.

SECTION 2.7 The Ottoman Empire and the Al-Thani were rebuffed in six attempts to exercise authority over the Zubarah Region (1874, 1878, 1888, 1891, 1895 and 1903)

167. The fact that neither the Ottoman Empire nor the chiefs of Doha ever extended their authority beyond the area around Doha - particularly not to the Zubarah region - is evidenced by their no less than six

¹⁵⁵ Letter from *Mudir* (Governor) of Odaid to *Grand Vizir*, 1 April 1903, Ann. 68, Vol. 2, p. 282.

¹⁵⁶ Letter from Ottoman Ministry of the Interior to the Province of Basra, 30 November 1911, Ann. 79, Vol. 3, p. 416.

attempts at expansion from 1874 to 1903. In the face of Britain's and Bahrain's opposition, each attempt ended in failure. It is to these failed attempts that the analysis now turns.

168. The Ottoman Empire was in an expansive phase when it sent its garrison to Doha in 1871. It was eager to expand its influence and authority in the region and simultaneously to diminish that of Britain. The chief of Doha himself had designs on the territory of the Ruler of Bahrain, particularly his dependencies in the Qatar peninsula, including the Zubarah region. This coincidence of interests resulted in the concerted attempts of the Ottomans and the Al-Thani to expand the geographical scope of their authority north of Doha and its environs and into Zubarah. The first attempt by the Ottoman Empire and the Al-Thani to expand northward into Zubarah occurred in 1874. It brought them into both indirect and direct conflict with Bahrain and Britain.

169. In the summer of 1873, an Ottoman detachment accompanied an Ottoman officer named Hossein Effendi to Zubarah in order to try to persuade the Bahraini Naim tribe to come under Ottoman rule.¹⁵⁷ After this failed, in early 1874, the Ottoman Empire began supporting indirect attacks by bedouin tribes against Bahrain's island and mainland territories.¹⁵⁸ At the same time, the Ottoman Empire encouraged the chief of Doha to attack Zubarah directly. The latter complied, enlisting 200 mercenaries of the Beni Hajir tribe, a bedouin tribe from the mainland of Arabia, to assist him in carrying out the attack.¹⁵⁹

¹⁵⁷ Ibrahim Ali Abdel, British Policy towards Bahrein and Qatar 1871-1914 (PhD thesis) p. 111, Ann. 230, Vol. 4, p. 985.

¹⁵⁸ Saldana, *op. cit.*, p. 4, Ann. 70, Vol. 2, p. 292.

¹⁵⁹ *Ibid.*, at p. 11, Ann. 70, Vol. 2, p. 299.

170. The attack was a failure. The British Political Resident, Lieutenant-Colonel Ross, telegraphed on 12 September 1874,¹⁶⁰ following the Beni Hajir attack on the Zubarah fort:

"(T)he small summer garrison of Zubarah held out gallantly until relieved by their fellow tribesmen, who suddenly returned in strength from Bahrain and the pearl banks and inflicted a severe defeat upon the assailants."¹⁶¹

171. The Ottoman Empire complained to Britain about Bahrain's activities.¹⁶² Britain rejected the Ottoman complaint out of hand on the ground that Zubarah had never been an Ottoman possession but rather that it had:

"been hitherto considered by the Sheikhs of Bahrein, past and present, as a dependancy of [Bahrain], and used as a summer residence."¹⁶³

172. The next attempt on Zubarah came in 1878. In that year, Sheikh Jasim bin Thani, now chief of Doha, launched an attack against Zubarah in conjunction with Nasir bin Mobarik, a renegade member of Bahrain's ruling Al-Khalifa family.¹⁶⁴ The town of Zubarah was destroyed in the attack. No attempt to settle the Zubarah region was made by the Ottoman Empire or the chief of Doha until 1888. As the British Political Resident commented in 1888:

"The Turks have not hitherto asserted or exercised any authority or jurisdiction over Zobarah and the other villages on that part of the Katar promontory ...".¹⁶⁵

¹⁶⁰ Saldana, *op. cit.*, at p. 4, Ann. 70, Vol. 2, p. 292.

¹⁶¹ Lorimer Vol. I, *op. cit.*, p. 906, Ann. 83, Vol. 3, p. 494.

¹⁶² Saldana, *op. cit.*, p. 6, Ann. 70, Vol. 2, p. 294.

¹⁶³ Saldana, *op. cit.*, p. 6, Ann. 70, Vol. 2, p. 294.

¹⁶⁴ Lorimer Vol. I, *op. cit.*, p. 908, Ann. 83, Vol. 3, p. 496.

¹⁶⁵ Saldana, *op. cit.*, p. 34, Ann. 70, p. 322, Vol. 2.

This supports the conclusion that neither the Ottoman Empire nor the Al-Thani exercised authority in the Zubarah region after the 1878 attack.

173. In 1888 the Ruler of Bahrain and Britain discovered that the Ottoman Empire was planning to rebuild the town of Zubarah and settle it with people from tribes that were under Ottoman control. The Ottoman Empire's intention was to occupy it and reinstate it as a leading centre of trade in the area and therefore divert trade (and accompanying customs duties) from Bahrain, through which most trade in the region passed. As the *Vali* of Basra, an Ottoman official, noted in a letter dated 12 April 1888:

"If Zubarah is reinstated to its former position of importance and customs duty is taken from the goods taken on land there, this will secure an income for the Treasury and at the same time the area will be stimulated from there to the town [Kasaba] of Qatar all along the coast..."¹⁶⁶

174. The report goes on to suggest that the chief of Doha intended to rebuild the city. The Ruler of Bahrain and Britain reacted with alarm to the proposal. The Ruler reiterated to Britain his claim to dominion over the Zubarah region, which he had never released despite his agreement not to be involved in affairs on the mainland.¹⁶⁷ When advised of the plan, the British Political Resident, Colonel Ross, telegraphed the Government of India:

"In view to opposing further extension Turkish jurisdiction, safety of Bahrain, and security of seas, I consider important that

¹⁶⁶ Letter from *Vali* of Basra to Head Clerk of Padishah, 12 April 1888, Ann. 42(a), Vol. 2, p. 231.

¹⁶⁷ Letter from Col. Ross, British Political Resident, to Secretary of Govt. of India, 17 March 1888, Ann. 41, Vol. 2, p. 228.

any settlement at Zobarah should be forbidden and prevented by us [sic]."¹⁶⁸

In a letter to the Secretary to the Government of India, Foreign Department of 17 March 1888, the Resident added:

"The Turks have not hitherto assented or exercised any authority or jurisdiction over Zobarah and the other villages on that part of the Katr promontory, and the policy of the Government of India has been adverse to allowing them to extend their authority in that District."¹⁶⁹

Britain was opposed to the rebuilding of Zubarah, recognising, *inter alia*, the Ruler of Bahrain's title to sovereignty over the region.¹⁷⁰

175. In October 1889, the Ottoman Governor of Nejd proposed to the Ottoman Government that it establish sub-governorships at Zubarah and Odaid.¹⁷¹ By November 1889, the Ottoman Empire had formally decided on the establishment of officials in Zubarah and Odaid and had even assigned salaries.¹⁷² The Ottomans realised the benefits that would result from the control of the pearl fisheries:

"If a government is now established in Udaid and Zubarah then the Kaza of Qatar will be able to benefit from the pearl fishing in this area."¹⁷³

¹⁶⁸ Telegram from Lt. Col. Ross, British Political Resident, to Foreign Dept., Govt. of India, 12 March 1888, Ann. 40, Vol. 2, p. 227.

¹⁶⁹ Letter from Col. Ross, British Political Resident, to Secretary to the Govt. of India, Foreign Department, 17 March 1888, Ann. 41, Vol. 2, p. 228.

¹⁷⁰ Letter from Col. Ross, British Political Resident to Secretary of Govt. of India, 17 March 1888, Ann. 41, Vol. 2, p. 228.

¹⁷¹ Report from Governor of *Sanjak* of Nejd to Minister of Interior including recommendations for reforms in Nejd, 9 October 1889, Ann. 44(a), Vol. 2, p. 236.

¹⁷² Ottoman Cabinet Minutes, 27 November 1889, Ann. 45(a), Vol. 2, pp. 238 to 239.

¹⁷³ Letter from the Office of Assistant Governor of Qatar, 7 November 1891, Ann. 48(a), Vol. 2, p. 243.

176. The Ruler of Bahrain objected to this proposal, concerned again that his rights in Zubarah would be violated. He wrote to the British Political Resident, Lieutenant-Colonel Ross, that:

"Now officers of the Turkish Government intended for Zobara and Odeyd have arrived and proceeded to Katr, and from what I have ascertained, they are hopeful that Sheikh Jasim bin Thani will rebuild Zobara, and appoint one of them to be a Mudir of the place..."¹⁷⁴

177. The Ottoman Empire abandoned its proposal because the inhabitants of Zubarah refused to submit to its authority. As the Ottomans themselves later noted:

"In the year 1890-91, [Zubarah] refused occupation by the Ottomans and when it was learned from the note sent to the Ottoman Ambassador in London on 30 April 1903 that administrative officials were to be appointed for Zubara, Ujeyd [Odaid] and Vekre [Wakrah], they were told of agreements from the Porte, oral and written assurances, that a governing official would not be sent."¹⁷⁵

Once again, Britain upheld Bahrain's sovereign rights and objected to the Ottoman Empire. The sub-governorship proposal was abandoned.

178. In April and May of 1895, the Ottoman Empire and Jasim Al-Thani, the chief of Doha, jointly encouraged Al bin Ali tribesmen who had settled on the main island of Bahrain to leave it and settle at Zubarah¹⁷⁶ under the Ottoman flag. Sheikh Jasim also threatened the Naim tribespeople who lived in Zubarah with a view to their changing

¹⁷⁴ Letter from Ruler of Bahrain to Col. Ross, British Political Resident, 11 February 1891, Ann. 46/47, Vol. 2, p. 242.

¹⁷⁵ Letter from Ottoman Ministry of the Interior to Basra Province concerning Zubarah, 30 November 1911, Ann. 79(a), Vol. 3, p. 416.

¹⁷⁶ Letters from Col. Wilson, British Political Resident, to Chief of Doha and to Chief of Ali-bin-Ali, 22 April 1895, Ann. 54, Vol. 2, p. 260 and Ann. 55, Vol. 2, p. 261 respectively. See also Saldana, *op. cit.*, Ann 70, Vol. 2, p. 330.

allegiance from Bahrain to him.¹⁷⁷ Sheikh Jasim and local Ottoman officials sailed with a flotilla of dhows to the town of Zubarah, occupied it along with the Al bin Ali tribe and raised the Ottoman flag.

179. These activities came to the attention of the Ruler of Bahrain. Prompted by his protests, and citing as its motivation the Ruler's title to the Zubarah region, Britain dispatched a warship to Zubarah in order to displace the Ottomans and the forces of Sheikh Jasim Al-Thani. Captain J.H. Pelly, the British commander, ordered the Al bin Ali tribe to leave Zubarah. When they failed to do so, several Al bin Ali boats were seized¹⁷⁸ and Britain sent a diplomatic protest to the Ottoman Empire.¹⁷⁹

180. On 6 September 1895, in the face of the stand-off, Captain Pelly conveyed a message to Sheikh Jasim, who was still in Zubarah, advising him to surrender and leave Zubarah. When no reply was forthcoming, Captain Pelly opened fire on the Al-Thani fleet with his warship. The warship destroyed 44 dhows.¹⁸⁰ Overnight, the Ottoman officials left Zubarah with their flag and Sheikh Jasim surrendered.¹⁸¹

181. Zubarah was entirely vacated by the Al bin Ali tribe, Sheikh Jasim and the Ottomans by 20 September 1895, in accordance with their terms of their surrender set out in a letter of 7 September 1895 from

¹⁷⁷ Letter from Lt. Fraser, Acting Assistant Resident, to Lt. Col. Ross, British Political Resident, 8 March 1895, Ann. 53, Vol. 2, p. 256.

¹⁷⁸ Letter from Capt. Pelly, Commander and Senior Naval Officer, to Col. Wilson, British Political Resident, 9 July 1895, Ann. 58, Vol. 2, p. 264.

¹⁷⁹ Memo. from Col. Wilson, British Political Resident, 5 July 1895, Ann. 57, Vol. 2, p. 263.

¹⁸⁰ Letter from Col. Wilson, British Political Resident, to Secretary to Govt. of India, 13 September 1895, Ann. 62, Vol. 2, p. 268.

¹⁸¹ Letter from Capt. Pelly, Commander and Senior Naval Officer to Col. Wilson, British Political Resident, 7 September 1895, Ann. 60, Vol. 2, p. 266.

Captain Pelly to Sheikh Jasim.¹⁸² Zubarah was once again left to the Naim tribe and the Ruler of Bahrain.

182. The Zubarah incident in 1895 caused a great deal of friction in Anglo-Ottoman relations. The Ottomans demanded that the various boundaries on the shores of the Gulf be clarified. It is interesting that in 1897 the Ottomans clearly understood that Britain's intervention was not solely to protect the main island of Bahrain. Significantly, an Ottoman report on the Zubarah affair dated May 1897 notes:

"Britain claims that Zubarah is under the control of Bahrain which it claims is under British protection, and Britain insists that the Ottoman state has no rights of sovereignty over it."¹⁸³ (Emphasis added.)

183. In 1903, the Ottoman Empire once again attempted to establish a colonial administrative unit in the Zubarah region. The Ottomans appointed a *mudir*, or sub-governor for the Zubarah region. However, Bahrain immediately protested to Britain. Britain was well aware of Bahrain's position in relation to the Zubarah region. Indeed, the British Political Resident, Colonel Kemball, observed at the time that:

"the occupation of Zobara [by the Ottoman Empire] would be viewed with the greatest concern by the Chief of Bahrein, who considers the place to be an appanage of his, and whose rights we are bound to maintain..."¹⁸⁴ (Emphasis added.)

184. Following Bahrain's protest, Britain vigorously and successfully opposed the intended Ottoman expansion. The reason for this

¹⁸² Letter from Capt. Pelly, Commander and Senior Naval Officer, to Chief of Doha, 7 September 1895, Ann. 61, Vol. 2, p. 267.

¹⁸³ Ottoman Report on the Zubarah affair, 3 May 1897, Ann. 63(a), Vol. 2, p. 269.

¹⁸⁴ Letter from Lt. Col. Kemball, British Political Resident, to Govt. of India, 23 March 1903, Ann. 67, Vol. 2, p. 281.

opposition, as cited by the Viceroy of India himself, was "(Britain's) relations with Bahrein".¹⁸⁵ This suggests that Britain supported, at least publicly, Bahrain's assertion of its rights over the Zubarah region and agreed with the Bahraini view that Ottoman occupation of Zubarah would be a threat to Bahrain's safety.

185. This is confirmed by records from the Ottoman Empire archives which indicate that Britain warned the individual who had been appointed by the Ottoman Empire as *mudir* (sub-governor) of Zubarah that:

"Zubarah was attached to Bahrain, that Bahrain was under British protection and that no [Ottoman] official would be allowed to go there..."¹⁸⁶

186. After diplomatic complaints, the Ottoman Empire agreed to withdraw the appointment of a *mudir* at Zubarah and also from the town of Wakrah.¹⁸⁷

187. These six attempts by the Ottoman Empire and the Al-Thani to extend their authority into the Zubarah region demonstrate three facts that are important to the present case. First, neither the Ottomans nor the Al-Thani in fact ever succeeded in establishing their authority in the Zubarah region throughout this period. Second, the Ruler of Bahrain consistently maintained his claim to the Zubarah region during this period. Third, Britain continued publicly to support the Ruler of Bahrain's claim to the Zubarah region.

¹⁸⁵ Saldana, *op. cit.*, p. 51, Ann. 70, Vol. 2, p. 339.

¹⁸⁶ Letter from *Mudir* of Udaid to *Grand Vizir*, 1 April 1903, Ann. 68(a), Vol. 2, p. 282.

¹⁸⁷ Letter from Sir N. O'Connor (British ambassador to Constantinople) to Marquess of Lansdowne (Foreign Secretary - British Govt.), 13 June 1903, Ann. 69, Vol. 2, p. 284.

SECTION 2.8 The Ottoman Empire's influence in the region declined from 1905 and the Ottoman Empire finally withdrew from the Province of Qatar in 1915

188. The ejection of the Ottoman Empire and the Al-Thani from Zubarah in 1895 and their continued inability to extend their authority over the entirety of the Qatar peninsula left matters in the Qatar peninsula in a state that was satisfactory neither to Britain nor to the Ottoman Empire.

189. As late as 1907, Ottoman records suggest that they had no real control on the peninsula and that Jasim Al-Thani had no power beyond Doha Town. In a report dated 24 December 1907, the Governor of the Ottoman province (*Sanjak*) of Akka wrote:

"In Qatar where the Ottoman coast ends, despite the presence of a major/commander with soldiers, the seaport town of Qatar is under the independent control of a Sheikh called Jasim Al Thani."¹⁸⁸ (Emphasis added.)

190. In December 1908, Britain formally confirmed to the Ottoman Empire that it did not recognise Ottoman sovereignty over the peninsula and would not accept any interference there.¹⁸⁹ This was the case *a fortiori* with Zubarah. The Ottoman Foreign Minister noted in a report concerning Ottoman jurisdiction in Qatar dated 27 January 1909:

"The British Government has always repeated her right to protect the shores of Zubarah and Udaid..."¹⁹⁰

¹⁸⁸ Report by Governor of Sanjak of Akka, 24 December 1907, Ann. 72(a), Vol. 3, p. 364.

¹⁸⁹ Telegram sent by Muharram Pasha, *Vali* of Basra, 5 December 1908, Ann. 73(a), Vol. 3, p. 368.

¹⁹⁰ Report of the Ottoman Foreign Minister, 27 January 1909, Ann. 75(a), Vol. 3, p. 402.

191. Although the Ottomans designated Zubarah as a *nahiye* (or sub-district), the Ottoman Empire's own records show as late as 1909 that the Ottomans had:

"never had official administration representing the state nor have they undergone any development or improvement."¹⁹¹

The Ottoman Empire attempted to construct a government building,¹⁹² but like all the other Ottoman plans for Zubarah, it came to nothing.

192. Due to greater strategic concerns, the Ottoman Empire began contemplating a withdrawal from the Qatar peninsula. In March 1911, Britain and the Ottoman Empire began to negotiate a comprehensive agreement for their strategic relations. Those negotiations included within their ambit discussions about the political future of the Qatar peninsula. In a draft memorandum addressed to the Ottoman Empire on the subject of a comprehensive agreement for their strategic relations, dated July 1911, Britain reaffirmed its position that the Ottoman Empire must renounce "El Katr, where the Sheikh of Bahrein has important rights."¹⁹³ (Emphasis added.) At the time Britain and the Ottoman empire were negotiating over the future of the Gulf Region (see paragraph 194), the Ruler of Bahrain reopened with Britain the question of his right to levy tribute from "Qatar" in accordance with the terms of the 1868 document imposed on the local sheikhs of Doha Town and its environs and signed by the chief of Doha (see paragraph 127). There is no record of Britain's ultimate view of the matter, but the record shows

¹⁹¹ Report from the Province of Basra to Ministry of the Interior, 25 September 1909, Ann. 76(a), Vol. 3, p. 409.

¹⁹² *Ibid.*

¹⁹³ Draft memorandum to Turkish Ambassador, July 1911, Ann. 78, Vol. 3, p. 415.

that the initial response of the British Political Resident, Sir Percy Cox, was supportive. In his note to the British Government about the issue of Bahrain's right to tax "El-Katr", Cox characterised the question to be whether:

"the extinction by the Turks of the Bahrein right to tribute as arranged by us [in 1868] ... was an act of aggression from which [Britain was] bound to protect the Sheikh."¹⁹⁴

193. That Cox would have raised this question confirms that, shortly before the conclusion of the Anglo-Ottoman negotiations, Britain did not consider the issue of Bahrain's authority over Qatar to be settled. Moreover, as already indicated above (see paragraphs 162, 163 and 166), Cox's note is further evidence that the term "Qatar" or "Qatr" was used during this period to refer to the area around Doha Town (the Ottoman province of El-Katr).

194. If it is accepted that the Ruler of Bahrain, Cox and the British Government were using that term "Qatr" in that same ordinary sense - and there is no indication that they were using it in any contrary sense - then it is clear that what was at issue in the relevant part of the Anglo-Ottoman negotiations was the future of the Ottoman province of "Qatr", in other words Doha and its environs.

SECTION 2.9 Bahrain continued to exercise authority over the Zubarah region during the Ottoman period of 1871-1915

195. The various events described above in relation to the attempts of the Ottoman Empire to expand the Ottoman province of "El-Katr" (i.e.

¹⁹⁴ Note entitled "Shaikh of Bahrain's claim to tribute from Qatar", by Sir Percy Cox, British Political Resident, Ann. 80, Vol. 3, p. 424.

Doha Town and its immediate environs) clearly involved some limitation of the Ruler of Bahrain's authority over the southern part of the Qatar peninsula. However, nothing disturbed the Ruler of Bahrain's authority over the Zubarah region. Zubarah was close to the main Bahraini population centres in Muharraq Island and the main island of Bahrain. It was, conversely, far from the Ottomans and the Al-Thani in Doha Town. The Naim tribe who inhabited the Zubarah region maintained its allegiance to and recognised the authority of the Ruler of Bahrain (see Section 2.1 starting at paragraph 73). The traditional economic and social links between the Zubarah region and the islands of Bahrain were maintained.

196. The Rulers of Bahrain opposed each of the six failed attempts of the Ottomans and the Al-Thani to extend their authority over Zubarah region (see Section 2.7 starting at paragraph 167). Britain very clearly, and occasionally forcibly, maintained a consistent position of refusing to concede that the Ottomans had authority over the whole of the Qatar peninsula. Although acknowledging that the Ottoman Empire had established "an influence" in the Qatar peninsula by virtue of its garrison stationed in Doha, Britain was of the opinion that the issue of sovereignty over the entire Qatar peninsula had not been thereby decided. Writing to the British Government on 4 September 1873, the British Acting Political Resident, Lieutenant-Colonel Ross, noted the historical authority of the Rulers of Bahrain over the peninsula and the limited extent of the Ottoman intrusion. He observed that "[t]he question of the sovereignty over Gutter generally, has never yet been decided."¹⁹⁵

¹⁹⁵ Letter from Lt. Col. Ross, Acting British Political Resident, to Secretary to the Govt. of India, 4 September 1873, Ann. 20, Vol. 2, pp. 174 to 176 and Saldana *op. cit.* at p. 3, Ann 70, Vol. 2, p.290.

197. Britain's policy in the region during this period was to avoid antagonising the Ottoman Empire over Arab issues, out of concern for its own larger geo-political interests. At the same time, Britain was unable to deny Bahrain's authority over the Zubarah region. Britain had concluded that its greater strategic interests required that the Ruler of Bahrain be persuaded to desist from his involvement in the political affairs of the Qatar peninsula. It must be emphasised that this attitude reflected Britain's conclusion as to the most advantageous course of action to achieve Britain's strategic interests. It did not reflect any view as to the Ruler of Bahrain's legal title or actual authority over the Zubarah region. Britain's conclusion on that latter score is reflected in its subsequent acceptance, as well as defence of, Bahrain's continued authority in the Zubarah region. In short, although for its own interests Britain did not want Bahrain to be involved in Zubarah, it could not identify any consideration of law against it. Nor could Britain's interests in the Gulf of Arabia afford it to allow Bahrain to become weakened by Ottoman attacks. So long as Britain was unable to persuade the Ruler to adopt another approach, Britain was obliged to lend it assistance.

198. Britain consistently tried to persuade the Ruler of Bahrain to abstain from engaging in affairs on the Qatar peninsula.¹⁹⁶ The Ruler of Bahrain however remained resolved to protect the interests of his subjects in the Zubarah region. Following the unsuccessful attack on Zubarah in 1874, Sheikh Isa, the Ruler of Bahrain, requested assistance from the British Political Resident to prevent another attack on Zubarah. The terms of his request showed that the Ruler of Bahrain was

¹⁹⁶ Letter from Lt. Col. Ross, British Political Resident, to Secretary of Govt. of India, 10 November 1874, Ann. 24, Vol. 2, p. 184.

continuing to assert his authority over Zubarah and that he continued to view the Naim tribe who lived there to be his subjects:

"Sheikh [Isa] in dwelling on the danger to his Government from the propinquity of Nasir bin Mobarik [a defector from Bahrain who had allied himself with the chief of Doha], expressed his desire that I should take steps to prevent the Katar Chief harbouring him or assisting him in any operations against Zobarah by land or sea ... The Chief of Bahrein being apprehensive of an attack on his allies, and as he considers, subjects who hold the fort of Zobarah, asked whether he would be allowed to reinforce the garrison of that place, which he considered a dependency of Bahrein."¹⁹⁷

199. In private consultations, the Political Resident sought to discourage the Ruler of Bahrain from asserting his rights. Ultimately, however, Britain agreed with the Ruler of Bahrain that he was entitled to dispatch troop reinforcements to Zubarah in defence of his rights. The Political Resident reported:

"That as regards succouring Zobarah I would not interfere with the despatch of reinforcements as a purely defensive measure..."¹⁹⁸

200. The Political Resident was told by the Government of India that Britain would not assist the Ruler of Bahrain if he continued to be involved in affairs on the Qatar peninsula.¹⁹⁹ Still, fearing further attacks on his dependencies in the Qatar peninsula after the initial attack by the Beni Hajir in 1874, the Ruler of Bahrain sent his brother, Khalid, along with the Chief of the Naim tribe, to Khor Hassan north of Zubarah on the Qatar peninsula in October 1874, to convince the Chabisa tribe who were living there to join the Naim tribe in Zubarah for their own

¹⁹⁷ Saldana, *op. cit.*, p. 5, Ann 70, Vol. 2, p. 293.

¹⁹⁸ *Ibid.*

¹⁹⁹ Letter from Officiating Under Secretary to Govt. of India to Lt. Col. Ross, British Political Resident, 10 December 1874, Ann. 25, Vol. 2, p. 186.

protection.²⁰⁰ In the course of the same month, the Ruler of Bahrain appointed a new governor for Zubarah. He also hired and sent stone masons to Zubarah to make repairs to the fort at his expense.²⁰¹

201. In a letter to the British Political Resident, Lieutenant-Colonel Ross, dated 17 December 1874, the Ruler of Bahrain emphasised that "Zobarah ... belongs to us and is one of our dependencies."²⁰² In a letter to the British Political Resident dated 18 December 1874, the British Political Resident's Second Assistant, Lieutenant Fraser, noted a similar assertion by Sheikh Isa and concluded: "In this [i.e. his rights over Zubarah] he is right and it is difficult to see why or how we can prevent him sustaining sovereignty."²⁰³

202. The Ruler of Bahrain repeatedly tried to press his point home to Britain. On 4 March 1875, the Ruler offered not to interfere in the affairs of the mainland with the exception of:

"our city Zobarah for that is our property and has been. It and its inhabitants are dependent on us and we are all dependent on the British Government. We feel certain that the British Government would never wish us to abandon our possessions and allow the enemy to seize them."²⁰⁴

²⁰⁰ Letter from News Agent, Bahrain to Lt. Col Ross, British Political Resident, 28 October 1874, Ann. 23, Vol. 2, p. 183.

²⁰¹ Letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 4 March 1875, Ann. 29, Vol. 2, p. 196.

²⁰² Letter from Ruler of Bahrain, to Lt. Col. Ross, British Political Resident, 17 December 1874, Ann. 26, Vol. 2, p. 190.

²⁰³ Letter from Lt. Fraser, Officiating Second Assistant Resident, to Lt. Col. Ross, British Political Resident, 18 December 1874, Ann. 27, Vol. 2, p. 191.

²⁰⁴ Letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 4 March 1875, Ann. 29, Vol. 2, p. 196.

203. On 7 March 1875, he again wrote to the British Political Resident, this time pointing out that ever since the conquest of the main island of Bahrain, the:

"Al-Khalifa remained masters of the Island as well as of Zobarah. From that day to this Zobarah has been in our possession and no one has ever ventured to dispute our rights. All the Arab tribes are aware of this fact."²⁰⁵

204. Britain continued to discourage the Ruler of Bahrain from involving himself in affairs on the Qatar peninsula. In May 1875, Britain informed the Ruler that if he did not accept Britain's advice on the matter, "the consequences will be upon himself, and ... the British Government will hold themselves free to take such measures with respect to him as they may think necessary."²⁰⁶ In June 1875, the Ruler of Bahrain succumbed to Britain's pressure. He agreed not to involve himself in activities in the Qatar peninsula, but expressly reserved his rights in relation to Zubarah with the following statement to the British Political Resident dated 14 June 1875:

"The reason of our not interfering in the affairs of Zobarah at this time is simply obedience to the *orders* of (Britain), not that our rights have become invalid or extinct."²⁰⁷

205. In a letter dated 22 June 1875, the Ruler's brother reiterated the Ruler's position to the British Political Resident, Lieutenant-Colonel Ross:

²⁰⁵ Letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 7 March 1875, Ann. 30, Vol. 2, p. 197.

²⁰⁶ See letters from Secretary to the Govt. of India to Lt. Col. Ross, 10 May 1875, Ann. 31, Vol. 2, p. 198 and letter from Lt. Col. Ross, British Political Resident, to Ruler of Bahrain, 31 May 1875, Ann. 32, Vol. 2, p. 199.

²⁰⁷ Saldana, *op. cit.*, p. 7, Ann. 70, Vol. 2, p. 295 and letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 14 June 1875, Ann. 33, Vol. 2, p. 201.

"Shaikh Isa trusts that his abstaining from interference with Zubarah will not be considered as (involving) loss of right to it, for it is our possession and the possession of our forefathers from older times, and we beg that our claim will be held in recollection by [Britain]..."²⁰⁸

206. In August 1875, the Beni Hajir tribe attacked Zubarah. The Ruler despatched "five armed vessels of his own to pursue the offenders".²⁰⁹ This was, of course, inconsistent with Britain's attempts to dissuade him from involvement in the Qatar peninsula. Britain threatened that if the Ruler were to maintain his course of conduct "he cannot remain a friend of the British Government".²¹⁰ Britain's interpretation of Bahrain's maritime peace obligations clearly restricted Bahrain's use of force to defending the main island of Bahrain, thereby curtailing its ability to protect Zubarah. Nevertheless, as described in Section 2.1 (starting at paragraph 73), the Ruler of Bahrain remained actively involved in the affairs of the Naim tribe in the Zubarah region even after 1875. Moreover, the Ruler continued to defend Zubarah using his army, "supplied with arms and provisions". For this, the Ruler was admonished by the officiating British Political Resident, Major Charles Grant.²¹¹

207. In 1878, the chief of Doha attacked Zubarah (see paragraph 172). The Naim settlement was destroyed and those Naim tribesmen who had been left homeless took refuge on the main island of Bahrain.²¹² The

²⁰⁸ Letter from Sheikh Ahmed bin Ali Al Khalifa to Lt. Col. Ross, British Political Resident, 22 June 1875, Ann. 33a, Vol. 2, p. 202a.

²⁰⁹ Saldana, *op. cit.*, p. 8, Ann. 70, Vol. 2, p. 296.

²¹⁰ *Ibid.*

²¹¹ Letter from Maj. Grant, British Political Resident, to Ruler of Bahrain, 17 September 1877, Ann. 35, Vol. 2, p. 205 and Saldana, *op. cit.*, p. 9, Ann. 70, Vol. 2, p. 296.

²¹² Lorimer Vol. II, *op. cit.*, p. 908, Ann. 83, Vol. 3, p. 496.

Ruler of Bahrain felt unable to resist Britain's warning not to become involved. This caused him considerable anguish. As Lorimer observed in the Persian Gulf Gazetteer:

"The Shaikh of Bahrain, who considered himself in honour bound to assist the Na'im of Zubarah, chafed angrily against the policy of inaction imposed on him by the British Government."²¹³

208. Lorimer's Gazetteer reported that, following the 1878 attack, the Ruler of Qatar objected to reports that the Ruler of Bahrain was planning to settle his subjects, the Naim, at Fuwairat, close to the ruined town of Zubarah.²¹⁴ The Ruler of Bahrain remained in close contact with the Naim and was reported to have gone to considerable effort to maintain their allegiance.²¹⁵

209. Despite their frustrated ambition to control the Zubarah region, both the chiefs of Doha and the Ottomans clearly and candidly acknowledged the interests of Bahrain in the Qatar peninsula. In 1893, when the British Political Resident raised the topic of Bahrain's rights in the Qatar peninsula to Jasim bin Thani, he reported that:

"Sheikh Jasim at once acknowledged the rights of Bahrain, and expressed his willingness to pay tribute as before."²¹⁶

210. Furthermore, Lorimer's Gazetteer records that, in 1893:

"...[The Al-Thani chief of Doha] addressed letters to the Political Resident and the Chief of Bahrein appealing for British protection and that of the Chief of Bahrein, and applying for permission to reside in the northern part of Katar within the latter's jurisdiction. The Political Resident proposed to reply that

²¹³ Lorimer Vol. II, *op. cit.*, p. 908, Ann. 83, Vol. 3, p. 496.

²¹⁴ *Ibid.*, p. 910, Ann. 83, Vol. 3, p. 498.

²¹⁵ *Ibid.*, p. 911, Ann. 83, Vol. 3, p. 499.

²¹⁶ Letter from Lt. Col. Talbot, British Political Resident, to Secretary of Govt. of India, 7 May 1893, Ann. 51, Vol. 2, p. 251.

... [the Al-Thani chief of Doha] was debarred by previous orders of Government from settling either at Zobarah or Odeid, which places the Sheikh had evidently in view in which to settle."²¹⁷ (Emphasis added.)

211. In 1895, the Ruler of Bahrain once again formally affirmed to Britain Bahrain's rights to Zubarah. The British Resident's Second Assistant responded that:

"(The Ruler of Bahrain) must understand from the explicit instructions of Government that the consequence of his interference in the affairs of the mainland beyond his insular possessions [and] the exercise of rights of sovereignty there that might lead to complications ... would be the withdrawal of the promises of protection held out to him ...".²¹⁸ (Emphasis added.)

212. In 1895, during one of the latest Ottoman/Al-Thani attempts on Zubarah (see paragraphs 178-182), the British Political Resident, Colonel Wilson, recorded his concerns:

"There can no longer be any doubt that the intrigue, having for its object the establishment of a position which the Bahrein Chief regards - and as I concur, with justice - a grave menace to his security and an unjust encroachment on his ancestral territories, is actively fostered by the local Turkish authority."²¹⁹ (Emphasis added.)

213. In a letter dated 23 July 1895, the British Resident wrote to the Ottoman force that had attacked and occupied Zubarah:

"Hearing that you are detaining nine boats belonging to the Shaikh of Bahrein, who is on friendly terms with the British Government, and Zobarah being one of the towns belonging to him ... I demand that you will inform me by what authority you are detaining these Bahrein boats ... No Turkish authority is

²¹⁷ Saldana, *op. cit.*, p. 39, Ann. 70, Vol. 2, p. 327.

²¹⁸ Letter from Lt. Fraser, Acting 2nd Assistant Resident, to Lt. Col. Ross, British Political Resident, 8 March 1895, Ann. 53, Vol. 2, p. 257.

²¹⁹ Letter from Col. Wilson, British Political Resident, to Secretary to the Govt. of India, 24 May 1895, Ann. 56, Vol. 2, p. 262.

recognised by the British Government at Zobarah.²²⁰ (Emphasis added.)

214. The history of Bahrain's authority over the Zubarah region from this date until 1916 has already been described with some detail in Section 2.7 (starting at paragraph 167) and Section 2.8 (starting at paragraph 188) and will not be repeated here.

SECTION 2.10 The chief of Doha Town and Britain signed the 1916 Treaty and the State of Qatar slowly emerged thereafter

215. The Ottoman Empire's presence in the Qatar peninsula faded during the 1914-1918 war. In August 1915, the Political Agent, Major Keyes, met with the chief of Doha, Sheikh Abdullah bin Jasim Al-Thani, to discuss its surrender and requested the Sheikh to present surrender terms to the Ottoman Commander.²²¹ The presence of a British ship caused the remaining Ottoman soldiers to flee during the night of 19 August 1915 and the Fort was formally handed over to the chief of Doha.²²²

216. Britain was the only Great Power now active in the region. It decided to recognise the Al-Thani chief of Doha as the ruler of an entity called "Qatar" and, on 3 November 1916, entered into a treaty of protection with the chief of Doha own in relation to his territories.²²³

²²⁰ Letter from Capt. Pelly, Commander and Senior Naval Officer, to Mahomed Effendi at Zubarah, 23 July 1895, Ann. 59, Vol. 2, p. 265.

²²¹ Letter from Maj. Keyes, British Political Agent, to Lt. Col. Percy Cox, British Political Resident, 23 August 1915, Ann. 82, Vol. 3, p. 436.

²²² *Ibid.*, Ann. 82, Vol. 3, p. 437.

²²³ Treaty between British Govt. and the Shaikh of Qatar - 3 November 1916, Aitchison, *op. cit.*, p. 258, Ann. 84, Vol. 3, p. 513.

217. The 1916 Treaty did not contain any geographical definition of the territory of Qatar. There was nothing in the text of the 1916 Treaty to lead to the conclusion that it contemplated an entity called Qatar that was larger than the Ottoman administrative unit of Qatar, which the Ottomans themselves had considered to be a territorial unit distinct from the regions of Zubarah and Odaid. Certainly there is no indication in the text that the entire Qatar peninsula was to be part of the Al-Thani territories. At the end of the Ottoman period there was no Ottoman or Al-Thani authority in Zubarah. The Ruler of Bahrain continued to exercise authority over the Zubarah region and the Naim inhabitants continued to recognise the authority of the Ruler of Bahrain.

218. The 1916 Treaty was written in the first person, from the point of view of the Al-Thani chief of Doha, now styled "the Ruler of Qatar". It only refers to "Qatar", "my territories and port of Qatar", "my Frontiers", "my territory" and "the territories of Qatar". Clearly, the reference to the "port of Qatar" in the 1916 Treaty must be a reference to Doha, which was referred to by the Ottoman Empire as "El-Katr". This reference to the "port of Qatar" in the text, distinguished by the Ruler of Qatar from his "territories", leads to the conclusion that the 1916 Treaty was using the same nomenclature as the Ottomans to refer to Doha and its environs as "Qatar". This would be consistent with the analysis *supra* (see paras. 194-196) relating to the limited meaning of the term "Qatar" as used by Britain and the Ottoman Empire.

219. Such a conclusion is supported by the fact that the text of the opening paragraph of the 1916 Treaty incorporates the obligations arising from the terms imposed by Britain upon the chief of Doha in 1868 within the 1916 Treaty:

"Whereas my grandfather, the late Shaikh Mohammed bin Thani, signed an agreement on the 12th September 1868 engaging not to commit any breach of the Maritime Peace, and whereas these obligations to the British Government have developed on me his successor in Qatar."²²⁴

220. The nature of the terms imposed by the 1868 document have been reviewed in paragraphs 127 to 129. They were understood by Britain and the Al-Thani to apply to territory over which the chiefs of Doha had authority. The limited geographical scope of the Al-Thani territories in 1868 and subsequently was described in paragraphs 133 to 135. The reiteration of the 1868 undertaking in the preamble to the 1916 Treaty means that the political entity of Qatar did not encompass the entire peninsula - and most obviously not the Zubarah region.

221. The transformation of the former Ottoman province of "Qatar" from an administrative unit within the Ottoman Empire to an entity under Britain's protection in 1916 excited little comment in Bahrain. The Al-Thani had, by 1916, exercised authority in the area around Doha Town under the Ottoman Empire. The formal recognition of that authority by Britain changed nothing in relation to the Zubarah region and so did not effect Bahrain's interest in Zubarah.

222. On the contrary, the withdrawal of the Ottoman Empire from the Qatar peninsula eliminated the reason for Britain's anxiety regarding Bahrain's exercise of authority over Zubarah. In anticipation of just such an eventuality, Bahrain had been pressing since 1913 for the revival of the 1868 terms imposed on the Al-Thani.²²⁵ Cox, the British Political

²²⁴ Treaty between British Govt. and Ruler of Qatar - 3 November 1916, Aitchison, *op. cit.*, p. 258, Ann. 84, Vol. 3, p. 513.

²²⁵ Note by Sir Percy Cox, British Political Resident entitled "Shaikh of Bahrain's claim to tribute from Qatar", 17 May 1913, Ann. 80, Vol. 3, p. 424.

Resident, had noted the Ruler of Bahrain's insistence on inclusion of the 1868 unilateral undertaking in the terms of any future Anglo-Al-Thani agreement:

"As the Sheikh is certain to raise the question when we come to make an agreement with Qatr, it would be as well to examine it now. I will accordingly ask Colonel Knox to obtain a copy of Colonel Pelly's agreement of 1868, as the whole matter turns on the question whether the extinction by the Turks of the Bahrain right to tribute as arranged by us was an act of aggression from which we were bound to protect the Shaikh."²²⁶

223. In any event, the 1916 Treaty was, vis-à-vis Bahrain, *res inter alios acta*, and could not therefore affect its sovereign rights. Nothing in the relationship of protection between Britain and Bahrain authorised the former to dispose of any part of the territory of the latter.

SECTION 2.11 Bahrain continued to exercise authority over the Zubarah region during the period of 1916-1937

224. At the close of the First World War, in 1919, the Ruler of Bahrain dispatched the Crown Prince of Bahrain to London. The object of his mission was to inform the British government of the Ruler's intention to build a port in Zubarah and re-develop the region.²²⁷

225. One of Bahrain's interests in developing a port in Zubarah was to prevent competition to Bahrain's commercial maritime dominance of the region from Ibn Saud's proposed port on the coast of the Arabian

²²⁶ Note by Sir Percy Cox, British Political Resident entitled "Shaikh of Bahrain's claim to tribute from Qatar", 17 May 1913, Ann. 80, Vol. 3, p. 424.

²²⁷ Memorandum from India Office to the Govt. of India, 16 September 1919, Ann. 83, Vol. 3, p. 517.

peninsula.²²⁸ Following the dissolution of the Ottoman Empire, Britain's immediate strategic concern in the region was to contain Ibn Saud's expanding domain without provoking its Ruler. Britain opposed the proposal because it concluded that Bahrain's proposed port facilities in Zubarah would be perceived by Ibn Saud as extremely confrontational.²²⁹ Once again Bahrain's legal title and historic interest in Zubarah were subordinated to Britain's greater strategic concerns. Bahrain had to discontinue the proposal.

226. The majority of the Naim were, during this period, pastoral bedouin. The remainder traditionally supplemented their livelihood from the sea. In the 1920s and 1930s, the population of Zubarah decreased as many Naim migrated to the main island of Bahrain. This was due, in part, to the technological improvement of fishing and pearling boats that enabled the Naim to operate in the Gulf of Bahrain and the Bahrain pearling banks without operating from Zubarah, and to the general decline in the local pearl industry as a result of the Great Depression and the development of Japanese cultured pearls. In addition, health and education services began to be provided by the State of Bahrain on the main island of Bahrain. Electricity and varied food staples - all to be found on the main island of Bahrain - made life there more attractive than life in Zubarah.

227. The discovery of oil in 1932 on the main island of Bahrain - the first commercial oil field in the Arabian Gulf - created jobs with good wages. Illegal immigration became a problem for Bahrain. However,

²²⁸ Memorandum from Maj. Dickson, British Political Agent, to Lt. Col. Prescott Trevor, British Deputy Political Resident, 17 January 1920, Ann. 87, Vol. 3, p. 524.

²²⁹ Memorandum from Maj. Dickson, British Political Agent, to Lt. Col. Prescott Trevor, British Deputy Resident, 6 December 1919, Ann. 86, Vol. 3, p. 519.

Bahraini subjects, including those from the Zubarah region and the Hawar Islands, could move freely to the main island as they had always been able to do.

228. The Ruler of Bahrain continued to exercise his authority in the Zubarah region. His authority continued to be acknowledged by its Naim inhabitants. Charles Belgrave, the Adviser to the Government of Bahrain who had been appointed in 1925, recorded in 1948 that:

"some of the Khalifah lived permanently at or around Zubara coming over to Bahrain for visits and about a year before I came [1924] one Shaikh Ibrahim bin Khalid Al-Khalifah was banished to Zubarah by order of Shaikh Hamed... He lived there till in about 1926 he was permitted to return to Bahrain ... [As] far as I can ascertain, from 1914 till 1937 there was no interference with Bahrain people living in the Zubarah area."²³⁰

The continued presence in the Zubarah region of inhabitants who owed allegiance to Bahrain during the 1920s and 1930s demonstrated Bahrain's continuing authority in the Zubarah region.

229. In the light of these facts, it is evident that as of 1937 Bahrain still retained sovereign title to Zubarah.

230. The Ruler of Qatar did not exercise authority over Zubarah during the period 1916-1937. Zubarah was far to the north and west of his power-base in the south of the peninsula. Even in Doha Town, the sovereignty of the Ruler of Qatar was often a fiction. As the 1923 British Administration Report of the Bahrain Political Agency noted:

"In his own territories, the [Ruler of Qatar] is now powerless. Any attempt to enforce his rule is frustrated by malcontents appealing to the Sultan of Najd [Ibn Saud], whose power the [Ruler] fears. Cases have occurred of persons being arrested by

²³⁰ Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to Ruler of Bahrain's English solicitor, H. Ballantyne, 9 October 1948, Ann. 192, Vol. 4, pp. 834 to 835.

armed followers sent by the Sultan, not merely within Qatar territory, but actually in the Town of Doha, where the Ruler resides."²³¹

231. In 1927, the British Political Agent reported on the subject of landing grounds for aircraft in the Qatar peninsula and arrangements with the Ruler of Qatar:

"I think independent arrangements with local tribes would have to be made for protection at Zubara and Shaqiq, as Abdulla [the Ruler of Qatar] is represented to me more as a pearl merchant than a Shaikh."²³²

232. Ibn Saud had been expanding his territories in the Arabian peninsula during the 1920s and 1930s. It was clear that at the 1922 oil conference at Uquayr, Ibn Saud considered all of Qatar as part of Hasa (the Arabian east coast). The Political Resident, Cox, reminded him that Qatar was outside his jurisdiction. However, in 1930, the Ruler of Qatar admitted to the Political Agent that he was paying Ibn Saud a secret subsidy of a "lakh of rupees a year", effectively placing Qatar under the control of Ibn Saud.²³³ King Saud finally recognised a State of Qatar in 1935. Nevertheless he exercised authority in the south of the Qatar peninsula well into the 1930s.²³⁴

233. As has been described, Zubarah was far from the base of the Ruler of Qatar in Doha. There was little there to interest him other than

²³¹ 1923 British Administration Report of the Bahrain Political Agency (CK Daly) Ann. 89, Vol. 3, p. 528.

²³² Note by Maj. Barrett, British Political Agent, 17 January 1927, Ann. 93, Vol. 3, p. 551.

²³³ See letter from Capt. Prior, British Political Agent, to Lt. Col. Biscoe, British Political Resident, 2 August 1930, Ann. 97, Vol. 3, p. 563 and letter from Lt. Col. Biscoe to Foreign Secretary, Govt. of India, 18 August 1930, Ann. 98, Vol. 3, p. 567.

²³⁴ Zahlan, *op. cit.*, pp. 82 to 84, Ann. 226, Vol. 4, pp. 951a to 951c.

the Naim tribe and their potential as a source of tribute. A.F. Williamson, a geologist working for the Anglo-Persian Oil Company who had reconnoitred the Qatar peninsula in 1933, reported that the towns and villages in the north of the Qatar peninsula remained outside the authority of the Ruler of Qatar.²³⁵ Soon after granting an oil concession over his territories in 1935, the Ruler of Qatar saw the great attraction of expanding the territory under his authority in order to maximise his potential revenue from hydrocarbon deposits.

SECTION 2.12 British and United States oil companies began to compete for oil concessions in Bahrain and Qatar during the period 1933-1936

234. The advent of oil concessions in the Gulf of Arabia region coincided with the decline of Britain's commercial interests there. Britain had dominated the Gulf of Arabia politically and economically for over 100 years.²³⁶ However, soon after the discovery of oil in the region - in Bahrain in 1932 - United States oil companies became dominant in competing for oil concessions and exploration rights. From the early 1930s, Britain struggled to give its own oil companies a competitive advantage over United States oil companies by exploiting Britain's historical political influence in the region. The struggle influenced events in the Zubarah region and underlay Qatar's invasion of Zubarah in 1937 (see Section 2.13, starting at paragraph 253, and in particular, paragraphs 282 to 290).

²³⁵ A.F. Williamson's report entitled "Notes on Qatar", 14 January 1934, Ann. 101, Vol. 3, p. 576.

²³⁶ Taking the conclusion of the first general anti-piracy treaty of 1820 as the first date.

235. On 14 May 1914, the Ruler of Bahrain agreed not to grant any oil concession for his territory without the prior approval of the British Government.²³⁷ In 1925, a British syndicate, Eastern & General, was granted a concession to drill for oil in Bahrain. The terms of the concession authorised Eastern & General, *inter alia*, to explore and search "throughout the whole of the territories under [the Ruler of Bahrain's control]".²³⁸

236. Eastern & General could not raise the capital necessary for such a project and decided to assign its concession. In November of 1927, it signed an option agreement with Gulf Oil of Pennsylvania to assign the entire concession. That option was itself subsequently assigned on 21 December 1928 to the Standard Oil Company of California (SOCAL).²³⁹ The assignments were dependent on the approval of Britain. But Britain was increasingly concerned about "the intrusion of American oil interests into Bahrain", as noted in a telegram dated 15 August 1929 from the British Secretary of State for India.²⁴⁰

237. After lengthy negotiations, Britain agreed that the concession could be assigned to a Canadian subsidiary created by SOCAL to hold and operate the concession: the Bahrain Petroleum Company Limited (BAPCO). The assignment was executed in June 1930.²⁴¹ Contrary to

²³⁷ Reported in letter from Lt. Col. Haworth, British Political Resident, to Secretary of State for Colonies, 2 April 1928, Ann. 94, Vol. 3, p. 552.

²³⁸ Bahrain Oil Concession, 1925, Ann. 90, Vol. 3, p. 529.

²³⁹ For these early developments, see Angela Clarke, Bahrain Oil and Development (1929-1989) (1991), Chapter 3, Ann. 231, Vol. 4, p. 987.

²⁴⁰ Telegram from Secretary of State for India to Viceroy (Foreign and Political Department) and Lt. Col. Charles Barrat, British Political Resident, 15 August 1929, Ann. 95, Vol. 3, p. 554.

²⁴¹ Indenture between Ruler of Bahrain and Eastern & General, 12 June 1930, Ann. 96, Vol. 3, p. 556.

Britain's original aspirations, BAPCO was indirectly 100% United States owned.

238. In 1932, BAPCO struck oil in commercially exploitable quantities in the centre of the main island of Bahrain. Following this success, it applied to extend its prospecting licence on several occasions. A mining lease was signed between the Ruler of Bahrain and BAPCO on 29 December 1934. By virtue of that lease and the original 1925 concession, BAPCO was permitted to select a further site in Bahrain's territory in which to operate.²⁴² BAPCO selected a site on the main island of Bahrain, as detailed on maps appended to the lease.

239. The remainder of Bahrain's territory, referred to as the "unallotted area", was left to be negotiated between the Ruler of Bahrain and prospective concessionaires. It was understood by these prospective concessionaires that the Zubarah region could be included in Bahrain's oil concessions. In a 1936 letter, the local representative of BAPCO wrote to the company's legal counsel: "The Khalifa family at one time lived in Zubara and still have some claim to that town and its environs..."²⁴³

240. With the prospect of oil, the eyes of the Ruler of Qatar became intently fixed on Zubarah. Britain was involved with the Qatari oil concessions by virtue of Article 5 of the 1916 Treaty between Britain and Jasim Al Thani, under which the Ruler of Qatar was precluded from granting any oil monopolies or concessions "to anyone whatsoever ... without the consent of the High British Government." For its part,

²⁴² Lease between Ruler of Bahrain and BAPCO, 29 December 1934, Ann. 102, Vol. 3, p. 580.

²⁴³ Letter from K. Skinner to H. Ballantyne, 5 December 1936, Ann. 108, Vol. 3, p. 627.

Britain wanted British companies to get as many concessions in the region as possible. Having lost the Bahrain concession to a 100% United States-owned company, Britain was determined to ensure that concessions for the remainder of the unallocated territory in the region be awarded to British commercial interests. Britain was concerned that Bahrain's sovereignty over the Zubarah region could mean that the United States-controlled BAPCO rather than a British company would own resources there.

241. Britain recognised the strength of Bahrain's interest in Zubarah. The British Political Agent noted in a memorandum dated 13 June 1933, at the beginning of discussions with oil companies about oil concessions on the Qatar peninsula:

"In this connection I mentioned that it would be advisable in any matter of boundaries to avoid reference so far as possible to the western coast of Qatar as there were certain places on it which were claimed by Bahrain. I said that visits of geologists to that area had been commented on locally as being beyond the powers of [the Ruler of Qatar]..."²⁴⁴ (Emphasis added.)

Several days later, the Political Agent met a representative of the British Anglo-Persian Oil Company²⁴⁵, one of the prospective concessionaires, who was due to meet with the Ruler of Qatar. The Political Agent advised him:

"to keep clear of the Western coast of Qatar, so far as might be. He [Sampson] asked me about the Bahrain claims, but I said that I could tell him little except that they were considered locally to be live claims, and that I thought that, unless they found that they

²⁴⁴ Memorandum by Lt. Col. Loch, British Political Agent, 13 June 1933, Ann. 99, Vol. 3, p. 570.

²⁴⁵ Later to be called the Anglo-Iranian Oil Company; now known as the British Petroleum Company.

definitely required to operate there, it would be best, at any rate at this stage, to let sleeping dogs lie."²⁴⁶ (Emphasis added.)

242. Using its political influence, Britain entered into an agreement with the Ruler of Qatar for the sole purpose of ensuring that the Qatar oil concession be granted to Anglo-Persian. In return, Britain offered protection to Qatar (a fairly valueless benefit to Qatar in the light of Britain's ongoing obligations to Qatar under the 1916 Treaty). The terms of the arrangement were very simple:

"Protection will be afforded you on the condition ... that you give the Oil Concession about which the Anglo-Persian Oil Company have been negotiating, to that Company."²⁴⁷

243. Once the concession had been awarded to Anglo-Persian on 17 May 1935,²⁴⁸ Britain entered into an agreement with the company which ensured that any assignee of the concession would:

"be and remain a British company registered in Great Britain and having its principal place of business in Great Britain, and its Chairman shall at all times be a British subject."²⁴⁹

244. Article 2 of the Agreement ensured that subsidiary companies were subject to the same requirements and Article 3 required that "the employees of the Company in Qatar shall at all times be British subjects or subjects of the Sheikh".

²⁴⁶ Memorandum from Lt. Col. Loch, British Political Agent, to Lt. Col. Fowle, British Political Resident, 25 June 1933, Ann. 100, Vol. 3, pp. 572 to 573.

²⁴⁷ Letter from Lt. Col. Fowle, British Political Resident, to Ruler of Qatar, 11 May 1935, Ann. 103, Vol. 3, p. 612.

²⁴⁸ Qatar Oil Concession, 17 May 1935, Ann. 104, Vol. 3, p. 615.

²⁴⁹ Political Agreement between British Govt. and the Anglo-Persian Oil Company, 5 June 1935, Ann. 106, Vol. 3, p. 622.

245. The Qatar concession was subsequently assigned in September 1935, with the consent of the British Government,²⁵⁰ to Petroleum Development (Qatar) Limited, a holding company owned by Petroleum Concessions Limited ("PCL"), a consortium in which British interests predominated.²⁵¹

246. Thus, while the oil concession in Bahrain was held by United States interests, the oil concession in Qatar was awarded to British interests. In order to extend further the British economic interest in Qatar, Britain had reached an understanding with the Ruler of Qatar about his territories that purported to transfer thereby Bahrain territory to Qatar and consequently to British oil companies. Britain wanted to assure the integrity of the Qatar peninsula was not threatened. As a Foreign Office official in London said to a PCL representative on 25 June 1937:

"... His Majesty's Government, who had strong views about the integrity of the Qatar peninsula, would not be at all likely to recognise any claims by the Sheikh of Bahrein over this area."²⁵²

247. Article 2 of the 1935 Qatar concession permitted operation:

"in any part of the State of Qatar as is defined below... The State of Qatar means the whole area over which the Shaikh rules and which is marked on the north of the line drawn on the map attached to this Agreement."²⁵³ (Emphasis added.)

²⁵⁰ Letter from Lt. Col. Fowle, British Political Resident, to Ruler of Qatar, 21 September 1936, Ann. 107, Vol. 3, p. 625.

²⁵¹ See e.g. reference to PCL letter from J.S. Black, Chief Local Representative of BAPCO, to Hugh Weightman, British Political Agent, 8 June 1938, Ann. 161, Vol. 4, p. 739.

²⁵² Foreign Office Minute, 25 June 1937, Ann. 133, Vol. 3, p. 688.

²⁵³ Qatar Oil Concession, 17 May 1935, Ann. 104, Vol. 3, p. 616.

248. The map that was attached to the Agreement contained a line at the base of the Qatar peninsula, to the north of which was depicted the Qatar peninsula and the Bahrain Islands (including the Hawar Islands).²⁵⁴

249. In 1937, PCL, the British concessionaire in Qatar, was negotiating with the Ruler of Bahrain for a concession over Bahrain's "unallotted area". PCL took the view that its Qatar concession included the Zubarah region, but it was concerned about how Bahrain's view of its sovereignty over the Zubarah region might affect both PCL's chances of obtaining the unallotted area and PCL's ability to develop the Zubarah region under the Qatar concession.

250. In August 1937, PCL sent a letter to the India Office stating:

"Information now reaches us from Bahrain to the effect that the Shaikh would in all probability be willing to give us all the unallotted territory ... provided that a clause be inserted in the concession agreement that 'no effort would be made to develop the oil resources of the Zubarah area'."²⁵⁵

251. PCL believed that its interests would be best served by leaving aside the Zubarah question for the moment in order to increase its chances of being awarded the concession for Bahrain's "unallotted area". To this end, PCL even suggested to Britain that perhaps the issue of sovereignty over the Zubarah region could be avoided entirely if negotiations were to emphasise that the concession being sought by PCL related only to the unallotted "portion of Bahrain Island and all the other Islands under the Sovereignty of the Shaikh of Bahrain."²⁵⁶

²⁵⁴ Map accompanying the 1935 Qatar Oil Concession, Ann. 105, Vol. 3, p. 621.

²⁵⁵ Letter from S. Longrigg, PCL to Mr. Walton, India Office, 16 August 1937, Ann. 157, Vol. 4, p. 727.

²⁵⁶ *Ibid.*, Ann. 157, Vol. 4, p. 728.

252. The British Government now found it convenient to temporise. In a letter dated September 1937 writing to the British Political Resident in September 1937,²⁵⁷ the British Political Agent noted:

"From an examination of Article 2 of the Qatar Oil Concession I am inclined to the view that His Majesty's Government are in no way committed, for the state of Qatar is defined as being 'the whole area over which the Shaikh rules and which is marked on the north of the line drawn on the map attached to this Agreement.' If the Shaikh of Bahrain eventually succeeds in proving his claim to the area known as Zubarah then ipso facto the Shaikh of Qatar cannot be said to rule over that area and, therefore, that area cannot be considered as part of the state of Qatar." (Emphasis added.)

SECTION 2.13 Qatar launched an armed attack on the Zubarah region in 1937

253. The Ruler of Qatar's interest in increased oil revenues combined with Britain's interest in ensuring that the British oil company PCL, which had the Qatar concession, had the largest possible territorial concession possible soon led to conflict between Bahrain and Qatar over the status of the Zubarah region.

254. To the oil companies operating in the region, to Britain and to the Parties, it was clear that, at the end of 1936, the Ruler of Qatar had not yet established his authority in the Zubarah region. Since the Ottoman-inspired attack on Zubarah in 1895, the Al-Thani, first as chiefs of Doha Town and then as Rulers of Qatar, had made no further attempt to settle Zubarah.²⁵⁸ They had already failed to do so three times by use of force

²⁵⁷ Letter from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 22 September 1937, Ann. 160, p. 735, Vol. 4.

²⁵⁸ See e.g. Memorandum by Hugh Weightman, British Political Agent, 28 April 1937, Ann. 123, Vol. 3, p. 647.

and twice by proposed peaceful administration and settlement.²⁵⁹ The Ruler of Qatar had problems enough in his own territories without concerning himself with Zubarah. This attitude changed, however, when the Ruler of Qatar considered the potential for oil. Britain perceived that Bahrain's interest in the region would make it a ripe area for conflict. The British Political Agent in an official note dated March 1937 warned that:

"[Zubarah] is going to be the subject matter of a tensible feeling between the [Ruler of Bahrain] and [the Ruler of Qatar] ...owing to the development of petroleum."²⁶⁰

255. Like his predecessor in 1895, the Ruler of Qatar began to conspire with some local tribesmen to impose his authority on the region. In a hasty attempt to create some sort of presence in the Zubarah region, the Ruler of Qatar embarked on plans for the construction of a port and a pier there. In addition, the British Political Agent noted that the Ruler of Qatar was attempting to impose his authority on the Al-Jabr branch of the Naim tribe and the Zubarah region by establishing a customs official in Zubarah and demanding tax for the "juss boats" that brought provisions from the main island of Bahrain to the Bahraini Naim inhabitants of Zubarah.²⁶¹ By March 1937, the Ruler of Qatar had

²⁵⁹ There is no evidence that the Al-Thani participated directly in the short-lived attempt by the Ottoman Empire to extend its administration to Zubarah.

²⁶⁰ Note of Lt. Col. Loch, British Political Agent, 13 March 1937, Ann. 109, Vol. 3, p. 629.

²⁶¹ Telegram from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 23 April 1937, Ann. 119, Vol. 3, p. 642. For an account of the role of these "juss boats" see statement of Saleh bin Muhammed Ali bin Ali Al Naimi, para. 7, Ann. 234(a), Vol. 4, p. 1026 and statement of Mohammed bin Mohammed bin Theyab Al Naimi, para. 6, Ann. 233(a), Vol. 4, p. 1015.

begun to settle the Zubarah region with his own subjects.²⁶² As the British Political Agent observed, the Ruler of Qatar had engaged in these acts expressly "in order to ensure the claim of ownership of the land."²⁶³

256. When these plans became known to them, the Al-Jabr Naim tribesmen were provoked into open confrontation with Qatar. They rejected the idea of submitting to the authority of the Ruler of Qatar. Their headman refused to pay the tax on the ground that they were in Bahrain and subjects of the Ruler of Bahrain. The leader of the Al-Jabr Naim, Rashid bin Mohammed Al Jabr, sensing trouble from the Qataris, went to see the Ruler of Bahrain in the main island of Bahrain.²⁶⁴ He obtained assistance in the form of food and arms.²⁶⁵ By 30 April 1937, about 1000 members of the Al-Jabr branch of the Naim tribe had massed at the old town of Zubarah, anxious to defend themselves against the anticipated aggression from the Ruler of Qatar as reprisal for their refusal to submit to his authority or pay his taxes.²⁶⁶ At the same time, three members of the Ruler of Bahrain's personal guard went to Zubarah.²⁶⁷

262 Note of Lt. Col. Loch, British Political Agent, 13 March 1937, Ann. 109, Vol. 3, p. 629.

263 *Ibid.*

264 See statement of Saleh bin Muhammed Ali bin Ali Al Naimi, para. 10, Ann. 234(a), Vol. 4, p. 1027 and statement of Mohammed bin Theyab Al Naimi, para. 10, Ann. 233(a), Vol. 4, pp. 1015 to 1016.

265 Letter from Ruler of Qatar to Capt. Hickinbotham, British Political Agent, 11 July 1937, Ann. 149, Vol. 4, p. 714. See also statement of Saleh bin Muhammed Ali bin Ali Al Naimi, para 10, Ann. 233(a), Vol. 4, p. 1016, and statement of Mohammed bin Mohammed bin Theyab Al Naimi, para 10, Ann. 234(a), Vol. 4, p. 1027.

266 Telegram from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 30 April 1937, Ann. 124, Vol. 3, p. 649.

267 Note entitled "Zubarah Incident", by Capt. Hickinbotham, British Political Agent, 3 May 1937, Ann. 126, Vol. 3, p. 654.

257. At the same time as this confrontation was developing in the Zubarah region, the Ruler of Qatar had been trying to entice members of the Naim tribe away from their loyalty to the Ruler of Bahrain. He had been partly successful. A lesser branch of the Naim tribe - the Al-Ramazan - had switched allegiance some time before to the Ruler of Qatar as a result of an internal tribal dispute (see paragraph 85). However, the principal branch - the Al-Jabr, who occupied the Zubarah region - remained loyal to Bahrain (see paragraphs 85-88). One former Al-Jabr Naim resident of the Zubarah region, Saleh bin Muhammed Ali bin Al Naimi, now resident in the main island of Bahrain, recalled:

"there had been a lot of trouble with the Al-Thani Sheikh of Qatar who wanted to tax the Al Jabr Naim, for example by charging customs duties on the dhows which brought food from the main island of Bahrain and setting up a guard post in our tribal territory. Another section of the Al Naim tribe, the Al Ramzan, had switched allegiance to the Al-Thani Sheikh and had been appointed to collect taxes from the Al Jabr section of the tribe.

This caused a great deal of bad feeling within the Al Naim tribe and our leader Rashid bin Mohammed Al Jabr argued with the Al Ramzan section and refused to pay any taxes. He made it clear to the Al-Thanis that the Al Jabr Al Naim were subjects of the Ruler of Bahrain and that we would have nothing to do with the Al-Thani. We were afraid that the Al-Thani would demand allegiance by force and many of the Al Naim tribe gathered at the ruined town of Zubarah from the outlying towns and villages in fear of an attack."²⁶⁸

258. The British Political Agent, Captain Hickinbotham, learned that the Ruler of Qatar had visited the villages of the northern coast of the Qatar peninsula, as well as the Zubarah region, in March of 1937, in the

²⁶⁸

See statement of Saleh bin Muhammed Ali bin Al Naimi, paras. 8 to 9, Ann. 234(a), Vol. 4, pp. 1026 to 1027. See also statement of Mohammed bin Mohammed bin Theyab Al Naimi, para. 10, Ann. 203(a) Vol. 4, p. 1015.

wake of the recent defection of the Al-Ramazan branch of the Naim tribe from Bahraini to Qatari authority.²⁶⁹

259. In response to the actions taken by the Al-Jabr Naim, the Ruler of Qatar wrote to the headman of the Al-Jabr branch of the Naim tribe in April 1937 demanding his loyalty and obedience on pain of punishment.²⁷⁰ The headman of the Al Jabr Naim complained to the Ruler of Bahrain about Qatari tax collectors and customs official in Zubarah and claimed assistance from him.²⁷¹

260. The Ruler of Bahrain noted with concern the sudden visits of the Qataris and their followers to the Zubarah region in the spring of 1937 and immediately communicated its concerns to the British Political Agent.²⁷² Bahrain expected that, while Britain might continue to discourage it from becoming involved in events on the Qatar peninsula, Britain would also continue to protect and maintain Bahrain's authority over Zubarah in the face of Qatari expansionism.

261. The British Political Agent, Lieutenant-Colonel Loch, originally responded to Bahrain's protests and requests for assistance in Zubarah on the basis of his mistaken understanding that the question of sovereignty over the Zubarah region had been decided in 1920, when Britain had refused to allow the construction of a port there by Bahrain (see paragraphs 224-225). With this in mind, he referred to Britain's

²⁶⁹ Note entitled "Zubarah Incident", by Capt. Hickinbotham, British Political Agent, 3 May 1937, Ann. 126, Vol. 3, p. 653.

²⁷⁰ Letter from Ruler of Qatar to Rashid bin Mohamed Al Jabor, headman of the Naim, April 1937, Ann. 125, Vol. 3, pp. 650 to 651.

²⁷¹ Note entitled "Zubarah Incident", by Capt. Hickinbotham, British Political Agent, 3 May 1937, Ann. 126, Vol. 3, pp. 653 to 654.

²⁷² See e.g. translation of letter from Ruler of Bahrain to Lt. Col. Loch, British Political Agent, 14 March 1937, Ann. 110, Vol. 3, p. 630.

"decision regarding Zubarah", in a note dated 16 March 1937.²⁷³ The British Political Resident, Sir Trenchard Fowle, was reluctant to support Bahrain's claim to the Zubarah region. Without substantiating his sentiment, he asserted: "Personally I am of opinion that Zubara definitely belongs to Qatar..."²⁷⁴ Fowle appeared finally to have decided that the opportunity had come both to rid Britain of the long-standing problem of Bahrain's involvement in the Qatar peninsula and to assist the Ruler of Qatar in consolidating his tenuous authority, thereby assisting Petroleum Concessions Limited, the oil concessionaire in Qatar. At no time did the British Government or British officials ever evaluate the quality of the claim of Ruler of Qatar. Nor did they ever compare the two States' bases of title to the Zubarah region or evaluate them in light of the prevailing international law standards.

262. One week later, the British Political Agent, Lieutenant-Colonel Loch, completed his review of the records and realised that there had been no decision. He noted in a memorandum of 12 April 1937 that he had informed the British Political Resident, Sir Trenchard Fowle, of his findings:

"I told the Resident that I thought that Bahrain had a real claim to Zubarah as Shaikh Isa's orders certainly used to be obeyed and the place is inhabited largely by persons from Hidd and from Rifa [both towns in the main Bahrain Island group] and no Qatar customs are taken. I explained that the Zubarah area was a large semi-circular enclave with towers around it ... I finally begged the Resident not to suggest any course to Government until he

²⁷³ Memorandum of Lt. Col. Loch, British Political Agent, 16 March 1937, Ann. 111, Vol. 3, p. 631.

²⁷⁴ Telegram from Lt. Col. Fowle, British Political Resident, to Lt. Col. Loch, British Political Agent, 25 March 1937, Ann. 112, Vol. 3, p. 632. Upon further reflection, he expressed a very different view in May 1937; see paragraph 272.

had had an opportunity of finding out the Shaikh's attitude in the matter..."²⁷⁵ (Emphasis added.)

263. Despite the limitations that had been placed by Britain on the exercise by the Ruler of Bahrain of his authority in the Zubarah region, it was well established. In a telegram dated 30 March 1937, the British Political Agent confirmed that:

- a) in addition to the Naim, other important Bahraini families lived in the Zubarah region;
- b) those families made their living from fishing (with boats and fish traps);
- c) the Ruler of Bahrain sends orders if occasion arises to people who live there' (the Telegram refers to the practice of the previous Ruler of Bahrain, who died in 1932, in that regard by stating that he 'certainly used to do so'); and
- d) no Qatari customs taxes were levied in the Zubarah region.²⁷⁶

264. Britain was clearly concerned that if it continued to recognise Bahrain's sovereignty over Zubarah, as it had in the past, then PCL would find the Zubarah region to be outside its oil concession granted by the Ruler of Qatar. At one point when British officials were discussing the issue of Bahrain's sovereignty over Zubarah, the British Political Agent suggested that, as a condition of any agreement with the Ruler of Bahrain about his sovereignty over Zubarah, Britain should insist that Bahrain give PCL the oil concession for the Zubarah region.²⁷⁷

²⁷⁵ Note of British Political Agent, 12 April 1937, Ann. 114, Vol. 3, p. 634.

²⁷⁶ Telegram from Lt. Col. Loch, British Political Agent, to Lt. Col. Fowle, British Political Resident, 30 March 1937, Ann. 113, Vol. 3, p. 633.

²⁷⁷ Note of British Political Agent, 12 April 1937, Ann. 114, Vol. 3, p. 634.

265. From the beginning of the renewed interest of the Ruler of Qatar in the Zubarah region in early 1937, the Ruler of Bahrain asserted his authority over the Zubarah region.²⁷⁸ As the activity of the Ruler of Qatar in the Zubarah region increased during the spring of 1937, so did the communications between the Ruler of Bahrain and the headman of the Al-Jabr branch of the Naim tribe. Rashid Al Jabor warned in a letter to the Ruler of Bahrain:

"Bin Thany has displayed his enmity towards you and what is more is his idea to take Zubara and other places..."²⁷⁹

266. The Ruler of Bahrain sent soldiers, arms and food to the Naim in Zubarah as he had done before (see paragraphs 198-206) in times of difficulty. One old Naim tribesman now living on the main island of Bahrain recalled:

"Our leader, Rashid bin Mohammed Al Jabr, had gone to the Ruler of Bahrain, Sheikh Hamad bin Isa and his son Sheikh Salman, seeking weapons in fear of an attack from Ibn Thani. He had sought the weapons from the Ruler of Bahrain because they were our Rulers, and because the Naim were fighting on behalf of the Al Khalifa. The Ruler of Bahrain sent five shot and eleven shot guns to help us."²⁸⁰

267. In the course of April 1937, the Bahrain flag was planted conspicuously on the beach by the old fort in Zubarah and repairs to the fort were commenced by Bahrain.²⁸¹

²⁷⁸ Letter from Ruler of Bahrain to British Political Agent, 14 April 1937, Ann. 115, Vol. 3, p. 635.

²⁷⁹ Letter from Rashid bin Mohamed Al Jabor, headman of the Naim, to Ruler of Bahrain, 14 April 1937, Ann. 116, Vol. 3, p. 636.

²⁸⁰ See statement of Mohammed bin Mohammed bin Theyab Al Naimi, para. 10, Ann. 233(a), Vol. 4, p. 1016. See also statement of Saleh bin Muhammed Ali bin Al Naimi, para. 10, Ann. 234(a), Vol. 4, p. 1027.

²⁸¹ Telegram from Lt. Col. Loch, British Political Agent, to Lt. Col. Trenchard Fowle, British Political Resident, 26 April 1937, Ann. 122, Vol. 3, p. 646. See also Memorandum entitled "Zubarah Incident" from Capt. Hickinbotham,

268. On 22 April 1937, the Acting Superintendent of the Bahrain Land Department sent supplies to Zubarah, including Bahrain Government flags. He also confirmed that land in Zubarah was to be registered in the Bahrain Land Registry,²⁸² something that had hithertofore not been done because of the pastoral and maritime nature of the society there. A request for such registration was received.²⁸³

269. In May 1937, Britain proffered its good offices to the parties in an attempt to resolve the deadlock over Zubarah. The British Political Agent, Capt. Hickinbotham, obtained an assurance from the Ruler of Qatar that he had no intentions of attacking the Naim pending a decision on the status of Zubarah to be made by the British Political Resident.²⁸⁴

270. Several inconclusive meetings took place in Bahrain, under the auspices of the British Political Agent, between representatives of the Rulers of Bahrain and Qatar. In the course of these negotiations, Captain Hickinbotham proposed a compromise: Qatar would not tax the Naim inhabitants of Zubarah, would not collect customs duties in the Zubarah region and would not require any travel documents between Zubarah and the rest of Bahrain. The Ruler of Qatar, furthermore, would recognise the right of the Ruler of Bahrain to Zubarah as his property. In exchange,

British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 May 1937, Ann. 126, Vol. 3, p. 656.

²⁸² Letter from Acting Superintendent of Land Department, 22 April 1937, Ann. 117, Vol. 3, p. 637.

²⁸³ See request for registration of property in the Zubarah region in Bahraini Land Registration Directorate received on 23 April 1937, Ann. 118, Vol. 3, p. 638.

²⁸⁴ Memorandum entitled "Zubarah Incident" from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 May 1937, Ann. 126, Vol. 3, p. 656.

the Ruler of Bahrain had to give any oil rights in Zubarah to the Ruler of Qatar.²⁸⁵

271. The compromise proposal did not deal with the issue of sovereignty directly, describing the rights of both Rulers in terms of personal property. Nonetheless, other than oil revenues being accorded to the Ruler of Qatar, the Ruler of Qatar was expressly prohibited from exercising authority (in the form of taxation, immigration, import control) in Zubarah. In substance, the proposal was that the Ruler of Bahrain would continue to exercise his authority over the Zubarah region to the exclusion of the Ruler of Qatar, provided that the British oil concessionaire could prospect for oil there and the Ruler of Qatar could collect any oil revenues.²⁸⁶ Events shortly overtook this proposal.

272. Once the negotiations between the representatives of the two Rulers had started, it became rapidly evident to Britain that the better legal claim lay with Bahrain. In a memorandum to the British Secretary of State for India dated 5 May 1937, the British Political Resident communicated Bahrain's case to the Secretary of State for India, noting:

"(1) that for many years past the Naim tribe of Bahrain origin, and members of whom live in Bahrain are practically the sole inhabitants of Zubarah

(2) and the Naim at Zubarah pay no taxes, including customs to the Shaikh of Qatar. Nor does the Shaikh of Qatar insist on travel papers for Bahrain subjects visiting Zubarah

(3) that the Naim tribe obey the orders of the Shaikh of Bahrain, in support of which statement the Bahrain Government

²⁸⁵ Memorandum entitled "Possible basis for compromise" by Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 May 1937, Ann. 126, Vol. 3, p. 661.

²⁸⁶ Memorandum entitled "Possible basis for compromise" by Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 May 1937, Ann. 126, Vol. 3, pp. 661 to 665.

quote that many years ago the tribe obeyed the orders of Shaikh'Isa, then Ruler of Bahrain, not to occupy the Zubarah fort, which they wished to do. Further, that the Naim tribe generally obey the orders of the Ruler of Bahrain.

The Bahrain Government, however, admit that they do not administer or take taxes at Zubarah."²⁸⁷

273. The strength of Bahrain's claim and the corresponding weakness of Qatar's claim to Zubarah was becoming awkward for Britain, which still wanted to ensure that PCL would be able to realise the benefits of the Zubarah region under the Qatar oil concession. Sir Trenchard Fowle acknowledged the difficulty of the situation:

"I had hoped that ... the thorny question of the ownership of Zubarah would remain quiescent, and that His Majesty's Government would be able to avoid giving a definite award either in favour of the Ruler of Bahrain or the Ruler of Qatar."²⁸⁸

274. Negotiations ensued between the representatives of the Rulers of Bahrain and Qatar during May and June of 1937. Various proposals were made by both sides in the course of negotiations, including one in which Bahrain agreed temporarily to withdraw its claim to Zubarah, subject to the ongoing performance of certain conditions, including maintaining the Zubarah region as it had been before the dispute arose which included maintaining a moratorium on taxes on the Naim.²⁸⁹ In a

²⁸⁷ Memorandum from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 5 May 1937, Ann. 127, Vol. 3, pp. 666 to 667. Point 4 is of limited significance due to the fact that the Govt. of Bahrain did not collect taxes in many of its territories at the time. Govt. administration of bedouin peoples has always been recognised as limited. Western Sahara Advisory Opinion, Judgment, I.C.J. Reports 1975, p. 12, Dubai/Sharjah arbitration, 91 ILR 543.

²⁸⁸ Memorandum from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 5 May 1937, Ann. 127, Vol. 3, pp. 667 to 668.

²⁸⁹ Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 23 June 1937, Ann. 132, Vol. 3, p. 685.

direct communication to the Ruler of Qatar about that proposal, the Ruler of Bahrain said:

"As long as the above conditions are carried out without alterations I (the Shaikh of Bahrain) agree to withdraw my claim to Zubarah and the Naim but should there happen anything contrary to the conditions my claim returns as before".²⁹⁰

275. In contrast to Bahrain's conduct during the course of the May and June meetings, the representatives of Qatar refused to engage in any substantive negotiation in the usual sense of the word. They had apparently been instructed that the purpose of the negotiation was to have Bahrain agree with the Ruler of Qatar's demands. The British Political Resident, who wanted the Ruler of Qatar to succeed in obtaining control of the Zubarah region, noted on 23 June 1937:

"Attitude of Qatar representatives has been most chauvinistic and offensive. The Bahrain Government have been most patient and have in my opinion now gone a long way to meet the Shaikh of Qatar."²⁹¹

276. When the negotiations did not immediately produce the result that the Ruler of Qatar desired, he wrote to the British Political Agent describing his claim to Zubarah.²⁹² He cited the text of the 1916 Treaty with Britain and the 1935 Qatar Oil Concession, insisting, oblivious to their language,²⁹³ that they included the Zubarah region within the territories of the Ruler of Qatar.

²⁹⁰ Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 23 June 1937, Ann. 132, Vol. 3, p. 685.

²⁹¹ Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 23 June 1937, Ann. 132, Vol. 3, p. 685.

²⁹² Letter from Ruler of Qatar to Lt. Col. Fowle, British Political Resident, 9 June 1937, Ann. 129, Vol. 3, pp. 676 to 678.

²⁹³ Regarding the 1916 Treaty, see Section 2.10, starting at paragraph 215; regarding the Oil Concession, see paragraphs 375 to 376.

277. In the meantime, the Al-Jabr branch of the Naim tribe, recalling previous attacks by the Al-Thani on the Naim community, had continued their defensive preparations in anticipation of a Qatari attack. The Al-Jabr confirmed their allegiance to the Ruler of Bahrain in written communications sent by the Chief of the Naim tribe to the Ruler of Bahrain.²⁹⁴ Food, arms and ammunition continued to be supplied by the Ruler of Bahrain to the Al-Jabr Naim in Zubarah, as was confirmed by both the Ruler of Qatar and the Adviser to the Bahrain Government.²⁹⁵

278. Qatari defectors from Doha and the south of the Qatar peninsula joined the Al-Jabr Naim ranks. This underscored the fact that, even in the south of the peninsula, the Ruler of Qatar's authority was threatened. The British Political Agent, Captain Hickinbotham, noted on 29 May 1937:

"My general impression is that the Shaikh of Qatar's position is being daily weakened by defections not only of outside notables but from his own family. He will very shortly not be in a sufficiently strong position to make any terms whatsoever and indeed rumours are circulating that he goes daily in fear of his life."²⁹⁶

²⁹⁴ Letter from Chief of Naim tribe to the Ruler of Bahrain, 24 April 1937, Ann. 120, Vol. 3, p. 644, and letter from Chief of Naim tribe to the Ruler of Bahrain dated 25 April 1937, Ann. 121, Vol. 3, p. 645. See also letter from Charles Belgrave, Advisor to Govt. of Bahrain, to Capt. Hickinbotham, British Political Agent, 20 June 1937, Ann. 130(a), Vol. 3, pp. 679 to 680.

²⁹⁵ Letter from Ruler of Qatar to Capt. Hickinbotham, British Political Agent, 11 July 1937, Ann. 149, Vol. 4, p. 714. Letter from Charles Belgrave, Advisor to Govt. of Bahrain, to Capt. Hickinbotham, British Political Agent, 19 August 1937, Ann. 158, Vol. 4, p. 729. See also Statement of Saleh bin Muhammed Ali bin Al Naimi, para. 10, Ann. 234(a), Vol. 4, p. 1027 and Statement of Mohammed bin Mohammed bin Theyab Al Naimi, para 10, Ann. 233(a) Vol. 4, p. 1015.

²⁹⁶ Note by Capt. Hickinbotham, British Political Agent, 29 May 1937, Ann. 128, Vol. 3, p. 674.

279. The Ruler of Qatar began hiring mercenaries to attack Zubarah.²⁹⁷ The fears of the Al-Jabr branch of the Naim tribe about yet a fourth armed attack on their community by the Al-Thani in less than 70 years seemed justified. As the messenger of the Ruler of Bahrain noted on 22 June 1937:

"Qatar, as I saw it, was in a disturbed state and every one was preparing for war."²⁹⁸

280. Despite the evident risk of an outbreak of hostilities Britain resolved not to intervene in Zubarah,²⁹⁹ thereby no longer protecting Bahrain's rights in Zubarah from aggression.

281. The second round of negotiations between Bahrain and Qatar over the Zubarah region took place in late June in Qatar. The Ruler of Bahrain sent his sons to negotiate with the Ruler of Qatar at the village of Ghariyeh, situated at the very north of Qatar's east coast, about 40 kilometres by boat from the Zubarah port. These negotiations made some progress but the talks were temporarily suspended when the representatives of the Ruler of Bahrain informed the representatives of the Ruler of Qatar that they needed to return to Muharraq Island in order to obtain instructions from their Ruler. Before leaving, however, the two Bahraini representatives to the Ghariyeh meeting formally reminded the Qatari representatives of Bahrain's claim to Zubarah.³⁰⁰

²⁹⁷ Report of Abdullah bin Hasan, Messenger of Ruler of Bahrain, 22 June 1937, Ann. 131, Vol. 3, p. 683.

²⁹⁸ *Ibid.*, Ann. 131, Vol. 3, p. 684.

²⁹⁹ Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 23 June 1937, Ann. 132A, Vol. 3, p. 686.

³⁰⁰ Letter from Representatives of the Ruler of Bahrain to Representatives of Ruler of Qatar, June 1937, Ann. 134, Vol. 3, p. 690.

282. Bahraini fears of a Qatari surprise attack proved well-founded. On 1 July 1937, when the representatives of the Ruler of Bahrain were returning from the suspended negotiations to the main island of Bahrain by boat, they followed the usual route to the main island of Bahrain, southwards along the coast of peninsula before crossing the Gulf of Bahrain from Zubarah. Just as they were turning from the coast of the Zubarah region, they witnessed a band of armed bedouin mercenaries attacking the Naim in the old town of Zubarah. It transpired that the representatives of the Ruler of Qatar at the negotiations in Ghariyeh had been secretly joined by a large force of armed bedouin mercenaries. Following the suspension of the negotiations, the representatives of the Ruler of Qatar and the mercenaries had travelled down the western coast of the Qatar peninsula to attack the Zubarah region. The Government of Bahrain's Adviser, Charles Belgrave, who had accompanied Bahrain's negotiating party, recorded the attack on the Naim in the old town of Zubarah in his autobiography in the following words:

"Some unusual activity had been sighted on the coast [from the boat]. Motor lorries, loaded with men, were moving in the direction of Zabara and bodies of men were deploying. Then, as we watched, the fighting started. The Naim tribesmen who lived at Zabara were being attacked by Shaikh Abdulla bin Jasim's Bedouin..."³⁰¹

283. Belgrave wrote that Bahrain's negotiating party was "close enough to see our people being attacked," but was unable to get to shore. He later estimated the Qatari mercenary force to have numbered five to seven thousand men, assisted by three lorries and six cars.³⁰² Eyewitness accounts from Naim tribespeople living in other parts of the Zubarah

³⁰¹ Charles Belgrave, Personal Column (1960), p. 156, Ann. 217, Vol. 4, p. 911.

³⁰² See note of an interview with Charles Belgrave, Adviser to the Govt. of Bahrain, by Capt. Hickinbotham's British Political Agent, 1 July 1937, Ann. 136, Vol. 4, p. 694.

region show that the attack had been planned in advance, as other similar surprise attacks by Qatari mercenaries occurred against Naim villages at the same time. One Naim tribesman now living in Bahrain recently recalled the details of the invasion of his tribe's territory:

"On 1 July 1937, early in the afternoon, I saw a large body of tribesmen, some Qatari, some bedouin from the Manasir and Beni Hajir tribes, approaching our *dirah* (tribal area) near Lisha. Some were on foot and some were in lorries. There were maybe three or four thousand men in total and most of them had guns. It was clear that they were intending to attack us. One of our tribesmen shouted the battle cry. We went to join the other members of our tribe who had assembled to defend our tribal area against the attack.

A front line of our tribe went ahead on camels and horses and the rest of us followed on foot. They reached the site of the battle before us. Meanwhile, the women and children took down the tents to move away from the area of fighting. I heard a lot of gunfire but by the time I arrived on foot, the Qataris had retreated to the east. We found the injured and brought them back to Lisha for treatment.

That day three of our tribe died in the fighting, Majd bin Nasr, Isa bin Ahmed Al Sayed and Ahmed bin Mohammed, the brother of Rashid bin Mohammed. Majd bin Nasr was at first seriously injured but subsequently died of his wounds at the American Hospital on the main island of Bahrain."³⁰³

284. Another member of the Naim tribe, also living in Bahrain, Mohammed bin Mohammed Al Naimi recently related the events which caused them to abandon Zubarah and return to the main island of Bahrain:

"On the day of the battle at Zubarah, I remember that all of the Al Jabr Naim had gathered in fear at Lisha and at Hilwan. I heard the battle cry sometime between the two prayers at noon and dusk. Those of the men who had camels or horses went on reconnaissance, and a few of them went north to our men who were at a guard post at Al Thagab. When they reached there, Ibn

³⁰³ See statement of Saleh bin Muhammed Ali bin Al; Al- Naimi, paras. 11 to 13, 234(a), Vol. 4, p. 1027.

Thani was already there with his army. Ibn Thani had lorries which transferred his men to behind our lines. They heard shooting and cries. I was with the people approaching Al Thagab and we heard the shots but when we reached them it was already too late. There were deaths on both sides and I helped to pick up the injured and the dead from our side. Later I came back to help those men whose camels had been slaughtered.

In the battle, people were killed and injured. Majd bin Nasr was injured and he later died at a hospital on the main island of Bahrain. I also remember that Ahmed bin Mohammed and Isa bin Ahmed Al Sayed died in the fighting."³⁰⁴

285. On 1 July 1937, as soon as he had learned of the surprise Qatari attack, the Ruler of Bahrain made a formal request to Britain for assistance in defending his territory from external attack:

"We have to inform you that all our efforts to arrive at a compromise with the Ruler of Qattar regarding the matter of Zubara and the Naim have been without success. Our brother and our son returned last night and informed us that [the Ruler of Qatar] refused to agree to any terms except his own.

[The Ruler of Qatar] with his army is near the edge of the Zubara area and there is now a state of war. The Arabs of [the Ruler of Qatar] daily attack the places where our subjects the Naim are living and also their watering places. [The Ruler of Qatar] is taking every opportunity to provoke the Naim but, until now, they have done nothing but defend themselves. [The Ruler of Qatar] has looted some villages where some of our subjects live and has seized their property and their flocks and camels.

We wish to prevent a war and the shedding of blood. We request the British Government to restrain [the Ruler of Qatar] from making war against our subjects who live within our boundaries at Zubarah."³⁰⁵

286. Britain refused to provide such assistance. On 2 July 1937, the British Political Resident, Sir Trenchard Fowle, wrote to the India Office

³⁰⁴ See statement of Mohammed bin Mohammed bin Theyab Al Naimi, paras. 12 to 13, Ann. 233(a), Vol. 4, p. 1016.

³⁰⁵ Letter from the Ruler of Bahrain to Capt. Hickinbotham, British Political Agent, 1 July 1937, Ann. 135, Vol. 4, p. 691.

in London that negotiations between Bahrain and Qatar that had been ongoing for two months had broken down and that hostilities had broken out. He concluded that:

"In these circumstances there is no course now open to us except to let hostilities take their course..."³⁰⁶

The focus of the Political Resident's interest was revealed as he went on to say:

"[The PCL] Oil company ... will not resume operations until autumn and before that dispute between Shaikh of Qatar and Naim should have been settled."³⁰⁷

287. By 2 July 1937, the Qatari mercenary corps had taken the village of Furaiwah, five kilometres north of the ruined town of Zubarah, from which refugees had been sent to Bahrain. Fighting continued all during the day.³⁰⁸ On 2 July 1937, the British Political Agent telegraphed the following update on the hostilities to the Political Resident:

2. Adviser has just received reliable information that Shaikh of Qatar attacked Zubarah area early morning 1st July and fighting still proceeding.

3. About 100 Naim and adherents reported killed including number of personal followers of Shaikh of Bahrain who normally live in Zubarah.

4. Refugees are reported to be landing on coast of Bahrain.

...

³⁰⁶ Telegram from Lt. Col. Fowle, British Political Resident, to India Office, 2 July 1937, Ann. 138, Vol. 4, p. 696.

³⁰⁷ *Ibid.*

³⁰⁸ Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to Capt. Hickinbotham, British Political Agent, 2 July 1937, Ann. 139, Vol. 4, p. 698.

6. I have asked Adviser to send out police patrol to look after any refugees landing."³⁰⁹

288. In truth, it is impossible to know exactly how many casualties were suffered throughout the Zubarah region.

289. By 5 July 1937, the Ruler of Qatar had entered into discussions with the Al-Jabr branch of the Naim tribe with the hope of swaying their traditional allegiance from the Al-Khalifa of Bahrain to himself. He informed them that they were free to quit the Zubarah region and Qatar or to remain and abide by the rules of the State of Qatar,³¹⁰ swearing allegiance to him and abandoning the Al-Khalifa. A Naim eyewitness to the events in the Zubarah region described it as follows:

"Our leader, Rashid bin Mohammed, sent his brother Khalid to the Al-Thani camp. When they finished talking, Rashid bin Mohammed explained to the tribe that we had two choices. The first choice was to stay in our homes in Zubarah but if we did that we would have to swear our allegiance to the Al-Thani chiefs and come under their rule. The second choice, if we did not want to switch our allegiance from the Ruler of Bahrain, was to leave Zubarah or face further attacks."³¹¹

290. On 13 July 1937, at the palace of the Ruler of Bahrain in Muharraq, Rashid bin Mohammed, the Chief of the Naim tribe, who had escaped to the main island of Bahrain, described the aftermath of the attack on Zubarah in similar words:

³⁰⁹ Telegram from Capt. Hickinbotham, British Political Agent, to Lt. Col. Trenchard Fowle, British Political Resident, 2 July 1937, Ann. 137, Vol. 4, p. 695.

³¹⁰ Telegram from Capt. Hickinbotham, British Political Agent, to Senior Naval Officer, Persian Gulf Division, 5 July 1937, Ann. 142, Vol. 4, p. 703.

³¹¹ See statement of Saleh bin Muhammed Ali bin Ali Al-Naimi, para. 14, Ann. 234(a), Vol. 4, p. 1027. See also statement of Mohammed bin Mohammed bin Theyab Al Naimi, para. 15, Ann. 233(a), Vol. 4, p. 1017.

"One of the [Ruler of Bahrain's men] wrote asking [the Ruler of Qatar] to refrain from shedding the blood of the Muslims and also from demanding anything from them. [The Ruler of Qatar] then sent a letter with his brother saying that he wanted to see me. I interviewed him because our foodstuff had exhausted and the way was cut as [the Ruler of Qatar] stood between us and Bahrain. When I went to him in the camp [the Ruler of Qatar] told me that he would not give us security unless we have surrendered our arms. We surrendered our arms as we were forced by hunger to do so and because we did not do anything as ordered by the [British] Political Agent. Then they themselves wrote a document and took my seal and sealed it. It ran as follows:

That as long as I am residing in Qatar I should not do anything against [the Ruler of Qatar] and should not fight with him and if I want to leave Qatar and go to any other place he will not prevent me and my followers and all connected to me such as property etc., to do so."³¹²

Some Al-Jabr Naim chose to switch their allegiance to the Ruler of Qatar. But the majority of the Al-Jabr Naim, including the Chief of the Al-Jabr Naim, Rashid bin Muhammed, chose to remain loyal to the Ruler of Bahrain. Some 1200 to 1300 persons fled to the islands of Bahrain, principally to the main island of Bahrain. An Al-Jabr Naim who is still alive and living in Bahrain has recently recollected:

"I cannot recall how many of us moved, but it took about seventy dhows or more to move us. The dhows were full and even then some of us stayed on and came later with cattle and belongings. I remember the sons of Mohammed bin Saud, Ali bin Hassan al Majid and his family, Abdullah Al Jabr and his family and Salah bin Mohammed bin Khanfar all coming to the main island of Bahrain with me and my family.

³¹² Statement made by Sheikh Rashid bin Muhammed, Chief of Naim tribe, 13 July 1937, Ann. 150, Vol. 4, pp. 716 to 717. See also telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 24 July 1937, Ann. 154, Vol. 4, p. 724.

We landed at Bahrain at the town of Askar, and some of us went north. In the summer we would go to the area of present day Isa Town."³¹³

Some years later the British Political Agent, Edward Wakefield, observed after these events:

"the tribesmen who came over to Bahrain in 1937 must have regarded themselves as subjects of the Shaikh of Bahrain or they would have remained in Qatar and submitted to the authority of the Shaikh of Qatar."³¹⁴

291. Many of those Naim who lived in the Zubarah region and fled to the islands of Bahrain are alive and in Bahrain. Their descendants living in Bahrain number in the thousands.

292. Bahrain lost no time in protesting Qatar's attack on the Zubarah region. In a letter dated 6 July 1937, one day after the surrender of the Naim in Zubarah, the Ruler of Bahrain protested to Britain that "(the Ruler of Qatar) has occupied our country."³¹⁵

293. Simultaneously, on 6 July 1937, the Ruler of Bahrain imposed sanctions on Qatar. The sanctions included:

- (a) a decree that no subjects of the Ruler of Qatar were to enter Bahrain (other than those with messages for the British Political Agent);

³¹³ See statement of Mohammed bin Mohammed bin Theyab Al Naimi, paras. 16 to 17, Ann. 233(a), Vol. 4, p. 1017. See also statement of Saleh bin Ali Muhammed Ali bin Al Naimi, para. 15, Ann. 234(a), Vol. 4, p. 1027.

³¹⁴ Letter from Edward Wakefield, British Political Agent, to Lt. Col Prior, British Political Resident, 11 January 1948, Ann. 184, Vol. 4, p. 794.

³¹⁵ Letter from Ruler of Bahrain to Capt. Hickinbotham, British Political Agent, 6 July 1937, Ann. 144, Vol. 4, p. 707.

(b) a decree withdrawing the preferential transit dues on goods entering Bahrain with a final destination in Qatar,³¹⁶ and

(c) a decree prohibiting any exports (as opposed to re-exports) from Bahrain to Qatar.³¹⁷

294. At the request of the Ruler of Bahrain, the Ruler of Qatar was informed of Bahrain's measures by the British Political Agent.³¹⁸ The Ruler of Qatar responded by complaining against the imposition of the Bahraini sanctions.³¹⁹ Bahrain's sanctions continued in force until the outbreak of the Second World War, when the embargo was suspended by the Ruler of Bahrain "for the common good".³²⁰ Despite that, Bahrain continued to protest the occupation of the Zubarah region by Qatar and to seek its return to the authority of the Ruler of Bahrain.

SECTION 2.14 The dispute over the Zubarah region has been continuous since 1937

295. Since 1937 until now, Bahrain has unsuccessfully sought to have its rights to the Zubarah region restored. Despite considerable efforts, Bahrain has not obtained a reasoned examination of the merits of the

³¹⁶ Letter from Ruler of Bahrain to Capt. Hickinbotham, British Political Agent, 6 July 1937, Ann. 143(a), Vol. 4, p. 704.

³¹⁷ Memorandum from Charles Belgrave, Adviser to the Govt. of Bahrain, to Edward Wakefield, British Political Agent, 11 June 1942, Ann. 164, Vol. 4, p. 748.

³¹⁸ In relation to measures (a) and (b), see letter from Capt. Hickinbotham, British Political Agent, to Ruler of Qatar, 14 July 1937, Ann. 151, Vol. 4, p. 718.

³¹⁹ Letter from Ruler of Qatar to O. Kirkpatrick Caroe, British Political Resident, 17 July 1937, Ann. 153, Vol. 4, p. 722.

³²⁰ Representations on Zubarah to Foreign Office, 4 August 1949, Ann. 193, Vol. 4, p. 836.

Zubarah issue. The history of these unsuccessful attempts to reverse the effect of Qatar's use of armed force in 1937 involve Bahrain, Qatar and Britain. There are at least seven important conclusions to be drawn from this history:

1. It demonstrates the absence of any legal determination in favour of Qatar or against Bahrain by Britain or any other entity. Britain avoided making a decision. For geopolitical reasons, Britain preferred to avoid compromising the integrity of the Qatar peninsula, but Britain could think of no principled reason to deny Bahrain's rights to the Zubarah region.
2. It shows that Britain attempted to avoid antagonising either Bahrain or Qatar over the Zubarah issue. As a result, Britain's attitude was deliberately vague.
3. The historical record is replete with examples of British officials contradicting each other in favour of either Bahrain or Qatar, in the light of momentary expediency and in the absence of a definitive adjudication of the competing claims.
4. Qatar's statement of the alleged bases of its claim to title to Zubarah makes it possible to evaluate them. Qatar evidently could not make a principled claim based on its armed expulsion of Bahrain subjects from the region. Thus it based its claim to Zubarah on two grounds: its 1916 Treaty with Britain and its 1935 oil concession with Anglo-Persian/PCL. Neither document can support the claim that it gives Qatar any basis for sovereignty over the Zubarah region (see Section 2.10, starting at paragraph 215 and paragraphs 375 to 376, respectively).

5. It demonstrates that Bahrain never abandoned its sovereign claim to the Zubarah region. On occasion, British officials expressed contrary views to the effect that the Rulers of Bahrain were only claiming some kind of private property rights to Zubarah. However, on other occasions, other British officials expressed views to the effect that the Rulers of Bahrain were claiming sovereign rights. When the full record of Bahrain's representations are considered, it becomes evident that the expressions by the Rulers of Bahrain in relation to "their rights" in Zubarah cannot be taken to mean a disavowal of sovereign title. This is confirmed when considered in light of well-known historical concepts of sovereignty in the Gulf of Arabia.
6. It shows that any concessions that Bahrain indicated that it was prepared to make in relation to the Zubarah issue were part of a package of negotiating proposals. At no time did Qatar ever conclusively accept those proposals and the negotiations were never successfully closed.
7. It reveals that the Rulers of Bahrain and Qatar did not share the same understanding of the various written and unwritten working agreements that were brokered by Britain in its attempt to bring the dispute to an end.

The salient elements of the historical record relating to Bahrain's attempts to have its rights to Zubarah recognised are the following.

296. On 6 July 1937, only one day after the surrender of the Naim in Zubarah, the Adviser to the Government of Bahrain wrote to the British Political Agent:

"I have the honour to inform you that [the Ruler of Bahrain] has asked me to ascertain from you when his claim to the Zubara area will receive consideration and by whom the matter will be examined."³²¹

The Adviser's letter emphasised the importance of the issue to the Ruler of Bahrain:

"If necessary [the Ruler of Bahrain] is also prepared to send a representative to Europe to act on his behalf."³²²

297. Britain tried to avoid addressing the issue. The British Political Resident was instructed by the British Government on 7 July 1937 not to mention "ownership" of Zubarah to the Ruler of Bahrain, but merely to suggest that Britain's policy towards Zubarah was the same as it had been in 1875 (in other words only that Bahrain should not interfere in the affairs of the mainland).³²³ On 9 July 1937, the British Political Resident suggested to the British Secretary of State for India that Britain should allow the Ruler of Bahrain to present its case for sovereignty over Zubarah to the British Government.³²⁴ However, a British Indian Office memorandum dated 14 July 1937 shows that Britain was concerned that this would have had adverse geopolitical consequences:

"I have pointed out on another paper that if we allow the Sheikh of Bahrain to establish claims on the mainland of Qatar we shall greatly weaken our case for maintaining the integrity of the Peninsula against Ibn Saud. I think therefore we shall have to be

321 Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to British Political Agent, 6 July 1937, Ann. 145, Vol. 4, p. 708.

322 *Ibid.*

323 Telegram from Govt. of India to Secretary of State for India and Lt. Col. Fowle, British Political Resident, 6 July 1937, Ann. 146, Vol. 4, p. 709.

324 Telegram from Lt. Col. Fowle, British Political Resident to Secretary of State for India and Govt. of India External Affairs Department, 9 July 1937, Ann. 147, Vol. 4, p. 710.

careful not to do or say anything implying that we might recognise the Sheikh of Bahrain's claims."³²⁵

In seeking to support this posture, British officials failed to analyse the long and detailed history linking the Bahraini ruling family to the region. Rather, they adopted the unsubstantiated opinion of the British Political Resident³²⁶ that Qatar had sovereignty over Zubarah.

298. British officials began to revise their interpretation of the instructions given to the Ruler of Bahrain in 1875 that he should avoid entanglements on the Qatar peninsula. They had followed a policy of discouraging Bahrain's involvement in the Qatar peninsula (see eg paragraphs 198 to 206). Now they were being reinterpreted as a recognition of the Sheikh of Qatar's rights over the whole peninsula.³²⁷

299. In response to the repeated entreaties of Bahrain, the British Political Agent, Captain Hickinbotham, undertook an independent investigation into the Zubarah question. On 30 July 1937, Hickinbotham referred the Political Resident to a passage in Lorimer's Gazetteer of the Persian Gulf (dating from 1909) in which ownership of Zubarah was said to be "under discussion" in 1905.³²⁸ That evidence clearly refuted any allegation that the Zubarah issue had been resolved in 1875. Lorimer's observation was more in keeping with the evidence at the time and clearly contradicts the interpretation which the Political Resident

³²⁵ India Office memorandum, 14 July 1937, Ann. 152, Vol. 4, p. 719.

³²⁶ Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 4 July 1937, Ann. 140, Vol. 4, p. 699.

³²⁷ Draft Telegram under cover of letter, 10 July 1937, Ann. 148, Vol. 4, p. 712.

³²⁸ Letter from Capt. Hickinbotham, British Political Agent, to Lt. Col. Trenchard, Fowle, British Political Resident, 30 July 1937, Ann. 155, Vol. 4, p. 725.

wished to draw from the 1875 communications between Britain and Bahrain. Nonetheless, on 12 August 1937, he dismissed the evidence saying: "there is nothing new in it which affects His Majesty's Government's decision as to the ownership of Zubarah."³²⁹

300. Hickinbotham was referred to the 1875 correspondence between Britain and Bahrain as the basis for the Political Resident's assertion. Hickinbotham replied, insisting that:

"in [the 1875] correspondence ... there is no decision made by His Majesty's Government with regard to the ownership of Zubarah"

and maintained that:

"the [British Government] were at that time anxious to avoid complications on the mainland and at the same time they were not disposed to give a definite decision regarding the ownership of Zubarah. The same situation appears to have arisen this year."³³⁰ (Emphasis added.)

301. A further letter from the Political Agent to the Political Resident on 22 September 1937 confirmed that the Qatar oil concession did not bind Britain to acknowledge the Zubarah region as part of the State of Qatar. Referring to Article 2 of the concession, the Political Agent noted:

"From an examination of Article 2 of the Qatar Oil Concession I am inclined to the view that His Majesty's Government are in no way committed, for the state of Qatar is defined as being 'the whole area over which the Shaikh rules and which is marked on the north of the line drawn on the map attached to this Agreement.' If the Shaikh of Bahrain eventually succeeds in

³²⁹ Letter from Lt. Col. Trenchard Fowle, British Political Resident, to Capt. Hickinbotham, British Political Agent, 12 August 1937, Ann. 156, Vol. 4, p. 726.

³³⁰ Letter from Capt. Hickinbotham, British Political Agent, to Capt. Galloway, Secretary to British Political Resident, 16 September 1937, Ann. 159, Vol. 4, p. 732.

proving his claim to the area known as Zubarah then *ipso facto* the Shaikh of Qatar cannot be said to rule over that area and, therefore, that area cannot be considered as part of the state of Qatar."³³¹

302. Despite these arguments, no action was taken by Britain. Bahrain did not receive a hearing and no official decision taken. on the status of Zubarah.

303. In 1939, Qatar built a fort in Zubarah. Bahrain immediately protested to Britain that the fort was on Bahrain's territory:

"[W]e regard this action as illegal because Zubara is our town and contains our cemeteries and mosques."³³²

304. In 1943, Major Hickinbotham (as he now had become) offered his services to the Parties in a personal capacity as a mediator in order to resolve the dispute.³³³ After several unsuccessful attempts, Hickinbotham proposed a text providing:

"The Ruler of Bahrain and the Ruler of Qatar both agree to resume friendly relations (between them) to that which was existing before, and the Ruler of Qatar undertakes that Zubarah will remain, without altering anything which did not exist before as a respect and esteem of the Alkhalifah, and also the Ruler of Bahrain on his side undertakes not to do anything which harms the interests of the Ruler of Qatar. " This agreement does not

³³¹ Letter from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 22 September 1937, Ann. 160, Vol. 4, p. 735.

³³² Letter from Ruler of Bahrain to Hugh Weightman, British Political Agent, which refers to his "personal suggestions" (emphasis added), 26 April 1939, Ann. 162, Vol. 4, p. 743.

³³³ See e.g. Letter from Maj. Hickinbotham, British Political Agent, to Ruler of Qatar, 8 February 1944, Ann. 165, Vol. 4, pp. 749 to 750. The nature of Maj. Hickinbotham's participation in the mediation was later misunderstood by Britain. Subsequent British officials in the Gulf of Arabia felt obliged to supervise - in an official capacity - the implementation of an agreement which had been mediated by Maj. Hickinbotham in a personal capacity. Britain was thereby unwittingly drawn back into a dispute which it had hoped to rid itself of following the 1937 Qatari attack.

affect the agreement of the Oil Company that works in Qatar, as its rights shall be protected."³³⁴ (Punctuation as in original.)

The Ruler of Qatar signed this text on 17 June 1944³³⁵ over the objections of his son to the effect that:

"his father had sold the country to the Al Khalifah."³³⁶

The Ruler of Bahrain subsequently signed the document as well³³⁷, and lifted the embargo on Qatar, which had been in effect since the 1937 attack.

305. The weakness of the 1944 Agreement lay in its use of the concept of the *status quo ante*. The two Parties' basic goals of achieving recognition of their sovereignty over the Zubarah region meant that each interpreted the agreement to conform with their respective goals.³³⁸ The understanding of Bahrain was that it established the *status quo* prior to the 1937 Qatari armed attack.³³⁹ The understanding of Qatar was that it entrenched the 1944 *status quo*.³⁴⁰

334 Copy of Agreement signed by Ruler of Qatar and Ruler of Bahrain on 17 June and 23 June 1944, respectively, Ann. 167(a), Vol. 4, pp. 752 to 753.

335 *Ibid*, Ann. 167(a), Vol. 4, p. 752.

336 Note by British Political Agent of a meeting with Ruler of Qatar on 18 June 1944, Ann. 168, Vol. 4, p. 757.

337 Agreement signed by Ruler of Qatar and Ruler of Bahrain on 17 June and 23 June 1944, respectively, Ann. 167a, Vol. 4, pp. 752 to 753.

338 Letter from Lt. Col. Galloway, British Political Agent, to Lt. Col. Hay, British Political Resident, 11 June 1946, Ann. 180, Vol. 4, pp. 785 to 787.

339 Letters from Ruler of Bahrain to Maj. Hickinbotham, British Political Agent, 14 September 1944 and 3 October 1944, , Ann. 170, Vol. 4, p. 761 and Ann. 171(a), Vol. 4, p. 763 respectively.

340 Letter from Ruler of Qatar to Ruler of Bahrain, 30 January 1945, Ann. 175, Vol. 4, p. 778.

306. In letters dated 14 September and 3 October 1944, the Ruler of Bahrain complained to Major Hickinbotham, as Political Agent, that the Qatari fort in Zubarah infringed his sovereignty, that it had not been pulled down and that there were Qatari guards there.³⁴¹

307. Hickinbotham immediately wrote to the Political Resident, his letter confirming that there had as yet been no official decision by Britain regarding the status of Zubarah.³⁴² Three weeks later, he made a written suggestion to the Ruler of Bahrain that the latter take up the question of the removal of the Qatari guards at Zubarah directly with the Ruler of Qatar.³⁴³ After further negotiations, the Ruler of Qatar eventually removed the guards from the fort.³⁴⁴ Those negotiations only served to highlight the different understandings that Bahrain and Qatar had of the 1944 Agreement and their conflicting goals in relation to sovereignty over Zubarah. The Ruler of Bahrain's letter to the Ruler of Qatar, dated 24 January 1945, is particularly instructive of the view taken by Bahrain:

"As you are aware, in the past there did not exist for you a building or a garrison in my country Zubarah..."³⁴⁵ (Emphasis added).

³⁴¹ Letters from Ruler of Bahrain to Maj. Hickinbotham, British Political Agent, 14 September 1944 and 3 October 1944, Ann. 170, Vol. 4, p. 761 and Ann. 171(a), Vol. 4, p. 763 respectively.

³⁴² Letter from Maj. Hickinbotham, British Political Agent, to Lt. Col. Prior, British Political Resident, 4 October 1944, Ann. 172(a), Vol. 4, p. 766.

³⁴³ Letter from Maj. Hickinbotham, British Political Agent, to Ruler of Bahrain, 1 November 1944, Ann. 173(a), Vol. 4, p. 775.

³⁴⁴ Letter from Ruler of Qatar to Maj. Hickinbotham, British Political Agent, 1 February 1945, Ann. 176, Vol. 4, p. 779, Letter from British Political Agent to Lt. Col. Prior, British Political Resident, 11 April 1945, Ann. 179, Vol. 4, p. 783.

³⁴⁵ Letter from Ruler of Bahrain to Ruler of Qatar, 24 January 1945, Ann. 174, Vol. 4, p. 777.

The response from the Ruler of Qatar, dated 30 January 1945, was:

"[We] have been surprised to see Your Highness using for Zubarah the words 'Your country'. Zubarah, as everybody knows, is an inseparable part of Qatar. It is my country and not yours as you mentioned."³⁴⁶

308. The Ruler of Bahrain referred this to the British Political Agent in a letter dated 3 February 1945:

"[The Ruler of Qatar] mentions ... that Zobarah is his country. It is strange for [him] to mention this while he is aware of the existence of our houses, forts, mosques and graves of our people and that it had been in our possession till the trouble started eight years ago when he occupied it and built on it ... All the people of the Gulf know that Zobarah is one of the Al-Khalifah's properties in the past and future."³⁴⁷

Hickinbotham again suggested that the Ruler of Bahrain negotiate directly with the Ruler of Qatar about Zubarah and indicated that the British Political Resident had never supported the Ruler of Bahrain's claims to Zubarah.³⁴⁸

309. A new British Political Resident, Sir Rupert Hay (who took office in May 1946), wrote as follows in June 1946:

"According to [Hickinbotham] ... the agreement of 1944 restores the *status quo ante* 1936. I have been endeavouring to ascertain from the Residency records what this *status quo* was ...

³⁴⁶ Letter from Ruler of Qatar to Ruler of Bahrain, 30 January 1945, Ann. 175, Vol. 4, p. 788.

³⁴⁷ Letter from Ruler of Bahrain to Maj. Hickinbotham, British Political Agent, 3 February 1945, Ann. 177, Vol. 4, p. 780.

³⁴⁸ Letter from Maj. Hickinbotham, British Political Agent, to Ruler of Bahrain, 6 March 1945, Ann. 178(a), Vol. 4, p. 781.

... I am of opinion that in no circumstances could we recognise [the Ruler of Bahrain's] sovereignty over Zubarah."³⁴⁹ (Emphasis added.)

Nevertheless, Hay went on to query:

"Is the sovereignty of [the Ruler of Qatar] over Zubara officially recognised? Even if it is it is still incumbent upon us to ensure that [the Ruler of Qatar] recognises any rights of usage, pasturage etc. which the Shaikh of Bahrain or tribesmen who are his subjects may possess there."³⁵⁰

310. In 1946, the Ruler of Qatar tried to settle loyal followers in Zubarah. In a letter to the Political Agent (now Lt. Col. Galloway), the Ruler of Bahrain angrily protested that the Qatari settlement had occurred "without our consent".³⁵¹ In October 1947, the Ruler of Bahrain complained to Britain that the Ruler of Qatar had visited the Zubarah region without informing him.³⁵² The Ruler of Bahrain at the same time also complained that the Ruler of Qatar was about to cultivate two places within the Zubarah region "where our houses are and which are our property".³⁵³ In January 1948, the Ruler of Bahrain again protested at the cultivation by the Ruler of Qatar in the Zubarah region, citing it as a violation of the *status quo* clause of the 1944 Agreement³⁵⁴.

³⁴⁹ Letter from Lt. Col. Hay, British Political Resident, to Lt. Col. Galloway, British Political Agent, 15 June 1946, Ann. 181, Vol. 4, p. 788.

³⁵⁰ *Ibid*, Ann. 181, Vol. 4, p. 788.

³⁵¹ Letter from Ruler of Bahrain to British Political Agent, 5 March 1947, Ann. 183, Vol. 4, p. 793.

³⁵² Report entitled "Note on developments in the Zubarah case" to Secretary of State for India, 1948, Ann. 185, Vol. 4, p. 795.

³⁵³ *Ibid*.

³⁵⁴ *Ibid*, Ann. 185, Vol. 4, p. 796.

311. On 17 February 1948, yet another Political Agent, C.J. Pelly, asked the Ruler of Bahrain to define precisely what properties the Ruler claimed in Zubarah. The properties claimed by the Ruler were described in a letter and included the old Murair fort, the mosque, the wells and various houses. The letter continued:

"3. ... Never until the dispute, did we suffer any interference from the Shaikh of Qatar and we and our people passed freely between Bahrain and Zubara unhindered and unmolested. Never, before the dispute, were our privileges questioned and our authority at Zubara was similar to that in Bahrain. When we wished persons to appear before us in Bahrain we summoned them from Zubara and the people who lived in Zubara were subject to our rule. We and our people moved between Bahrain and Zubara with complete freedom and each year we sent our cattle to Zubara for grazing. Never was there any question of taxes or Customs or permission to go and come, the reason being that from over a hundred years the Khalifah have been established both in Zubara and in Bahrain. We on our part did nothing against the Shaikh of Qatar or his people."³⁵⁵

312. In the spring of 1948, the Ruler of Bahrain instructed Mr. H.K. Ballantyne, a London solicitor, to approach the British Government on his behalf with a view to obtaining further consideration of Bahrain's claim to the Zubarah region.³⁵⁶ Ballantyne proposed to the British Foreign Office that the Ruler of Bahrain continue to enjoy sovereignty in Zubarah as he had before 1937 but that he cede the region's mineral rights to the Ruler of Qatar.³⁵⁷ Notwithstanding its *prima facie* consistency with the 1944 agreement brokered by Major Hickenbotham,

³⁵⁵ Letter from Ruler of Bahrain to C.J. Pelly, British Political Agent, 2 March 1948, Ann. 186, Vol. 4, pp. 798 to 799.

³⁵⁶ Letter from Ballantyne to Pyman (Foreign Office), 2 June 1948, Ann. 187(a), Vol. 4, pp. 800 to 803.

³⁵⁷ Letter from Ballantyne to Charles Belgrave, Adviser to the Govt. of Bahrain, 2 June 1948, Ann. 188, Vol. 4, pp. 802 to 803.

Bahrain's direct approach to the British Government in London was dismissed without consideration.³⁵⁸

313. On 24 June 1948 the Ruler of Bahrain complained directly, by letter, to the British Government Minister responsible for the protectorates in the Gulf, the then Foreign Secretary, Ernest Bevin, of the "evasive and non-committal replies" received from the British officials.³⁵⁹ The Ruler protested to the Minister that "our properties at Zubarah have passed out of our direct control and supervision since many years, in spite of our consistent endeavours ...".³⁶⁰ The Ruler offered:

"(a) To define, as is shown on the map herewith, the area of Zubarah. To hold this land and what is on it in free use by my family, my adherents and my subjects.

(b) To hold the land so defined as in private ownership for ever.

(c) To surrender to the Shaikh of Qatar or otherwise renounce all oil rights in the Zubara area; in this connection I would like to point out that I have never at any time claimed such rights there.

(d) Subject to my seeing the oil concession Agreement between the Shaikh of Qatar and the Petroleum Concessions Limited to respect the provisions of that Agreement so that all its benefits, entirely, go to the Shaikh of Qatar.

(e) To obtain the surrender by the Bahrain Petroleum Company of any claims they have or may have in Zubara under the concession which they hold from me in my territories.

(f) To continue, as now and as before, to [give to] Petroleum Concessions Limited freedom to conduct its business in my country and to buy water from here and carry it to Qatar. ...

³⁵⁸ Letter from Ballantyne to Pyman (Foreign Office), 2 June 1948, Ann. 187(a), Vol. 4, p. 800.

³⁵⁹ Letter from Ruler of Bahrain to Ernest Bevin, British Secretary of State for Foreign Affairs, 24 June 1948, Ann. 189, Vol. 4, p. 810.

³⁶⁰ *Ibid*, Ann. 189, Vol. 4, pp. 811.

(g) In return for this fair offer I require to obtain the rights of my family, my adherents and my subjects at Zubara including freedom and security for their lives and property similar to the conditions which they enjoyed at Zubara prior to the dispute in 1936."³⁶¹

314. In substance, the Ruler of Bahrain was yet again proposing that he have sovereignty over the Zubarah region but that he cede the oil rights to the Ruler of Qatar. On 14 July 1948, a detailed background note on Bahrain's claim to the Zubarah region was prepared by the British Political Agent, C.J. Pelly. Pelly's note dealt with the points raised by the Ruler of Bahrain in his letter and recognised the inherently sovereign aspect of the Ruler of Bahrain's claim.³⁶² Internal documents of the British Government of this period relating to the Zubarah issue show that the difficulty of distinguishing private law rights from rights of sovereignty in the context of a sovereign's personal rule was also recognised.³⁶³

315. A letter from the British Foreign Office to the British Political Resident dated 3 September 1949, summarising the provisional conclusions that had been arrived at by the Foreign Office by September 1949, admitted that:

"The [Ruler of Bahrain] ... has undoubtedly some private or tribal rights in Zubarah which local custom would admit though these may be contrary to modern ideas of territorial sovereignty."³⁶⁴

³⁶¹ Letter from Ruler of Bahrain to Ernest Bevin, British Secretary of State for Foreign Affairs, 24 June 1948, Ann. 189, Vol. 4, pp. 812 to 813.

³⁶² Letter from Lt. Col. Hay, British Political Resident, to Ernest Bevin, M.P., 14 July 1948, Ann. 190, Vol. 4, p. 821.

³⁶³ See Foreign Office Discussion Paper and draft letter attached, 21 July 1948, Ann. 191, Vol. 4, p. 825.

³⁶⁴ Letter from Foreign Office to Lt. Col. Hay, British Political Resident, 3 September 1949, Ann. 194, Vol. 4, p. 838.

This point was developed further by the Foreign Office in a memorandum to the Political Resident dated 12 October 1949:

"I agree that the private or tribal rights are vague and that we should not yet commit ourselves to the Sheikh of Bahrein about their existence. Nevertheless, some vague rights which might be likened to the rights which Bedouin, completely unfamiliar with the notions of territorial sovereignty and artificially drawn frontiers, claim in moving across desert frontiers, seem to have existed, and we should try to ascertain as clearly as we can just what they amounted to and how far it is reasonable to try and secure their recognition by the Sheikh of Qatar."³⁶⁵

316. In 1950, with the assistance of mediation by the Political Agent, C.J. Pelly, the Ruler of Bahrain and the Ruler of Qatar reached an oral agreement on the status of Zubarah, which the Political Agent described to the British Foreign Office in the following terms:

"(T)he Ruler of Qatar has agreed that the [Ruler of Bahrain] may send his followers and tribesmen to Zubarah for grazing without any passport or customs formalities and also to leave the fort vacant provided in return the [Ruler of Bahrain] will allow goods for Qatar the same privileges in respect to the payment of transit duties as goods for Saudi Arabia. [The Ruler of Bahrain] has accepted this and is making arrangements to send from 150 to 200 of his people to Zubarah with the necessary rations to support them."³⁶⁶

Several families from Bahrain went to Zubarah in March of 1950 without incident.³⁶⁷ By the end of June 1950, some 120 Naim tribe members had returned to Zubarah with their families.³⁶⁸ Mohammed bin

³⁶⁵ Letter from Foreign Office to Lt. Col. Hay, British Political Resident, 12 October 1949, Ann. 195, Vol. 4, p. 840.

³⁶⁶ Letter from Lt. Col. Hay, British Political Resident, to Foreign Office, 7 February 1950, Ann. 196, Vol. 4, p. 841.

³⁶⁷ Letters from C.J. Pelly, British Political Agent, to Sir Rupert Hay, British Political Resident, 20 March 1950, Ann. 197, Vol. 4, p. 842 and 23 April 1950, Ann. 198, Vol. 4, p. 844.

³⁶⁸ Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to R. Andrew, British Political Agent, 26 June 1950, Ann. 199, Vol. 4, p. 852.

Mohammed Al Naimi, one of the Al-Jabr Naim resident in Bahrain who returned to the Zubarah region recently recalled:

"Some years later, in about 1950, we went back to Zubarah at the request of Sheikh Salman, the Ruler of Bahrain. The Al Jabr leader, Khalid bin Mohammed Al Jabr said we could not go without sending someone first to Ibn Thani to notify him. Sheikh Salman's reaction to this was to ask us whether we were his subjects or Khalid's subjects. We answered him that we were his subjects, whereupon he told us to go without notifying Ibn Thani and we did."³⁶⁹

317. The 1950 Agreement proved to be as illusory as the 1944 Agreement. On 15 April 1952, the Ruler of Bahrain protested to Britain that the fort at Zubarah was being stocked with food by Qatar and that "followers of the Shaikh of Qatar are constantly going in and out of the fort by day and by night".³⁷⁰ On 29 April 1952, a British official visited Zubarah with a view to ascertaining the truth of the allegations. Although he found no evidence of new supplies, he nonetheless asked the Ruler of Qatar to empty the fort.³⁷¹

318. In 1953, Qatar re-established a guard post at the fort in Zubarah. That drew a protest from the Ruler of Bahrain on 18 March 1953.³⁷² The Political Resident, Hay, wrote a strongly worded note to the British

³⁶⁹ See statement of Mohammed bin Mohammed Al Naimi, para. 18, Ann. 233(a), Vol. 4, p. 1017.

³⁷⁰ Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to W.S. Laver, British Political Agent, 15 April 1952, Ann. 200, p. 853, Vol. 4.

³⁷¹ Letter from W.S. Laver, British Political Agent, to Charles Belgrave, Adviser to the Govt. of Bahrain, 19 May 1952, Ann. 201, Vol. 4, p. 854.

³⁷² Letter from Ruler of Bahrain to Lt. Col. Hay, British Political Resident, 18 March 1953, Ann. 202, Vol. 4, p. 855.

Political Agent now in place in Doha, demanding that the Qatari guard be withdrawn.³⁷³

319. On 16 June 1953, while in London for the coronation of Queen Elizabeth, the Ruler of Bahrain had an audience with the British Minister of State for the Foreign Office.³⁷⁴ The Ruler presented his claim to the Zubarah region, avoiding the use of the word "sovereignty", which was known to antagonise Britain. The Foreign Office interpreted this to the effect that the Ruler:

"agreed ... that he was not claiming sovereignty over this area, and that for instance, if oil were found in it, that would belong to the Shaikh of Qatar and not to him."³⁷⁵

320. In November 1953, the Ruler of Bahrain explained his claim to the Zubarah region in more detail in a meeting with a British official, who afterwards noted:

"[The Ruler of Bahrain] now appears to be claiming ... the recognition of his jurisdiction in [the Zubarah] area over anyone he claims as his follower. Secondly, complete freedom for all his followers to reside, pasture their flocks or fish or exercise any of their traditional avocations in the area, or to visit it for the purpose of recreation or enjoyment of their property there with the right to take in, without any control by Qatar Authorities, all such goods as they need for their own consumption and use."³⁷⁶

321. Yet another British Political Agent, J. Little, subsequently confirmed a conversation he had had with the Ruler of Bahrain in

³⁷³ Telegram from Lt. Col. Hay, British Political Resident, to Ewart Biggs, British Political Agent, Doha, 17 April 1953, Ann. 203, Vol. 4, p. 856.

³⁷⁴ Minutes of meeting between Ruler of Bahrain and British Minister of State, 16 June 1953, Ann. 204(a), Vol. 4, p. 857.

³⁷⁵ *Ibid*, Ann. 204(a), Vol. 4, p. 858.

³⁷⁶ Copy Minute by Mr. J. Wall, British Officiating Political Agent, 5 November 1953, Ann. 205, Vol. 4, p. 864.

January 1954:

"Your Highness claims jurisdiction over all your followers ... while they are in Zubarah or the area surrounding it. You expressly said ... that you did not claim 'sovereignty over the land', that you made no claim to any oil that there might be in the ground of Zubarah and its surrounding area and that your claims on Zubarah do not affect in any way any agreement made between the Ruler of Qatar and the Qatar Petroleum Company."³⁷⁷ (Emphasis added.)

That reported statement must be understood in the context of the Ruler of Bahrain's proposal to exercise authority over his people in the Zubarah region, but to leave the oil rights to the Ruler of Qatar.³⁷⁸

322. On 29 April 1954, the British Foreign Office suggested to the British Political Resident that the problem could be resolved by finally informing the Ruler of Bahrain that Britain considered the Ruler of Qatar to have full sovereignty over the Zubarah region.³⁷⁹ On 1 May 1954, the British Political Resident, Bernard Burrows, met with the Ruler of Bahrain:

"In the present proposed arrangement to [the Ruler of Bahrain] I emphasised that Her Majesty's Government had never recognised any claim by Bahrain to territorial sovereignty over Zubarah. [The Ruler of Bahrain] had himself admitted an important attribute of territorial sovereignty by Qatar, when he had agreed that any oil found in Zubarah would belong to Qatar. In previous agreements which had been made under our auspices it had been possible to leave the question of sovereignty in suspense. But the claims apparently since made by Bahrain, that Zubarah was part of Bahrain ... had made it impossible any longer to prevent the Ruler of Qatar from asserting his own claim to, if necessary, the

³⁷⁷ Letter from Mr. J. Little, British Political Agent, to Ruler of Bahrain, 17 January 1954, Ann. 206, Vol. 4, p. 867.

³⁷⁸ As described above, traditional Arab conceptions of sovereignty relate to sovereignty by way of allegiance over people who occupied land, not over the land itself (see paragraphs 529 to 531).

³⁷⁹ Memorandum from Foreign Office to B. Burrows, British Political Resident, 29 April 1954, Ann. 207, Vol. 4, p. 874.

sovereignty, provided he did so in such a way as not to interfere with Bahrain's freedom of access. Both parties had rights of different kinds ... The greater part of the argument turned on the distinction between territorial sovereignty, the ownership of private property and 'sovereignty' over persons i.e. what we should call interfering with jurisdiction. [The Ruler of Bahrain] stated his claim under three headings of jurisdiction over his followers, freedom of movement, and the right to enjoy private property. He felt deeply that he would not enjoy any of these rights if Qatar police were present at Zubarah. His position appeared in fact to be that, while not explicitly claiming that Zubarah is a part of Bahrain, he could not enjoy his rights there unless he had what virtually amounted to territorial sovereignty. He also claimed that the 1944 agreement in fact gave him, to all intents and purposes, territorial sovereignty and that the Ruler of Qatar would not, in 1950, have agreed to leave the fort empty if it had really been his."³⁸⁰ (Emphasis added.)

323. Burrows informed the British Foreign Office that he would send letters to the two Parties regarding the latest proposal by Britain. He commented:

"On reflection I do not propose to put in writing a statement about territorial sovereignty ... as I feel this would only give Bahrain something more to argue about, and if sent to Qatar, would only cause further difficulty about accepting the proposed limitations on the exercise of his sovereignty."³⁸¹

324. In a letter sent to both Parties dated 5 May 1954, Burrows wrote:

"I am now able to state to Your Highness the views of Her Majesty's Government on the matters relating to the Zubarah question which I recently discussed with you. They are

(1) Tribesmen owing allegiance to Your Highness [Sheikh Salman, the Ruler of Bahrain] who habitually visit Qatar for grazing and similar purposes shall continue to be free to do so.

³⁸⁰ Telegram from Burrows, British Political Resident, to Foreign Office, 2 May 1954, Ann. 208(a), Vol. 4 pp. 876 to 877.

³⁸¹ *Ibid.*, Ann. 208(a), Vol. 4, p. 878.

(2) The Al-Khalifah shall continue to be free to visit Zubarah for purposes of recreation and hunting in accordance with habitual practice.

(3) The Qatar authorities will not interfere in any way with the people carrying out the normal visits at (1) and (2) above.

(4) The Qatar police will not maintain a permanent post at Zubarah but will be free to enter the fort there in the course of visits by mobile patrols from time to time.

(5) As it appears that there may be conflicting claims to individual private property in Zubarah such claims may be settled by reference to local law and custom and for this purpose may be heard before an impartial Qadi from another part of the Persian Gulf. Any such claims shall in the first instance be stated to the representatives of Her Majesty's Government who will arrange, in consultation with all concerned, for them to be heard in the above manner.³⁸²

Neither Party accepted the terms of the arrangement.³⁸³

325. In the course of a meeting with the British Political Agent, Charles Gault, on 7 May 1957, the Ruler of Bahrain was reported to have confirmed that he did not claim sovereignty or jurisdiction in the Zubarah region.³⁸⁴ He reportedly narrowed his claims to (1) ownership of the buildings in Zubarah (but not the soil on which they stood); (2) freedom of access and grazing rights; and (3) disputes to be resolved (a) by tribal custom; and, if this failed to produce an agreement, (b) by the Qatar Sharia courts. This proposal brought no response from Qatar.

³⁸² Letter from B. Burrows, British Political Resident, to Ruler of Bahrain, 5 May 1954, Ann. 209, Vol. 4, pp. 884 to 885.

³⁸³ Letter from Charles Gault, British Political Agent, to Burrows, British Political Resident, 18 March 1957, Ann. 210, Vol. 4, p. 887.

³⁸⁴ Note of Charles Gault, British Political Agent, 7 May 1957, Ann. 211, Vol. 4, p. 889.

326. In a note dated 13 June 1957, the British Foreign Office criticised Bahrain's claim to Zubarah because it rested essentially on tribal rights and traditional concepts of sovereignty.³⁸⁵ According to the internal Foreign Office discussion, such rights had no place in the modern western notions of absolute territorial sovereignty that Britain had been trying to impose in the Middle East. The Foreign Office was determined to accomplish "the conversion of tribal Arab "states", whence rights may be intermixed with those of neighbouring "states" or confederations, into states of a western type..."³⁸⁶

327. On 10 August 1957, the British Political Resident informed the Ruler of Bahrain that Britain considered that he had no rights, sovereign or otherwise, over Zubarah, and that if any rights were to be conceded to him it was a matter only between him and the Ruler of Qatar.³⁸⁷

328. A confidential British Foreign Office Minute dated 1 June 1960, described how, from 1957, the Ruler of Bahrain had continued to refer to the Zubarah dispute and press his claim and suggested that Britain might consider approaching the Ruler of Qatar on the Zubarah issue again.³⁸⁸

329. In the context of the negotiations between Bahrain and Qatar concerning the delimitation of their boundary along the northern seabed, a confidential British Foreign Office memorandum dated 31 October 1960, from the British Political Resident, M.C.G. Man, noted:

³⁸⁵ See e.g. Foreign Office Minute by C. Gault, British Political Agent, entitled "Zubarah Dispute", 13 June 1957, Ann. 212, Vol. 4, p. 891.

³⁸⁶ *Ibid.*

³⁸⁷ Letter from B. Burrows, the British Political Resident, to Ruler of Bahrain, 10 August 1957, Ann. 213, Vol. 4, pp. 896 to 898.

³⁸⁸ Foreign Office Minutes by M.C.G. Man, British Political Resident, 1 June 1960, Ann. 214, Vol. 4, pp. 900 and 904.

"It seems to me that these two problems of the seabed and Zubarah are inextricably linked and that we can only hope to make progress on the former if we can give (the Ruler of Bahrain) some satisfaction on the latter."³⁸⁹

330. A letter dated 15 November 1960, from the Political Resident in Bahrain to his colleague in Doha, recorded:

"I will not burden you ... with a detailed account of what [the Ruler of Bahrain] said to me on November 12 because we have heard it all before. But the following points are significant: -

(i) [The Ruler of Bahrain] still insists that sovereignty over Zubarah is his.³⁹⁰ (Emphasis added.)

331. On 8 February 1961, the Ruler of Bahrain drafted a letter setting out the history of the matter and the precise nature of Bahrain's claim to Zubarah. The wording of the claim avoided the use of the word "sovereignty", but is in substance consistent with Bahrain's position on the status of the Zubarah region:

"(a) Full proprietary rights in all immovable property including buildings, mosques, graveyards and water-wells, built or set up by [the Al-Khalifa family] in Zabara.

(b) Free right of access to and movement in Zabara for our followers including all of our subjects in Bahrain, without any formalities such as passports, customs duties or other restrictions imposed by the Ruler of Qatar.

(c) Authority and jurisdiction over our followers whilst in Zabara; that is to say, that our followers would obey our orders and regulations (as the subjects of Qatar would obey those of their own Ruler) and would conform to our laws and in case of dispute among themselves would be justiciable in our Courts (as

³⁸⁹ Letter from M.C.G. Man, British Political Resident, to Foreign Office, 31 October 1960, Ann. 215, Vol. 4, p. 905.

³⁹⁰ Letter from M.C.G. Man, British Political Resident, to J.C. Moberly, British Political Agent, Doha, 15 November 1960, Ann. 216, Vol. 4, p. 908.

the subjects of Qatar would be justiciable in the Court of their own Ruler)."³⁹¹

332. In his response to the new Bahrain initiative, Mr. Beaumont of the British Foreign Office acknowledged that the issue was not about an examination of legal rights but about practical politics:

"Whatever the legal position, it would not be practical politics for us to admit to the Qataris, perhaps by saying nothing, that we considered Bahrain had a claim to sovereignty (as opposed to certain feudal or other rights) in Zubarah."³⁹² (Emphasis added.)

The Ruler of Bahrain continued to refer to complaints about Qatari activity in Zubarah.³⁹³

333. In 1961, a letter from E.P. Wiltshire, the British Political Agent, to the Ruler of Bahrain made it clear that Britain understood the sovereign nature of Bahrain's claim:

"Her Majesty's Government do not recognise that any ... claim to sovereignty ... has been established ... only a direct approach by Your Highness to the Ruler of Qatar offers any hope of achieving a solution to the problem of Zubarah."³⁹⁴

334. On 2 May 1961, the Foreign Office finally admitted that Britain's decision to continue its policy of refusing to recognise Bahrain's sovereignty over the Zubarah region was without a legal basis:

³⁹¹ Letter from Ruler of Bahrain to Sir George Middleton, British Political Resident, 8 February 1961, Ann. 218, Vol. 4, pp. 918 to 919.

³⁹² Foreign Office Arabian Department Minutes, 21 February 1961, Ann. 219, Vol. 4, p. 922.

³⁹³ See e.g. Letter from Ruler of Bahrain to British Political Agent, Bahrain, 9 May 1961, Ann. 221, Vol. 4, p. 927 and letter from British Political Resident, to R.A.C. Beaumont, Foreign Office, 18 May 1961, Ann. 222, Vol. 4, p. 928.

³⁹⁴ Letter from E.P. Wiltshire, British Political Agent, to Ruler of Bahrain, 29 July 1961, Ann. 223, Vol. 4, pp. 933 to 934.

"[British advice] to the then the Ruler of Bahrain that he should dissever himself from the affairs of the mainland does not really show that we either accepted or rejected his claims to sovereignty on the mainland. Our advice was given on general political grounds."³⁹⁵

335. In 1966, at a UNESCO conference, Bahrain distributed to the delegates of other Member States a booklet on Bahrain. The booklet showed the Zubarah region to be a part of the State of Bahrain. The delegation from Qatar at the same conference published a memorandum and distributed it to the conference expressly protesting the inclusion of Zubarah as part of the State of Bahrain in the booklet. The Qatari memorandum asserted that:

"Regarding the application of this description [that it is an integral part of Qatar] to Zubara Area, such description has never been, at any time whatever, subject to any dispute or contest. It is therefore obvious that the said statement [by Bahrain] in respect of that area calls for overwhelming wonder."³⁹⁶

336. In the interests of regional stability, international peace and security and the general promotion of brotherly relations between the Parties, Bahrain has refrained from confrontational assertion of its sovereignty to the Zubarah region since 1966, while continuing to reserve its rights and make the UK and Qatar aware of them. Bahrain has also entered into various negotiations from 1966 to the present time with Qatar where the issue has been raised and Qatar can never have been under any illusion that Bahrain had abandoned its claim to sovereignty over the Zubarah region.

³⁹⁵ Minute by F. Burrows of Foreign Office Arabian Department, 2 May 1961, Ann. 220, Vol. 4, p. 926.

³⁹⁶ Memorandum from Qatar Delegation to XIV session of the UNESCO General Conference, 31 October 1966, Ann. 224, Vol. 4, p. 935.

CHAPTER 3**BAHRAIN'S SOVEREIGNTY OVER THE HAWAR ISLANDS****SECTION 3.1 Geographical description of the Hawar Islands**

337. The Hawar Islands consist of a cluster of some fifteen islands and islets lying at the closest point about 11 nautical miles south-east of the main island of Bahrain and extending for a further eight miles in various directions. They are shown in detail in Map 4 in Volume 7. It is a fact that these islands and islets lie closer to the western coast of the Qatar peninsula than to Bahrain, but it is equally true that the western coast of Qatar (with the exception of the oil town at Dukhan) is essentially an unpopulated, roadless stretch of desert.³⁹⁷

338. The Hawars include the following islands³⁹⁸:

Jazirat Ajirah	00.03 km ²
Rabad Al Gharbiyah	00.66 km ²
Rabad Ash Sharqiyah	01.43 km ²
Juzayrat Rabad Al Gharbiyah	<00.01 km ²
Juzayrat Rabad Ash Sharqiyah	<00.01 km ²
Juzayrat Umm Alchen	00.02 km ²
Jazirat Hawar	38.51 km ²
Juzur Alhajiyat	00.06 km ²
Suwad ash Shamaliyah	02.72 km ²
Umm Jini	00.06 km ²

³⁹⁷ See Oxford Map of Qatar, Vol. 7, Map 16. There are small stretches of road near Dukhan and Al Ruwais.

³⁹⁸ "Jazirat" means "island" in Arabic. The plural is "Juzur".

Umm Haswarah ³⁹⁹	00.49 km ²
Juzur al Wukur	00.02 km ²
Suwad al Janubiyah	07.17 km ²
Juzur Bu Saada	00.16 km ²
Qassar Rabad	<00.01 km ²
Janan	00.12 km ²
Hadd Janan	<00.01 km ²
Qassaseer Busadad	<00.01 km ²

339. Each listed island satisfies the definition of an island given in Article 121(1) of the 1982 Law of the Sea Convention, namely that it is "... a naturally formed area of land, surrounded by water, which is above water at high tide."

340. The Hawar Islands also include the following low-tide elevations, listed approximately in order from north to south:

Qit'at Umm Albugarr

Qit'at Al E'ddah

Qassar Al-Ali

341. The 1938-1939 adjudication by the Government of Britain of Qatar's claim to the Hawar Islands (Section 3.3, starting at paragraph 354) resulted in a succinct and meaningful physical description of the Hawar Islands by a third party. It is contained in the following passage from a note prepared in the British India Office:

³⁹⁹ Umm Haswarah is also referred to as "Mahagwarah" in the letter from Chahres Belgrave, Adviser to the Govt. of Bahrain, to the British Political Agent of 28 April 1936, Ann. 246, Vol. 5, p. 1071, and as Al Mahzoura in the list of islands in the group submitted by the Adviser to the Govt. of Bahrain in a letter to the British Political Agent of 29th May 1938, Ann. 261, Vol. 5, p. 1110.

"... the Sheikh of Qatar adduces nothing positive in his own favour except the geographical contiguity of the islands to his undoubted territory. Even the geographical claim looks more plausible on the map than in terms of travelling distances. The fact that the islands are separated by only five miles (more than three) of shallow water from the mainland is perhaps of less importance than that they are separated by 50 miles of desert from the centre of the Qatar Sheikhdom at Doha; whereas in so maritime an area as the South coast of the Persian Gulf the 20 miles of easily navigable sea between them and Bahrein main island would be more of a link than a division. The persistence of the Sheikh of Bahrein's interest in Zubara is an instance of the importance of this factor..."⁴⁰⁰ (Emphasis added.)

342. The implications of this analysis for the present case are considerable. As seen in Chapter 2, the original authority of Bahrain over areas of the Qatar peninsula other than Zubarah receded only gradually, against the slowly spreading authority of the Al-Thani family on the mainland. The authority of the latter, as reflected in acts of administration or even in the presence of populations accepting Al-Thani control, has never extended *inter alia* to the Hawar Islands. As a result, the original authority of the Rulers of Bahrain was never displaced; on the contrary, it has constantly been reinforced.

343. At the present time, Jazirat Hawar is the only island of the group which is regularly inhabited - exclusively by Bahraini subjects. The other islands in the group are regularly used by Bahraini fishermen for drying nets or for refuge during storms. Bahraini fish traps are scattered throughout the Hawar Islands. The Islands are an increasingly popular recreational destination.⁴⁰¹

⁴⁰⁰ Minute by C.E.M. Hemingway, India Office (Political Department), 12 May 1939, Ann. 163, Vol. 4, pp. 745 to 746.

⁴⁰¹ See e.g. advertisement of Gulf Tourism Company, 25 June 1996, in Al Ayam newspaper, Ann. 312, Vol. 6, pp. 1359 to 1362.

SECTION 3.2 Summary of the basis of Bahrain's title to the
Hawar Islands

344. Bahrain's title to the Hawar Islands is a matter of *res judicata* by virtue of the British Government's adjudication of 1938-1939. Hence, the merits may not be reopened and considered *de novo*. Alternatively, if a *de novo* examination were undertaken, Bahrain's valid title is established by reference to three series of considerations:

- (i) evidence of the exercise of sovereign authority in the Hawar Islands by or on behalf of the Ruler of Bahrain;
- (ii) recognition of the title of Bahrain by the inhabitants of the islands; and
- (iii) the absence of any competing exercise of authority by Qatar.

345. The historical genesis of Bahrain's title to the Hawar Islands is Bahrain's original dominance and authority over all the territories in the Gulf of Bahrain and the Qatar peninsula, described in Chapter 2. Bahrain's sovereignty is supported by the continuous peaceful presence of a population subject to Bahrain. Bahrain's authority on the islands is confirmed by acts of administration. These facts were confirmed by the British Government in the 1938-1939 adjudication and are now, as they were then, fully demonstrable.

346. The Hawar Islands were occupied by a branch of the Dowasir tribe around 1800, after they had sought and been granted permission to occupy the islands by an official of the Ruler of Bahrain in Zubarah (see paragraphs 413 to 414) . In 1845, the same Dowasir were also granted permission by the Ruler of Bahrain to settle on the main island of

Bahrain. They established the towns of Zellaq and Budaiya (see paragraph 417). They thus owed their allegiance and their right to reside in the islands of Bahrain to the Ruler of Bahrain (see paragraphs 426 to 431).

347. The Hawar Islands were not, however, an exclusively Dowasir preserve. At least one prominent non-Dowasir Bahraini family, the Al Ghattam, resided on Hawar. The ruins of their home in the North Village of Jazirat Hawar may still seen.⁴⁰²

348. The traditional occupations of the inhabitants were fishing, pearling and gypsum extraction. What they did not consume was taken to the main island of Bahrain and to Muharraq Island for sale in the markets.

349. From the beginning of the 20th Century, with the increasing development of Bahrain's infrastructure and administration, the Government of Bahrain's activities increased on the Hawar Islands as elsewhere. Years before Qatar made its first claim to the Hawar Islands in 1938, the Government of Bahrain was administering and regulating the mining of gypsum on the islands, had a regular police force on the islands, and was supervising the health of the inhabitants of the islands. After Qatar's armed attack on Zubarah in 1937, Bahrain increased its military presence on the Hawar Islands and constructed a police fort there. At the time of Qatar's first claim to the islands, Bahrain's activities on the Hawar Islands were so extensive that it would be impossible to deny that its occupation was effective, and Qatar has never once done so.

⁴⁰² See e.g. statement of Ibrahim bin Salman bin Ahmed Al Ghattam para. 25, Ann. 316(a), Vol. 6, p. 1406.

350. Over time, as part of a global phenomenon of urbanisation, the Hawar Islands have lost much of their population. Many facets of the traditional way of life died out as the oil industry and modern opportunities on the main island of Bahrain proved more attractive.

351. The destiny of the Dowasir who lived in the Hawar Islands and other parts of Bahrain is inextricably connected with the past and the present of Bahrain. In the towns of Budaiya and Zellaq it is possible to see many stores and businesses with signs showing that they belong to people with the near-universal Dowasir family name: "Al Dosari" (i.e. the singular of "Dowasir" in Arabic). One need only consult the telephone directory to see many pages of "Al Dosari" listings.⁴⁰³ Many former Hawar Islanders are still living. They have testified about their lives on the Hawar Islands, have identified and named their former neighbours there, and have pointed to the remains of their homes and their fish traps. Hundreds of young Bahrainis can tell of their family traditions, rooted in life on the Hawar Islands.⁴⁰⁴

⁴⁰³ 1996-97 Bahrain Telephone Directory, pp. 77 to 80, Ann. 311, Vol. 6, pp. 1354 to 1358.

⁴⁰⁴ The Dowasir were not a marginal group of outsiders in Bahrain's society. Some Bahraini figures of historical proportions have been Dowasir, with their roots in the Hawar Islands. For example, the father of Abdullah bin Jabr, who became Secretary to the Emir in the 1930s, lived for part of every year on Jazirat Hawar and owned a fish trap near to the southern village of the island. Abdullah bin Jabr's palace (which is decorated with elegant friezes made from Hawar gypsum) may still be seen in Zellaq on the west coast of the main island of Bahrain. The remains of his father's fish trap near the southern village of Jazirat Hawar may still be seen underwater. Abdullah bin Jabr's grandson, Sheikh Mohammed bin Mubarak, is Bahrain's current Foreign Minister. Another important Bahraini Dowasir was Yusuf bin Rahmah al Dosari. At his death in October 1995, he had been the head of the Bahrain Amiri Court for more than 30 years. Yusuf bin Rahmah was one of the most respected men in modern Bahrain. He lived as a child on Jazirat Hawar, where the vestiges of his father's house may still be seen in the southern village. Some of his childhood friends are still alive, and remember him clearly from Hawar days. See statement of Hamoud bin Muhanna al Dosari, paras. 11 and 12, Ann. 313(a), Vol. 6, p. 1365, and statement of Nasr bin Makki al Dosari, paras. 1 and 25, Ann. 314(a), Vol. 6, pp. 1379 and 1385.

352. Qatar's claim to the Hawar Islands was adjudicated by the Government of Britain in 1938-1939 at the request of Qatar. The adjudication took account of an abundance of evidence of Bahrain's occupation and administration of the Hawar Islands, from as far back as the previous century. In stark contrast, and despite the fact that Qatar had initiated the proceedings, it was explicitly recorded in the course of the adjudication that Qatar was unable to produce any shred of evidence to support its assertion that the Islands had always been a part of Qatar. Britain thus concluded in July 1939 that Bahrain had sovereignty over the Hawar Islands.

353. Qatar resuscitated its claim to the Islands in the 1960s in what the then Ruler of Qatar admitted was retaliation for Bahrain's insistence on its claim to sovereignty over Zubarah. But despite communications with Bahrain on the subject of the Hawar Islands over the past three decades, and despite mediation under the auspices of Saudi Arabia starting in 1978, Qatar has never proffered any concrete evidence of specific acts of administration in the Hawar Islands. If Qatar had possessed such evidence, one may assume that it would have taken one of the numerous opportunities available to it during the past 57 years to present it. Qatar's claim to the Hawar Islands is nothing more than an attempt to fashion a counter-weight to Bahrain's well-documented historical rights in the Zubarah region.

SECTION 3.3 Bahrain's sovereignty over the Hawar Islands has been *res judicata* since the British adjudication of 1938-1939

A. Introduction

354. Qatar's claim to the Hawar Islands was adjudicated by the Government of Britain in 1938-1939 at the request of Qatar. The adjudication lasted more than a year and involved adversarial submissions by the Parties. The competing contentions and evidence were analysed in detail by the British Political Agent for Bahrain and Qatar. His Report⁴⁰⁵ was considered and approved by the British Political Resident for the Gulf, prior to the further consideration and decision of His Majesty's Government and the yet further assent thereto by the British Government of India.

355. The Political Agent was the official charged with conducting the on-site assessment for the British Government, although of course the ultimate decision was not for him to take. He invited Qatar to submit what he called a "formal claim" and then invited Bahrain to submit a "counter-claim," to which Qatar could reply by way of "rejoinder".⁴⁰⁶ Either Party could have produced as elaborate pleadings as they wished. The Parties chose to express their legal arguments in the form of letters to the Political Agent. The expressions used by the Political Agent to refer to these communications, adopted in this Memorial, including the

⁴⁰⁵ Report of Hugh Weightman, British Political Agent, in the form of a letter to Lt. Col. Fowle, British Political Resident, 22 April 1939 Ann. 281, Vol. 5, p. 1165, (hereafter "Weightman Report").

⁴⁰⁶ Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1165. See also letter from Capt. Howes, Officiating Political Agent to Acting Adviser to Govt. of Bahrain, 14 August 1938, Ann. 270, Vol. 5, p. 1125. See also Letter from Hugh Weightman, British Political Agent, to Ruler of Qatar, 20 May 1938, Ann. 258, Vol. 5, p. 1098.

word "Rejoinder" to describe the reply to Bahrain's Counter-claim which the Ruler of Qatar successfully insisted on submitting, confirm the explicit adjudicative nature of the proceedings.

356. The stages of the adjudication were as follows:

- | | |
|------------------|------------------------------------------------------------------------------------------|
| 27 May 1938 | Qatar's Claim ⁴⁰⁷ |
| 30 May 1938 | The British Political Agent meets the Ruler of Qatar to discuss his claim ⁴⁰⁸ |
| 14 August 1938 | Qatar's Claim is forwarded to Bahrain ⁴⁰⁹ |
| 8 November 1938 | The Political Agent reminds Bahrain to submit its Counter-claim ⁴¹⁰ |
| 22 December 1938 | Bahrain's Counter-claim ⁴¹¹ |
| 5 January 1939 | Bahrain's Counter-claim is forwarded to Qatar ⁴¹² |
| 30 March 1939 | Qatar's Rejoinder ⁴¹³ |

⁴⁰⁷ Qatar Claim (in the form of two letters from Ruler of Qatar to British Political Agent), 10 May 1938, Ann. 256, Vol. 5, p. 1094 and 27 May 1938, Ann. 260, Vol. 5, p. 1102.

⁴⁰⁸ Letter from Hugh Weightman, British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 June 1938, Ann. 262, Vol. 5, p. 1112.

⁴⁰⁹ Letter from Capt. Howes, Acting British Political Agent, to the Acting Advisor to Govt. of Bahrain, 14 August 1938, Ann. 270, Vol. 5, p. 1125.

⁴¹⁰ Letter from Hugh Weightman, British Political Agent to Charles Belgrave, Adviser to the Govt. of Bahrain, 8 November 1938, Ann. 272, Vol. 5, p. 1127.

⁴¹¹ Bahrain Counter-Claim (in the form of a letter from Adviser to the Govt. of Bahrain to British Political Agent), 22 December 1938, Ann. 274, Vol. 5, p. 1129.

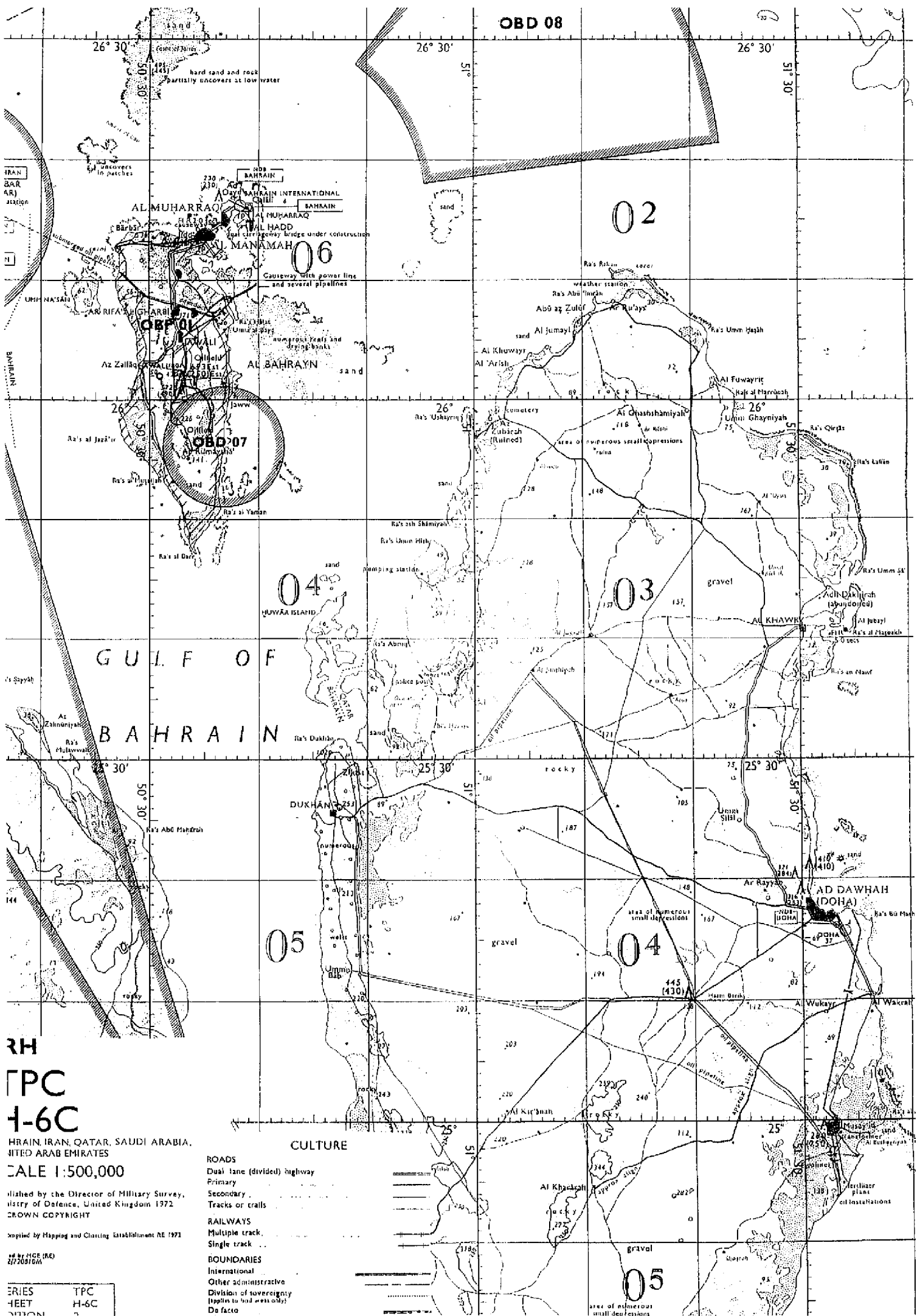
⁴¹² Letter from Hugh Weightman, British Political Agent, to Ruler of Qatar, 5 January 1939, Ann. 276, Vol. 5, p. 1141.

- 22 April 1939 The Political Agent communicates the record of the proceedings and his analysis to the Political Resident⁴¹⁴
- 29 April 1939 The Political Resident forwards the Political Agent's record and analysis to the British Government in London⁴¹⁵
- 13 June 1939 The British Government decides in favour of Bahrain's claim to sovereignty over the Hawar Islands, subject to the assent of the British Government of India⁴¹⁶
- 1 July 1939 The British Government of India "concurs" in the decision of his Majesty's Government."⁴¹⁷
- 11 July 1939 Britain's decision is communicated to Bahrain and Qatar⁴¹⁸

357. Analysis of the 1938-1939 adjudication yields the following significant conclusions:

-
- 413 Qatar Rejoinder (in the form of a letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 278, Vol. 5, p. 1144.
- 414 Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1165.
- 415 Letter from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 29 April 1939, Ann. 282, Vol. 5, p. 1173.
- 416 Letter from Foreign Office (London) to India Office (London), 13 June 1939, Ann. 284(a), Vol. 5, p. 1176.
- 417 Letter from Deputy Secretary to the Govt. of India to the British Political Agent, Lt. Col. Fowle, 1 July 1939, Ann. 286, Vol. 5, p. 1181.
- 418 Letters from Lt. Col. Fowle, British Political Resident, to Ruler of Bahrain and Ruler of Qatar, 11 July 1939, Ann. 287, Vol. 5, p. 1182 and Ann. 288, Vol. 5, p. 1183 respectively.

- (i) Qatar never made a formal claim to the Hawar Islands until May 1938, i.e. in the aftermath of Qatar's successful attack in Zubarah and soon after Bahrain had begun discussions with oil companies about expanding the profitable Bahrain oil industry to the Hawar Islands;
- (ii) Qatar requested the adjudication and both Qatar and Bahrain participated willingly;
- (iii) the adjudication adhered to fundamental procedural requirements;
- (iv) the basis and substance of Qatar's claim was revealed as nothing more than geographical proximity;
- (v) certain of Qatar's surprisingly erroneous affirmations about the physical characteristics of the Hawar Islands showed that the Ruler of Qatar did not understand which islands he was in fact purporting to claim;
- (vi) the result of the adjudication - that Bahrain had sovereignty over the Hawar Islands - was formally communicated to the two Rulers by the British Political Resident, Sir Trenchard Fowle, as a decision of "His Majesty's Government";
- (vii) the carefully documented adjudication gives no support to (and by negative inference contradicts) Qatar's contentions that its 1916 Treaty with Britain and its 1935 Oil Concession with the Anglo-Persian Oil Company recognised the Hawar Islands as part of Qatar;



RH
 TPC
 H-6C

BHRAIN, IRAN, QATAR, SAUDI ARABIA,
 UNITED ARAB EMIRATES
 SCALE 1:500,000

Published by the Director of Military Survey,
 Ministry of Defence, United Kingdom 1972
 CROWN COPYRIGHT

Reprinted by Mapping and Charting Establishment AE 1971

ed by HCE (RG)
 27720910M

SERIES TPC
 SHEET H-6C
 EDITION

CULTURE

- ROADS**
 Dual lane (divided) highway
 Primary
 Secondary
 Tracks or trails
- RAILWAYS**
 Multiple track
 Single track
- BOUNDARIES**
 International
 Other administrative
 Division of sovereignty
 (applies to land areas only)
 De facto



area of numerous small depressions

- (viii) the record of the adjudication comprises a wealth of evidence of continuous occupation of the Hawar Islands by Bahraini subjects and of Bahraini acts of administration;
- (ix) the record reveals no evidence of Qatari subjects ever having dwelt on the Hawar Islands, or of Qatari acts of administration;
- (x) the adjudication did not exclude Janan from the Hawar Islands, and recognised Bahrain's sovereignty over them all;
- (xi) Qatar's contention that the 1938-1939 adjudication was unfair and substantially wrong, and quickly recognised as such by British officials,⁴¹⁹ is flatly contradicted by the record, which shows *inter alia* that the British Government's Bahrain/Qatar maritime delimitation in 1947 was in part explicitly based on the 1938-1939 adjudication.

358. There is ample evidence that knowledgeable map makers are aware of the status of the Hawar Islands. Thus Map H-6C published in 1972 by the British Director of Military Survey shows the Bahrain/Qatar border clearly running between the Hawar Islands and the coast of Qatar (reproduced in relevant detail opposite). As for the United States National Geographic Society, even its February 1991 map covering the entire Middle East shows the Hawars in pink, like the rest of Bahrain, while Qatar is green (reproduced in relevant detail on following page).

⁴¹⁹ State of Qatar Memorial (Questions of Jurisdiction and Admissibility), p. 24.

B. The Probative Implications of Qatar's Claims in the Adjudication

(i) The Ruler of Qatar made his claim without knowing either the location or even the identity of the Hawar Islands

359. Qatar's Rejoinder to Bahrain's Counter-claim in the 1938-1939 adjudication showed that the Ruler of Qatar was quite ignorant of the Hawar Islands, and probably confused them with another group of islands.

360. The tone of Qatar's Rejoinder was set in a comment that Bahrain's Counter-claim was a "bold denial of the firmly set facts."⁴²⁰ This statement however is more accurately applied to Qatar's assertion that the Hawar Islands "are islands whose extent is from 4 to 5 square miles approximately at high tide."⁴²¹ In other words, the Ruler of Qatar was thinking of islands whose size was between one fifth and one quarter of that of the Hawar Islands, which comprise 20 square miles (approximately 51 km²; see paragraph 338).

361. This was either due to ignorance or to the possibility that Sheikh Abdullah was claiming a different set of islands. Either hypothesis is consistent with the further statement in Qatar's Rejoinder that:

⁴²⁰ Qatar Rejoinder (in the form of letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1148. See also the statement of the Ruler of Qatar that "the Hawar Islands belonged to the Qatar State from the very day when God created them..." Letter from Ruler of Qatar to Lt. Col. Fowle, British Political Resident, 4 August 1939, Ann. 289, Vol. 5, p. 1184. Language like this recalls Sir Gerald Fitzmaurice's comment that the real basis of claims founded on proximity is "sentimental, economic or political, as the case may be, but not legal." Sir Gerald Fitzmaurice, The Law and Procedure of the International Court of Justice, (1986) Vol. 1, p. 312 in footnote 2.

⁴²¹ Qatar Rejoinder (in the form of letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1148.

"The Hawar Islands are considered, from a geographical point of view, as a part which completes Qatar from the North. Any one who has the least primary knowledge of geography will agree with this."⁴²²

The Hawar Islands cannot accurately be described as completing the Qatar peninsula or the State of Qatar from the north. They are located to the west of the Qatar peninsula, at approximately its mid-point.

362. There is a group of islands, however, including Ra's Rakan Island and Umm Tays Island, located near the northern tip of the Qatar peninsula off Al Ruwais (for example, see maps 2 and 6, Volume 7). They seem to fit the Ruler's notion of "completing" Qatar from the north and are much smaller than the Hawar Islands. Since Sheikh Abdullah appeared so certain of the location and size of the Islands that he was claiming, the inference is that he had fixed upon the wrong islands as a result of insufficiently clear advice - probably given by Petroleum Concessions Limited (see paragraphs 374 to 376) - as to the objective of his claim.

363. Consistent with its confident reference to "any one who has the least primary knowledge of geography", Qatar's Rejoinder alleged that the physical description of the Hawar Islands given in Bahrain's Counter-claim were "concoctions" and a "bold denial of the firmly set facts."⁴²³ This invites a comparison of the two Parties' competing descriptions of the Hawar Islands.

364. The alleged "concoctions" to which Qatar referred were Bahrain's assertions that the Hawar Islands contained:

⁴²² Qatar Rejoinder (in the form of letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1153.

⁴²³ *Ibid*, Ann. 279, Vol. 5, p. 1148.

"... inhabited villages, established since a long time, with firmly built stone houses, permanently inhabited, for more than a century, by the subjects of the Ruler of Bahrain and the subjects of his ancestors with their wives, families, herds and boats."⁴²⁴

In contrast, Qatar considered that the Islands:

"...are barren, without water and unfit as pasturage for herds, and was in the past completely without inhabited buildings and by no any way can be called villages or anything that approaches the meaning of this word, and generally unfrequented except by fishermen who come from time to time..."⁴²⁵

365. Perhaps again the Ruler of Qatar was thinking of some other islands to the north, but if he was thinking of the true Hawar Islands his description was quite wrong. The British Political Agent visited the Hawar Islands and found them to be inhabited and full of evidence of more than a century's continuous occupation. Indeed, Hawar Islanders are still alive who were born and grew up on the Hawar Islands in the reign of Sheikh Isa, i.e. before 1932. The Political Agent's observations, as well as a wealth of additional evidence reviewed in Sections 3.5 and 3.6, overwhelmingly contradict Sheikh Abdullah's assertions.

366. In another rhetorical passage, the Ruler of Qatar stated in his Rejoinder that

"We extend an opportunity to the Bahrain Government to cite any instances of any action which they took in the past in Hawar Islands and which we did not challenge."⁴²⁶

⁴²⁴ Qatar Rejoinder (in the form of letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1148.

⁴²⁵ *Ibid*, at Ann. 279, Vol. 5, pp. 1148 to 1149.

⁴²⁶ Qatar Rejoinder (in the form of a letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1151.

367. There is however no evidence of such "challenges" by Qatar in relation to the Hawar Islands prior to Sheikh Abdullah's Claim.

368. The fact that the Ruler of Qatar had not the least idea as to what the Hawar Islands were or where they were located should occasion no surprise. The likelihood of anyone from Doha having routinely visited the Hawar Islands, or even the west coast of the Qatar peninsula, before 1938 is remote.⁴²⁷ Until the mid-1930s there was no route across the peninsula.⁴²⁸ The situation had not changed significantly by 1939, although oil activities had led to the construction of a "track" to the oil field at Petroleum Concessions Limited's newly established camps at Dukhan, on the Qatar peninsula south of the Hawar Islands. The word "track" (not a real road) is used in a British military report of 1939.⁴²⁹ The report goes on to note that the Qatari oil camps nevertheless relied for all their supplies and water on shipments made by sea and not the rough fifty mile track across the peninsula.⁴³⁰ The track did not provide a practical alternative to the sea route and was thus avoided. When Sir Rupert Hay, the British Political Resident, decided to break with general

⁴²⁷ First, such a journey would be pointless. A visitor from Doha would have found a sandy, windswept island populated by a small, closely knit community of simple people. They had no money. There were no sights to be seen, no entertainment to be enjoyed. As for the wider environment, the arid stretches of the Qatar mainland to the east of the islands were - then, as now - one of the most desolate places on earth. The Hawar Islanders were jealous of their fishing grounds and gypsum quarries, and did not want strangers to approach their women. Secondly, such a voyage would have been arduous. To go to the Hawar Islands from Doha would have been a very long voyage by the sea route, with all the problems of wind and current associated with sailing around a large peninsula. Indeed, the Hawar Islands are in all important ways closer to Bahrain than to Qatar. What matters is the proximity of people to each other, not that of one sand bank to the next.

⁴²⁸ See the map accompanying the 1935 Qatar Oil Concession between Ruler of Qatar and APOC, Ann. 105, Vol. 3, p. 621.

⁴²⁹ British Military Report entitled "Appreciation of the situation regarding the Defence of the Qatar Peninsula", January 1939, Ann. 275, Vol. 5, p. 1138.

⁴³⁰ *Ibid.* Ann. 275, p. 1138.

practise and travel by car from the PCL camp to the Ruler of Qatar's residence outside Doha in 1941, he reported that:

"the road lay across stony and uninhabited desert and the going was fairly rough; not a living thing was seen from some 50 miles ... it was strange to travel about these wild parts at all times of the night without any kind of armed escort."⁴³¹

In fact, in 1922 a British Political Agent, Major Clive Daly, had written of his resolve to return from Doha to Manama by crossing the Qatar peninsula overland, rather than the standard sea route around it. His motive is revealing: "No British Official appears to have yet made this trip and it would be interesting."⁴³²

369. In this context, one can easily believe the following comment in Bahrain's Counter-claim of 22 December 1938:

"It would appear that until about a year ago Shaikh Abdullah ignored the existence of these islands and that he is now moved to make a claim to them believing that they perhaps contain oil."⁴³³

(ii) The Ruler of Qatar's obvious financial and economic motives undermined the credibility of his claim

370. Prior to 1938, Qatar showed little interest in the Hawar Islands. In February 1938, having been informed that Bahrain had entered into negotiations with two oil companies for the possible grant of mineral rights in the Hawar Islands (see paragraph 374), the Ruler of Qatar

⁴³¹ Letter from Lt. Col. Hay, British Political Resident, to Secretary to the Govt. of India, 19 November 1941, Ann. 296, Vol. 5, pp. 1205 to 1207.

⁴³² Letter from Maj. Daly, British Political Agent, to British Political Resident, 30 January 1922, Ann. 241, Vol. 5, p. 1064.

⁴³³ Bahrain Counter-claim (in the form of a letter from Charles Belgrave, the Adviser to the Govt. of Bahrain, to Hugh Weightman, British Political Agent), 22 December 1938, Ann. 274, Vol. 5, pp. 1130 to 1131.

complained orally to the British Political Agent about Bahrain's exercise of authority over the Hawar Islands.⁴³⁴ While the motivation for conduct or inactivity is not usually relevant to the assessment of its legal effect, the explanation of a change of conduct may confirm the significance of inactivity before the time of the change and the corresponding lack of significance of the conduct following it. Such is the case here.

371. The Ruler of Qatar's claim to the Hawar Islands was stimulated by greed for oil.

372. After the discovery and production of oil in Bahrain and the Arabian peninsula, Qatar desperately sought producing oil fields of its own.⁴³⁵ In the 1930s, Qatar experienced widespread poverty, hunger and disease.⁴³⁶ Both Bahrain's and Qatar's traditional source of income, the pearling industry, had declined rapidly in the early 1930s because of the invention of cultured pearls. Unlike Bahrain, Qatar did not have any oil revenues to offset the economic stagnation. Qatar was particularly eager to stem the flow of emigration from Qatar to Bahrain which, during the latter half of the 1930s, was much wealthier than Qatar.⁴³⁷

373. In 1936, two years before Qatar made its first claim to the Hawar Islands, British officials had identified the Hawar Islands as potentially significant sources of oil production:

⁴³⁴ Letter from Hugh Weightman, British Political Agent, to Lt. Col. Fowle, British Political Resident, 15 May 1938, Ann. 257, Vol. 5, p. 1096.

⁴³⁵ Although oil was first discovered in 1939, the Second World War prevented commercial exploitation until 1946.

⁴³⁶ Report of Hugh Weightman, British Political Agent, 5 December 1939, Ann. 292, Vol. 5, p. 1190.

⁴³⁷ *Ibid.*

"[The main Hawar Island] is a low, desolate looking place near to the mainland of Qatar, but it is possible that it may have considerable value now that oil has been found in Bahrain and is hoped for in Qatar."⁴³⁸

374. Both Bahrain Petroleum Company ("BAPCO") and Petroleum Concessions Limited ("PCL") - the oil companies operating in Bahrain and Qatar respectively - considered that the Hawar Islands potentially had significant oil deposits and fought bitterly with each other to obtain rights in the Hawar Islands from Bahrain. Ultimately BAPCO prevailed.

375. By virtue of an oil concession agreement signed in 1935 by the Ruler of Qatar, Petroleum Concessions Limited - a consortium in which British interests were dominant - had acquired rights over "the whole area over which the Shaikh rules and which is marked on the north of the line drawn on the map attached to this Agreement".⁴³⁹ There are two equal and distinct elements in that formula. The first is that the rights related to territory ruled by the Sheikh. The second is that the rights related only to such territory as also lies to the north of the line drawn on the map. Thus, the agreement did not purport to include territory that was not ruled by the Sheikh of Qatar, regardless of where it was located.

376. Since the Hawar Islands are depicted to the north of the line drawn on the map in question, it became convenient to both PCL and the Ruler of Qatar (as the recipient of potential royalties) to ignore the first element of the Concession and instead focus exclusively on the map. On that basis, PCL and the Ruler of Qatar argued that the agreement acknowledged the Hawar Islands as belonging to Qatar. In a letter to

⁴³⁸ Letter from Lt. Col. Loch, British Political Agent, to Lt. Col. Fowle, British Political Resident, 6 May 1936, Ann. 247, Vol. 5, p. 1074.

⁴³⁹ Agreement between the Ruler of Qatar and the Anglo-Persian Oil Company (predecessor of PCL), 17 May 1935, Ann. 104, Vol. 3, p. 616.

PCL,⁴⁴⁰ a British Government official immediately pointed out the fallacy of the argument. He noted that in fact all of Bahrain was to the north of the line drawn on the map and explained that the purpose of the line had been to define the southern boundary of the concession.⁴⁴¹

(iii) The Ruler of Qatar's claim was also made to alleviate domestic problems

377. The Ruler of Qatar's claim to the Hawar Islands is related to Qatar's armed attack on the Zubarah region in 1937, which aggravated Qatar's economic difficulties. Although Qatar had succeeded in occupying Zubarah militarily, the economic consequences of the armed attack were crippling Qatar's weak economy because Bahrain had imposed economic sanctions against Qatar (see paragraphs 293 to 294). Almost all imports and exports to and from Qatar during that period flowed through Bahrain's principal port in Manama (see paragraph 225). Coupled with the introduction of cultured pearls from Japan, the Bahraini embargo was disastrous for Qatar. The claim to the Hawar Islands was a bargaining counter against Bahrain's complaints about the previous year's armed attack on Zubarah and against the resulting Bahraini embargo.

378. The British Political Agent's Annual Report on Qatar for 1939 referred to dissatisfaction of the Qatar population caused by "poverty due to the pearl slump and lack of employment."⁴⁴² The Report noted that tribesmen on the Qatar peninsula were considering emigration to

⁴⁴⁰ Letter from J.C. Walton, India Office, London, to Mr. Skliros, PCL, 14 May 1936, Ann. 248, Vol. 5, p. 1076.

⁴⁴¹ *Ibid.*

⁴⁴² Report by Hugh Weightman, British Political Agent, 5 December 1939, Ann. 292, Vol. 5, p. 1190.

Bahrain or Saudi Arabia as a result of the Ruler of Qatar's refusal to agree to share the benefits of any oil production:

"Shaikh Nassir bin Jasim [one of the Ruler's brothers] took upon himself to speak plainly to the Ruler and warn him that his niggardliness in money matters and handling of employment in the oil Co. was losing him the support of the tribesmen he needed to control Qatar and his prospective oil field, and helping his Bahrain enemies to undermine his authority."⁴⁴³

379. Qatar's population were easily persuaded to leave, given the abject poverty throughout Qatar, coupled with:

"The Ruler's and his son Hamed's greed which makes them not only retain all the oil money⁴⁴⁴ but also control for their own benefit employment in the oil Co. Neither can see that Arab standards of life are changing and the rising generation with its contact with the outside world can no longer be deceived and repressed."⁴⁴⁵

380. By engaging Bahrain in a dispute about sovereignty over the Hawar Islands, the Ruler of Qatar was hoping to alleviate his internal problems. Then as now, Qatar had little to lose in advancing such a claim, and much to gain.

C. The adjudication was formal, legitimate and comprehensive

381. After the Ruler of Qatar complained to the British Political Agent in February 1938 about Bahrain's exercise of authority over the Hawar

⁴⁴³ *Ibid.*

⁴⁴⁴ Oil revenues in Qatar in this period were limited to exploration fees ("up-front" payments).

⁴⁴⁵ Report by Hugh Weightman, British Political Agent, 5 December 1939, Ann. 292, Vol. 5, p. 1190.

Islands, the British Political Resident suggested that Qatar might present a formal claim for the Hawar Islands to the British Government.⁴⁴⁶

382. On 10 May 1938, the Ruler of Qatar, Sheikh Abdulla, stated his first written Claim to the Hawar Islands in the following terms:

"Hawar is, by its natural position, a part of Qatar, and it is not hidden to anyone who is acquainted with geographical and natural condition and has seen the natural position of Hawar that it is, beyond doubt, a part of Qatar though it is a small Island separated by a shallow channel of water. But by its present position it is attached to Qatar, formed by it and belongs to it."⁴⁴⁷

383. The British Political Agent immediately remarked of Qatar's case:

"it remains to be seen whether the Shaikh of Qatar can in fact produce any evidence in support of his claim other than a mere reference to geographical location, which presumably will not by itself serve to contest the Bahrain claim supported as it is, by physical occupation."⁴⁴⁸

384. Britain's evaluation of the dispute then took on the principal attributes of a formal adjudication. In a letter dated 20 May 1938, the British Political Agent informed the Ruler of Qatar that Britain would:

"give the fullest consideration to any formal claim put forward by you [the Ruler of Qatar] to the Hawar Islands, provided that your claim is supported by a full and complete statement of the evidence on which you rely in asserting that you, as [Ruler of Qatar], possess sovereignty over them."⁴⁴⁹

⁴⁴⁶ See internal note of Sir Trenchard Fowle, British Political Resident, 5 April 1938, Ann. 254, Vol. 5, p. 1090. The proposed approach was discussed between the India Office and the Foreign Office - see letter, 13 April 1938, Ann. 255, Vol. 5, p. 1092.

⁴⁴⁷ Qatar Claim (in the form of two letters from Ruler of Qatar to British Political Agent, 10 May and 27 May 1938), 10 May 1938, Ann. 256, Vol. 5, p. 1094.

⁴⁴⁸ Letter from Hugh Weightman, British Political Agent, to Lt. Col. Fowle, British Political Resident, 15 May 1938, Ann. 257, Vol. 5, p. 1097.

⁴⁴⁹ Letter from Hugh Weightman, British Political Agent, to Ruler of Qatar, 20 May 1938, Ann. 258, Vol. 5, p. 1099.

385. At the outset, the British Political Agent established the adjudicatory nature of the investigation. In the Political Agent's words:

"[I explained to the Ruler of Qatar that] I could offer him no hope that His Majesty's Government would disturb the *status quo* while his claim was under consideration; it was common practice that when a person laid claim to property in the actual physical occupation of a second party, that party was left in possession until the new claimant had established his right before a tribunal."⁴⁵⁰ (Emphasis added.)

386. Qatar's Claim described the basis of the Ruler's claim as follows:

"In my capacity as Ruler of Qatar territory including coasts, islands, promontories and everything belonging to it, I have the right of ownership over these islands."⁴⁵¹

387. On 3 June 1938, the British Political Agent noted the *prima facie* weakness, if not inexistence, of Qatar's Claim:

"In regard to the substance of the Shaikh of Qatar's claim, it will be observed that it consists of (1) a bare assertion of sovereignty and (2) the affirmation that the Hawar Islands are part of the geographical unit of Qatar."⁴⁵²

388. After receiving the Claim, the Political Agent met directly with the Ruler of Qatar in Doha and "discussed the matter at considerable length with Sheikh Abdullah [the Ruler of Qatar], his sons Hamad and Ali and his Secretary Saleh al Mana."⁴⁵³ Even after that meeting, he noted that:

"No evidence is offered of formal occupation by Qatar, no mention is made of collection of taxes, of sale of fishing rights,

⁴⁵⁰ Letter from Hugh Weightman, British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 June 1938, Ann. 262, Vol. 5, p. 1113.

⁴⁵¹ Qatar Claim (in the form of two letters from Ruler of Qatar to British Political Agent, 10 May and 27 May 1938), 27 May 1938, Ann. 260, Vol. 5, p. 1104.

⁴⁵² Letter from Hugh Weightman, British Political Agent, to Sir Trenchard Fowle, British Political Resident, 3 June 1938, Ann. 262, Vol. 5, p. 1114.

⁴⁵³ *Ibid*, Ann. 262, Vol. 5, p. 1112.

of the exercise of judicial authority, or indeed of the performance of any function which might denote sovereign rights."⁴⁵⁴

389. Yet in this conversation with the Ruler of Qatar, the British Political Agent had ensured that the Qatari position was stated as fully as the Ruler possible could:

"I enquired repeatedly whether this letter [the 27 May 1938 Claim], read with his previous letter of the [10 May 1938], set out his claim in all the detail which he wished to place before His Majesty's Government or whether he had any other evidence, documentary or otherwise, which he would wish to submit. He replied that he had set out all that he wished to say in these two letters, that he had no other evidence to offer (and saw no need for it) and that he relied on the justice of His Majesty's Government."⁴⁵⁵ (Emphasis added.)

390. The Ruler of Qatar asked to be allowed to be informed of Bahrain's evidence of its sovereignty over the Hawar Islands in order to frame Qatar's case more effectively.⁴⁵⁶ This was a strange request from a State insisting that it alone had sovereignty over the territory in question, but was clearly prompted by Sheikh Abdullah's ignorance regarding the Islands. He made the request in writing on 15 June 1938, in the following terms:

"Perhaps, if I hear the statement which they consider it to be the ground on which they base their aggression, I may be able to rebut it and frustrate it and produce something which may prove my claim."⁴⁵⁷

⁴⁵⁴ Letter from Hugh Weightman, British Political Agent, to Sir Trenchard Fowle, British Political Resident, 3 June 1938, Ann. 262, Vol. 5, p. 1114.

⁴⁵⁵ *Ibid*, Ann. 262, Vol. 5, pp. 1112 to 1113.

⁴⁵⁶ Letter from Ruler of Qatar to Hugh Weightman, British Political Agent, 15 June 1938, Ann. 263, Vol. 5, p. 1115 to 1116.

⁴⁵⁷ *Ibid*, Ann. 263, Vol. 5, p. 1115 to 1116.

391. British officials were at first reluctant to give Qatar such an advantage not intended to be available to Bahrain. The British Political Agent described his interview with the Ruler of Qatar in the following terms:

"[The Ruler of Qatar] demanded the right to see the Bahrain Government's counter-claim, 'in order to enable him to rebut it'. I replied that I was unable to give him an assurance that His Majesty's Government would agree to such procedure, and that in my own opinion it was impossible to contemplate a procedure enabling each party in turn to rehearse the arguments, counter-arguments, rebuttal, counter-rebuttal and so on of the other, since this would render a decision impossible in his life-time or in mine."⁴⁵⁸

392. Local British officials thus refused Qatar's request on the ground that the Ruler of Qatar had already had an opportunity to state his case and had confirmed that there was no other evidence on which he would seek to rely.⁴⁵⁹ That decision was overruled by the British Government in London, which considered that:

"while recognising that Sheikh of Qatar may be able to add nothing of substance to the statements he has already made ... on the whole it would be preferable to give him an opportunity to comment on the Bahrein reply."⁴⁶⁰

393. Bahrain was forwarded a copy of Qatar's Claim on 14 August 1938.⁴⁶¹ On 8 November 1938, the British Political Agent sent a letter

⁴⁵⁸ Letter from Hugh Weightman, British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 June 1938, Ann. 262, Vol. 5, p. 1113.

⁴⁵⁹ See e.g. letter from Lt. Col. Fowle, British Political Resident, to the Secretary of State to the Govt. of India and copied to Hugh Weightman, British Political Agent, 27 June 1938, Ann. 264, Vol. 5, p. 1117.

⁴⁶⁰ Letter from Secretary of State for India to Lt. Col. Trenchard Fowle, British Political Resident, 21 July 1938, Ann. 269, Vol. 5, p. 1124.

⁴⁶¹ Letter from Capt. Howes, Acting British Political Agent, to the Govt. of Bahrain, 14 August 1938, Ann. 270, Vol. 5, p. 1125.

urging Bahrain to hand in its Counter-claim as soon as possible.⁴⁶² Bahrain sent its Counter-claim to the British Political Agent on 22 December 1938⁴⁶³ and it was forwarded to Qatar on 5 January 1939.⁴⁶⁴

394. The content of Bahrain's Counter-claim of 1939 was fully consistent with Bahrain's position today.

395. Qatar was then allowed almost three months in which to compose its Rejoinder. (It had of course been in a position to refine its argument for the preceding six months.) Qatar initially complained of the three-month time-limit imposed by Britain,⁴⁶⁵ but it did not raise the matter when it submitted the Rejoinder on 30 March 1939. On the contrary, the Ruler of Qatar declared in his Rejoinder that:

"... I have explained my comments and remarks to Your Excellency as fully as is required by the circumstances of this case ...".⁴⁶⁶ (Emphasis added.)

396. Qatar's Rejoinder included fifteen pages of comments on Bahrain's Counter-claim.⁴⁶⁷ The assertion of Qatar's claim to sovereignty over the Hawar Islands was consistent in its reliance on pure geography:

"(W)e ask the Bahrain Government whether the Hawar Islands, from a geographical point of view, comprise a part of Bahrain

⁴⁶² Letter from Hugh Weightman, British Political Agent, to Charles Belgrave, Adviser to the Govt. of Bahrain, 8 November 1938, Ann. 272, Vol. 5, p. 1127.

⁴⁶³ Bahrain Counter-claim (in the form of a letter from Adviser to the Govt. of Bahrain to British Political Agent), 22 December 1938, Ann. 274, Vol. 5, p. 1129.

⁴⁶⁴ Letter from Hugh Weightman, British Political Agent, to Ruler of Qatar, 5 January 1939, Ann. 276, Vol. 5, p. 1141.

⁴⁶⁵ See letter from Ruler of Qatar to Hugh Weightman, British Political Agent, 19 March 1939, Ann. 277, Vol. 5, p. 1143.

⁴⁶⁶ Qatar Rejoinder (in the form of a letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1160.

⁴⁶⁷ *Ibid.*, Ann. 279, Vol. 5, p. 1146.

completing it from the south or a part of Qatar completing it from the north? ... The Hawar Islands are considered, from a geographical point of view, as a part which completes Qatar from the North. Any one who has the least primary knowledge of geography will agree with this."⁴⁶⁸

Qatar's confusion regarding the location of the Hawar Islands demonstrated by this assertion has been discussed in paragraphs 361 to 362.

397. Qatar's Rejoinder implicitly acknowledged that Sheikh Abdullah had never been to the Hawar Islands but asserted vaguely that: "the [preceding Ruler of Qatar] has visited it many times and many others of the people of Qatar had visited it".⁴⁶⁹ No evidence was adduced in support of this contention. The Rejoinder also made reference to affidavit testimony of witnesses making the unsupported assertion that the Hawar Islands constituted a part of northern Qatar.⁴⁷⁰

398. The Ruler of Qatar's only claim to have exercised authority over the Hawar Islands was by reference to a family of the Dowasir tribe who lived at Zellaq, in Bahrain, but "[who] used to frequent Hawar for fishing purposes".⁴⁷¹ This family were allegedly "attacked at [Hawar] and they put a complaint before my late father Shaikh Qasim who heard their complaint and decided against those who have attacked them on the ground that the attack took place in his own territory".⁴⁷² Sheikh Abdullah claimed that there were reliable witnesses to this event who

⁴⁶⁸ *Ibid*, Ann. 279, Vol. 5, pp. 1152 to 1153.

⁴⁶⁹ *Ibid*, Ann. 279, Vol. 5, p. 1154.

⁴⁷⁰ *Ibid*, Ann. 279, Vol. 5, pp. 1161 to 1162.

⁴⁷¹ Qatar Rejoinder (in the form of a letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1157.

⁴⁷² *Ibid*.

would "give their evidence about the same." No evidence was (or has since been) produced in support of this assertion.

399. The most notable feature - then and now - about Qatar's claim to the Hawar Islands is the total absence of any evidence of any Qatari act of administration there.

400. A full Report dated 22 April 1939, including a record of the proceedings and an analysis of the evidence, was prepared by the Political Agent before the decision was handed down.⁴⁷³ His analysis was assisted by two visits to the Hawar Islands.⁴⁷⁴

401. The British Political Resident for the Gulf, Sir Trenchard Fowle, then forwarded the Political Agent's Report to the British Government in London, commending it as "a very clear statement of the case".⁴⁷⁵

402. In London, the Government's internal analysis concluded that, despite all the time that had passed since Qatar's Claim and the extensive exchange of correspondence:

"The Sheikh of Qatar has been able to produce no evidence whatsoever in support of his claim. He relies solely on an assertion of sovereignty and on geographical proximity."⁴⁷⁶

403. On 13 June, the British Government decided in favour of Bahrain's claim to sovereignty over the Hawar Islands, conditional on

⁴⁷³ Weightman Report, 22 April 1939, at Ann. 281, Vol. 5, p. 1165.

⁴⁷⁴ See marginal of notes of Hugh Weightman, British Political Agent indicating his two visits, on Qatar Rejoinder (in the form of a letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1152.

⁴⁷⁵ Letter from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 29 April 1939, Ann. 282, Vol. 5, p. 1173.

⁴⁷⁶ India Office minute, 7 June 1939, Ann. 283, Vol. 5, p. 1175.

the agreement of the British Government of India.⁴⁷⁷ The latter communicated its agreement on 1 July.⁴⁷⁸ Britain's decision was then communicated to the Ruler of Bahrain and the Ruler of Qatar on 11 July by the British Political Resident, Sir Trenchard Fowle, in the following terms:

"... I am directed by His Majesty's Government to inform you that, after careful consideration of the evidence adduced by Your Highness and the Shaikh of Qatar, they have decided that these islands belong to the State of Bahrain and not to the State of Qatar."⁴⁷⁹

D. Janan and Hadd Janan islands were included within the ambit of the British adjudication

404. There may be a question as to whether Britain's decision included Janan. The name Janan refers to two islands, situated between one and two nautical miles off the southern coast of Jazirat Hawar, which merge into a single island at low tide. The two islands have a combined surface area of just over 0.1 km² and are called Janan and Hadd Janan. Generally, however, they are referred to together simply as "Janan." Since the low-water line is relevant for determining the breadth of Bahrain's territorial sea, the islands of Janan and Hadd Janan effectively constitute only one island for maritime delimitation purposes.

405. There is no reason to exclude Janan from the Hawar Islands. Janan was used by Hawar residents and other Bahraini fishermen. According to the testimony of one Hawar Islander:

⁴⁷⁷ Letter from Foreign Office (London) to India Office (London), 13 June 1939, Ann. 284(a), Vol. 5, p. 1176.

⁴⁷⁸ Letter from Deputy Secretary to the Govt. of India to the British Political Agent, Lt. Col Fowle, 1 July 1939., Ann. 286, Vol. 5, p. 1181.

⁴⁷⁹ Letters from Lt. Col. Fowle to Ruler of Bahrain, 11 July 1939 Ann. 287, Vol. 5, p. 1182 and Ruler of Qatar, 11 July 1939, Ann. 288, Vol. 5, p. 1183.

"Apart from the main Hawar Island, there were many fish traps on the other islands. Just north of the island of Janan, there were many reefs which were dangerous for fishing dhows. A pipe was therefore built there by the Bahrain Government to lead the dhows away from the reefs. I remember that a fisherman from Muharraq once accidentally hit the pipe and broke his dhow. He was compensated by the Bahrain Government, by Sheikh Salman."⁴⁸⁰

Another former resident states:

"Many of the Hawar Islanders also had fish traps on the other [Hawar] islands. They would sail there to check the traps and put up makeshift shades. Janan Island and Hadd Janan were particularly rich in fish and many Hawar Islanders had fish traps there, including my father and Muhanna bin Hazeem from the South Village."⁴⁸¹

SECTION 3.4 The State of Qatar was created at a great distance from the Hawar Islands and its Ruling Family had never exercised authority there

406. In the unlikely event that the Court were not to consider Bahrain's sovereignty over the Hawar Islands to be *res judicata*, Bahrain considers that it can easily demonstrate that it has a better claim than Qatar does.

407. Chapter 2 of this Memorial dealing with Zubarah has described at length the distinct historical evolutions of the States of Bahrain and Qatar. When considering the status of the Hawar Islands over the last 200 years, it is necessary to recall that until almost the last quarter of the 19th Century virtually the whole of the Qatar peninsula was subject to

⁴⁸⁰ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 26, Ann. 313(a), Vol. 6, pp. 1368 to 1369.

⁴⁸¹ See statement of Salman bin Isa bin Ahmad bin Saad al Dosari, para. 7, Ann. 315(a), Vol. 6 p. 1393. See also statements of Ibrahim bin Salman bin Ahmed Al Ghattam, para. 21, Ann. 316(a), Vol. 6, p. 1405, and Nasr bin Makki bin Ali al Dosari, para. 16, Ann. 314(a), Vol. 6, pp. 1382 to 1383.

the authority of the Rulers of Bahrain (see Section 2.2 starting at paragraph 104). This authority was only affected to a limited degree by the presence of the Ottoman authorities. As to the islands in the Gulf of Bahrain, they never came under Ottoman rule.

408. The main island of Bahrain, the Zubarah region and the Hawar Islands formed a triangle of populated territory under Bahraini sovereignty, interconnected by easy passages over the shallow waters of the Gulf of Bahrain. The peoples of Bahrain moved unhindered within this triangle. The other population centre of the region - Doha Town and its environs - was on the other side of the Qatar peninsula. The populations in the main island of Bahrain, the Zubarah region and the Hawar Islands were focused on the Gulf of Bahrain. The population of Doha Town and its environs made their living on the waters to the east of the Qatar peninsula, where their primary concern was their often difficult relationship with Abu Dhabi which competed for fishing and pearl banks there.

409. As will be recalled in Section 3.5, Bahrain's sovereignty over the Hawar Islands was already established in the first quarter of the 19th Century. At that time, there was no State of Qatar, nor even any settlements on the western coast of the Qatar peninsula opposite the Hawar Islands (see paragraphs 107 and 117). Not until the establishment of the oil town of Dukhan in 1949 was there any significant regular human habitation of the western part of the Qatar peninsula outside the Zubarah region. No tribe on the Qatar peninsula made, or could have made, a claim to the Islands. Nor did the Al-Thani chiefs of Doha Town make any such claim.

410. Bahrain's authority over the Qatar peninsula receded gradually towards the north and west during the period of the Ottoman Empire's

partial occupation of the Qatar peninsula (see Sections 2.5 to 2.10 starting at paragraph 140). Even so, the occasional authority exercised by the Ottomans or the Al-Thani in the Qatar peninsula had no impact on the Hawar Islands. Indeed, there is compelling evidence that the Ottoman Empire recognised that the Hawar Islands belonged to Bahrain, most demonstrably the Ottoman Army survey of 1878 reproduced on the following pages. In 1909, the Ottoman Empire attempted to annex Zakhnuniyah Island, an island in the Gulf of Bahrain off the coast of the Arabian peninsula that was regularly occupied by the Bahraini branch of the Dowasir tribe and was part of Bahrain (see paragraphs 426-431). Britain prevented the annexation. The British Political Agent, Captain F.B. Prideaux, noted that Zakhnuniyah Island was similar to the Hawar Islands, in terms of Bahraini sovereignty, and that Britain had to prevent the annexation because, otherwise, the Ottomans "will then naturally be encouraged to go on to Hawar..."⁴⁸² Subsequently, a secret declaration annexed to the unratified treaty of 1913 between Britain and Turkey referred to an agreement between the Parties for the Ottoman Government to pay compensation to the Shaikh of Bahrain for his renunciation to his rights to Zakhnuniyah;⁴⁸³ this acknowledgement of Bahrain's rights in Zakhnuniyah serves also as an acknowledgement of Bahrain's rights in the Hawar Islands, which of course were not ceded.

411. The status of the Hawar Islands as part of Bahrain remained unquestioned until Qatar's claim in 1938. No matter what point of time one chooses to compare the nature of the authority of Bahrain and of

⁴⁸² Letter from Capt. Prideaux, British Political Agent, to Maj. Cox, British Political Resident, 20 March 1909, Ann. 235, Vol. 5, p. 1038.

⁴⁸³ Resolutions approved at the meeting of the Ottoman Cabinet Council, 19 April 1913, Ann. 240A, Vol. 5, p. 1063a and Secret Declaration annexed to Convention between the United Kingdom and Turkey regarding the Persian Gulf and adjacent territories, 29 July 1913, Ann. 240B, Vol. 5, p. 1063e.

Qatar over the territory of the Qatar peninsula, the Al-Thani family or the State of Qatar was *never* in a position to sustain a claim that it controlled in any way the people or the territories of the Hawar Islands.

SECTION 3.5 The Ruler of Bahrain's authority over the Hawar Islands during the century preceding Britain's recognition of Qatar in the 1916 Treaty is well documented

412. The exercise by Bahrain of authority over, and in relation to, the Hawar Islands during the years even before 1916 is well evidenced.

413. In 1783, the Al-Khalifa - then based in Zubarah - defeated the Persian garrison on the main island of Bahrain and established dominion over the islands of the Gulf of Bahrain (see paragraphs 109 to 112). The authority of the Ruler of Bahrain over the Hawar Islands in particular was recognised by the inhabitants of the region. Following the Al-Khalifa victory, a branch of the Dowasir tribe requested permission from the Al-Khalifa to settle in the Hawar Islands and were granted that permission by the highest-ranking religious and legal official of the Al-Khalifa family, the Qadi of Zubarah.⁴⁸⁴

414. The Dowasir settled peacefully in the Hawar Islands around 1800 under the authority of the Ruler of Bahrain. Like most of the island inhabitants of Bahrain at that time, they lived by fishing and pearling from the waters of the shallow Gulf of Bahrain.

⁴⁸⁴

In 1909, correspondence from the British Political Agent to the Political Resident substantiated the existence of this grant and indicated that, at that time, evidence of the written decision of the Qadi was still preserved by the Dowasir. Letter from Capt. Prideaux British Political Agent, to Maj. Cox, British Political Resident, 4 April 1909, Ann. 236, Vol. 5, p. 1039. This letter is also referred to in the Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1168.

415. Bahrain's authority over the Hawar Islands was confirmed in official British records published in the 1820s. A British Indian Navy officer, Captain George Brucks, conducted a comprehensive official survey of the Arabian Gulf between 1821 to 1829.⁴⁸⁵ In relation to the Hawar Islands, referred to at that time by Europeans as "Warden's Islands",⁴⁸⁶ Brucks observed:

"Warden's Islands is a group of eight or nine islands and rocks extending from lat. 25-46-25 N, long. 50-55E to lat 25-33N, long 50-53-20E. The principal is called Al Howahk, and is about four miles long. It has two fishing villages on it, and belongs to Bahrein."⁴⁸⁷ (Emphasis added.)

416. The thoroughness of Captain Brucks' approach is shown by the following extract from his introduction:

"...What I have done is to try and place the situation, numbers and manners of the people I have visited, and who are little if at all known, in as clear a point of view as my information and abilities would permit.

My information has been obtained in the following manner: I have proposed to the chiefs certain questions relative to the tribes, and their localities, of the revenues, trade, &c which I have noted, with their replies. This I have done to several other persons at different periods, and then taken such of the substance as appeared to agree the best ...".⁴⁸⁸

417. The political relationship between the Hawar Dowasir and the Ruler of Bahrain was affirmed and reinforced in 1845 when they were

⁴⁸⁵ Capt. Brucks, *op. cit.*, Ann. 7, Vol. 2, p. 92.

⁴⁸⁶ The islands appear to have been named by the Arabian Coast Survey after Francis Warden, the First Secretary to the Govt. of India in the early years of the nineteenth century and the author of Historical Sketch of the Uttoobee Tribe of Arabs (1716 to 1817).

⁴⁸⁷ Brucks, *op. cit.*, p. 113, Ann. 7, Vol. 2, p. 101.

⁴⁸⁸ *Ibid*, at p. 105, Ann. 7, Vol. 2, p. 93.

invited by the Ruler of Bahrain to settle on the main island of Bahrain,⁴⁸⁹ while at the same time continuing their life on the Hawar Islands. The Hawar Dowasir accepted the invitation and established two towns - Budaiya and Zellaq - located on the west coast of the main island of Bahrain.⁴⁹⁰

418. With the Dowasir's new settlements on the main island of Bahrain, the inter-island exchanges naturally increased. There was regular traffic between the main island of Bahrain, Muharraq Island and the Hawar Islands. Dowasir economic activity centred on gypsum extraction from Jazirat Hawar, and fishing and pearl diving from the shallow waters of the Gulf of Bahrain. Dowasir dhows made the easy crossing to the main island of Bahrain - 11 nautical miles away - taking fish and gypsum from the Hawar Islands to the nearby markets in Manama and Muharraq and returning with goods and supplies, particularly fresh water. The pattern of commercial activity of the Hawar Islanders thus established was to continue until the discovery of oil in the region.

419. Many of the Dowasir who lived on the main island of Bahrain spent five months of the year there during the pearling season and the remainder of the year on the Hawar Islands. Although the presence of some Hawar Islanders was seasonal, the settlement was nevertheless permanent (see paragraphs 458 to 465). The ruins of old mosques and the six cemeteries on the Hawar Islands, one a children's cemetery, demonstrate the stability of the community there (see paragraphs 463 to 464).

⁴⁸⁹ Lorimer Vol. II, *op. cit.*, p. 391, Ann. 74, Vol. 3, p. 378.

⁴⁹⁰ *Ibid.* These communities are still thriving today. It is possible to locate thousands of descendants of these original Dowasir still living in Bahrain.

420. There was no contact between the Hawar Islanders and the inhabited locations on the eastern side of the Qatar peninsula. The settlements around what eventually became Doha - 150 kilometres' sailing around the peninsula, or 80 kilometres across a hostile desert - had much less to offer than the markets in Manama and Muharraq, which were major trading centres for the Gulf of Arabia. There is no evidence that the Hawar people made any effort to cultivate contacts with the far side of the peninsula. In any event, the few hundred people in Doha and Wakrah were not potential suppliers or customers for the Hawar Islanders. Rather, they were potential competitors in fishing and pearling.

421. In 1871, the Ottoman Empire annexed Doha and its environs. This changed the political configuration of the Qatar peninsula and undermined the position of the Ruler of Bahrain as the sovereign power in the east of the peninsula (see paragraphs 156 to 158 and Section 2.9, starting at paragraph 195). However, at no time in the course of the Ottoman period did the Ottomans or the Al-Thani chiefs of Doha ever interest themselves in the Hawar Islands or seek to exercise authority over the Bahraini subjects there. The patterns of intercourse between the populations of the main island of Bahrain and the Hawar Islands continued uninterrupted.

422. Lorimer's Gazetteer referred to Jazirat Hawar and the Dowasir occupation of it as follows:

"[Jazirat Hawar is about] 10 miles long, north and south, and roughly parallel to the Qatar coast. There are no wells but there is a cistern to hold rainwater built by the Dawasir of Zellaq in Bahrain who have houses at two places on the island and use

them in winter as shooting boxes. Fishermen also frequent Hawar ...".⁴⁹¹ (Emphasis added.)

423. Lorimer's Gazetteer included the Hawar Islands under the section entitled "Places and features of the Coast - West side of Qatar". Qatar has sought to rely on this geographical notation as somehow reflecting an understanding of sovereignty over the Hawar Islands.⁴⁹² Such reliance is unjustified. Bahrain does not dispute the fact that the Hawar Islands are features that are located near the "West side of Qatar," but that fact does not create sovereignty.

424. On 4 April 1909, the British Political Agent wrote a letter to his superior, in which he described a recent trip he had taken to Hawar. On the island, Captain Prideaux had observed "two similar winter villages" and in one locality:

"a collection of 40 large huts under the authority of a cousin of the tribal principal Shaikh. This individual is ... related by marriage to Shaikh Isa bin Ali [the Ruler of Bahrain]."⁴⁹³

In the same letter, Prideaux also referred to the original grant to the Dowasir by the *Kazi* [Qadi] of Zubarah whom he correctly described as "an official of the Al-Khalifah"⁴⁹⁴ (see paragraph 413).

425. The authority and sovereignty of the Ruler of Bahrain over the Hawar Islands was recognised by the Ottoman Empire. During the Ottoman Empire's occupation of the southern part of the Qatar

⁴⁹¹ Lorimer, Vol. II, *op. cit.*, p. 1513, Ann. 74, Vol. 3, p. 399.

⁴⁹² State of Qatar Reply (Questions of Jurisdiction and Admissibility) 28 September 1992 paragraph 2.09 at p. 9.

⁴⁹³ Letter from Capt. Prideaux, British Political Agent, to Maj. Cox, British Political Resident, 4 April 1909, Ann. 236, Vol. 4, pp. 1041 to 1042.

⁴⁹⁴ *Ibid*, Ann. 236, Vol. 4, p. 1042.

peninsula, neither the Ottomans nor the Al-Thani chiefs of Doha were involved in any way with the Hawar Islands. Indeed, an Ottoman political survey map drafted by Captain Izzet of the Imperial Army of the Ottoman Empire in 1878, shows the Hawar Islands to be part of Bahrain (see map after page 6).

426. Bahrain's sovereignty over the Hawar Islands was implicitly confirmed in 1909 by both Britain and the Ottoman Empire in connection with the Zakhnuniyah incident referred to above (see paragraph 410). Zakhnuniyah Island was regularly occupied on a seasonal basis by members of the Bahraini Dowasir.⁴⁹⁵ The British Political Agent observed that they used it as a fishing base.⁴⁹⁶ The Dowasir, "Bahrain subjects, were living in two or three temporary huts at the southern extremity of the island and were engaged in fishing for sharks, swordfish etc ...".⁴⁹⁷ He also observed a dilapidated fort on the west side of the island built, according to the Ruler of Bahrain, by his father, Sheikh Ali. In 1909, troops of the Ottoman Empire landed on Zakhnuniyah and declared that it had been annexed by the Ottoman Empire. A report dated 20 March 1909, from the British Political Agent to the Political Resident notes: "... a *Mudir* from Ojair had recently been over [to Zakhnuniyah] and had fixed a flagstaff on the ruined 'fort' on the island claiming it as Turkish territory."⁴⁹⁸ When the Ruler of Bahrain was informed by the Dowasir of this Ottoman interference, he

495 Letter from Capt. Prideaux, British Political Agent, to Maj. Cox, British Political Resident, 4 April 1909, Ann. 236, Vol. 4, p. 1041.

496 *Ibid.*

497 *Ibid.*

498 Letter from Capt. Prideaux, British Political Agent, to Maj. Cox, British Political Resident, 20 March 1909, Ann. 235, Vol. 4, p. 1034.

protested.⁴⁹⁹ Britain also protested to the Ottoman Empire, relying on the Ruler of Bahrain's sovereignty over Zakhnuniyah by virtue of the islands' regular seasonal use by the Dowasir of Bahrain.⁵⁰⁰

427. Bahrain and Britain were concerned that, if the Ottoman attempt to annex Zakhnuniyah Island was successful, then the Ottomans might be tempted to make a similar claim to the Hawar Islands.⁵⁰¹ This concern flowed from the substantial similarities between the character of the Ruler of Bahrain's authority over the Hawar Islands and over Zakhnuniyah Island. As Captain Prideaux observed in his report:

"The facts are that Dowasir of Budaiya and Zellaq on the north west coast of Bahrain are in the habit of every winter partially migrating to Zakhnuniyah and Hawar Islands for fishing (sharks as well as edible fish) and hawking....

The Mudir [an official of the Ottoman Empire] the other day, told the Dowasir whom he found [on Zakhnuniyah] that they should recognise themselves as Turkish subjects and he only asked them to haul up and lower the [Ottoman] flag each day. They replied that they could only follow their own headman who resided in Bahrain and resolutely declined to have anything to do with the [Ottoman] flag...

I strongly deprecate letting the Turks keep Zakhnuniyah as they will then naturally be encouraged to go on to Hawar ..."⁵⁰²
(Emphasis added.)

428. The Ottoman troops were soon withdrawn. The British Administration Report for Bahrain for 1909 records:

⁴⁹⁹ Letter from Capt. Prideaux, British Political Agent, to Maj. Cox, British Political Resident, 4 April 1909, Ann. 236, Vol. 4, p. 1042.

⁵⁰⁰ Administration Report for Bahrain for the year 1909, Ann. 237, Vol. 4, p. 1044.

⁵⁰¹ Letter from Capt. Prideaux, British Political Agent, to Maj. Cox, British Political Resident, 20 March 1909, Ann. 235, Vol. 4, pp. 1037 to 1038.

⁵⁰² *Ibid*, Ann. 235, Vol. 4, pp. 1037 to 1038.

"Representation as regards the soldiers and the flag were made to the Porte and the troops were withdrawn."⁵⁰³

429. In 1911, the British Administrative Reports for the Persian Gulf states:

"According to all reports received, no Turkish garrison has been stationed on the island during the year. The Dosoris [Dowasir] there at the end of the year were on occasions hoisting Shaikh Isa's flag [the flag of Bahrain]...otherwise no flag was being flown."⁵⁰⁴

430. Subsequently, by a secret declaration annexed to the unratified 1913 Treaty between Britain and Turkey, the British Government took note of the decision of the Ottoman Government to pay £1000 to the Shaikh of Bahrain by way of compensation for the renunciation by him of all claim to the Island of Zakhnuniyah.⁵⁰⁵ If Captain Prideaux was right in believing that legally Zakhnuniyah and the Hawar Islands were in a similar position, this acknowledgement by Turkey of Bahrain's rights in Zakhnuniyah Island (no less a fact because the declaration never entered into force) also serves as an acknowledgement of Bahrain's rights over the Hawar Islands.

431. A number of conclusions may be drawn from the Zakhnuniyah incident. First, the Bahrain Dowasir, who also include the Hawar Islanders, clearly recognised the authority of the Ruler of Bahrain. Second, they reported foreign interference to the Ruler of Bahrain.

⁵⁰³ Administration Report for Bahrain for the year 1909, Ann. 237, Vol. 4, p. 1044.

⁵⁰⁴ Administration Report for Bahrain Political Agency for the year 1911, Ann. 240, Vol. 4, p. 1054.

⁵⁰⁵ See Resolutions approved at the meeting of the Ottoman Cabinet Council, 19 April 1913, Ann. 240A, Vol. 5, p. 1063a and Secret Declaration annexed to convention between the United Kingdom and Turkey regarding the Persian Gulf and adjacent territories, 29 July 1913, Ann. 240B, Vol. 15, p. 1063e.

Third, the Ruler of Bahrain protested against foreign intervention there. Fourth, Britain acknowledged the allegiance of the Bahrain Dowasir to the Ruler of Bahrain. Fifth, Britain acknowledged that that relationship supported Bahrain's territorial sovereignty in relation to Zakhnuniyah and the Hawar Islands. Sixth, the Ottoman Empire had made no attempt to extend their challenge to the Ruler of Bahrain's authority in the Hawar Islands.

432. In 1873, the Ruler of Bahrain was staying on the Hawar Islands when some passing Ottoman soldiers were shipwrecked there.⁵⁰⁶ The Ruler caused the soldiers to be transferred to the main island of Bahrain and from there onward to their intended destination.⁵⁰⁷

433. Even before the First World War, Bahrain manifested its authority over the Hawar Islands through the decisions of its courts. The cases related to land rights and fishing traps in the Islands.

434. One of these cases was decided in 1909 by the Qadi of the Sharia Court in Bahrain.

"Be it known that Ahmad bin Shahin Dosari and Bati bin Salman and Jabr bin Muhanna and Hamad bin Saeed have appeared before me and disputed the ownership of land and sea properties in Hawar. Ahmad bin Shahin claimed these to be his property inherited from fathers and forefathers; Jabr and Bati claimed them to be their properties and that they held document..."⁵⁰⁸

⁵⁰⁶ Bahrain Counter-claim (in the form of a letter from Adviser to the Govt. of Bahrain to British Political Agent), 22 December 1938, Ann. 274, Vol. 5, p. 1134. See also Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1171.

⁵⁰⁷ Bahrain Counter-claim (in the form of a letter from Adviser to the Govt. of Bahrain to British Political Agent), 22 December 1938, Ann. 274, Vol. 5, p. 1134.

⁵⁰⁸ Judgement made by Sharaf bin Ahmad, the Qadi of the Sharia Court, 1327 Hejrah (1909), Ann. 238, Vol. 5, p. 1049.

In 1938 and 1939, the Ruler of Qatar alleged that the fishermen who used the Hawar Islands were itinerant and merely used the islands as a temporary base.⁵¹⁷ The evidence, however, is overwhelmingly to the contrary. There is testimony of Bahraini who lived in the Hawar Islands to the effect that the Bahrain Dowasir settlements were permanent.⁵¹⁸ There is physical evidence of permanent dwellings and other buildings on the islands (see paragraphs 458 to 465). There is documentation relating to acts of administration by Bahrain in relation to the settled population (see paragraphs 446 to 447, 455 to 457 and 466 to 467). In answer to Qatar's description of the inhabitants of the Hawar Islands as itinerant fisherman, Bahrain's Counter-claim stated:

"[T]he fishermen who are referred to [by Qatar] are some of the inhabitants of Hawar who live in the islands and who go fishing from their home [on the Hawar Islands] bringing back their fish to Hawar or sometimes sending it to Manama for sale."⁵¹⁹

Hugh Weightman noted at the time, those affidavits simply make the unsupported statement that "Hawar Island is a part of northern (sic) Qatar and was never subject to Bahrain". They were signed on behalf of all deponents "in one handwriting, unsupported by thumb impressions or seals of the alleged signatories. Nor is any description of the alleged signatories given, of their place of residence or of the reason for their having special knowledge of the Hawar Islands. There is no suggestion that they are residents, whether temporary or permanent of Hawar..." - see Weightman Report, 22 April 1939, Ann. 288, Vol. 5, p. 1166.

⁵¹⁷ Qatar Claim (in the form of two letters from Ruler of Qatar to British Political Agent, 10 May and 27 May 1938), 10 May 1938, Ann. 256, Vol. 5, p. 1094 and 27 May 1938, Ann. 260, Vol. 5, p. 1103. Qatar Rejoinder (in the form of a letter from the Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, pp. 1148 to 1149.

⁵¹⁸ See statements of Hamoud bin Muhanna bin Hamad al Dosari, Ann. 313(a), Vol. 5, p. 1363, Nasr bin Makki bin Ali al Dosari, Ann. 314(a), Vol. 6, p. 1379, Ibrahim bin Salman bin Ahmed al Ghattam, Ann. 316(a), Vol. 6, p. 1400, and Salman Isa bin Ahmad bin Saad al Dosari, Ann. 315(a), Vol. 6, p. 1392.

⁵¹⁹ Bahrain Counter-claim (in the form of a letter from Adviser to the Govt. of Bahrain to British Political Agent), 22 December 1938, Ann. 274, Vol. 6, p. 1130.

441. When the British Political Agent, Hugh Weightman, visited the Hawar Islands in April 1939, it was not during the fishing season. Nevertheless, he noted the presence of what he referred to as "fishermen" - the permanent inhabitants of the Hawar Islands.⁵²⁰

442. The testimony of former inhabitants of the Hawar Islands, now living elsewhere in Bahrain, is uniform in its description of the fishing activities as part of the regular pattern of life of the Islanders: they would tend their fish traps and use their nets in the shallow waters of the Gulf of Bahrain.⁵²¹ A Dowasir man who grew up on Hawar in the 1920s recently recalled the central role of fishing in the Hawar Island community:

"I earned my livelihood from the sea. During the winter we would fish using fish traps and nets. If the weather was good, fish traders would come from Muharraq and the main island of Bahrain to buy the fresh fish. The traders would buy it straight off the pier, fill up their boats and take it back to sell in Muharraq. They would often bring provisions which we could not get in Hawar such as lemons, coffee and rice which we would trade for our fish. If the weather was bad, everyone - the men, the women, the servants, the children - would clean the fish and when it had dried we would store it in straw sacks that had been used previously for dates. Everyone used to help each other. Then we would take it and sell it in Muharraq for one or two rupees."⁵²²

⁵²⁰ Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1170.

⁵²¹ See statements of Hamoud bin Muhanna bin Hamad al Dosari, Ann. 313(a), Vol. 6, p. 1366, Nasr bin Makki bin Ali al Dosari, Ann. 314(a), Vol. 6, p. 1382, and Ibrahim bin Salman bin Ahmed al Ghattam, Ann. 316(a), Vol. 6, p. 1405 and Salman Isa bin Ahmad bin Saad al Dosari, Ann. 315(a), Vol. 6, p. 1393.

⁵²² See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 18, Ann. 313(a), Vol. 6, p. 1366. See also Statement of Ibrahim bin Salman bin Ahmed Al Ghattam, paras. 12 and 21, Ann. 316(a), Vol. 6, pp. 1403 to 1405.

446. The Government of Bahrain regulated the pearling industry in the Hawar Islands in the same way as it did in other parts of Bahrain. The Government of Bahrain distributed diving books to the pearl divers and log books to the pearl boat captains of the Hawar Islands and regulated them throughout the pearling season.⁵³⁰ One former Hawar Islander recently recalled:

"Every diver had a log book and the log books were issued by the Bahrain Government. The log book kept a record of the diver's name, credits, debits and possessions. When the time came for diving, we submitted our log books and after we returned they checked out how much we owed or were owed. If there were no debts, the diver was given a release and was free to stay with the Captain or to go to work for somebody else."⁵³¹

Another former resident of the Hawar Islands, currently living in the main island of Bahrain, recalled the formalities required by the Government of Bahrain in relation to the pearling boats in the following terms:

"The boats used by the Hawar Islanders were registered in Bahrain. The registration books were called 'passes'. They were issued by Saad bin Samra, a Bahrain Government official, who would charge 100 rupee per dhow. No dhow could leave Bahrain for the pearling banks without a pass."⁵³²

447. The British Political Agent confirmed in 1939 that the pearling boats moored on the islands were registered by the Government of Bahrain.⁵³³

⁵³⁰ Bahrain Counter-claim (in the form of a letter from Charles Belgrave, Adviser to the Govt. of Bahrain to Hugh Weightman, British Political Agent), 22 December 1938, Ann. 274, Vol. 5, p. 1133.

⁵³¹ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 21, Ann. 313(a), Vol. 6, p. 1367.

⁵³² See statement of Ibrahim bin Salman bin Ahmed Al Ghattam, para. 23, Ann. 316(a), Vol. 6, pp. 1405 to 1406.

⁵³³ Weightman Report, 22 April 1939, Ann. 281, Vol. 5, pp. 1169 to 1170.

C. Animal husbandry

448. The Hawar Islanders grazed their flocks on Jazirat Hawar⁵³⁴ and kept a wide variety of animals. One of them recounted:

"We also kept cattle, sheep, goats, cows and donkeys. The cattle wandered the island without any shepherds. They would eat the vegetation and come back to the village by themselves. There was good pasture in the winter, better than in the main island of Bahrain."⁵³⁵

449. This variety enabled the Hawar Islanders to be self-sufficient in a number of important staples, such as meat, cheese and milk.⁵³⁶ Animals were generally cared for by the women while the men were responsible for the fish traps.⁵³⁷

450. In 1939, the British Political Agent noted:

"After good rain the island provides better pasturage than Bahrain itself and even this year, when the rain was very late, there are still to-day between 50 and 100 animals in Hawar."⁵³⁸

451. In order to maximise the pasture area in some parts of Jazirat Hawar, the Hawar Islanders built dams,⁵³⁹ thereby creating basins that

⁵³⁴ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 17, Ann. 313(a), Vol. 6, p. 1366.

⁵³⁵ See statement of Ibrahim bin Salman bin Ahmed Al Ghattam, para. 13, Ann. 313(a), Vol. 6, p. 1403.

⁵³⁶ See statement of Nasr bin Makki bin Ali al Dosari, para. 12, Ann. 314(a), Vol. 6, p. 1382.

⁵³⁷ *Ibid.*, para. 18, Ann. 314(a), Vol. 6, p. 1383.

⁵³⁸ Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1169. The Bahrain Counter-claim (in the form of a letter from Adviser to the Govt. of Bahrain to British Political Agent), 22 December 1938, also makes a general reference to the presence of "cattle, sheep and donkeys" on the Hawar Islands, Ann. 274, Vol. 5, p. 1130.

⁵³⁹ See Report of Dr. Paolo Costa on the Archaeological Investigation on the Hawar Islands, 17 January 1995 ("Costa Report"), Ann. 310, Vol. 6, p. 1338, 1340, 1342

improved the grass yield of certain grazing grounds.⁵⁴⁰ Dr. Paolo Costa, Professor of Oriental Archaeology at the University of Bologna, undertook several field studies in the Hawar Islands in 1994-1995. In his report dated 17 January 1995, Dr. Costa suggested that the improved yield from this practise would have enabled the high-growing grass to be hand cut and stored as dry fodder for the animals.⁵⁴¹

452. In 1939, the British Political Agent recorded that the Hawar Islanders occasionally sent their livestock across to the main island of Bahrain during water shortages on the Hawar Islands.⁵⁴²

453. Animals are still grazed on Jazirat Hawar today as part of Bahrain's commitment to reintroduce native Arabian wildlife into its territories.⁵⁴³

D. Gypsum quarrying

454. The Hawar Islands possess large quantities of high-quality gypsum, which is used in construction.⁵⁴⁴ Gypsum extraction traditionally provided the Hawar Islanders with one of their sources of livelihood.⁵⁴⁵ Hawar gypsum was quarried throughout the 19th and 20th Centuries and used as building material for construction on both the

⁵⁴⁰ See Report of Dr. Paolo Costa on the Archaeological Investigation on the Hawar Islands, 17 January 1995 ("Costa Report"), Ann. 310, Vol. 6, p. 1342.

⁵⁴¹ *Ibid.*

⁵⁴² Weightman Report, Ann. 281, Vol. 5, p. 1169.

⁵⁴³ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 28, Ann. 313(a), Vol. 6, p. 1369.

⁵⁴⁴ See Costa Report, at pp. 16 to 17, Ann. 310, vol. 6, pp. 1348 to 1350.

⁵⁴⁵ *Ibid.* para. 22. See also statements of Ibrahim bin Salman bin Ahmed Al Ghattam, para. 14, Ann. 316(a), Vol. 6, p. 1403 and Statement of Salman bin Isa bin Ahmad bin Saad al Dosari, para. 8, Ann. 315(a), Vol. 6, pp. 1393 to 1394.

Hawar Islands themselves and on the main island of Bahrain and Muharraq Island.⁵⁴⁶ Dr. Costa's report concluded that there were three gypsum extraction sites on the main island. He observed:

"Of the three, the two smaller quarries of about 2 hectares are located close to areas where there are buildings which required plastering: the gypsum was therefore quarried mainly for local use: the third quarry, on the contrary, is very large in size (over 10 hectares) and lies far from local settlements. It seems clear that the exploitation of this quarry does not depend upon local demand and that the gypsum was extracted to be used elsewhere."⁵⁴⁷

455. Gypsum quarrying in the Hawar Islands increased during the period between 1916 and 1939. So did the Government of Bahrain's regulation of the industry,⁵⁴⁸ at the request of the inhabitants of the Hawar Islands.⁵⁴⁹ Apparently, the islanders felt that the increased quarrying was too close to their villages and was disturbing their families. Former residents of the Hawar Islands recall the disputes and the intervention of the Government of Bahrain at their request. One former Hawar Island resident recently recalled the problem:

"I remember that the older Dowasir complained that there was too much gypsum cutting near the homes and the women."⁵⁵⁰

The Islanders were also concerned that the quarrying would deplete the gypsum resource too quickly. After several disputes, the Government of

⁵⁴⁶ See Costa Report, at p. 17, Ann. 310, Vol. 6, pp. 1348 to 1349.

⁵⁴⁷ *Ibid.*, at pp. 16 to 17, Ann. 310, Vol. 6, p. 1348 to 1349.

⁵⁴⁸ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 23, Ann. 313(a), Vol. 6, p. 1368.

⁵⁴⁹ *Ibid.*

⁵⁵⁰ *Ibid.*

Bahrain imposed the requirement that gypsum quarrying on the Hawar Islands could be carried out only under the authority of a licence.⁵⁵¹

456. The licensing scheme was regulated by officials of the Government of Bahrain.⁵⁵² One former Hawar Islander now residing in the main island of Bahrain recalled:

"...the Bahrain Government regulated the cutting by requiring the cutters to carry permits. The permits were issued by the Bahrain Chief of Police, Sheikh Khalifa bin Mohammed. He used to stay on the main Hawar Island in the police fort and meet the Dowasir. He issued the permits after there had been several quarrels. Only people who had a permit were allowed to cut the gypsum."⁵⁵³

457. Officials of the Government of Bahrain documented the regulation of the gypsum industry on the Hawar Islands. The Annual Report of the Government of Bahrain for the year 1356 Hajirah (March 1937 to February 1938), before any claim was raised by Qatar to the Hawar Islands, noted that gypsum⁵⁵⁴ was brought from Jazirat Hawar to the main island of Bahrain and Muharraq Island for construction there by boats which used to work as ferries before the construction of the Manama-Muharraq causeway:

"small sailing boats [based on the main island of Bahrain and on Muharraq Island] ... bring building stone from the reefs out at sea and [gypsum] from Hawar."⁵⁵⁵

⁵⁵¹ Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1169.

⁵⁵² See statement of Nasr bin Makki bin Ali al Dosari, para. 19: "We would check that the gypsum cutters who used to come from the main island of Bahrain had a valid permit issued by the Govt. of Bahrain.", Ann. 314(a), Vol. 6, pp. 1383 to 1384.

⁵⁵³ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 23, Ann. 313(a), Vol. 6, p. 1368.

⁵⁵⁴ Also referred to as "juss".

⁵⁵⁵ Govt. of Bahrain Annual Report for Year 1356 (March 1937 to February 1938), Ann. 253, Vol. 5, p. 1086.

In his note on the Hawar Islands of 29 May 1938, the Adviser to the Government of Bahrain referred to the rich source of gypsum, good sand and a particular type of pebble on the Hawar Islands.⁵⁵⁶ The Government of Bahrain's licensing system for the Hawar Islands was also recorded in a 1939 report from the British Political Agent to the Political Resident.⁵⁵⁷ The Government of Bahrain's Adviser recorded on several occasions the existence of the licensing system.⁵⁵⁸

E. Additional evidence of the permanent nature of the settlement

458. A letter from Petroleum Concessions Limited, the Qatar oil concession holder, recorded in February 1938 that there were "300 Bahrainis" in the Hawar Islands.⁵⁵⁹ The same letter also noted that Bahrain Police were stationed there.⁵⁶⁰ Bahrain's Counter-claim in the course of the British adjudication later that year described the Bahraini settlement in the Hawar Islands as having:

"a long established settled community of Arabs living in permanent stone houses with their wives and families and their cattle, sheep and donkeys...The villages of Hawar consist of stone houses, permanent buildings not palm huts, built by Bahrain subjects. There are also in the various islands ancient stone cisterns constructed by the ancestors of the present inhabitants who were permitted to build them by the Shaikhs of Bahrain in the past. The inhabitants of Hawar reside there

⁵⁵⁶ Note by Charles Belgrave, Adviser to Govt. of Bahrain, entitled "The Hawar Islands", 29 May 1938, Ann. 261, Vol. 5, p. 1106.

⁵⁵⁷ Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1169.

⁵⁵⁸ Note by Charles Belgrave, Adviser to the Govt. of Bahrain, entitled "The Hawar Islands", 29 May 1938, Ann. 261, Vol. 5, p. 1109.

⁵⁵⁹ Letter from E.V. Packer, Manager of PCL, to Charles Belgrave, Adviser to the Govt. of Bahrain, 19 February 1938, Ann. 252, Vol. 5, p. 1080.

⁵⁶⁰ *Ibid.*

permanently keeping their goods and chattels in their houses and their boats, when not in use, on the shore of the islands."⁵⁶¹

459. In April 1939, the British Political Agent visited the Hawar Islands on a fact-finding mission and found:

"two villages in the main Hawar Island. These are quite small villages, occupied by about 35 and 20 families respectively."⁵⁶²

He observed that the families inhabiting the Hawar Islands lived:

"... in houses of the type known as 'kubara', i.e. built of unfaced stone and held together with mud and roofed with date palm. These are definitely more permanent constructions than fishermen's 'barasties' (palm huts) and some at least of them are occupied throughout the year."⁵⁶³ (Emphasis added.)

As one former resident recalled, the houses "were simply built out of the local gypsum rock."⁵⁶⁴

460. In his fact-finding mission in April 1939, the British Political Agent observed stone cisterns used for storing water by the Hawar Islanders and also:

"two quite considerable cemeteries in the island ... [indicating that] the main island of Hawar has been inhabited for generations."⁵⁶⁵ (Emphasis added.)

He continued:

⁵⁶¹ Bahrain Counter-claim (in the form of a letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to Hugh Weightman, British Political Agent), 22 December 1938, Ann. 274, Vol. 5, pp. 1129 to 1134.

⁵⁶² Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1168.

⁵⁶³ *Ibid.*, Ann. 281, Vol. 5, pp. 1168 to 1169.

⁵⁶⁴ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 7, Ann. 313(a), Vol. 6, p. 1364.

⁵⁶⁵ Weightman Report, 22 April 1939, Ann. 281, Vol. 5, p. 1168.

"I am not able to state definitely that these Dawasir have for the past 150 years occupied Hawar at all seasons of the year, though those now in residence there claim that this is so. On the other hand the cemeteries, the water cisterns, the ruins of the old fort which I have myself seen and the type of house in use all provide evidence of consistent occupation for at least the greater part of the year."⁵⁶⁶

461. The report also deals with the problems of water shortages on the Hawar Islands and the measures adopted by the inhabitants:

"Hawar suffers from the absence of a permanent water supply, since the cisterns ... are only full after heavy rain and are subject to loss both from evaporation and from leakage. There was, for instance, heavy rain in Hawar a month ago, filling the cisterns to the brim, but the local people informed me that this water would be exhausted within three months. Water therefore, during much of the year, has to be brought across from Bahrain and this naturally restricts the number of persons remaining there permanently ..."⁵⁶⁷

462. Recent archaeological research has uncovered the existence of a total of six cemeteries on the main island.⁵⁶⁸ A former Hawar Islander recalled the burial of his uncle in the North Village on the main Hawar Island, following his death at sea:

"I remember many people who died and were buried in the cemetery in the North Village. I recall once, when I was very young, we were sailing from Bahrain to the main Hawar Island at night. One of my uncles, Mohammed bin Rashid, had not been well and was taken very sick. He died in the dhow before we could reach land. We thought about taking his body back to the main Bahrain Island, but decided to continue on to the Hawar Islands as he belonged equally to the main island of Bahrain and Hawar. We reached Hawar in the middle of the morning and we then prepared and buried him in the North Village cemetery

⁵⁶⁶ *Ibid.*, Ann. 281, Vol. 5, p. 1172.

⁵⁶⁷ *Ibid.*

⁵⁶⁸ See Costa Report, 17 January 1995, Ann. 310, Vol. 6, p. 1337 (referring to three cemeteries in the Northern Area) and the sketch map at p. 1332 (indicating three cemeteries in the Southern Area at nos. 18, 22 and 26).

where my grandmother (who was the sister of Ahmed bin Shaheen, the elder of Hawar) and her sister, Lulwa, had previously been buried. Our neighbours in the North Village, Hassan bin Thamer, Ali Bum Jaid and the late Saba are also buried there."⁵⁶⁹

463. The existence of the children's graveyard in the southern half of the main island, containing the graves of about forty infants, provides compelling and poignant evidence of the existence of stable and permanent family units on the Hawar Islands. Itinerant fishermen would not have travelled with their families and would not have buried their dead far from their permanent home on an uninhabited island frequented by them only for shelter during fishing expeditions.

464. The permanence of the occupation was also reflected by the existence of mosques on Jazirat Hawar. The mosque still standing in the North Village is of comparatively recent construction. It was built by the Bahrain Government in 1939.⁵⁷⁰ It replaced an older mosque that had been constructed from gypsum, which had collapsed.⁵⁷¹

465. Dr. Costa's report concluded, on this point:

"...I cannot refrain from expressing the belief that what results (from the data we have collected during field work) is definitely the picture of settled people and not wandering fishermen or occasional visitors."⁵⁷²

⁵⁶⁹ See statement of Ibrahim bin Salman bin Ahmed al Ghattam, para. 7, Ann. 316(a), Vol. 6, p. 1401. Hamoud bin Muhanna al Dosari also recalls people buried in the South Village cemetery - see his statement, para. 13, Ann. 313(a), Vol. 6, p. 1365.

⁵⁷⁰ Expenditure Summary for the Govt. of Bahrain for 1358 H (1939), Ann. 293, Vol. 5, p. 1200.

⁵⁷¹ See statement of Hamoud bin Muhanna bin Hamad al Dosari, para. 9, Ann. 313(a), Vol. 6, p. 1364.

⁵⁷² See Costa Report, Ann. 310, at p. 19, Ann. 310, Vol. 6, p. 1351.

F. Other acts of administration or examples of the authority of Bahrain

466. The Government of Bahrain's Adviser, Charles Belgrave, recorded in 1938 that the previous Ruler of Bahrain, Sheikh Isa, who died in 1932, used to make annual visits to the Hawar Islands.⁵⁷³ Belgrave also confirmed the routine administrative functions exercised by the Government of Bahrain in respect of the Hawar Islands and the activities of the inhabitants:

"Their boats are registered in Bahrain and sail under the Bahrain flag, when they travel they travel under Bahrain passports, their boats are registered in Bahrain and they pay boat registration fees and diving licenses ... Those of them who are divers hold diving books which are issued by the Bahrain Government."⁵⁷⁴

467. The Government of Bahrain regulated immigration into the Hawar Islands. Evidence of this is the Government's strict control of access by Qataris and other "foreigners" into the islands following Qatar's 1937 armed attack on Zubarah (see Section 2.13 starting at paragraph 253). This was before Qatar had made any claim to the Hawar Islands. On 10 November 1937, the Government of Bahrain instructed its Head Natur (Police Officer) stationed on the Hawar Islands as follows:

"On no account are any people, European or Arab, from Qattar coast to be allowed on any of the Hawar Islands. You are warned that there are people working opposite Hawar on shore and

⁵⁷³ Note by Charles Belgrave, Adviser to the Govt. of Bahrain entitled "The Hawar Islands", 29 May 1938, Ann. 261, Vol. 5, p. 1107.

⁵⁷⁴ Bahrain Counter-claim (in the form of a letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to Hugh Weightman British Political Agent), 22 December 1938, Ann. 274, Vol. 5, pp. 1132 to 1133.

paragraphs 370 *et seq.*). Both Parties participated in the adjudication and were given as much opportunity to make submissions and adduce evidence as they asked for. Upon receipt of Bahrain's Counter-claim, the Ruler of Qatar insisted he be given the right to reply. The British Political Resident had thought this inappropriate, but was overruled by the British Secretary of State for India.⁶⁵³ Qatar was thus allowed to lodge a Rejoinder, following which the Ruler of Qatar expressed his satisfaction in these terms:

"... I have explained my comments and remarks to Your Excellency as fully as is required by the circumstances of this case,..."⁶⁵⁴

548. A full Report, including a record of the proceedings and an analysis of the evidence, was prepared by the Political Agent before the decision was handed down.⁶⁵⁵ His analysis was informed by two site visits to the Hawar Islands.⁶⁵⁶ The fact that the comprehensive Report was prepared before the decision is significant; the Report cannot be

I suggest that in reply to the present communication from Shaikh Abdullah bin Qasim I should write and inform him that though the Bahrain Government possess a prima facie claim to the Hawar group of islands which is supported by their formal occupation of them for some time past, His Majesty's Government would be prepared to give consideration to a formal claim by him provided such a claim were supported by a full and complete statement of the evidence on which he relied in asserting Qatar sovereignty over this group of islands." (Emphasis added.) (Ann. 257, Vol. 5, p. 1096.)

⁶⁵³ Letter from the Secretary of State for India, to British Political Resident, of 21 July 1938, Ann. 269, Vol. 5, p. 1124.

⁶⁵⁴ Qatar Rejoinder (in the form of a letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1160.

⁶⁵⁵ Weightman Report, Ann. 281, Vol. 5, pp. 1165 to 1172.

⁶⁵⁶ See marginal notes indicating his two visits, Hugh Weightman, British Political Agent on Qatar Rejoinder (in the form of a letter from Ruler of Qatar to British Political Agent), 30 March 1939, Ann. 279, Vol. 5, p. 1152.

criticised as a *post facto* attempt to marshal evidence and principles to justify an arbitrary decision.

549. The British Political Resident for the Gulf, Sir Trenchard Fowle, then forwarded the Political Agent's Report to the British Government in London, commending it as "a very clear statement of the case".⁶⁵⁷

550. In London, the Government's internal analysis (7 June 1939) concluded that, despite all the time and exchange of correspondence:

"The Sheikh of Qatar has been able to produce no evidence whatsoever in support of his claim. He relies solely on an assertion of sovereignty and on geographical proximity."⁶⁵⁸

551. On 13 June 1939, the British Government decided in favour of Bahrain's claim to sovereignty over the Hawar Islands, conditional on the agreement of the Government of India.⁶⁵⁹ The latter communicated its agreement with the decision of the British Government by letter of 1 July 1939.⁶⁶⁰ Britain's decision was communicated to the Ruler of Bahrain and the Ruler of Qatar on 11 July 1939 by the British Political Resident, Lt. Col. Fowle, in the following terms:

"... I am directed by His Majesty's Government to inform you that, after careful consideration of the evidence adduced by [the Ruler of Bahrain and the Ruler of Qatar], they have decided that

⁶⁵⁷ Letter from Lt.Col. Fowle, British Political Resident, to Secretary of State for India, 29 April 1939, Ann. 282, Vol. 5, p. 1173.

⁶⁵⁸ India Office Minute, 7 May 1939, Ann. 283, Vol. 5, p. 1175.

⁶⁵⁹ Letter from C. Baxter Foreign Office to Secretary of State, India Office, 13 June 1939, Ann. 284(a), Vol. 5, p.1176.

⁶⁶⁰ Letter from Deputy Secretary to the Govt. of India to Lt. Col. Fowle, British Political Resident, 1 July 1939. Ann. 286, Vol. 5, p. 1181.

these islands belong to the State of Bahrain and not to the State of Qatar."⁶⁶¹

552. Qatar expressed its disappointment in letters addressed to British officials dated 4 August 1939,⁶⁶² 18 November 1939⁶⁶³ and 7 June 1940.⁶⁶⁴ Even after the adjudication was complete, however, Qatar sought to adduce no further argument or evidence in support of its claim; it merely questioned the merits of the British decision:

"Is it acceptable to Your Honour to say that the islands which are considered the completing part of the Qatar State on the north side, belong to the Bahrain State and not to the State of Qatar ... that they do not belong to Bahrain according to their natural and geographical position;"⁶⁶⁵

553. Bahrain considers that the British adjudication of the Hawar Islands dispute is authoritative and binding on the Parties to the present dispute. Qatar may not reject it merely because it is dissatisfied with the result. As the International Court of Justice stated in the Arbitral Award made by the King of Spain on 23 December 1906 case:

"The appraisal of the probative value of documents and evidence appertained to the discretionary power of the arbitrator and is not open to question."⁶⁶⁶

⁶⁶¹ Letters from Lt.Col. Fowle, British Political Resident, to Ruler of Bahrain and Ruler of Qatar, 11 July 1939 Ann. 287, Vol. 5, p. 1182 and Ann. 288, Vol. 5, p. 1183.

⁶⁶² Letter from Ruler of Qatar to Lt.Col. Fowle, British Political Resident, 4 August 1939 Ann. 289, Vol. 5, pp. 1184 to 1186.

⁶⁶³ Letter from Ruler of Qatar to Lt.Col. Prior, British Political Resident, 18 November 1939 Ann. 291, Vol. 5, pp. 1188 to 1189.

⁶⁶⁴ Letter from Ruler of Qatar to Hugh Weightman, British Political Agent, 7 June 1940, Ann. 294, Vol. 5, pp. 1202 to 1203.

⁶⁶⁵ Letter from Ruler of Qatar to Lt.Col. Prior, British Political Resident, 4 August 1939, Ann. 289, Vol. 5, p. 1184.

⁶⁶⁶ Arbitral Award made by the King of Spain on 23 December 1906 and Judgment I.C.J. Reports 1960, pp. 215 to 216.

554. In view of this threshold obstacle to the re-opening by Qatar of the question of title to the Hawar Islands, it should not be necessary to review the manner in which Bahrain has satisfied the requirements of international law in the establishment and maintenance of its title to the Hawar Islands. However, it may be desirable that, in the alternative, this aspect of the matter should be dealt with.

555. If the application of the general principle of *res judicata* should, contrary to the contentions of Bahrain, be thought insufficient, it may properly be supplemented by reference to the commitments assumed by the Ruler of Bahrain in 1861 and the Chief of El-Kutr in 1868 to accept the decision of Britain in disputes in which they might be engaged with their neighbours.

556. Bahrain has exercised jurisdiction and control over the Hawar Islands since the end of the 18th Century, even before the members of the Dowasir tribe asked the Qadi of Zubarah, an official appointed by the Sheikh of Bahrain, for permission to settle in the Hawar Islands. Thereafter, the Rulers of Bahrain manifested their authority over the Islands in a variety of ways: by legislation and regulation on various matters including quarrying of gypsum and fishing; by stationing police and armed forces there; by providing public services, such as water; by exercising the judicial function in relation to matters arising in the Hawar Islands; by affording protection to members of the Dowasir tribe; by giving them the opportunity to reside and work in Bahrain when they removed themselves seasonally from the Hawar Islands.

557. The positive conduct of Bahrain in relation to the Hawar Islands, stretching over nearly two centuries, must be contrasted with the total inactivity of Qatar there over the same period of time. This inactivity is entirely understandable. The barrier of the desert between Doha and the

west coast of the peninsula was, and remains, much greater than the narrow maritime separation of the Hawar Islands from the Bahrain main island. The desert was a virtually insurmountable obstacle; the water was a natural connecting factor. Qatar's complete inactivity in the Hawar Islands stands as an insuperable element to the establishment of its claim.

558. The fact that the Hawar Islands lie closer to the coast of the Qatar peninsula than they do to the coast of the main island of Bahrain cannot improve a case that does not exist. As stated earlier, mere proximity is not, by itself, a basis for title to territory when the proximate islands are subject to the lawful and long-time authority of another State.

PART II

THE MARITIME DELIMITATION

CHAPTER 6

BAHRAIN'S MARITIME BOUNDARY

559. Between Dawhat Salwá to the south, and a line from Fasht ad Dibal to Ra's Rakan (on the northern point of Qatar) to the north, the respective coasts of Bahrain and Qatar are nowhere further than 24 nautical miles apart, so that throughout this sector (hereinafter referred to as the "southern sector") the Court's task is in fact to delimit the parties' respective territorial seas. (It will be remembered that Qatar claimed a territorial sea of 12 miles in 1992, while Bahrain made a similar claim in 1993.) To the north of the line from Fasht ad Dibal to Ra's Rakan (hereinafter referred to as the "northern sector"), the maritime boundary will primarily divide the continental shelf and the exclusive economic zone.⁶⁶⁷

560. The maritime boundary which the Court is asked to delimit is, therefore, a territorial sea boundary in the southern sector and in a small part of the northern sector, and a boundary dividing the continental shelf and exclusive economic zone in most of the northern sector.

561. Qatar requests that the Court decide "in accordance with international law." Bahrain agrees. The Court is thus asked by the two parties to decide in law, and not *ex aequo et bono*.

562. It is clear from the history of negotiations preceding the adjudicative phase of this controversy - on which the Court has been informed in the jurisdictional phase - that both parties have always agreed that the territorial and maritime areas in issue belong to one or

⁶⁶⁷ See para. 651, and Map 6 in Volume 7.

the other of the parties, viz. Bahrain or Qatar, and to no other State. Neither is there, as between the parties, a possibility that any of the land or maritime areas claimed may be a *res nullius*. In this regard, reference may be made to the Minquiers and Ecrehos judgment, in which the Court characterised its function as "to decide in general to which Party sovereignty over each group as a whole belongs..."⁶⁶⁸

563. Neither Bahrain nor Qatar is a party to any of the four Geneva Conventions of 1958.⁶⁶⁹ Bahrain has signed and ratified the United Nations Convention on the Law of the Sea of 1982; Qatar has signed, but not ratified, the 1982 Convention. As a result, none of these conventions is in force as between the parties. The maritime delimitation in the present case therefore falls to be effected in accordance with the principles and rules of customary international law. The applicable legal principles and rules are contemporary legal principles and rules, as they are expressed in State practice, in the decisions of the Court and of international arbitral tribunals, and in provisions of international conventions which reflect the state of customary international law. Foremost among the latter are certain provisions of the 1982 Convention.

SECTION 6.1 The southern sector

564. The southern sector, as defined in paragraph 559 above, extends from Dawhat Salwá in the south to the line from Fasht ad Dibal to Ra's Rakan (at the northern extremity of Qatar) in the north.

⁶⁶⁸ Minquiers and Ecrehos, Judgment, I.C.J. Reports 1953, p. 53.

⁶⁶⁹ These are the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas, and the Convention on the Continental Shelf.

565. As has already been indicated, the single maritime boundary is in this sector a territorial sea boundary.

A. Characteristics

566. The geographical relationship between the respective coasts of Bahrain and Qatar is not identical over the entire southern sector. To the south of the southernmost point of the coast of the Zubarah region over which Bahrain claims sovereignty (hereinafter referred to as the "Zubarah coast"), and to the north of the northernmost point of the Zubarah coast (these points are shown as points X and Y respectively on Map 6 in Volume 7), the Court's task is to carry out a delimitation between opposite coasts which are practically parallel, whether one considers the coast of Qatar vis-à-vis that of the main Bahrain island, or - as will be demonstrated to be appropriate - vis-à-vis that of the insular and other legally relevant maritime features which appertain to Bahrain. At points X and Y, on the other hand, the Court's task is to carry out a lateral delimitation between the peninsular coasts of the two states, which are adjacent at those points.

567. The most important aspect of the delimitation in the southern sector is the presence, between the eastern coast of the main Bahrain island and the western coast of Qatar, of a large number of insular and other legally relevant maritime features, from Janan in the south to Fasht ad Dibal in the north. These insular and other legally relevant maritime features are all, without exception, subject to the sovereignty of Bahrain.

(i) **Bahrain's historical exercise of sovereignty and political control over the areas between its main island and the Qatar peninsula**

568. Bahrain has consistently exercised sovereignty over all of the maritime features situated in the Gulf of Bahrain, from the Hawar Islands in the south to Fasht ad Dibal in the north. When Qatar became a distinct political entity and later a distinct State, its territory comprised only those parts of the continental peninsula over which the Doha Sheikhs actually exercised authority. The areas of sea, and the insular and other legally relevant formations, situated between the peninsula and the main island of Bahrain, together with those peninsular areas that were Bahraini, continued to be part of the political entity of Bahrain.

569. This perception was reflected in the words of a letter from the Ruler of Bahrain to the British Political Agent on 31 December 1947:

"We would like to bring to your attention that since the time that our ancestors occupied Bahrain from their place at Zubarah up to the present, the sea between our east coast and Qatar west coast was (under our own hands) and sovereignty and also all islands and shoals and sea bed exposed at low tide. Our subjects have undisputed fishing rights. All these waters should be within our boundary."⁶⁷⁰ (Emphasis added.)

570. In the same letter, the Ruler of Bahrain noted that during the earlier negotiations between the Government of Bahrain, BAPCO and Petroleum Concessions Ltd., the Government of Bahrain had submitted maps describing its petroleum concessions as extending from the Hawar Islands to about 10 miles north-east of Fasht ad Dibal. The Ruler confirmed that the British Political Agent had not suggested or implied

⁶⁷⁰ Letter from Ruler of Bahrain to CJ Pelly, British Political Agent, 31 December 1947. Ann. 345, Vol. 6, p. 1486.

at any stage that any part of this sea area or any maritime feature in it might not be subject to Bahrain's sovereignty.

571. Nor does it appear that at any time during this period the Sheikh of Qatar formulated objections or reservations about Bahrain's plans to grant petroleum concessions throughout this area. Such objections or reservations would have been extremely surprising, since it was only in 1937 that he established authority over various parts of the west coast of the Qatar peninsula. (See Chapter 2 starting at paragraph 72.)

572. The attitude of Petroleum Concessions Ltd ("PCL") is quite instructive in this connection. Already holding a Concession granted in 1935 for the exploitation of petroleum in the territory of Qatar, PCL applied in 1938 to the Ruler of Bahrain for a concession in his territory. Of particular interest is Article 1 of the draft Concession, which includes in the concession area "all islands, reefs, shoals and submerged land belonging to the Sheikh".⁶⁷¹

573. PCL acknowledged Bahrain's title to those maritime features. For example, in 1940 PCL asked the Ruler of Bahrain for permission to light and use a channel across the Bahrain waters from Sitrah (in Bahrain) to Zekrit (on the Qatar peninsula, south of Hawar).⁶⁷²

574. Again in 1949 the Ruler of Bahrain wrote to the Political Agent:

⁶⁷¹ Letter from Symon, India Office, to Lt. Col. Fowle, British Political Resident, 28 April 1938, enclosing PCL draft Bahrain lease and three charts, Ann. 337, Vol. 6, p. 1459.

⁶⁷² Memorandum from British Political Agent, to Charles Belgrave, Adviser to Govt. of Bahrain, 21 March 1940, with enclosures, Ann. 339, Vol. 6, pp. 1467 to 1469.

"The ownership of the sea between Bahrain and Qatar is claimed by us. We have never heard that the Shaikh of Qatar made any claim to this sea."⁶⁷³

575. Bahrain's acts of sovereignty in relation to these maritime features have taken several forms. In the first place, Bahraini monuments or markers have been erected on all of these maritime features since the 1930s. Many of the maritime features also possess survey markers and navigational beacons, likewise placed by Bahrain or under its authority. Qatar has never objected to any of this activity on Bahrain's part. Nor have any such acts of sovereignty ever been performed by Qatar or on its behalf.

576. Bahrain has also performed activities of a more sustained and visible nature in relation to several maritime features. For example, Bahrain has conducted surveys and granted oil concessions with respect to Fasht al'Azm to BAPCO, which has pursuant thereto drilled and constructed jetties and platforms. Similarly, Bahrain has conducted surveys and granted oil concessions over Qit'at Jaradah and Fasht ad Dibal.

577. As a result of its geographical situation, Fasht ad Dibal has also assumed considerable importance in relation to fishing and navigation. This has given rise to further examples of sovereign activity by Bahrain, which has installed an artesian well for the use of its fishermen and granted licences in respect of permanent fish traps.

578. Bahrain has for a long period regularly carried out salvage operations for vessels which have been stranded or wrecked at or near

⁶⁷³ Letter from Ruler of Bahrain to British Political Agent, 23 May 1949, Ann. 346, Vol. 6, p. 1488.

Fasht ad Dibal. For example, on 10 January 1920 the S.S. Palamcotta ran ashore on Fasht ad Dibal; she was got off on 14 January 1920 with the help of the S.S. Parpeta and Warina, and her cargo "was discharged into lighters sent from Bahrain."⁶⁷⁴ Navigational difficulties in relation to Fasht ad Dibal were regarded as Bahrain's concern, not only in emergencies but on an ongoing basis. As the Bahrain Political Diary states:

"The incident again proves, (what ships masters are continually asking for) that the Bahrain approaches are in urgent need of better lighting arrangements."⁶⁷⁵

579. A similar incident occurred between 14 and 17 March 1927, when the I.G.T.S. Patrick Stewart was stranded on Fasht ad Dibal. Mr de Grenier, Director of Customs in Bahrain, "despatched dhows and coolies from Bahrein for lightening the ship as asked for."⁶⁷⁶ Mr de Grenier was also interested in finding a long-term solution to the problem of lighting the Port of Bahrain, and clearly considered Fasht ad Dibal as an integral part of this problem and of its solution. In a letter to the Adviser dated 10 May 1928 on the subject of "Port Lighting", Mr de Grenier suggested:

"A stone beacon having recently been erected on the Fesht al Djebal, if a permanent light were affixed upon this beacon, with a range of at least twentymiles [sic], there would be no need to remove the present outer buoy light, as suggested.... [T]he purpose of a light on the Fesht al Djebal is to warn mariners of

⁶⁷⁴ Bahrain Political Diary for month ending 31 January 1920, p. 10, Ann. 324, Vol. 6, p. 1438.

⁶⁷⁵ *Ibid.*

⁶⁷⁶ Letter from Director, Persian Gulf Section, Indo-European Telegraph Department, to British Political Agent, 25 March 1927, Ann. 327, Vol. 6, p. 1443.

the situation of the Fesht, and to assist them in avoiding the Fesht and find the Outer Buoy light."⁶⁷⁷

580. The question of sovereignty over Fasht ad Dibal and Qit'at Jaradah was considered by British officials between 1937 and 1947 and not only resulted in internal discussions but also led to enquiries being made of the respective Rulers of Bahrain and Qatar. The terms of the relevant correspondence reveal that while Bahrain asserted its sovereignty over Fasht ad Dibal and Qit'at Jaradah (among other maritime features) at every opportunity (consistent with its long history of acts of sovereignty and administration over the relevant maritime features), Qatar claimed sovereignty over Fasht ad Dibal and Qit'at Jaradah only when specifically invited to do so, and based its claim on the unconvincing arguments of geographical proximity and the need to compensate Qatar for what Qatar perceived as the unjust 1939 British decision to attribute sovereignty over the Hawar Islands to Bahrain.

581. Thus on 14 August 1937 Belgrave wrote to the Political Agent:

"In addition to the large islands forming the Bahrain archipelago, which are well known, the following islands belong to Bahrain:

Fisht Dibal	(a reef)
Qattah Jarada	(an island)
Fisht al Jarim	(a reef)
Khor Fisht	(an island)
Al Benat	(an island)

The Howar archipelago, consisting of nine islands near the Qater coast."⁶⁷⁸

582. A list prepared by the Land Department down to 1939 shows pillars as having been erected by the Government of Bahrain *inter alia*

⁶⁷⁷ Letter from Director of Customs, to Charles Belgrave, Adviser to Govt. of Bahrain, 10 May 1928, Ann. 328, Vol. 6, p. 1444.

⁶⁷⁸ Memorandum from Charles Belgrave, Adviser to Govt. of Bahrain, to British Political Agent, 14 August 1937, Ann. 334, Vol. 6, p. 1455.

on Al Mu'tarid, Mashtan, Noon, Tighaylib, Al Hul, Qit'at Jaradah, Fasht ad Dibal, and Fasht al'Azm.⁶⁷⁹

583. On 18 June 1946 Belgrave wrote again to the Political Agent:

"In the year 1936 the Bahrain Government built beacons on the Fasht-Al-Debal. One of the beacons was built on the rock at the north end of the Fasht which is above water. His late Highness Shaikh Hamad and the present Ruler have always regarded this Fasht as being owned by Bahrain. The anchorage there is used exclusively by Bahrain boatmen and fishermen and the Fasht is one of those which are considered to belong to Bahrain."⁶⁸⁰

584. In July 1946 the Political Agent wrote to the respective Rulers of Bahrain and Qatar to ask whether each Ruler considered Fasht ad Dibal and Qit'at Jaradah to constitute part of his territory. In the event of an affirmative answer, the Rulers were asked to state the grounds on which sovereignty was claimed.⁶⁸¹ The Ruler of Bahrain based his claim to sovereignty both on Bahrain's historical enjoyment of sovereignty over the entire Qatar peninsula and the islands and other maritime features lying between the Qatar peninsular and Bahrain, and on recent acts of sovereignty by Bahrain in relation to the maritime features. The claim referred to the construction of artesian wells on Fasht ad Dibal and Qit'at Jaradah and annexed a list of cairns which had been erected by Bahrain during the 1930s.⁶⁸²

⁶⁷⁹ List prepared by Land Department, Govt. of Bahrain, of pillars erected 1938-1939, Ann. 336, Vol. 6, p. 1457.

⁶⁸⁰ Letter from Charles Belgrave, Adviser to the Govt. of Bahrain, to British Political Agent, 18 June 1946, Ann 340, Vol. 6, p. 1470.

⁶⁸¹ See, for example, letter from British Political Agent to Ruler of Qatar, 9 July 1946, Ann. 341, Vol. 6, p. 1471.

⁶⁸² Letter from Charles Belgrave, Adviser to Govt. of Bahrain, to Political Agent, 10 July 1946, Ann. 342, Vol. 6, pp. 1473 and 1474.

585. The claim asserted by the Ruler of Qatar to Fasht ad Dibal and Qit'at Jaradah is not based on any ground other than the legally unmeritorious arguments of geographical proximity and the urge to compensate perceived past injustice. It demonstrates ignorance and confusion as to the extent of Bahrain's sovereignty in general:

"... Perhaps Your Excellency knows that the name with which Bahrain is known at present is not its original name, but Bahrain is a general name for the western Arab territories bordering the western coasts of the Gulf, this (Bahrain) is only (A'wal) and (A'wal) is an island in Bahrain, and it is understood that this island has no dependencies contrary to Qatar which is a large territory and has dependencies, coasts, and islands. If we look into the question from the point view of equality, Qatar is to be entrusted with Deebil and Jaradah Fashts which are situated between Qatar and Bahrain, and they are nearer to Qatar. You see that Qatar has been treated unjustly in her clear right in the question of Hawar islands which I am still tenacious to claim their ownership, then how about the others!"⁶⁸³

586. A detailed report from the Political Resident to the India Office dated 18 January 1947 unequivocally supports the conclusion that Bahrain had successfully established its sovereignty over Fasht ad Dibal and Qit'at Jaradah:

"... On both shoals there is a cairn and an artesian well bored by the Bahrain Petroleum Company on behalf of the Bahrain Government through a contractor. Dibal consists of a coral reef which is completely submerged at high water except for the cairn built by the Bahrain Government, the base of which is submerged and a small square of wall built to protect the head of the well which is damaged and out of action. There is no rock above high water level as stated by Mr. Belgrave vide paragraph 26 of the Political Agent's letter. Jaradah is a sand-bank and when the Political Agent visited at a neap high tide, he found an area of about thirty yards by ten yards above the water level. This was dry and bore the tracks of birds and appeared not to have been recently submerged. The Political Agent reports that he has always seen some land exposed whenever he has passed the

⁶⁸³ Letter from Ruler of Qatar to British Political Agent, 18 July 1946, Ann. 343, Vol. 6, p. 1476.

shoal. The base of the cairn and the artesian well which is sealed are both below high water level.

7. With regard to the ownership of these two places I reluctantly agree with the Political Agent that if it is possible for any body to establish a claim over shoals of the kind described, they must be regarded as belonging to Bahrain. They have been treated by the Bahrain Government as their property and beacons have been erected and wells bored without any kind of protest by the Shaikh of Qatar. In fact, as the Political Agent points out, the Shaikh of Qatar is a late arrival on the scene. He only consolidated his position on the mainland as recently as 1937 and has not taken steps to establish his position over neighbouring islands and shoals.... My view is therefore that the two shoals should be assigned to Bahrain which has done all it can to establish its sovereignty over the places in the now outmoded style of empire-building without any kind of protest from Qatar..."⁶⁸⁴

587. Apart from activities relating to and indicating sovereignty over specific maritime features, beginning in 1938 (when BAPCO sought an extension of the area of its oil Concessions from Bahrain) the entire maritime area between Bahrain's main island and Qatar was surveyed and many maritime features were marked in one form or another for purposes of navigational safety and mapping. In 1950, BAPCO informed the Ruler of Bahrain that it had surveyed up to the low-water mark off the Qatar coast. BAPCO's activities were authorised by Bahrain, and were carried out openly and must have been known to Qatar. Yet no record of protest is known to exist. Indeed, in 1940, PCL, the oil company operating under Qatar's authority, sought permission from Bahrain to place navigational markers on, for example, Tighaylib, Mashtan and Janan.

⁶⁸⁴

Letter from British Political Resident, to H.M.'s Secretary of State for India, 18 January 1947, Ann. 344, Vol. 6, pp. 1480 and 1481.

588. Bahrain's control over the entire maritime area between its main island and Qatar is consistent with, and complementary to, its control over pearling banks situated north of the Fasht ad Dibal-Ra's Rakan line. Notwithstanding that many of Bahrain's pearling banks are geographically closer to Qatar than to the main island of Bahrain, these pearling banks have appertained to Bahrain from time immemorial and Bahrain has consistently exercised jurisdiction and control over them. In relatively recent times, Bahrain has regulated the season for pearl diving, imposed taxes on pearl diving boats, determined disputes between captains and divers, and provided medical services through a hospital boat (see paragraphs 644 and 645).

589. Bahrain does not contest Qatar's right to a territorial sea and does not claim the entire area of sea as far as the coast of Qatar. The object of the present case is to delimit the sea areas between the two States in accordance with the principles and rules of international law applicable in our times. Bahrain's objective in citing the evidence above is to emphasise that all of the maritime features lying between the main island of Bahrain and the peninsula of Qatar are subject to Bahrain's sovereignty, and that the maritime delimitation should be effected accordingly.

590. The only maritime features that Qatar has specifically put in issue in this case by claiming "sovereign rights" over them are "Dibal and Qit'at Jaradah shoals".

591. By reference to the considerations of law set out in Chapter 4 above, there is no basis on which such a claim can be sustained. At no time, with the exception of the 1986 incident described in paragraphs 488 and 489, has Qatar ever exercised any form of jurisdiction or authority over these features. When in 1947 Qatar was

invited by Britain to state the basis of its claims to these features it relied only on the concept of proximity and the need to be compensated for what it saw as a past injustice suffered by it in relation to the Hawar Islands. The latter is clearly irrelevant as a legal argument. As to the argument of proximity it cannot be supported when the feature is almost as close to Bahrain as it is to Qatar and, moreover, as indicated, Qatar has never performed any acts of sovereignty in relation to it. By contrast, as shown above, Bahrain has conducted surveys and granted oil concessions covering the features; has granted licences in respect of permanent fish traps; carried out salvage operations; and placed survey markers and navigational beacons on them.

592. The 1986 episode in which Qatar armed forces landed on Fasht ad Dibal and forced the bulldozing into the sea of the construction which Bahrain had begun there cannot support Qatar's claim; nor can Bahrain's agreement to terminate the construction work there be seen as in any way amounting to acquiescence by Bahrain in Qatar's claim or renunciation by Bahrain of its own claim. Bahrain's restraint must be viewed within the framework of the Mediation Process then (and still) underway and as a contribution to that process intended to promote peaceful relations between the Parties.

(ii) Contemporary socio-economic links between Bahrain's main island and the maritime features between it and the Qatar peninsula

593. Bahrain has in Chapter 3 demonstrated the close social and economic interrelationship which has always existed between the Hawar Islands and the main Bahrain island.

594. To this day the fisheries around the Hawar Islands remain vital to Bahrain. In 1993, some 75 boats and 198 fishermen operated in the waters off the Hawar Islands, exercising traditional techniques of fishing involving nets, lines and portable fish traps. The boats come from fishing villages on the main Bahrain island and the islands of Sitrah and Al Muharraq. No fishing boats from Qatar work the fisheries around the Hawar Islands.

595. But the Hawar fishery does not exist in isolation. The entire area between Bahrain's main island and the Qatar coast is an area of traditional Bahrain fishing. The fishing grounds located in this area provide the livelihood for 2,208 fishermen, or 83% of the total number of people engaged in the fishing industry. In 1993, these grounds produced 3,802 tonnes of fish, about half of the entire catch by the traditional sector of Bahrain's fishing industry, and some 37% of the overall fish consumption in Bahrain. The most important fishing grounds, other than the Hawar fishery referred to above, are the areas surrounding Fasht al'Azm, Qit'at Jaradah and Fasht ad Dibal. Again, no fishing boats from Qatar work these areas.

596. The Fasht al'Azm area is also a major shrimping ground, yielding between 500 and 1200 tonnes per annum. It is also a rich breeding ground for other species. In 1993, 398 vessels worked the area, employing 1,239 men. The system of barrier nets and traps used for shrimping is controlled by licences granted by Bahrain's Directorate of Fisheries.

597. The areas around Qit'at Jaradah and Fasht ad Dibal are worked by 160 boats employing 507 men to produce an annual catch of 400 tonnes.

598. A significant political link with Bahrain, which continues to the present day, is Bahrain's consistent practice of maintaining coast guard patrols throughout the area occupied by the insular and other legally relevant maritime features in question.

599. Map 7 in Volume 7 shows, in red, the normal patrol limits of the Bahrain coast guard. It may be seen that there is no direct relationship between these patrol limits and the main navigation routes (indicated in black and blue). It follows that Bahrain's coast guard patrols are a continuing and unchallenged manifestation of general sovereignty rather than of specific concern for navigational safety. Bahrain also maintains buoys and beacons in the maritime areas in question, which likewise represent a continuing and unchallenged manifestation of general sovereignty.

600. Bahrain submits that the evidence it has marshalled with respect to its contemporary as well as historical manifestation of sovereignty over the maritime areas amply sustains its title. Indeed, the evidence may well exceed the international legal evidentiary requirement in these matters. The Court will recall the discussion in Section 4.1, starting at paragraph 506 to the effect that the international law requirement of a continuous and peaceful display of State functions varies in content according to the nature of the territory in question. For example, the degree of State activity required is smaller in the case of an uninhabited island than in that of a populated and economically exploited island.

601. According to Max Huber's award in the Island of Palmas case:

"As regards groups of islands, it is possible that a group may under certain conditions be regarded as in law a unit and that the fate of the principal part may involve the rest."⁶⁸⁵

Thus, in the case of Minquiers and Ecrehos, the Court did not consider it necessary to make a pronouncement about each islet and rock individually but decided the issue of sovereignty over each group of islands as a whole and was content.⁶⁸⁶

602. Finally, fewer and less significant acts of sovereignty over an island or group of islands will be required of one party to a dispute if the other party cannot establish any act of jurisdiction than if there are two competing series of acts of jurisdiction.⁶⁸⁷

603. These principles must be kept in mind when assessing the acts of sovereignty carried out by Bahrain over the features in question. In the present case many of the islands and other maritime features to which international law assigns relevance in maritime boundary delimitation do not lend themselves to human habitation, and insofar as they lend themselves to a certain form of human activity, it is only from Bahrain and by the inhabitants of Bahrain that such activity has ever been performed.

604. Qatar, as has been shown, has no title or demonstrations of peaceful and continuous control that can match those of Bahrain. In diplomatic exchanges, Qatar has referred to contiguity or proximity as the foundation of its claim. The answer to that claim is that the title of

⁶⁸⁵ U.N. Reports of International Arbitral Awards, Vol. II, p. 831 at p. 855.

⁶⁸⁶ Minquiers and Ecrehos, Judgment, I.C.J. Reports 1953, p. 53.

⁶⁸⁷ Cf. de Visscher, Les effectivités en droit international public, (1967), p. 106, Fitzmaurice, *op. cit.*, p. 304 et seq.

contiguity, understood as a basis of territorial sovereignty, has no foundation in international law. In the absence of a cogent contrary claim, contiguity may in certain circumstances create a presumption of title, but this is a mere presumption which is always displaced by evidence of an actual adverse display of sovereignty by a competing State.

605. Furthermore, the argument related to contiguity loses all relevance where the maritime features in question are also situated within the territorial sea breadth of another State's coast (or more generally within the territorial sea breadth of a basepoint or baseline used lawfully by the other State for defining its territorial sea), as is true for nearly all of the maritime features in issue in the present case.

(iii) The unique character of the area to be delimited

606. To describe the present delimitation as a delimitation between the coasts of two mainlands between which insular and other legally relevant maritime features are scattered would be seriously to distort the political and geographical relationship between the two countries. The reality is quite different. While Qatar is without any doubt a continental mainland State, Bahrain is an ensemble consisting of the main Bahrain island, the islands immediately adjacent to it (Sitrah and Al Muharraq), the Hawar Islands and all the other insular and other legally relevant maritime features, together with the continental Zubarah region. Bahrain is not a mainland with some off-lying islands, islets and rocks; it is an insular and archipelagic ensemble, together with the continental territory of Zubarah.

607. A parallel may be drawn with Judge Bedjaoui's description, in his opinion in the Case concerning the determination of the maritime

boundary between the Republic of Guinea-Bissau and the Republic of Senegal, [or Case concerning the arbitral award of 31 July 1989] of the relationship between the continental and insular parts of Guinea-Bissau:

"Dans la présente affaire, il s'avère manifeste que le facteur géographique le plus caractéristique est la présence d'un large bouclier d'îles en Guinée-Bissau. Celle-ci s'est définie comme semi-insulaire, ou même comme amphibie, en raison de la remarquable intimité existant entre la terre et la mer dans ce pays.... Ces îles ... sont en fait déterminantes ... pour l'appréciation de la nature du littoral de la Guinée-Bissau et de la configuration générale de ses côtes. La Guinée-Bissau ne serait pas ce qu'elle est sans les Bijagos.... [I]l convient de tenir compte de ce trait essentiel de la façade maritime de la Guinée-Bissau constituée par la présence de ces îles et par leur lien étroit avec le continent..."

"In the present case, manifestly the most characteristic geographical factor is the presence of a large bulwark of islands in Guinea-Bissau. That country has described itself as semi-insular, or even as amphibious, because of the striking intimacy existing between the land and the sea in Guinea-Bissau.... These islands ... are in fact a decisive factor ... for assessing the nature of the coastline of Guinea-Bissau and the general configuration of its coasts. Guinea-Bissau would not be what it is without the Bijagos.... [D]ue regard must be had for this essential feature of the coastal front of Guinea-Bissau constituted by the presence of these islands and their close connection with the continent..."⁶⁸⁸

The present case is even more striking: the situation is not one of a continental territory with off-lying islands, but one of a group of territories which are all islands, with the exception of Zubarah. The expressions "bulwark of islands" and "amphibious" are even more appropriate in the present case than in that in which Judge Bedjaoui employed them.

⁶⁸⁸

UN Reports of International Arbitral Awards Vol. XX, p. 204, para. 134; 83 ILR 109. The English translation was prepared by the Registry of the International Court of Justice on the basis of the authoritative French text. Judge Bedjaoui's opinion addressed the question of the maritime boundary which, in the view of the Court, did not require an answer.

608. It would, therefore, be wholly inappropriate to draw a "mainland-to-mainland" median line and then to distribute the insular and other legally relevant features according to whether they were situated on the Bahraini or the Qatari side of the line (i.e. according to whether they were geographically closer to the main Bahrain island or to the Qatar peninsula). The appropriate delimitation is a delimitation between the coasts of the Bahraini ensemble, on one hand, and Qatar, on the other hand.

B. The maritime boundary in the southern sector

609. As seen above, the delimitation to the south of the line from Fasht ad Dibal to Ra's Rakan is governed by the principles and rules of customary international law which, as is generally accepted, are those expressed in Article 15 of the 1982 Convention. The maritime boundary between Bahrain and Qatar in this sector, therefore, should be, in accordance with the customary rule expressed in Article 15,

"... the median line every point of which is equidistant from the nearest point on the baselines from which the breadth of the territorial seas of each of the two States is measured."

Article 15 goes on to provide that

"The above provision does not apply, however, where it is necessary, by reason of historic title or other special circumstances, to delimit the territorial seas of the two States in a way which is at variance therewith."

610. Except for the reference to historic title, this rule, which was taken, word for word, from Article 12 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone, is identical to the "equidistance-special circumstances" rule set out in Article 6 of the 1958 Geneva Convention on the Continental Shelf, in relation to which the Court recently declared that

"it must be difficult to find any material difference - at any rate in regard to delimitation between opposite coasts - between the effect of Article 6 and the effect of the customary rule which also requires a delimitation based on equitable principles."⁶⁸⁹

611. There exists, therefore, an identity between, first, the equidistance-special circumstances rule governing the delimitation of the territorial sea under Article 12 of the 1958 Convention on the Territorial Sea and Article 15 of the 1982 Convention; second, the equidistance-special circumstances rule governing the delimitation of the continental shelf under Article 6 of the 1958 Convention on the Continental Shelf; and, third, the customary rule of delimitation according to equitable principles governing all delimitations not governed by one of these conventions. The same rule, therefore, applies in substance to all maritime delimitations, whether of the territorial sea, the continental shelf, the exclusive economic zone, or "all-purpose"⁶⁹⁰ delimitations, and whether governed by international conventions or by customary international law. In relation to delimitations other than of the territorial sea (i.e., continental shelf, exclusive economic zone, or single maritime boundary delimitations), the Court has stated that this rule applies "at any rate between opposite coasts", but this does not imply that the rule does not apply as between adjacent coasts. In the case of a territorial sea delimitation, in any event, the customary rule expressed in Article 15 of the 1982 Convention does not distinguish between opposite and adjacent coasts; Article 15 in fact provides explicitly that the "equidistance-special circumstances" rule applies "whether the coasts of two States are

⁶⁸⁹ Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, p. 58, para. 46.

⁶⁹⁰ *Ibid.*, p. 62, para. 56.

opposite or adjacent to each other", that is to say in all possible geographical situations.

612. In the Maritime Delimitation in the Area between Greenland and Jan Mayen case, the Court explained the *modus operandi* of the "equidistance-special circumstances" rule in continental shelf, exclusive economic zone and single maritime boundary delimitations between opposite coasts. To give effect to Article 15, the same *modus operandi* should be applied to territorial sea delimitations.

613. It follows that, to delimit the southern sector in the present case,

"... it is appropriate to begin by taking provisionally the median line between the territorial sea baselines, and then enquiring whether 'special circumstances' require another boundary line."⁶⁹¹

614. As seen above, the rule expressed in Article 15 expressly requires, "whether the coasts of two States are opposite or adjacent to each other", that the starting point be "the median line every point of which is equidistant from the nearest point on the baselines from which the breadth of the territorial seas of each of the two States is measured." In a second phase, it is appropriate to enquire whether "it is necessary, by reason of historic title or other special circumstances," to adjust or displace the median line in order to arrive at an equitable result.

(i) Determining the points that generate the median line

615. In relation to the delimitation of the continental shelf between opposite coasts, the Court has characterised the initial phase as the

⁶⁹¹ Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, pp. 59 to 60, para. 49.

drawing of "the median line between the territorial sea baselines."⁶⁹² This applies *a fortiori* to the delimitation of the territorial sea itself. Once the baselines of the two countries' coasts are defined, the determination of the median line becomes a relatively straightforward technical matter.

616. As regards these parts of the coast of the Qatar peninsula that appertain to Qatar, the appropriate baseline, according to the customary rule expressed in Article 5 of the 1982 Convention, is "the low-water line along the coast as marked on large-scale charts officially recognised by the coastal State."

617. The same rule applies to the coasts of the ensemble constituting Bahrain.

618. On the coastline of the Zubarah region, therefore, the low-water line is the appropriate baseline.

619. Under the customary principle expressed in Article 121 of the 1982 Convention, each of the islands constituting the State of Bahrain generates its own territorial sea. Paragraph 1 of Article 121 provides:

"An island is a naturally formed area of land, surrounded by water, which is above water at high tide."

Paragraph 3 of Article 121, which relates to "rocks which cannot sustain human habitation or economic life of their own", applies only to the continental shelf and the exclusive economic zone, not to the territorial

⁶⁹² Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, p. 60, para. 49.

sea.⁶⁹³ It follows that all of the maritime features which are "above water at high tide" are to be taken into account in defining Bahrain's territorial sea. In addition to the main Bahrain island and the islands of Sitrah and Al Muharraq, these maritime features include the Hawar Islands, Rabad al Gharbiyah, Rabad ash Sharqiyah, Jazirat Ajirah, Al Mu'tarid, Jazirat Mashtan, Jabbari, Umm Jalid and Qit'at Jaradah.

620. The appropriate baseline for Sitrah Island is also its low-water line, which is constituted by the low-water line around Fasht al'Azm, which forms an integral part of Sitrah Island. The only discontinuity between Sitrah Island and Fasht al'Azm is a narrow artificial channel, 3 metres deep, which was dredged in 1982 in order to facilitate navigation between the Mina Sulman harbour and the east coast of the main Bahrain island. Bahrain submits that, by analogy with Article 60 (8) of the 1982 Convention (which provides that artificial islands, installations and structures shall not affect the delimitation of maritime boundaries), the existence of this artificial channel should not affect the definition of "the low-water line along the coast" for the purposes of Article 5.

621. In respect of the Hawar Islands, the baseline consists of the low-water lines of Janan, Suwad al Janubiyah, Suwad ash Shamaliyah and Jazirat Ajirah. The area of sea to the west of the Hawar Islands, between these islands and the main Bahrain island, is comprised of internal waters of Bahrain.

622. The status of Qit'at Jaradah merits special attention. Although there is some evidence that Qit'at Jaradah was for some periods prior to 1947 a low-tide elevation rather than an island, its size and height

⁶⁹³ Indeed, even with respect to delimitations of the continental shelf and the exclusive economic zone, it is doubtful whether this limitation forms part of customary international law.

increased as a result of natural accretion during the 1950s and subsequently. There is no doubt that by 1986 it had become an island.

623. On 26 April 1986, Qatar perpetrated an armed invasion of Fasht ad Dibal and other acts of armed aggression. In the course of subsequent negotiations under the auspices of Saudi Arabia, when Qatari bulldozers removed that part of Qit'at Jaradah which was exposed at high tide, Bahrain emphasised that this was without prejudice to its rights of sovereignty over Qit'at Jaradah or the geographical status of this maritime feature. Bahrain also stated at this time to Saudi Arabia that Qit'at Jaradah would almost certainly revert to being an island by means of natural accretion over the course of time.

624. It is Bahrain's position that Qit'at Jaradah should be treated as an island for the purposes of determining the single maritime boundary. First, Qit'at Jaradah has undeniably been an island in the past and would still be so today if it had not been for Qatar's armed intervention in 1986. It would be offensive to any notion of law or equity to allow Qatar to benefit from this intentionally unlawful act. As Qatar's intervention occurred after the dispute between Bahrain and Qatar had arisen, and with the manifest intention of changing the facts to the prejudice of Bahrain's rights, the Court should in accord with international law determine the maritime boundary as if Qatar's intervention had never taken place. In addition, Qit'at Jaradah is today in the process of reverting to its former island status by means of an inexorable process of natural accretion.

625. Article 13 of the 1982 Convention provides:

"Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may

be used as the baseline for measuring the breadth of the territorial sea."

Article 13 defines a low-tide elevation as "a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide."

626. Several low-tide elevations fulfil the condition stipulated by Article 13, and their low-water lines are therefore available to Bahrain for use as baselines. This is the case in respect of:

Fasht Bu Thur which is closer than 12 nautical miles to the main Bahrain island and several other islands (Al Mu'tarid, Mashtan, Jazirat Hawar, Rabad al Gharbiyah, Rabad ash Sharqiyah, and Ajirah);

Qita'a el Erge which is closer than 12 nautical miles to the main Bahrain island and several other islands (Al Mu'tarid, Mashtan, Jazirat Hawar, Rabad al Gharbiyah, Rabad ash Sharqiyah, Ajirah, Umm Jalid) and to Zubarah;

Fasht al'Azm which (should the Court decline to recognise it to be an integral part of Sitrah Island) is in any case closer than 12 nautical miles to the main Bahrain island, to Sitrah and to Umm Jalid;

Qit'at ash Shajarah which is closer than 12 nautical miles to Umm Jalid; and
(Al Khujayjirah)

Fasht ad Dibal which is closer than 12 nautical miles to Fasht al'Azm (i.e., to Sitrah) and to Qit'at Jaradah.

627. After the baselines of Bahrain and Qatar have thus been defined, the line "every point of which is equidistant from the nearest point on the baselines from which the breadth of the territorial seas of each of the

two States is measured" can be precisely determined by the two States' technical experts. This line, which in fact consists of two separate lines - one running southwards from the southern limit of the Zubarah coast (Point X), the other running northwards from the northern limit of this coast (Point Y) - is shown for illustrative purposes, with the basepoints from which it is determined, on Map 8 in Volume 7.

628. It should be noted that the southernmost point of the maritime boundary cannot be defined precisely at this time. South of Janan, the boundary runs towards the sea area appertaining to Saudi Arabia. Point 1 of the Bahrain/Saudi Arabia maritime boundary defined by the agreement dated 22 February 1958 between Saudi Arabia and Bahrain⁶⁹⁴ is irrelevant in this respect; it was never intended to be a Bahrain/Qatar/Saudi Arabia tripoint, as both its definition and its geographical location clearly show. The question of this tripoint will require future negotiation among Bahrain, Qatar and Saudi Arabia. For this reason, the median line on Maps 3 and 4 terminates south of Janan in an arrow indicating a directional bearing, rather than in a precise point.

(ii) The resultant median line requires neither adjustment nor shifting in order to arrive at an equitable result

629. According to the principle laid down by the Court in relation to the delimitation of the continental shelf, of the exclusive economic zone or of a single maritime boundary between opposite coasts, which is equally applicable to territorial sea delimitations, the median line between the respective States' baselines is "a provisional line that may

⁶⁹⁴ J. Charney and L. Alexander (Eds.) International Maritime Boundaries (1933), *op. cit.*, Vol. II, p. 1489.

be adjusted or shifted in order to ensure an equitable result."⁶⁹⁵ It follows that it is necessary "to examine every particular factor of the case which might support an adjustment or shifting of the median line provisionally drawn", as "[t]he aim in each and every situation must be to achieve an 'equitable result'."⁶⁹⁶

630. Where the delimitation is between opposite coasts (i.e., in the present case, to the south of the point X and to the north of the point Y), the median line enjoys a presumption of equity, and produces, in most geographical circumstances, an equitable result. In relation to continental shelf, exclusive economic zone and single maritime boundary delimitations, this view has been clearly upheld by the Court:

"... in the case of opposite coasts ... the tendency of customary law ... has been to postulate the median line as leading *prima facie* to an equitable result."⁶⁹⁷

"*Prima facie*, a median line between opposite coasts results in general in an equitable solution, particularly if the coasts in question are nearly parallel."⁶⁹⁸

"The application of that method [i.e. the equidistance method] to delimitations between opposite coasts produces, in most geographical circumstances, an equitable result."⁶⁹⁹

The presumption of equity in favour of the median line applies *a fortiori* in relation to territorial sea delimitations, because, as the Court has held, "owing to the very close proximity of such waters to the coasts

⁶⁹⁵ Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. 1993, p. 60, para. 50.

⁶⁹⁶ *Ibid*, p. 62, para. 54.

⁶⁹⁷ *Ibid*, p. 62, para. 56.

⁶⁹⁸ *Ibid*, p. 66, para. 64.

⁶⁹⁹ Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. 1993, p. 67, para. 65.

concerned", "the distorting effects" of equidistance lines "under certain conditions" are "comparatively small within the limits of territorial waters."⁷⁰⁰ Hence only truly exceptional circumstances would justify deviating, in these delimitations, from the median line between opposite coasts.

631. In the present case, no exceptional circumstances - historical or of any other nature - justify modifying the median line in the southern sector, either as between opposite or as between adjacent coasts. In particular, there is no "disparity or disproportion between the coastal lengths" such as was taken into account by the Court in the Jan Mayen case.⁷⁰¹ The two States' coastlines have similar characteristics, and to a significant extent are virtually parallel.

632. To conclude, the single maritime boundary between the maritime territories of Bahrain and Qatar in the southern sector (i.e., south of the line from Fasht ad Dibal and Ra's Rakan) should be the equidistant line between the baselines of Qatar and those of Bahrain.

SECTION 6.2 The northern sector

633. The northern sector, as defined above, lies to the north of the line from Fasht ad Dibal to Ra's Rakan (at the northern extremity of Qatar).

A. Characteristics

634. To the north of the line from Fasht ad Dibal and Ra's Rakan, as Bahrain has already shown, the geographical situation and the legal

⁷⁰⁰ North Sea Continental Shelf case, Judgment, I.C.J. Reports 1969, p. 18, para. 8, and p. 37, para. 59.

⁷⁰¹ Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. 1993, pp. 65 *et seq.*, paras. 61 *et seq.*

nature of the delimitation to be effected differ from those of the southern sector.

635. First, the delimitation in this sector is a delimitation between adjacent, rather than opposite, coasts.

636. Second, except for that part of the northern sector which is closer than 12 nautical miles to the coasts of Fasht ad Dibal and the Qatar peninsula, the boundary to be defined is a single maritime boundary between the continental shelves and exclusive economic zones of Bahrain and Qatar (see paragraph 650).

637. Third, the delimitation must be effected in the context of the existing agreements between Iran and Bahrain (signed on 17 June 1971) and between Iran and Qatar (signed on 20 September 1969).⁷⁰²

638. Finally, although the northern sector does not, unlike the southern sector, contain numerous insular and other legally relevant maritime features, it contains a significant number of pearling banks which have appertained to Bahrain since time immemorial, and of which an all-purpose delimitation must take account. Bahrain's historic rights over these banks are relevant to the determination of the maritime boundary in accordance with equitable principles and cannot be ignored in carrying out the delimitation.

B. Bahrain's pearling banks

639. The pearling banks appertaining to Bahrain in this sector constitute one of the oldest, and richest, pearl fisheries in the world. In 1915, Lorimer was able to refer to pearl fishing as "the premier industry"

⁷⁰² International Maritime Boundaries, *op. cit.*, Vol. II, pp. 1481 and 1511. See para. 651, *infra*.

of the Persian Gulf,⁷⁰³ and the Bahrain banks were pre-eminent. As Lorimer states:

"The largest and most productive of all the banks are situated on the Arabian side of the Gulf and are fished annually, the richest being those to the north and east of Bahrain ...".⁷⁰⁴

640. Lorimer provides statistics to show that in 1905-6, the value of pearls exported from Bahrain was Rs. 1,26,03,000, nearly twice the value of pearl exports from the whole of the Trucial States, and ten times the value of pearl exports from Kuwait.⁷⁰⁵ In Bahrain, in 1907, some 917 boats and 17,633 men were engaged in the fishery.⁷⁰⁶ But the Bahrain pearling fleet had been even larger. Streeter, in a work published in 1886, refers to 3,500 boats from Bahrain.⁷⁰⁷ Whilst the number of vessels declined from the mid-nineteenth Century, the pearling fleet remained active at least until 1954, and long after Bahrain's continental shelf rights had vested.

(i) The nature of the Ruler of Bahrain's rights

641. Prior to the evolution of the contemporary continental shelf doctrine, the general view was that the adjacent sovereign could, upon proof of long-established "occupation" of the beds or banks, assert ownership of the seabed and exclusive right to the "fructus".⁷⁰⁸

⁷⁰³ Lorimer Vol. I, *op. cit.*, 2220, Ann. 83, Vol. 3, p. 502.

⁷⁰⁴ *Ibid*, p. 2221, Ann. 83, Vol. 3, p. 503.

⁷⁰⁵ *Ibid*, p. 2253, Ann. 83, Vol. 3, p. 508.

⁷⁰⁶ *Ibid*, p. 2258, Ann. 83, Vol. 3. p. 509.

⁷⁰⁷ E.W. Streeter, Pearls and Pearling Life, (London, 1886), pp. 213 to 221, Ann. 320, Vol. 6, p. 1425.

⁷⁰⁸ Sir Cecil Hurst, "Whose is the Bed of the Sea?" in Collected Papers, p. 58 and B.Y.B.I.L. (1923-24), pp. 34 to 43. Foreign Office Minutes including

642. There is little doubt that Bahrain has occupied the pearling banks in this sense. The powers asserted by Bahrain over the pearling banks, which are discussed in more detail in paragraphs 643 to 645., included a power to tax and to legislate, which in turn assume both property in the pearls and sovereignty over the Banks. It is clear that the British Government recognised Bahrain's rights, for in 1905 the Law Officers of the Crown so advised,⁷⁰⁹ and in 1911 the British Government advised the Ruler not to grant any concessions over the pearling banks to foreigners without prior consultation with the British Government.⁷¹⁰

(ii) The exercise of jurisdiction and control over the pearling banks by Bahrain

643. Under the traditional, customary law of the Gulf, neighbouring tribes apparently had the right to fish for pearls, if their own Ruler was on terms of amity with the Ruler whose banks they were, but strangers or foreigners were excluded unless granted concessions.⁷¹¹ In practice, few non-Bahraini boats fished Bahrain's pearling banks,⁷¹² and all vessels, irrespective of nationality or place of registration, were subject to the jurisdiction of Bahrain whilst on the Banks. Traditionally the

comments by I.M. Sinclair, 13 October 1955, Ann. 351, Vol. 6, pp. 1517 to 1520.

⁷⁰⁹ Report by the Law Officers, Finlay and Carson, 11 February 1905, Ann. 321, Vol. 6, pp. 1431, 1432.

⁷¹⁰ See letter from Lt. Col. Cox, British Political Resident, to British Political Agent, 11 July 1911, Ann. 322, Vol. 6, pp. 1434 and 1435. See also letter from H.R. Ballantyne to Charles Belgrave, Adviser to Govt. of Bahrain, 14 November 1949, Ann. 347, Vol. 6, pp. 1490 to 1498.

⁷¹¹ See Extracts from Lorimer Vol. II, *op. cit.*, pp. 2241 to 2242, Ann. 83, Vol. 3, pp. 506 to 507.

⁷¹² Testimony of Jabor Musallam, Pearl Merchant, 26 October 1950, Ann. 349, Vol. 6, p. 1503, and of Dr. A.S. Bhandarkar, Medical Officer, Bahrain 12 October 1950, Ann. 348, Vol. 6, p. 1500.

Ruler's jurisdiction was customary. Local, special tribunals called "Diving Courts" (Salifat-al-Ghaws) enforced the rules and settled disputes, principally about debts between divers and boat-owners.⁷¹³ The Ruler of Bahrain levied a tax on vessels fishing for pearls from the early 19th Century, justified by the need to maintain armed vessels on the pearling banks to protect the vessels fishing there.⁷¹⁴

644. Subsequently, specific legislation was enacted. In 1924 new laws were enacted, providing quite comprehensive laws for the pearling industry, and jurisdiction over disputes was transferred from the old diving courts to the ordinary courts. The year 1924 saw another clear example of an assertion of sovereignty by the Ruler of Bahrain over the banks. In order to punish some members of the Dawasir tribe, traditionally loyal to the Ruler of Bahrain, who had quarrelled with the Ruler and left Bahrain to settle in Saudi Arabia, the Ruler ordained that various measures should be taken against those Dawasir, including banning them from diving on the Bahrain pearling banks. The British warship "Cyclamen" was used to put this order into effect.⁷¹⁵ Later the Government of Bahrain issued a Proclamation requiring all boat-owners and individual divers to maintain a book of accounts.⁷¹⁶ The

⁷¹³ Lorimer, *op. cit.*, pp. 2233 to 2234, Ann. 83, Vol. 3, pp. 504, 505.

⁷¹⁴ *Ibid*, p. 2241, Ann, 83, Vol. 3, P. 506.

⁷¹⁵ See Memorandum from British Political Agent, to British Political Resident, 24 May 1924, Ann. 325, Vol. 6, pp. 1439 to 1441, also Telegrams exchanged between H.M.S. Cyclamen and British Political Resident 19/20 June 1924, Ann. 326, vol. 6, p. 1442.

⁷¹⁶ Govt. of Bahrain Proclamation, 20.10 AH 1349 (1930). This followed an earlier Notice of 8 February 1926. It may be noted that the Qatar Rejoinder in the course of the 1938-39 British adjudication (in the form of a letter from the Ruler of Qatar to British Political Agent, 30 March 1939, para. 10) commented on Bahrain's claim to Hawar, admitted that any Qatari boats diving on the Bahrain banks would carry diving books issued by Bahrain, Ann. 329, Vol. 6, p. 1445.

Government of Bahrain issued formal Notices fixing the dates for the pearling season, setting fees for diving boats and enforcing such Notices by confiscation of boats.⁷¹⁷

645. It must be added that Bahrain's control was not simply legislative, but also administrative and judicial. In view of the health risks attached to diving, it was the practice for Bahrain to provide medical services on the Pearling Banks. Regular trips to the Banks were made by a Government of Bahrain hospital boat, carrying a Government physician and a licensing inspector, and rendering assistance to all vessels. Dr. Bhandarker, who was employed by the Government of Bahrain as a physician from May 1925 until October 1950, testified in a statement dated 12 October 1950 that the Government of Bahrain hospital boats made regular trips to all of the principal pearl fishing banks used by pearling fleets from Bahrain.⁷¹⁸ As Dr. Bhandarker testified:

"Among the pearling banks we visited regularly were Shiggatah, Shitaiyah (Shithyya), Miyyaneh, Bu Hagul, Bu Ja'al, Al Ashira, Bu Amanah, Abu Lathama, Bu Suwar, Mashbak, Al Asira and Khababan. Normally we left Manama and went slightly east of north to the Shitaiyah banks, which are perhaps the largest of the pearling banks. We covered an area as far east as Bu Suwar north and west through Abu Lathama, Bu Amanah, Al Asira and Khababan. For shelter we some times went to Fasht al Dibal, Fasht Jarim, Khor Fasht and sometimes to Ras Tanura and Dahrein. We took water from springs at Khor Fasht."⁷¹⁹

Dr. Bhandarker stated that over 90% of the vessels operating in the relevant pearling banks were Bahraini. He made a point of visiting all of

⁷¹⁷ For an example see Govt. of Bahrain Notice, 15 April 1939, Ann. 338, Vol. 6, p. 1466.

⁷¹⁸ Testimony of Dr. A.S. Bhandarkar, Medical Officer, 12 October 1950, Ann. 348, Vol. 6, pp. 1499 to 1501.

⁷¹⁹ *Ibid*, Ann. 348, Vol. 6, p. 1499.

the Bahraini pearling vessels, but would also provide medical assistance to other pearling vessels if requested. His testimony continues:

"All Bahrain pearling vessels were required to be licensed. The Bahrain Government inspector who accompanied me checked the licenses of all of the vessels visited and his clerk recorded the names of the nakhudas and the numbers of divers on each vessel....

... The pearlery frequently told me that before my time nakhudas were practically despots aboard their vessels and would starve men who did not strictly obey their instructions. This situation did not exist during my time, however, because the Bahrain Government was then active and any man could complain to the Government and secure redress for wrongs done to him while he was on a pearling expedition. If a man should die aboard a pearling vessel his body is brought to Bahrain, the Government notified and a medical examination made before the body is buried. No bodies are buried at sea."⁷²⁰

646. Bahrain's claim to sovereignty is also supported by the statements of contemporary witnesses who are still living today, many of whom participated in the pearl diving industry and had first-hand knowledge of Bahrain's administration both of the pearl banks and of the smaller islands and low-tide elevations situated between Bahrain and Qatar. Nasr bin Makki bin Ali al Dosari, for example, states that he and his fellow Hawar Islanders "used to dive at Bul Thama, Bu Amama, Al Mashubach, Shtayya, Hoorah, and Bal Kharab. These pearling banks were all in the territory of Bahrain. There was also a water well in Dibal which belonged to Bahrain."⁷²¹ Later, states the witness, "we continued to come back ... to tend the fish traps of Al Mu'tarid, Hanan, Umm Beikha, and Al Bateen near Sawad."⁷²² Hamoud bin Muhanna bin

⁷²⁰ Testimony of Dr. A.S. Bhandarkar, Medical Officer, 12 October 1950, Ann. 348, Vol. 6, pp. 1500 and 1501.

⁷²¹ Statement of Nasr bin Makki bin Ali al Dosari, 16 September 1996, para. 22, Ann. 314a, Vol. 6, p1384.

⁷²² *Ibid*, par. 24, Ann. 314, Vol. 6, pp. 1384 and 1385.

Hamad al Dosari states that "Al Dibal is a pearling site and also a shelter for Bahraini dhows when it is windy. The Government of Bahrain dug a well there for the Bahraini dhows."⁷²³ Salman bin Isa bin Ahmad bin Saad al Dosari states that "When we returned to Zellaq in the summer for the pearling season, the Dowasir would dive off the Bahrain pearling banks such as Bul Thama, Shtayya, Al Mayna and Dibal. Dibal also provided a shelter when it was windy. All of these pearling banks were part of Bahrain - although they were open to everyone they were always referred to as the 'Bahrain pearling banks'.⁷²⁴ Mohammed bin Mohammed bin Theyab Al Naimi, who lived in the Zubarah region from his birth in approximately 1920 until Qatar's invasion of 1937, states "We used to dive in Al Dibal, Shtayya, Al Mayana, Bu Amama, Bul Thama and other nearby places. All of these pearling banks belonged to Bahrain. The Al Dibal pearling banks used to be called Hair Al Utub after the Al-Khalifa who are of the Al-Utub tribe."⁷²⁵

(iii) The location of Bahrain's pearling banks

647. Bahrain's principal pearling banks are shown in red on Map 9 in Volume 7. They are:

Fasht Naywah (Al Amari)

Abu Al Kharb

Hayr Abu Al Ja'al

⁷²³ Translation of statement of Hamoud bin Muhanna bin Hamad al Dosari, 7 September 1996, para. 27, Ann. 313a, Vol. 6, p. 1369.

⁷²⁴ Translation of statement of Salman bin Isa bin Ahmad bin Saad al Dosari, 16 September 1996, para. 11, Ann. 315, Vol. 6, p. 1395.

⁷²⁵ Translation of statement of Mohammed bin Mohammed bin Theyab Al Naimi, 6 September 1996, para. 9, Ann. 233a Vol. 4, p. 1015.

Bin Zayaan

Bu Sawr

Naywah Al Rumayhi

Naywah Al Ma'awdah

Naywah Abdul Qadr

Umm Al Arshan

Khrais Al Thayr

Umm Al Qars

Naywah Walid Ramadhan

648. The Banks coincide with areas of relatively shallow water, not so much because pearls did not occur at greater depths but more because traditional diving techniques only permitted harvesting in shallow waters.

C. The maritime boundary in the northern sector

649. As has been explained above, the delimitation in the northern sector is primarily a delimitation of a single maritime boundary between Bahrain's and Qatar's continental shelves and exclusive economic zones,⁷²⁶ and is governed by the rules of customary international law.

650. The Court has held, particularly in the Jan Mayen case, that the same principles and rules apply in substance to continental shelf delimitations, exclusive economic zone delimitations and "all-purpose

⁷²⁶ See, however, para. 651, *infra*.

boundary" delimitations, whether an international agreement or customary international law is applicable.⁷²⁷ As the Court emphasised on several occasions in its judgment in that case,⁷²⁸ the fundamental principle is that of the search for an equitable result. Although the delimitation in the northern sector is one between adjacent rather than opposite coasts, it is also appropriate to take an equidistance line as a starting point, and thereafter to ascertain whether it is necessary to adjust or shift the equidistance line so as to take into account all of the relevant circumstances and to reach an equitable result. In the same decision, the Court observed that "there is inevitably a tendency towards assimilation" between the "special circumstances" referred to in Article 6 of the 1958 Geneva Convention on the Continental Shelf (and, for that matter, in Article 15 of the 1982 Convention), and the "relevant circumstances" which customary international law requires to be taken into account in all maritime delimitations.⁷²⁹

651. The southernmost point of the maritime boundary in the northern sector is the point equidistant from Fasht ad Dibal and the Qatar coast. This point, marked O on Map 10 in Volume 7, is naturally also the northernmost point of the median line in the southern sector. From this point northwards, the provisional boundary which should be initially taken into consideration is the equidistance line between the closest points on the coasts of Bahrain and Qatar respectively. It is immediately apparent, however, that this provisional boundary requires adjustment by

⁷²⁷ Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, p. 58, para. 46, and p. 62, para. 56.

⁷²⁸ See, in particular, Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, p. 59, para. 48; p. 62, para. 54; p. 69, para. 70.

⁷²⁹ Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, p. 62, para. 55.

reason of two circumstances pertaining to the areas of the continental shelf and exclusive economic zone. The first such circumstance is the existence of Bahrain's historic rights to the pearling banks. The second special circumstance is the existence of the Bahrain/Iran and Iran/Qatar Agreements of 17 June 1971 and 20 September 1969 respectively. Neither of these agreements purports to determine a single Bahrain/Iran/Qatar tripoint; the point of termination of the maritime boundary in each of these agreements is determined only by reference to an azimuth. Moreover, the agreements purport only to effect a continental shelf delimitation, and expressly provide that they do not "affect the status of the superjacent waters." Nevertheless, the provisions of these agreements are obviously relevant to the delimitation of the maritime boundary in the northern sector.⁷³⁰

652. Bahrain's proposed single maritime boundary is shown, together with the location of the pearling banks, on Map 10. The maritime boundary consists of a series of straight lines joining the points O, Q, R, S, T, U, and terminating at the point Z. Point O, as explained above, is equidistant from Fasht ad Dibal and the Qatar coast. Point Q is also equidistant from Fasht ad Dibal and the Qatar coast and is exactly 12 nautical miles from each of them. The part of the single maritime boundary corresponding to the line OQ is therefore a territorial sea boundary.

730

In its Judgment in the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) Case Judgment, I.C.J. Reports 1982, pp64, 65, para. 81, the Court cited "the existence and interests of other States in the area, and the existing or potential delimitations between each of the Parties and such States" as relevant circumstances to be taken into account by the Court. The Court is also referred to P. Weil, The Law of Maritime Delimitation - Reflections, (1989), p. 254 *et seq.*

653. Northwards of point Q, the circumstances referred to above call for two modifications of the equidistance line. The first modification, which is in Bahrain's favour, is justified by the existence of Bahrain's rights in respect of the maritime areas where the Bahraini pearling banks are located. Bahrain requests that the single maritime boundary be delimited from point Q through points R, S, T and U. The three latter points are situated at the eastern limits of the three easternmost pearling banks appertaining to Bahrain. This is the minimum deviation to the equidistance line necessary to ensure that Bahrain's historic rights to the pearling banks are preserved.

654. As may be seen from an examination of Map 10, a boundary drawn directly from point Q to point S would cut across the 12-nautical mile territorial sea to which Qatar is entitled. Point R is situated on an extension of the line OQ, in the southernmost possible position consistent with preserving the integrity of Qatar's territorial sea. As Map 10 shows, the line RS is tangential to Qatar's territorial sea boundary.

655. The second modification, which is in Qatar's favour, is proposed in order to accommodate the provisions of the Bahrain/Iran and Iran/Qatar Agreements. Although (i) each of these agreements is binding only as between its parties, and consequently neither Bahrain nor Qatar enjoys any rights as against the other on the basis of its own or the other's agreement with Iran, and (ii) any adjustment of Qatar's maritime areas south of the Iran-Qatar boundary line would in no way prejudice Iran, Bahrain nevertheless proposes that the Court, to the extent reasonably possible, effect the maritime delimitation so as to arrive at a northern termination point consistent with the provisions of both agreements with Iran. The point Z, which Bahrain suggests as the appropriate northern termination point of the Bahrain/Qatar single

maritime boundary, is Point 2 of the Iran/Qatar Agreement. This point is situated to the west of the point where a Bahrain/Qatar equidistance line would intersect the boundary with Iran. The delimitation of the maritime boundary from point U to point Z thus represents the minimum westward deviation in Qatar's favour necessary to take into account the provisions of the existing agreements with Iran.

656. The maritime boundary proposed by Bahrain in both the southern and the northern sectors is shown for illustrative purposes on Map 11 in Volume 7.

SECTION 6.3 Bahrain's alternative claim

657. There are various ways of characterising Bahrain, including:

- (1) as a continental and multiple island State, if the Zubarah region is deemed to appertain to Bahrain;
- (2) as an archipelago, in the international legal denotation of this term, if the Zubarah region is not deemed to appertain to Bahrain but the insular and other legally relevant features of Bahrain are deemed to fulfil the relevant requirements of the 1982 Convention;
- (3) as a multiple island State, if the Zubarah region is not deemed to appertain to Bahrain and Bahrain is not recognised as an archipelago.⁷³¹

⁷³¹ Even in the event that the Zubarah region was deemed to appertain to Bahrain, as it must in the view of Bahrain, the concept of an archipelagic State might still be applied to characterise the State of Bahrain. Since the result would not substantially differ from the maritime line proposed in the previous section, this alternative is not examined here in greater detail.

658. Each of these factual characterisations necessarily imports different legal features, such as baselines, and different unified boundary lines.

659. It is Bahrain's position that the Zubarah region appertains to Bahrain and this position is argued fully elsewhere in this Memorial. But Bahrain appreciates that the disposition by the Court of some distinct items in issue, e.g. title to the Zubarah region, or the archipelagic status of Bahrain, will put some matters into issue while rendering others moot. Bahrain considers it appropriate to inform the Court of its views of the law and boundaries under each of the possible characterisations.

660. A decision that Bahrain is not entitled to sovereignty over any part of the Zubarah region would not affect the status of the maritime features situated between the main Bahrain island and the Qatar peninsula, which would remain under Bahraini sovereignty and whose low-water lines would therefore continue to be available to Bahrain as baselines. Bahrain will hereafter justify its right to archipelagic baselines on the basis of these and other maritime features and requests that the Court delimit the maritime boundary using the equidistance-special circumstances method with the archipelagic baselines claimed by Bahrain. If, however, the Court were to take the view that Bahrain is not entitled to archipelagic baselines, then a substantially similar maritime boundary would result from the use of the equidistance-special circumstances method with, on the Bahraini side, the low-water lines of the same maritime features as normal baselines, together with a small number of additional features which would not otherwise have been relevant. While Bahrain asserts its right to archipelagic baselines, therefore, Bahrain's alternative claim is in fact for the maritime boundary resulting from the application of the equidistance-special circumstances

method to whichever of Bahrain's archipelagic or normal baselines the Court sees fit to accept.

A. **Archipelagic baselines**

661. The description of Bahrain as an archipelago - using that term in a geographical sense - is long-established and well-documented. It was Lorimer's term in his Gazetteer of the Persian Gulf, published in 1908.⁷³² It was the term used in British governmental and other official⁷³³ and unofficial⁷³⁴ publications. The precise extent of the archipelago necessarily depended upon a determination of the extent of the domain over which the Ruler of Bahrain claimed, and asserted, sovereignty. But, by 1937, in response to a British governmental inquiry on precisely this point, the Government of Bahrain replied that the archipelago comprised Fasht Dibal, Qit'at Jaradah, Fasht al Jarim, Khor Fasht, Al Benat, and "the Hawar archipelago consisting of nine islands near the Qatar coast".⁷³⁵ This claim was re-iterated in 1947 when the Ruler of Bahrain, writing to the Political Agent on 31 December 1947, stated that the seas lying between our Eastern coast and the Western coast of the Qatar

⁷³² Lorimer Vol. II, *op. cit.*, pp. 234 to 235, Ann. 74, Vol. 3, pp. 373 and 374.

⁷³³ See, for example, "Gazetteer of Arabia", published by the Govt. of India, at p. 329, India Office Records, Ann. 323, Vol. 6, p. 1436; Military Report on the Arabian Shores of the Persian Gulf, Kuwait, Bahrein, Hasa, Qatar, Trucial Oman, Oman, 1933, p. 32, Ann. 330, Vol. 6, p. 1447.

⁷³⁴ See, for example, Charles Belgrave, "Pearl Diving in Bahrain" Journal of Royal Central Asia Society, Vol. XXI, July 1934, p. 450, Ann. 331, Vol. 6, p. 1449, Sir Rupert Hay, "The Persian Gulf States and their Boundary Problems", in The Geographical Journal, Vol. CXX Part 4, Dec. 1954, p. 437, Ann. 350, Vol. 6, p. 1510

⁷³⁵ Memorandum from Charles Belgrave, Adviser to the Govt. of Bahrain, to British Political Agent, 14 August 1937, Ann. 334, Vol. 6, p. 1455. This was in reply to a request initiated by the Admiralty through the India Office; see letter from E.A. Seal, Military Branch Admiralty, to Clauson, India Office, 29 April 1937, Ann. 332, Vol. 6, pp. 1451 to 1453, followed by the Political agent's request for information, 5 July 1937 Ann. 333, Vol. 6, p. 1454.

peninsula have been "(under our own hands) and sovereignty and also all islands and shoals and sea bed exposed at low tide".⁷³⁶

662. The translation of this claim, resting on both geography and established dominion and control, into actual archipelagic base-lines necessarily had to await the stage at which a clear international consensus emerged over the whole concept of the archipelagic State. But in the context of the negotiations during the Third Law of the Sea Conference, Bahrain's claim was clearly expressed as early as 1974, without objection from Qatar.⁷³⁷ Bahrain has never doubted its entitlement to the status of an archipelagic State, with archipelagic baselines, and it has made this position clear throughout this dispute.

663. The archipelagic baselines to which Bahrain is now entitled as an archipelagic State, under contemporary international law, are an element of crucial importance in this case. They are illustrated on Map 12 in Volume 7.

664. Since the Third Law of the Sea Conference was able to reach agreement on a Part IV (Archipelagic States) in circumstances which can be said to reflect a general consensus, the provisions of Part IV can properly be said to reflect the current, generally accepted rules of international law on the matter. Accordingly, it is by reference to these rules, in particular the rules contained in Articles 46 and 47, that the legitimacy of Bahrain's claim must be tested.

⁷³⁶ Letter from Ruler of Bahrain to CJ Pelly, British Political Agent, 31 December 1947, Ann. 345, Vol. 6, pp. 1486 to 1487.

⁷³⁷ Statement of M. Al-Nimer, Representative of Bahrain, Third Law of the Sea Conference, 37th Mtg., 11 July 1974 (Official Records, Vol. I, 1974, p. 174 para. 30), Ann. 352, Vol. 6, p. 1530.

(i) Bahrain is an archipelagic State

665. Article 46(a) provides that:

"Archipelagic State' means a State constituted wholly by one or more archipelagos and may include other islands."

666. It is evident that Bahrain meets this criterion since, assuming the occurrence of the contingency on which this part of the Memorial is based, the Court will have determined that Bahrain is composed wholly of islands.

(ii) The islands comprising Bahrain are an archipelago

667. Article 46(b) provides that:

"Archipelago' means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such."

668. It is apparent from the provision that the group of islands, waters and natural features must be shown to constitute an entity on the basis of observable fact or (and this is an alternative rather than a cumulative requirement) must historically have been regarded as such. Bahrain submits that both alternative criteria are in fact fulfilled in its own case. The historical data already marshalled demonstrate that Bahrain was, in fact and with ample justification, historically regarded as an archipelago; the geographical and social data demonstrate the inextricable relationship between the islands *inter se* and the sea.

(iii) The Bahrain archipelago is an intrinsic geographical entity

669. The maritime features enclosed within Bahrain's archipelagic baselines consist of the main Bahrain island, the immediately adjacent

islands of Sitrah and Al Muharraq, approximately 50 other islands (including the Hawar Islands) and 22 low-tide elevations. The total land area exposed at mean high water springs is approximately 701 km²; the total land area exposed at lowest astronomical tide is approximately 1,020 km². The total area (land and sea combined) enclosed within the archipelagic baselines referred to above is approximately 4,500 km². The ratio of sea to land is thus approximately 5.3:1 or 3.4:1 at mean high water springs and lowest astronomical tide respectively.

670. The archipelagic baselines join the ten outermost islands and drying reefs of the Bahrain archipelago. These islands and drying reefs are Fasht al Jarim, Fasht ad Dibal, three of the islands of the Hawar group, the Al Hul reef at the southern tip of the main Bahrain island, a permanently dry rock to the south-west of the main Bahrain island, Al Baynah as Saghirah, a drying reef to the north of Al Baynah as Saghirah, and Khawr Fasht.

671. The distance between the two maritime features constituting the Bahrain archipelago which are the furthest apart, Fasht al Jarim (to the north of the main Bahrain island) and Janan (in the Hawar group), measured from the northernmost point of the former to the southernmost point of the latter, is just under 60 nautical miles. This maximum geographical separation is not large by the standards of either the 1982 Convention, which authorises individual baselines of up to 125 nautical miles in length, or State practice, which offers the examples of Indonesia (with a maximum geographical separation of 2,161 nautical miles) and the Philippines (with a maximum geographical separation of 1,034 nautical miles).

672. The maritime features whose geographical unity with the remainder of the Bahrain archipelago are of most direct concern to a

maritime boundary delimitation with Qatar are the islands of the Hawar group, and Fasht ad Dibal. Rayad al Gharbiyah, the northernmost island of the Hawar group, is situated only 11 nautical miles from the southern tip of Bahrain's main island at Ra's al Barr. The intervening waters contain several other islands (Halat Noon, Qasar Noon, Jazirat Mashtan, and Al Mu'tarid) distributed evenly between the main Bahrain island and the Hawar group. The intervening waters are moreover very shallow; the depth rarely exceeds 9 metres and is mostly less than 6 metres. Large areas are so shallow as to be quite unnavigable. Proximity and shallowness of depth, along with the intense patterns of social exchange described above, reinforce the geographical unity which exists between the Hawar group and the remainder of the Bahrain archipelago.

673. In addition to the geographical unity of the maritime features, the baselines connecting them are well within the international norm. Once again, a comparison with State practice supports Bahrain's position: Indonesia maintains archipelagic baselines around the Anambas, an island group between 180 and 235 nautical miles northwest of Borneo and only 90 nautical miles east of Malaysia, and around Palmas (Miangas) Island, 245 nautical miles north of the main island of Celebes and only 45 nautical miles from the south coast of the Philippines. For their part, the archipelagic baselines of the Philippines encompass the islands of Y'Ami, situated 154 nautical miles from the island of Luzon and only 78 nautical miles from the mainland of Taiwan, and Sibutu, situated 193 nautical miles from the island of Mindanao and only 19 nautical miles from Indonesian Borneo. Components of archipelagos may be close to other states, without minimising their archipelagic status, as the above examples demonstrate.

674. The low-tide elevation Fasht ad Dibal similarly forms part of the intrinsic geographical entity constituted by the Bahrain archipelago. Fasht ad Dibal is situated only 14 nautical miles from the island of Muharraq; it is only 10 nautical miles from the low-water line around Fasht al'Azm and Qit'at Al Khujayjirah, which, as Bahrain has shown above, should be considered as part of the island of Sitrah; and it is only 2.5 nautical miles from Qit'at Jaradah.

675. To summarise, the entire area between the main Bahrain island, the Hawar Islands and Fasht ad Dibal is filled with various maritime features, including, in addition to those already mentioned, the islands of (Jazirat) Ajirah, Jabbari, Tighaylib and Umm Jalid, and the low-tide elevations of Fasht Bu Thoor and Qita'a el Erge. The combined effect of all these maritime features is to keep commercial shipping to the east of the line from the Hawar Islands to Fasht ad Dibal; the waters to the west of this line are used only by small, shallow-draft Bahraini vessels which are engaged mainly in fishing. The islands and other maritime features making up the Bahrain archipelago, therefore, clearly constitute an intrinsic geographical entity.

(iv) The Bahrain archipelago is an intrinsic economic entity

676. Bahrain has demonstrated that the Hawar Islands are and historically have been entirely economically dependent on and economically integrated with Bahrain (see paragraphs 418 to 419 and paragraph 438 *et seq*). Bahrain has also demonstrated the economic significance of the fishing activities carried on in the area enclosed by Bahrain's archipelagic baselines to the inhabitants of the main Bahrain island, Sitrah and Al Muharraq (see paragraphs 595 to 597).

677. Taking into account the large-scale Bahraini fisheries throughout the area enclosed by Bahrain's archipelagic baselines, the extensive oil exploration conducted over this area since 1938 under Bahrain's authority, and Bahrain's continuous activities in surveying, charting, buoying and marking the area, it is clear that the Bahrain archipelago constitutes an intrinsic economic entity.

(v) The Bahrain archipelago is an intrinsic political entity

678. Bahrain's claims to sovereignty over the Hawar Islands, and over Fasht ad Dibal and Qit'at Jaradah, have been discussed above (see Chapter 3 in relation to the Hawar Islands and paragraphs 569 to 592 in relation to Fasht ad Dibal and Qit'at Jaradah).

679. Bahrain has already referred to its consistent practice of maintaining coast guard patrols throughout the area occupied by the insular and other legally relevant maritime features between the main island of Bahrain and the Qatar peninsula (see paragraphs 598 to 599). Map 7 in Volume 7 shows, in red, the normal patrol limits of the Bahrain coast guard. As Bahrain has pointed out, there is no direct relationship between these patrol limits and the main navigation routes (indicated in black and blue). On the other hand, the area patrolled by the Bahrain coast guard encompasses all of the area enclosed within Bahrain's archipelagic baselines. It follows that Bahrain's coast guard patrols are a manifestation of general sovereignty rather than of specific concern for navigational safety, and a demonstration of the intrinsic political unity of the Bahrain archipelago.

(vi) **Historical evidence of the existence of the Bahrain archipelago as an intrinsic geographical, economic and political entity**

680. It is important to emphasise that, provided there is historical evidence of such links between Bahrain's main island and the outlying islands or features of the archipelago,⁷³⁸ there does not need to be historical evidence that the entire group was considered to be an archipelago. The reason for this is obvious enough. As has been shown, the regime of the archipelagic State, as a legal regime, achieved formal recognition in the 1982 Convention. Prior to the Third Conference on the Law of the Sea, the concept was, as an international legal concept, controversial and the geographical extent of a legal archipelago was not defined. It could not be expected, therefore, that in 1939 the British Government would recognise that the Hawar group of islands formed part of the Bahrain archipelago. For in 1939 such a concept had not been established. Thus what has to be established is that there are such geographical, economic or political links, or that such links have been historically recognised: but the legal claim to archipelagic status can be quite new and in Bahrain's case could not have been reasonably expected prior to the 1982 Convention. The formal promulgation of such a claim has been delayed even further because of Bahrain's commitment under the principles of mediation of 1982-83 "not to change the current situation in respect of the disputed issue". But, *de facto*, Bahrain is an archipelago and, *de jure*, it has an existing legal entitlement to promulgate such baselines as it is entitled to by law.

⁷³⁸ That there is such evidence is clear. See Lorimer Vol. II, *op. cit.*, pp. 234 to 235, Ann. 74, Vol. 3, pp. 373 to 374.

(vii) The ratio of the area of water to the area of land falls between 1:1 and 9:1

681. As noted above, the ratio is in fact 5.3:1 or 3.4:1 at mean high water springs and lowest astronomical tide respectively.

(viii) The baselines do not depart to any appreciable extent from the general configuration of the archipelago

682. The criterion of what is, or is not, an "appreciable extent", within the meaning of Article 47(3) can only be determined by reference to State practice. The distances from Bahrain's main island are very modest by any standard of State practice: they are 18 nautical miles (Fasht al Jarim), 14 nautical miles (Fasht ad Dibal) and 11 nautical miles (the Hawar Islands). State practice accepts distances of 100 - 200 nautical miles.

683. It might, of course, be said that distance alone is not decisive, and that the significance of any departure is a question of scale. But if one bears in mind the size of the main island, in relation to the location of the outlying parts of the archipelago, and their distance from the main island, it can be seen that there is no significant departure. This is all the more evident when one considers the size and configuration of the main island by reference to its own offshore reefs and low-tide elevations. For, even by reference to the normal rules governing baselines and without contemplating the outlying parts of the archipelago, Bahrain's main island must be deemed to include an extensive area of fringing reefs, and many low-tide elevations. It is therefore not simply the shape and size of the area of dry land which counts. The main island of Bahrain has to be regarded as that area which would be embraced within normal baselines, even if no question of archipelagic status arose.

(ix) No baseline exceeds 100 miles

684. The maximum length is in fact 38 nautical miles from Dibal to Hawar.

(x) The baselines do not cut off the territorial sea of Qatar from the High Seas or the Exclusive Economic Zone

685. In relation to the area of Qatari territorial sea to the south-west of the Qatar peninsula, access from this territorial sea to Qatar's exclusive economic zone and the high seas is possible *via* the band of Qatari territorial sea situated between the Hawar Islands and the Qatar peninsula.

686. In addition, as can be seen from any map, Qatar as a whole is left with open access to the high seas by virtue of its extensive east-facing coastline, along which virtually its entire population lives.

(xi) Any legitimate and traditional rights of passage exercised by Qatar between the coasts of Qatar south of Bahrain's archipelagic waters and the Gulf will continue

687. Bahrain accepts the obligations stated in Articles 51 and 52 of the 1982 Convention. Thus, Bahrain accepts the obligation to enter into a bilateral agreement with Qatar to preserve within Bahrain's archipelagic waters any "traditional fishing rights and other legitimate activities" which Qatar may show to have existed within certain areas of these archipelagic waters. Moreover, a right of innocent passage is accorded to Qatar by virtue of Article 52, in accordance with the terms of paragraph 1 of that Article.⁷³⁹

⁷³⁹ Historically, there has never been any significant maritime traffic between the Qatar coast to the south of the Hawar Islands and the high seas of the Gulf

B. Normal baselines

688. Bahrain considers it appropriate, as has been explained in paragraphs 657 to 660 above, to inform the Court of the maritime boundary which would, in Bahrain's view, result from a decision to treat the coastlines of Bahrain's insular and other legally relevant maritime features, excluding the Zubarah region, as normal baselines. Bahrain would respectfully remind the Court, however, that this treatment does not correspond to Bahrain's view of its own geographical status. Bahrain continues to maintain both its claim to sovereignty over the Zubarah region and its position that, should the Zubarah region be deemed not to appertain to Bahrain, the insular and other legally relevant features of Bahrain constitute an archipelago within the meaning of the 1982 Convention.

689. Bahrain's normal baselines, in the event that the Court does not, within the context of Bahrain's alternative claim, accept Bahrain's claim to archipelagic baselines, are exactly the baselines which Bahrain claimed in the context of its principal claim, with the exception of the Zubarah coastline.⁷⁴⁰ Among these baselines, the low-water line surrounding Qit'at ash Shajarah, owing to its geographical situation, assumes greater relevance in connection with Bahrain's alternative claim than it possesses in connection with Bahrain's principal claim.

itself (with the exception of the old route from Sitrah to Zekrit). The oil fields in Qatar at Jebel Dukhan pipe the oil across the peninsula to Umm Said on the east coast of Qatar. Qatar's fishing is also located on the east coast.

⁷⁴⁰ For a discussion of these basepoints, see Section 6.1, starting at paragraph 564 and Section 6.2, starting at paragraph 633.

C. The alternative maritime boundary

(i) The southern sector

690. As in the case of Bahrain's main claim, the single maritime boundary which Bahrain requests the Court to delimit in this sector is in fact a territorial sea boundary. The geographical relationship between the respective coasts of Bahrain and Qatar, however, differs from the corresponding relationship in the case of Bahrain's principal claim. As a result of the removal of the Zubarah coast from Bahrain's baseline, the delimitation under this contingency would be between opposite coasts over the entirety of the southern sector.

691. The appropriate method of delimitation in the context of Bahrain's alternative claim is, Bahrain submits, the same as for Bahrain's main claim: the Court should take as a starting point "the median line every point of which is equidistant from the nearest point on the baselines from which the breadth of the territorial seas of each of the two States is measured." Subsequently, the Court should enquire whether "it is necessary, by reason of historic title or other special circumstances," to adjust or displace the median line in order to arrive at an equitable result.

692. As already stated, therefore, the appropriate baselines for Bahrain are the archipelagic baselines illustrated on Map 12 in Volume 7. Should the Court not accept Bahrain's claim to archipelagic baselines, however, the appropriate baselines for Bahrain are the normal baselines referred to in paragraphs 688 and 689. After the baselines of Bahrain and Qatar have thus been defined, the line "every point of which is equidistant from the nearest point on the baselines from which the breadth of the territorial seas of each of the two States is measured" can be precisely

determined by the two States' technical experts. Map 13 in Volume 7 shows, for illustrative purposes, Bahrain's archipelagic baselines in purple, and the equidistance line between Bahrain's archipelagic baselines and Qatar's baselines in red. Map 14 in Volume 7 shows the equidistance line between Bahrain's normal baselines and Qatar's baselines as a blue dotted line. Map 15 in Volume 7 shows the two equidistance lines in the southern sector: the equidistance line using Bahrain's archipelagic baselines is shown as a red solid line, and the equidistance line using Bahrain's normal baselines is shown as a blue dotted line.

693. As in the case of Bahrain's principal claim, the southernmost point of the maritime boundary cannot be defined precisely at this time. For this reason, the median lines on Maps 13, 14 and 15 terminate south of Janan in an arrow indicating a directional bearing, rather than in a precise point.

694. After the median line has been determined, the Court has to consider whether any particular aspect of the delimitation requires the adjustment or shifting of the median line in order to arrive at an equitable result. As Bahrain has pointed out (see paragraphs 690 to 694), where the delimitation is between opposite coasts (as is the entire delimitation in the context of Bahrain's alternative claim), the median line enjoys a presumption of equity; and in the circumstances of the present case no adjustment or shifting is called for. The median line determined by the Court should, throughout this sector, be regarded as definitive.

(ii) The northern sector

695. The single maritime boundary requested by Bahrain in the northern sector, in the context of Bahrain's alternative claim, is identical to the single maritime boundary requested by Bahrain in the northern sector in the context of Bahrain's principal claim (see paragraphs 649 to 655). This boundary is shown on Map 10 in Volume 7 for illustrative purposes.

SUBMISSIONS

In view of the facts and arguments set forth in this Memorial;

May it please the Court, rejecting all contrary claims and submissions, to adjudge and declare that:

1. Bahrain is sovereign over Zubarah.
2. Bahrain is sovereign over the Hawar Islands, including Janan and Hadd Janan.
3. In view of Bahrain's sovereignty over all the insular and other features, including Fasht ad Dibal and Qit'at Jaradah, comprising the Bahraini archipelago, the maritime boundary between Bahrain and Qatar is as described in Part Two of this Memorial.

Bahrain reserves the right to supplement or modify the preceding submissions.

(Signed)-----

Jawad Salim Al Arayed

Minister of State and Agent of the State of Bahrain

APPENDICES

1. **LIST OF PEOPLE REFERRED TO IN MEMORIAL (with reference to paragraphs in which they are mentioned)**
2. **RULING FAMILIES**
 - (I) **Bahrain**
 - (II) **Qatar**
3. **BRITISH POLITICAL RESIDENTS AND AGENTS IN THE GULF OF ARABIA**
 - (I) **Political Residents, Bushire 1822-1960**
 - (II) **Political Agents, Bahrain 1900-1960**
 - (III) **Political Agents/Officers Qatar 1949-1960**
4. **ADMINISTRATIVE STRUCTURES**
 - (I) **Ottoman Empire**
 - (II) **British Empire administration in Bahrain/Qatar Peninsula until independence of India, 1947**
 - (III) **British Empire administration in Bahrain/Qatar Peninsula after independence of India, 1947**
5. **CHRONOLOGY OF THE BRITISH 1938-1939 ADJUDICATION**
6. **LIST OF HISTORICAL MAPS IN THE MEMORIAL**
7. **LIST OF DOCUMENTARY ANNEXES (INCLUDING ILLUSTRATIVE MAPS)**

1. LIST OF PEOPLE REFERRED TO IN MEMORIAL
(with references to paragraphs in which they are mentioned)

Ahmad, Sharaf bin. (paragraphs 434, 435)

Qadi (senior religious judge) of Sharia Court in Muharraq.

Andrew, R.M. (paragraph 316)

British Political Agent, Bahrain (1950-1952).

Ballantyne, H.K. (paragraphs 101, 228, 239, 312, 642)

London Solicitor to BAPCO and to the Ruler of Bahrain. Was appointed as the Ruler's London legal representative in May 1949.

Beaumont, Richard. (paragraphs 332, 501, 502)

British Foreign Office Official, London (early 1960s).

Belgrave, Sir Charles Dalrymple (paragraphs 87, 101, 228, 277, 282, 283, 287, 293, 296, 312, 316, 317, 393, 439, 457, 458, 459, 466, 472, 473, 479, 481, 483, 573, 579, 581, 583, 584, 586, 642, 661)

Adviser to the Government of Bahrain (from 1927 to 1957).

Bhandarker, Dr (paragraphs 643, 645)

Medical Officer, Bahrain hospital boats.

Bevin, Ernest (paragraphs 313, 314)

British Secretary of State for Foreign Affairs (1945-1951).

Black, J.S. (paragraph 245)

BAPCO Chief Local Representative, Bahrain (1938-1939).

Brown, R.M. (paragraphs 129, 492)

BAPCO Chief Local Representative, Bahrain (late 1940s).

Brucks, Captain George (paragraphs 116, 117, 120, 415, 416)

Captain in Britain's Indian Navy. Responsible for the first Arabian Coast Survey (1821-1829) which included the Hawar Islands (then known as Warden's Islands).

Burrows, Sir Bernard (paragraphs 322, 323, 324, 327, 334)

Senior Foreign Office Civil Servant (1949-). Political Resident, Bahrain (1953-1958).

Caroe, Sir Olaf (paragraphs 252, 294)

Government of India Official (up to 1936). Acting British Political Resident, Bushire (Aug.-Nov. 1937).

Carson, E. (paragraph 642)

Law Officer to the Crown (1905).

Clauson, M.J. (paragraph 661)

India Office Civil Servant, London (mid 1930s).

Cox, Sir Percy (paragraphs 27, 192, 193, 215, 222, 232, 410, 413, 424, 426, 427, 436, 642)

British Political Resident, Bushire (1904-1914).

Daly, Major Clive (paragraphs 53, 368)

British Political Agent, Bahrain (Jan.1921-Sept.1926).

Dickson, Major Harold (paragraph 225)

British Political Agent, Bahrain (Nov.1919-Nov.1920).

Dosari, Salman bin Isa al (paragraphs 67, 405, 443, 454, 482)

Former inhabitant of Hawar Islands.

Dosari, Nasr bin Makki Ali al (paragraphs 67, 351, 405, 440, 442, 444, 449, 456, 471, 487, 646)

Former inhabitant of Hawar Islands.

Dosari, Hamoud bin Muhanna bin Hamad al Dosari (paragraphs 67, 351, 444, 485, 646)

Former inhabitant of Hawar islands

Fowle, Sir Trenchard (paragraphs 86, 87, 94, 96, 229, 241, 242, 245, 255, 256, 261, 262, 263, 269, 270, 272, 273, 274, 275, 276, 280, 286, 287, 290, 297, 299, 301, 354, 356, 357, 373, 381, 383, 385, 387, 389, 391, 392, 401, 403, 473, 549, 551, 552, 572)

British Political Resident, Bushire (1936 to 1940).

Galloway, Lieutenant-Colonel Arnold (paragraphs 89, 98, 300, 305, 309, 310)

British Political Agent, Bahrain (1945-1947).

Gaskin, J.C. (paragraphs 27, 152, 154)

Political Assistant of the Bushire Residency, based in Bahrain (1900-1914). Mr. Gaskin was the first British official to be permanently based in Bahrain.

Gault, Charles A. (paragraphs 324, 325, 326)

Political Agent, Bahrain (1954-1959).

Ghattam, Ibrahim bin Salman Ali (paragraphs 52, 67, 347, 405, 440, 442, 445, 448, 454, 462, 472, 475)

Former inhabitant of Hawar Islands.

Grant, Major Charles (paragraphs 77, 82, 206)

Assistant Political Resident, Bahrain (1873).

Hasen, Abdulla bin

British 'News Agent' Dohah (1937).

Haworth, Lt. Col. L.B. (paragraph 235)

British Political Resident, Bushire (Jan. 1927-Nov. 1928).

Hay, Lieutenant-Colonel Rupert (paragraphs 305, 309, 314, 315, 316, 318, 368, 661)

British Political Resident, Bahrain (1946-1953).

Hickinbotham, Major T. (paragraphs 85, 87, 95, 96, 97, 252, 255, 256, 258, 259, 269, 270, 277, 278, 281, 285, 287, 289, 292, 293, 294, 299, 300, 301, 304, 305, 306, 307, 308, 309, 312, 472)

British Political Agent, Bahrain (1937-1944).

Holmes, Major Frank

Oil Concession entrepreneur in the Middle East from early 1920s. Acted for Eastern and General Syndicate and later for Petroleum Concessions Limited as negotiator for Bahrain Additional Area, 1938.

Izzet, (paragraphs 21, 162, 163, 425)

Captain in the Imperial Ottoman Army (Circa 1878).

Jabur, Nasser bin

Tribal Leader of Naim at Zubarah (1930s).

Kemball, Colonel (paragraphs 117, 132, 153, 155, 183)

British Political Resident, Bushire (1898-1904).

Keyes, Captain Terence H.K. (paragraph 215)

British Political Agent, Bahrain (1914-1916).

Al-Khalifa family, Ruling family of Bahrain. See Appendix 2(I) for a list of the Rulers of Bahrain.

Knox, S.G. (paragraphs 53, 222, 436)

British Political Resident, Bushire (Mar. 1914-Nov. 1914). Jan. 1915-Apr. 1915 (on special duty). Apr. 1923-Oct. 1923 (Acting).

Laver, W.S. (paragraphs 316, 317)

Political Agent, Bahrain (1952-1953).

Little, J. (paragraphs 321, 493, 642)

Political Agent, Bahrain (1953-1954).

Loch, Lieutenant-Colonel Gordon (paragraphs 94, 241, 254, 255, 260, 261, 262, 267, 373, 479)

Political Agent, Bahrain (1932-1932).

Longrigg, S.H. (paragraph 75)

Anglo-Persian Oil Company/PCL Representative from 1930s.

Lorimer, J.G. (paragraphs 25, 27, 58, 75, 84, 93, 96, 100, 119, 120, 125, 126, 128, 131, 132, 141, 170, 207, 208, 210, 299, 417, 422, 423, 437, 639, 640, 643, 661, 680)

India Civil Service, early 1900s. British Political Resident, Bushire (Dec. 1913-Feb. 1914).

Man, Morgan (paragraphs 328, 329, 330, 501)

British Political Resident, Bahrain (1959-1961).

Mana, Saleh al. (paragraph 388)

Secretary to the Ruler of Qatar (1930s).

Middleton, Sir George (paragraph 331)

British Political Resident, Bahrain (1958-1961).

Moberly, John C. (paragraph 330)

British Political Agent, Doha (1958-1961).

Mohammed, Khalifa bin (paragraphs 456, 472)

Head of Bahrain police (1940s).

Musallam, Jabor,

Pearl Merchant.

Naimi, Mohammed bin Mohammed Al. (paragraphs 96, 257, 266, 277, 284, 289, 290, 316)

Former inhabitant of Zubarah.

Naimi, Saleh bin Muhammed Ali Al - (paragraphs 92, 256, 257, 266, 277, 283, 289, 290).

Former inhabitant of Zubarah.

Packer, E. (paragraphs 439, 458, 469)

Manager and Senior Local Representative of Petroleum Concessions Limited (1935-1947).

Pelly, Lieutenant Colonel Lewis (paragraphs 124 to 129, 139, 222)

British Political Resident, Bushire (1867-9).

Pelly, C.J. (paragraphs 99, 311, 314, 316, 569)

British Political Agent, Bahrain (1947-1950). The architect of the 1950 "verbal agreement" over Zubarah.

Pelly, J.H. Captain (paragraphs 179 - 181, 225)

Commander and Senior Naval Officer, Gulf (1890s)

Prideaux, F.B. Captain (paragraphs 27, 82, 84, 410, 413, 424, 426, 427, 430)

British Political Agent, Bahrain (1904-1909) and later Political Resident (1924-1927).

Prior, Sir Geoffrey (paragraphs 232, 290, 307, 552)

British Political Agent, Bahrain (1929-1932). British Political Resident, Bushire (1941-1945).

Ross, Lieutenant-Colonel Edward C. (paragraphs 80, 81, 133, 139, 146, 159, 160, 161, 170, 174, 176, 178, 196, 198, 200, 201, 202, 203, 204, 205, 211)

British Political Resident, Bushire (1872-1891).

Saud, Abdul Aziz Ibn (paragraphs 63, 225, 230, 232, 297)

First Ruler of the modern Kingdom of Saudi Arabia.

Skinner, E.A. (paragraph 239)

BAPCO Chief Local Representative (1930s).

Skliros, J. (paragraph 376)

PCL London Executive (1936 onward).

Smith, Captain

2nd Assistant to Political Resident (1869).

Starling, F.C.

Petroleum Department, Whitehall (1933).

Steineke, Max (paragraph 492)

Aramco geologist.

Talbot, Lieutenant-Colonel Adelbert C. (paragraphs 147, 163, 209)

British Political Resident, Bushire (1891-1893).

Tomlinson, B.L.

Assistant British Political Agent, Bahrain (1937).

Tripp, J. Peter

British Political Agent, Bahrain (1965).

Trevor, Lt. Col. A.P. (paragraph 225)

British Political Resident, Bushire (Nov. 1919-Oct. 1920) and formerly British Political Agent, Bahrain (Nov 1912-May 1914).

Wakefield, E.B. (paragraphs 290, 293)

British Political Agent, Bahrain (Jan. 1942-Oct. 1943).

Wall (paragraph 320)

Acting British Political Agent, Bahrain (1954).

Walton, J.C. (paragraphs 250, 376)
India Office, Civil Servant (1936-).

Weightman, Sir Hugh (paragraphs 245, 254, 303, 354, 356, 372, 378, 379, 383, 384, 385, 387, 389, 390, 391, 392, 393, 395, 400, 413, 432, 440, 441, 444, 445, 447, 452, 455, 457, 459, 460, 468, 469, 472, 474, 477, 481, 547, 548, 552)
British Political Agent (1937-1940).

Williamson, Haji Abdullah (paragraph 233)
Anglo-Persian Representative in Persian Gulf.

Wilson, Lt. Col. F.A. (paragraph 78)
British Political Resident, Bushire (Oct. 1920-Apr. 1924).

Wilson, Col. F.S. (paragraphs 179, 180, 212)
British Political Resident, Bushire (Jan. 1894-Jun. 1897).

Wiltshire, Edward P. (paragraph 333)
British Political Agent, Bahrain (1959-1961).

2. RULING FAMILIES

(I) RULERS OF BAHRAIN

H.H. Sheikh Ahmed Al-Fatih Al Khalifa	1782-1796
H.H. Sheikh Abdullah bin Ahmed Al Khalifa ¹	1796-1843
H.H. Sheikh Salman bin Ahmed Al Khalifa	1796-1825
H.H. Sheikh Khalifa bin Salman Al Khalifa	1825-1834
H.H. Sheikh Mohammed bin Khalifa Al Khalifa	1843-1868
H.H. Sheikh Ali bin Khalifa Al-Khalifa	1868
H.H. Sheikh Mohammed bin Abdullah Al Khalifa	1869
H.H. Sheikh Isa bin Ali Al-Khalifa	1869-1932
H.H. Sheikh Hamad bin Ali Al-Khalifa	1932-1942
H.H. Sheikh Salman bin Hamad Al-Khalifa	1942-1961
H.H. Sheikh Isa bin Salman Al-Khalifa	1961-

¹ Sheikhs Abdullah and Salman ruled jointly from their father's death in 1796. When Sheikh Salman died, his son, Sheikh Khalifa succeeded as joint ruler. On Sheikh Khalifa's death in 1834, Sheikh Abdullah continued to rule as sole ruler until 1843.

(II) CHIEFS OF DOHA / RULERS OF QATAR

Sheikh Mohammed bin Thani (Chief of Bidda/Doha)	-1876 ²
Sheikh Jasim bin Mohammed Al Thani (Chief of Doha)	1876-1913
Sheikh Abdullah bin Jasim Al Thani (Chief of Doha/Ruler of Qatar ³)	1913-1948
Sheikh Ali bin Abdullah Al Thani	1948-1960
Sheikh Ahmed bin Ali Al-Thani	1960-1972
Sheikh Khalifa bin Hamad Al-Thani	1972-1995
Sheikh Hamad bin Khalifa Al-Thani	1995-

² Sheikh Mohammed bin Thani remained the nominal Chief of Doha until 1876 when he retired from public life. He died in 1878. His son, Sheikh Jasim, became *de facto* Chief of Doha following the establishment of the Ottoman garrison in Doha in 1871 and formally succeeded in 1876.

³ In 1916, Britain signed a treaty with the Chief of Doha, calling him the "Sheikh of Qatar". (See Section 2.10 starting at para. 215)

3. BRITISH POLITICAL RESIDENTS AND AGENTS IN THE ARABIAN GULF

(I) POLITICAL RESIDENTS, BUSHIRE, 1822-1960

Cpt. John MacLeod	Dec. 1822-Sept 1823 ⁴
Cpt. Henry Hardy	Oct. 1823-Dec. 1823
Col. Ephraim Gerrish Stannus	Dec. 1823-Jan. 1827
Cpt. David Wilson	Jan. 1827-Mar 1831
Dr. John MacNeil	Dec. 1830-Dec. 1831
Lt. Samuel Hennell	Mar. 1831-Jan. 1832 (i/c)
David Anderson Blane	Jan. 1832-June 1834
Lt. Samuel Hennell	June 1834-c. July 1835 (acting)
Surgeon Thomas Mackenzie	c. July 1835-
Major James Morison	Oct. 1835-Oct. 1837
Surgeon Thomas Mackenzie	Oct. 1837-Apr. 1838 (i/c)
Lt. Samuel Hennell	[May] 1838-Mar. 1852
Col. Henry Dundas Robertson	Jan. 1842-Apr. 1843 (officiating)
Lt. Arnold Burrowes Kemball	Apr. 1843-Dec. 1843 (offg)
Cpt. Arnold Burrowes Kemball	Mar. 1852-July 1855
	Mar. 1852-July 1855
Cpt. James Felix Jones	Oct. 1855-Apr. 1962 (offg to July 1856)
Cpt. Herbert Frederick Disbrowe	Apr. 1862-Nov. 1862 (offg)
Lt.-Col. Lewis Pelly	Nov. 1862-Oct. 1872
	(acting to Mar. 1863; offg to Apr. 1864)
Lt.-Col. Edward Charles Ross	Oct. 1872-Mar. 1891 (acting until 1877)
Lt.-Col. William Francis Prideaux	May 1876-1877 (acting)
Lt.-Col. Samuel Barrett Miles	1885-Oct. 1886 (acting)
Lt.-Col. Adelbert Cecil Talbot	1891-May 1893 (offg to Sept 1891)
Cpt. Stuart Hill Godfrey	May 1893-June 1893 (i/c)
Maj. James Hayes Sadler	June 1893-July 1893 (acting)
James Adair Crawford	July 1893-Dec. 1893 (i/c)
Maj. James Hayes Sadler	Dec. 1893-Jan. 1894 (acting)
Col. Frederick Alexander Wilson	Jan. 1894-June 1897
Lt.-Col. Malcolm John Meade	June 1897-Apr. 1900 (offg to Mar. 1898)
Lt.-Col. Charles Arnold Kemball	Apr. 1900-Apr. 1904 (acting)
Maj. Percy Zachariah Cox	Apr. 1904-Dec. 1913 (offg to Oct. 1905); substantive, temp to May 1909)
Maj. Arthur Prescott Trevor	Aug. 1909-Mar. 1910 (i/c)
John Gordon Lorimer	Dec. 1913-Feb. 1914
Cpt. Richard Lockington Birdwood	Feb. 1914-Mar. 1914 (i/c)

⁴ Appointment not taken up and subsequently cancelled.

Maj. Stuart George Knox	Mar. 1914-Nov. 1914 (i/c)
Maj. Percy Zachariah Cox	Nov. 1914-Oct. 1920 ⁵
Maj. Stuart George Knox	Jan. 1915-Apr. 1915 (officer on special duty)
Maj. Arthur Prescott Trevor	Apr. 1915-Nov. 1917 (Deputy PR)
John Hugo Hepburn Bill	Dec. 1917-Sept 1919 (Deputy PR)
Maj. Cecil Hamilton Gabriel	Sept 1919 -Nov. 1919 (Deputy PR)
Lt.-Col. Arthur Prescott Trevor	Nov. 1919-Oct. 1920 (Deputy PR)
Lt.-Col. Sir Arnold Talbot Wilson	Oct. 1920-Nov. 1920 (offg)
Lt.-Col. Arthur Prescott Trevor	Nov. 1920-Apr. 1924
Lt.-Col. Stuart George Knox	Apr. 1923-Oct. 1923 (acting)
Lt.-Col. Francis Beville Prideaux	Apr. 1924-Jan. 1927
Lt.-Col. Charles Gilbert Crosthwaite	June 1925-Oct. 1925 (acting)
Lt.-Col. Sir Lionel Berkeley Haworth	Jan. 1927-Nov. 1928
Sir Frederick William Johnston	Nov. 1928-Apr. 1929
Lt.-Col. Cyril Charles Johnson Barrett	Apr. 1929-Nov. 1929
Lt.-Col. Hugh Vincent Biscoe	Nov. 1929-July 1932
Lt.-Col. Trenchard Craven Fowle	May 1931-Oct. 1931 (acting)
Lt.-Col. Trenchard Craven Fowle	July 1932-Aug. 1939 (acting to Sept 1932)
Lt.-Col. Percy Gordon Loch	Apr. 1933-May 1933 July 1933-Oct. 1933 July 1934-Oct. 1934 July 1935-Oct. 1935 July 1936-Oct. 1936 (acting)
Olaf Kirkpatrick Caroe	Aug. 1937-Nov. 1937 (acting)
Hugh Weightman	Aug. 1938-Sept 1938 (acting)
Lt.-Col. Charles Geoffrey Prior	Sept 1939-May 1946
Lt.-Col. William Rupert Hay	Oct. 1941-Sept 1942 (offg)
Lt.-Col. Arnold Crawshaw Galloway	May 1945-Nov. 1945
Lt.-Col. William Rupert Hay	May 1946-1953

⁵ Cox was titular PR until October 1920 although absent in Baghdad. His duties were performed in his absence by an "Officer on Special Duty" whose title was later changed to "Deputy PR". On Cox's appointment as Chargé d'Affaires at Tehran in March 1918, A.T. Wilson took over as absentee Resident in Baghdad until October 1920.

(ii) POLITICAL AGENTS, BAHRAIN, 1900-1960

John Calcott Gaskin	Feb. 1900-Oct. 1904 (Political Assistant i/c)
Cpt. Francis Beville Prideaux	Oct. 1904-May 1909
Cpt. Charles Fraser Mackenzie	May 1909-Nov. 1920
Maj. Stuart George Knox	Nov. 1910-Apr. 1911
Cpt. David Lockhart Robertson Lorimer	Apr. 1911-Nov. 1912
Maj. Arthur Prescott Trevor	Nov. 1912-May 1914
Cpt. Terence Humphrey Keyes	May 1914-Mar. 1916
Maj. Hugh Stewart	Mar. 1916-May 1916
J.M. Da Costa	May 1916-June 1916 (Head Clerk in charge)
Cpt. Trenchard Craven Fowle	July 1916-Nov. 1916 (acting)
Cpt. Percy Gordon Loch	Nov. 1916-Feb. 1918
George Alexander Mungavin	Mar. 1918-Dec. 1918
Cpt. Norman Napier Evelyn Bray	Dec. 1918-June 1919
Saiyid Siddiq Hasan	June 1919-Nov. 1919 (Indian Assistant i/c)
Maj. Harold Richard Patrick Dickson	Nov. 1919-Nov. 1920
Saiyid Siddiq Hasan	Nov. 1920-Jan. 1921 (i/c)
Major Clive Kirkpatrick Daly	Jan. 1921-Sept 1926
Cpt. George Leslie Mallam	May 1925-Nov. 1925 (acting)
Maj. Cyril Charles Johnson Barrett	Sept 1926-Apr. 1929
Cpt. Reginald George Evelin Alban	Apr. 1927-Nov. 1927
Cpt. Charles Geoffrey Prior	Apr. 1929-Nov. 1932
Lt.-Col. Percy Gordon Loch	Nov. 1932-Apr. 1937
Kahn Bahadur Abdul Haiy al-Hashimi	Apr. 1933-May 1933 (offg)
Cpt. Everard Huddleston Gastrell	July 1933-Nov. 1933 (offg)
Meredith Worth	July 1934-Oct. 1934 (offg)
Cpt. George Ashmead Cole	Mar. 1935-Oct. 1935 (offg)
Cpt. Tom Hickinbotham	Apr. 1937-Oct. 1937
Hugh Weightman	Oct. 1937-Oct. 1940
Cpt. John Baron Howes	Aug. 1938-Sept 1938 (acting)
Maj. Reginald George Evelin Alban	Oct. 1940-Jan. 1942
Edward Birkbeck Wakefield	Jan. 1942-Oct. 1943
Cpt. Michael Grey Dixon	Aug. 1943-Oct. 1943 (acting)
Maj. Tom Hickinbotham	Oct. 1943-Mar. 1945
Cornelius James Pelly	Mar. 1945-Oct. 1945
Lt.-Col. Arnold Crawshaw Galloway	Oct. 1945-Mar. 1947
Cpt. Hugh Dunstan Rance	July 1946-Nov. 1946 (acting)
Cornelius James Pelly	Mar. 1947-1951
Cpt. Hugh Dunstan Rance	July 1947-Aug. 1947
Gordon Noel Jackson	Aug. 1947-Nov. 1947
Lt.-Col. Arnold Crawshaw Galloway	June 1947-Oct. 1947 (offg)

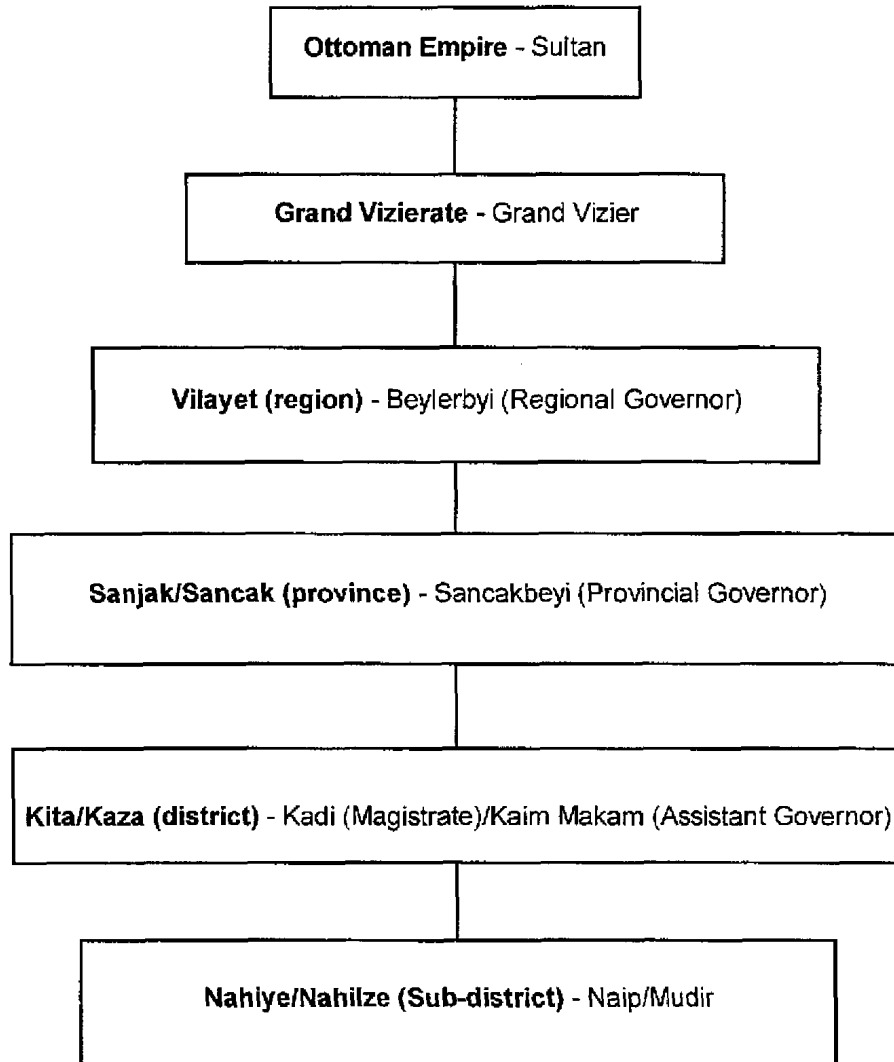
Bernard A.B. Burrows	July 1953-Nov. 1958
George H. Middleton	Nov. 1958-1961
Charles Alexander Gault	Dec. 1954
Edward Parr Wiltshire	May 1959

(III) POLITICAL AGENTS/OFFICERS QATAR, 1949-1960

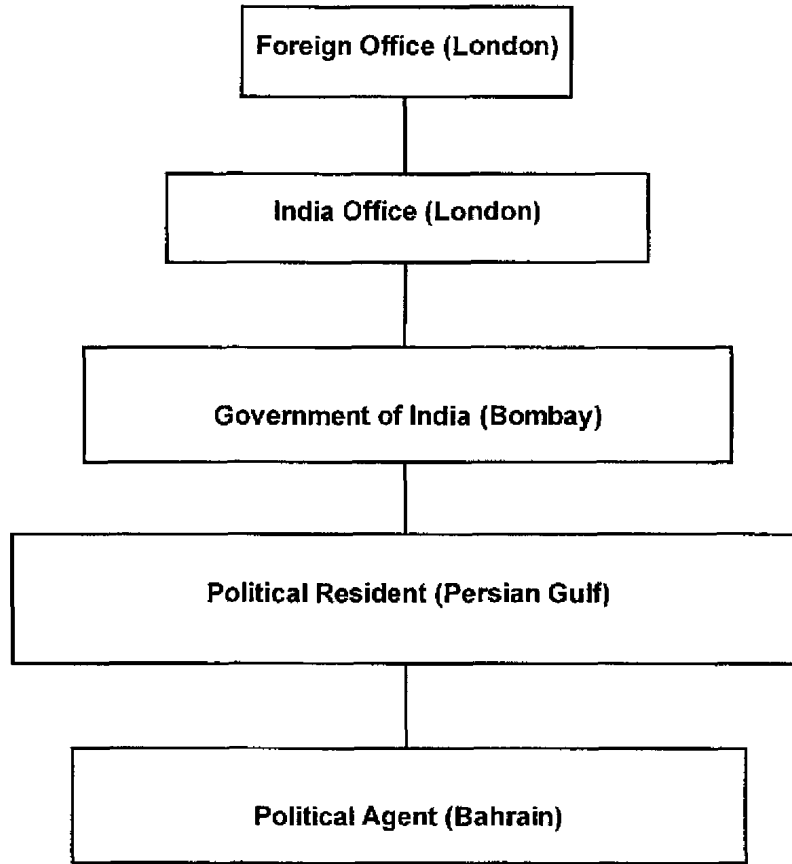
Arthur John Wilton	Aug. 1949
William Bannett Johnston	April 1953
Derek Charles Carden	Mar. 1955
John Spenser Duncan	Jan. 1958
John Campbell Moberly	July 1959

4. ADMINISTRATIVE STRUCTURES

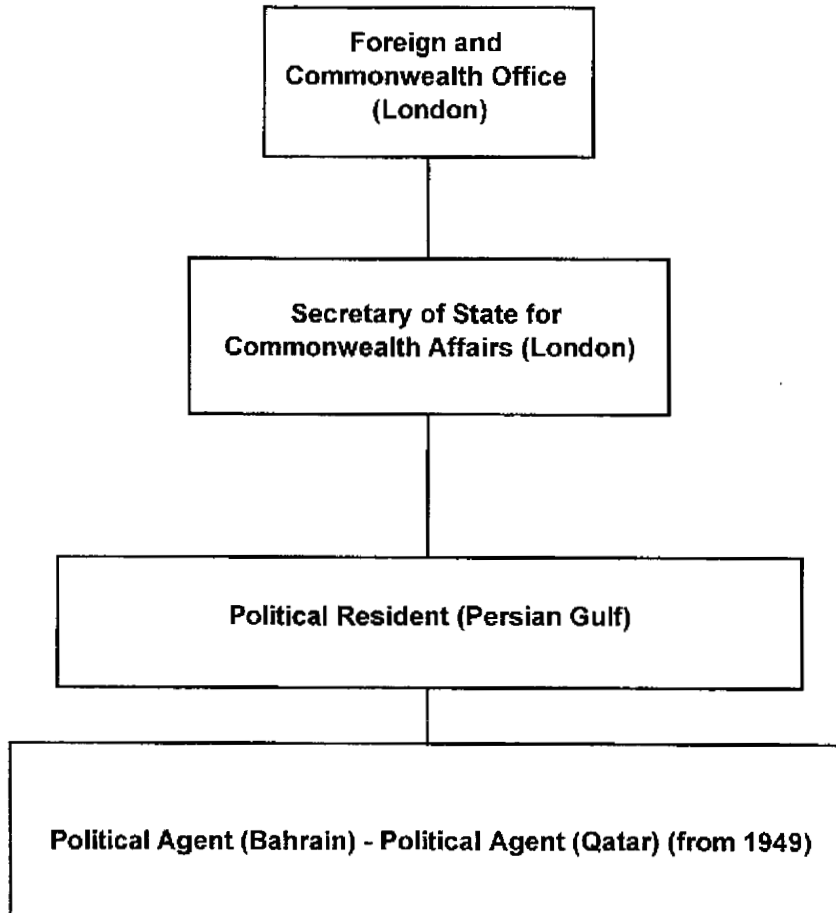
(I) OTTOMAN EMPIRE



(II) **BRITISH EMPIRE ADMINISTRATION IN BAHRAIN/QATAR
PENINSULA UNTIL INDEPENDENCE OF INDIA, 1947**



(iii) **BRITISH EMPIRE ADMINISTRATION IN BAHRAIN/QATAR
PENINSULA AFTER INDEPENDENCE OF INDIA, 1947**



5. CHRONOLOGY OF THE BRITISH 1938-1939 ADJUDICATION

The Political Agent, the official charged with conducting the on-site assessment for the British Government, invited Qatar and Bahrain to submit what he called "claim" and "counter-claim," respectively. Either Party could have chosen to produce as elaborate pleadings as they wished. The Parties chose to express their legal arguments in the form of letters to the Political Agent. The expressions used by the Political Agent to refer to these communications, adopted in this Memorial, including the word "rejoinder" to describe the reply to Bahrain's Counter-claim which the Ruler of Qatar successfully insisted on submitting, confirm the explicit adjudicative nature of the proceedings.

- 27 May 1938 Qatar's Claim⁶
- 30 May 1938 The British Political Agent meets the Ruler of Qatar to discuss his claim⁷
- 14 August 1938 Qatar's Claim is forwarded to Bahrain⁸
- 8 November 1938 The Political Agent reminds Bahrain to submit its Counter-claim⁹
- 22 December 1938 Bahrain's Counter-claim¹⁰

⁶ Qatar Claim (in the form of two letters from Ruler of Qatar to British Political Agent, 10 May and 27 May 1938), 10 May 1938, Ann. 256, Vol. 5, p. 1094 and 27 May 1938, Ann. 260, Vol. 5, p. 1102.

⁷ Letter from Hugh Weightman, British Political Agent, to Lt. Col. Fowle, British Political Resident, 3 June 1938, Ann. 262, Vol. 5, p. 1112.

⁸ Letter from Capt. Howes, Acting British Political Agent, to the Acting Adviser to Govt. of Bahrain, 14 August 1938, Ann. 270, Vol. 5, p. 1125.

⁹ Letter from Hugh Weightman, British Political Agent, to the Adviser to the Govt. of Bahrain, British Political Resident, 8 November 1938, Ann. 272, Vol. 5, p. 1127.

- 5 January 1939 Bahrain's Counter-claim is forwarded to Qatar¹¹
- 30 March 1939 Qatar's Rejoinder¹²
- 22 April 1939 The Political Agent communicates the record of the proceedings and his analysis to the Political Resident¹³
- 29 April 1939 The Political Resident forwards the Political Agent's record and analysis to the British Government in London¹⁴
- 13 June 1939 The British Government decides in favour of Bahrain's claim to sovereignty over the Hawar Islands, subject to the assent of the British Government of India¹⁵
- 1 July 1939 The British Government of India "concur" in the decision of His Majesty's Government¹⁶

¹⁰ Bahrain Counter-claim (in the form of a letter from Charles Belgrave, Adviser to the Govt. of Bahrain to Hugh Weightman, British Political Agent), 22 December 1938, Ann. 274, Vol. 5, p. 1129.

¹¹ Letter from Hugh Weightman, British Political Agent, to Ruler of Qatar, 5 January 1939, Ann. 276, Vol. 5, p. 1141.

¹² Qatar Rejoinder (in the form of a letter from Ruler of Qatar to Hugh Weightman, British Political Agent), 30 March 1939, Ann. 278, Vol. 5, p. 1144.

¹³ Weightman Report, Ann. 281, Vol. 5, p. 1165.

¹⁴ Letter from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 29 April 1939, Ann. 282, Vol. 5, p. 1173.

¹⁵ Letter from Foreign Office (London) to India Office (London), 13 June 1939, Ann. 284(a), Vol. 5, p. 1176

¹⁶ Letter from Deputy Secretary to the Govt. of India to Lt. Col. Fowle, British Political Agent, Lt. Col Fowle, 1 July 1939, Ann. 286, Vol. 5, p. 1181.

11 July 1939 Britain's decision is communicated to Bahrain and
Qatar¹⁷

¹⁷ Letters from Lt. Col. Fowle, British Political Resident, to Ruler of Bahrain and Ruler of Qatar, 11 July 1939 Ann. 287, Vol. 5, p. 182 and Ann. 288, Vol. 5, p. 1183.

6. LIST OF HISTORICAL MAPS IN THE MEMORIAL

1. 1838 Extract from French map entitled Carte de la Turquie d'asie, de la Perse, de l'Afghanistan et de L'Arabie by Colonel Lapie.
2. 1878 Extract from Ottoman map entitled The Velayat of Basra by Captain Izzet of the Imperial Army of the Ottoman Empire.
3. 1972 Extract from British map entitled H-6C, Bahrain, Iran, Qatar, Saudi Arabia, United Arab Emirates published by the Director of Military Survey, Ministry of Defence.
4. 1991 Extract from National Geographic map entitled Middle East.

**7. LIST OF DOCUMENTARY ANNEXES
(INCLUDING ILLUSTRATIVE MAPS)**

The Annexes to the State of Bahrain's Memorial are listed from 1 to 352 *seriatum*. The pages of the Annexes go from 1 to 1530 *seriatum*.

-VOLUME 2-

**ANNEXES 1 TO 70
(ZUBARAH AND HISTORICAL DOCUMENTS)**

Annex No.	Description	Page No.
1.	Preliminary Treaty between Britain and the Sheikhs of Bahrain, 5 February 1820 (Aitchison's Treaties, Vol. XI, p. 233).	1-2
2.	General Treaty with the Arab Tribes of the Persian Gulf, 23 February 1820 (Aitchison's Treaties, Vol. XI, pp. 245-249).	3-8
3.	Letter from Lt. Col. Hennell, British Political Resident, to I.P. Willoughby, Secretary of the Govt. of Bombay, 11 December 1838 (Records of Qatar* Vol. 1, pp. 270-273).	9-12
4.	Letter from Commodore Porter to Lt. Col. Hennell, British Political Resident, 31 July 1851 (Records of Qatar, Vol. 7, p. 633).	13
5.	Extracts from Francis Warden "Historical sketch of the Uttoabee Tribe of Arabs (1716-1853)" (Selections from Records of the Bombay Govt., No XXIV, New Series, 1856, reproduced in Records of Bahrain*, Vol 1, pp. 19-83).	14-77
6.	Extracts from Lt. Kemball "Memoranda on the Resources, Localities, and Relations of the Tribes Inhabiting the Arabian Shores of the Persian Gulf" (Selections from Records of the Bombay Govt., No XXIV, New Series, 1856, reproduced in Records of Qatar, Vol 1, pp. 87-100).	78-91

* The 'Records of Bahrain' and 'Records of Qatar' consist of archival and documentary material drawn from British archives within the India Office Records and the Public Records Office and published by Archive Editions in 1993 and 1991 respectively.

7. Captain G. Brucks "Memoir Descriptive of the Navigation of the Gulf of Persia, 1821-29" (Selection from Records of the Bombay Govt., No XXIV, New Series 1856, reproduced in Records of Bahrain, Vol 1, pp. 105-121). 92-109
8. Terms of Friendly Convention between Ruler of Bahrain and British Govt., 31 May 1861 (Aitchison's Treaties, Vol. XI, pp. 234-236). 110-113
9. Letter from Capt. Jones, British Political Resident, to Ruler of Wahabees, 8 February 1862. 114-115
10. Letter from Lt. Col. Pelly, British Political Resident, to H Anderson, Chief Secretary of Govt. of Bombay, 13 April 1863. 116
11. Capt. Constable and Lt. Stiffe "The Persian Gulf Pilot" (Admiralty Hydrographic Office, 1864, reproduced in Records of Qatar, Vol. 2 pp. 7-45). 117-155
12. Agreement of Chief of El-Kutr (Gutter) engaging not to commit any breach of the maritime peace, 12 September 1868, (Aitchison's Treaties, Vol. XI, pp. 183-184). 156-158
13. Agreement between Chiefs residing in the province of Qatar and Chief of Bahrain, 13 September 1868 (Aitchison's Treaties, Vol. 2, p. 193). 159-160
14. Agreement of the Aboo Dhebbie Chief engaging not to commit any breach of the Maritime Peace, 16 September 1868 (Aitchison's Treaties, Vol XI, pp. 254-255) 161-163
15. Letter from Mohammed Bin Thani, Chief of Doha to Ruler of Bahrain, 10 March 1870 (IOR R/15/2/29). 164
16. (a) Translation of extract from Official Ottoman Gazette "Takvimi Vekayi", 8 June 1871. 165-167
- (b) Extract from Official Ottoman Gazette "Takvimi Vekayi" 8 June 1871 (Ottoman Archives) 168-170
17. Precis of conversation between Maj. Grant, British Political Resident, and Ruler of Bahrain, 16 August 1873 (Records of Qatar, Vol 2, p. 519). 171
18. Precis of news received from Bahrain Agent in August 1873 (IOR P/770). 172
19. Translated purport of Ruler of Bahrain's Statement, 2 September 1873 (Records of Qatar, Vol 2, p523). 173

20. Letter from Lt. Col. Ross, British Political Resident, to Secretary to Govt. of India, 4 September 1873 (Records of Qatar, Vol. 2, p.517). 174-176
21. Letter from Lt. Col. Ross, British Political Resident, to Secretary to Govt. of India, 12 September 1874 (L/P&S/9/25). 177-181
22. Letter from Col. Pelly to Secretary to Govt. of India, 27 October 1873 (Records of Qatar, Vol 2, p. 522). 182
23. Letter from News Agent to Lt. Col. Ross, British Political Resident, 28 October 1874. 183
24. Letter from Lt. Col. Ross, British Political Resident, to Secretary to Govt. of India, 10 November 1874 (Records of Qatar, Vol 2, pp. 556-557). 184-185
25. (a) Letter from Officiating Under Secretary to Govt. of India, to Lt. Col Ross, British Political Resident, 10 December 1874. 186-187
- (b) Transcript of letter from Officiating Under Secretary to Govt. of India, to British Political Resident, 10 December 1874. 188-189
26. Letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 17 December 1874. 190
27. Letter from Lt. Fraser, Officiating 2nd Assistant Resident, to Lt. Col. Ross, British Political Resident, 18 December 1874. 191-193f
28. Translated purport of a letter from News Agent to Lt. Col. Ross, British Political Resident, 9 February 1875 (IOR P/775). 194-195
29. Letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 4 March 1875. 196
30. Letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 7 March 1875. 197
31. Letter from Secretary to the Govt. of India to Lt. Col. Ross, British Political Resident, 10 May 1875. 198
32. Letter from Col. Ross, British Political Resident, to Ruler of Bahrain, 31 May 1875. 199-200
33. Letter from Ruler of Bahrain to Lt. Col. Ross, British Political Resident, 14 June 1875. 201-202
- 33A. Letter from Sheikh Ahmed bin Ali Al Khalifah to Lt. Col. Ross, British Political Resident, 22 June 1875 (IOR P/776). 202a-202b

34. Letter from Capt. Prideaux, British Political Resident, to Secretary to Govt. of India, 7 October 1876. 203
35. Letter from Maj. Grant, British Political Resident, to Ruler of Bahrain, 17 September 1877 (IOR P/1036). 204-205
36. Govt. of India Foreign Dept. Memorandum No. 127, 22 May 1879 (Records of Qatar, Vol. 3, pp. 31-38). 206-213
37. Agreement signed by the Chief of Bahrain, 22 December 1880 (Aitchison's Treaties, Vol. XI, p. 237). 214-215
38. Letter from Sheikh Jasim bin Thani, Chief of Doha Town, to Lt. Col. Ross, British Political Resident, 9 March 1881. 216-216b
39. (a) Modern translation of a report from Council of State Department of Internal Affairs, 18 January 1887. 217-218
- (b) Report from Ottoman Council of State Department of Internal Affairs, 18 January 1887 (Ottoman Archives). 219-226
40. Telegram from Lt. Col. Ross, British Political Resident, to Foreign Dept., Govt. of India, 12 March 1888 (IOR P/3276). 227
41. Correspondence between Col. Ross, British Political Resident, and Secretary to Govt. of India, 17 March 1888 (IOR P/3276). 228-229
42. (a) Modern translation of Ottoman Arabic letter from the Vali of Basra to Head Clerk of the Padishah, 12 April 1888. 230-231
- (b) Ottoman Arabic letter from the Vali of Basra to Head Clerk of the Padishah, 12 April 1888 (Ottoman Archives). 232-233
43. Letter from British Political Agent, to Lt. Col. Ross, British Political Resident, 27 June 1888 (IOR P/3276). 234
44. (a) Modern translation of Ottoman Arabic report from Governor of of Nejd to Minister of Interior, including recommendations for reforms in Nejd, 9 October 1889. 235-236
- (b) Ottoman Arabic report from Governor of of Nejd to Minister of Interior, including recommendations for reforms in Nejd, 9 October 1889 (Ottoman Archives). 237
45. (a) Modern translation of Ottoman Arabic Cabinet Minutes, 27 November 1889. 238-239
- (b) Ottoman Arabic Cabinet Minutes, 27 November 1889 (Ottoman Archives). 240-241

- 46/47 Letter from Ruler of Bahrain to Col. Ross, British Political Resident, 11 February 1891. 242
48. (a) Modern translation of Report from the Office of Assistant to the Governor of Katar, 7 November 1891. 243
- (b) Report from the Office Assistant to the Governor of Katar, 7 November 1891 (Ottoman Archives). 244
49. (a) Modern translation of Ottoman Report from the office of the Chief Secretary, Yildiz Palace 1891-2. 245
- (b) Ottoman Report from the office of the Chief Secretary, Yildiz Palace 1891-2 (Ottoman Archives). 245a-245i
50. Exclusive Agreement of the Chief of Abu Dhabi with the British Government, 6 March 1892 (Aitchison's Treaties, Vol XI, pp. 256-7). 246-248
51. Letter from Lt. Col. Talbot, British Political Resident, to Secretary to Govt. of India, 7 May 1893 (IOR/P&S/7/70). 249-254
52. (a) Modern translation of Ottoman Report on Katar, September 1893. 255
- (b) Ottoman Report on Katar, September 1893 (Ottoman Archives). 255a-255e
53. Letter from Lt. Fraser, Acting 2nd Assistant Resident to Lt. Col. Ross, British Political Resident, 8 March 1895. 256-259
54. Letter from Col. Wilson to Chief of Doha, 22 April 1895 (Records of Qatar, Vol 3, p. 583). 260
55. Letter from Col. Wilson to Chief of Ali bin Ali, 22 April 1895, (Records of Qatar, Vol 3, p. 584). 261
56. Letter from Col. Wilson, British Political Resident, to Secretary to Govt of India, 24 May 1895 (IOR R/15/1/314). 262
57. Memo from Col. Wilson, British Political Resident, 5 July 1895 (IOR R/15/1/314). 263
58. Copy of the letter from Capt. Pelly, Commander and Senior Naval Officer, to Col. Wilson, British Political Resident, 9 July 1895 (IOR R/15/1/314). 264
59. Letter from Capt. Pelly, Commander and Senior Naval Officer, to Mahomed Effendi at Zubarah, 23 July 1895 (IOR R/15/1/314). 265

60. Letter from Capt. Pelly, Commander and Senior Naval Officer, to Col. Wilson, British Political Resident, 7 September 1895 (IOR R/15/1/314). 266
61. Letter from Capt. Pelly, Commander and Senior Naval Officer, to Chief of Doha, 7 September 1895 (Records of Qatar, Vol. 3, p. 619). 267
62. Letter from Col. Wilson, British Political Resident, to Secretary to Govt. of India, 13 September 1895 (IOR R/15/1/314). 268
63. (a) Modern translation of Ottoman Arabic Report on Zubarah Affair, 3 May 1897. 269
- (b) Ottoman Arabic Report on Zubarah Affair, 3 May 1897 (Ottoman Archives). 270-272
64. (a) Translation of Ottoman "Report on Bahrein" from Council Chamber, 22 April 1900. 273-274
- (b) Ottoman "Report on Bahrein" from Council Chamber, 22 April 1900 (Ottoman Archives) 275-276
65. (a) Modern translation of memorandum from Ottoman Chief Clerk's Office, 30 March 1902. 277
- (b) Memorandum from Ottoman Chief Clerk's Office, 30 March 1902 (Ottoman Archives) 278
66. (a) Modern translation of letter from Ottoman Minister of Interior to Grand Vezir, 6 April 1902. 279
- (b) Letter from Ottoman Minister of Interior to Grand Vezir, 6 April 1902 (Ottoman Archives). 280
67. Letter from Lt. Col. Kemball, British Political Resident, to Govt. of India, 23 March 1903 (FO L/P&S/19). 281
68. (a) Modern translation of Ottoman Arabic letter from Mudur of Udaid to Grand Vezir, 1 April 1903. 282
- (b) Ottoman Arabic letter from Mudur of Udaid to Grand Vezir, 1 April 1903 (Ottoman Archives). 283
69. Letter from Sir N O'Connor to the Marquess of Landsdowne, British Foreign Secretary, 13 June 1903 (IOR L/P + S/19). 284
70. Extracts from JA Saldana's "Precis of Katar Affairs" (Simla 1904, pp. 1-66). 285-354

-VOLUME 3-**ANNEXES 71 TO 134
(ZUBARAH AND HISTORICAL DOCUMENTS)**

Annex No.	Description	Page No.
71.	Letter from Capt. Prideaux to Maj. Cox, Officiating British Political Resident, 16 July 1905, attached to a despatch from Maj. Cox to Sec. to Govt. of India (IOR R/15/2/26).	355-363
72.	(a) Modern translation of Ottoman Arabic report by Governor of Akka, 24 December 1907.	364
	(b) Ottoman Arabic report by Governor of Akka, 4 December 1907 (Ottoman Archives).	365-367
73.	(a) Modern translation of Ottoman Arabic telegram sent by Muharram Pasha, Vali of Basra, 5 December 1908.	368-369
	(b) Ottoman Arabic telegram sent by Muharram Pasha, Vali of Basra, 5 December 1908 (Ottoman Archives).	370
74.	Extracts from Lorimer "Gazetteer of the Persian Gulf, Oman, and Central Arabia", Vol II (1908), (pp. 233-236, 249-251, 389-404, 1301-1306, 1952, 1512-1513, 1516).	371-400
75.	(a) Modern translation of original Ottoman Arabic report expressing the opinion of the Foreign Minister that the places situated on the Nejd Coast belong to Ottoman Lands, 27 January 1909.	401-403
	(b) Ottoman Arabic - report expressing the opinion of the Foreign Minister that the places situated on the Nejd Coast belong to Ottoman Lands, 27 January 1909 (Ottoman Archives).	404-408
76.	(a) Modern translation of Ottoman Arabic report from Province of Basra to Ministry of Interior, 25 September 1909.	409
	(b) Ottoman Arabic - report from Province of Basra to the Ministry of Interior, 25 September 1909 (Ottoman Archives).	410
77.	Report of the Standing Sub-Committee of the Committee of Imperial Defence, 14 July 1911.	411-412

78. Draft memorandum to Turkish Ambassador, July 1911 (FO 371/1234). 413-415
79. (a) Translation of letter from Ottoman Ministry of the Interior to Basra Province concerning Zubarah, 30 November 1911. 416
- (b) Ottoman Arabic letter from Ottoman Ministry of the Interior to Basra Province concerning Zubarah, 30 November 1911 (Ottoman Archives). 417-423
80. Note by Sir Percy Cox, British Political Resident, entitled "Shaikh of Bahrain's claim to tribute from Qatar" (IOR R/15/2/30). 424
81. Convention between United Kingdom and Turkey regarding the Persian Gulf and adjacent territories, 29 July 1913. 425-435
82. Letter from Maj. Keyes, British Political Agent, to Lt. Col. Percy Cox, British Political Resident, 23 August 1915 (IOR R/15/2/30). 436-438
83. Extracts from Lorimer "Gazetteer of the Persian Gulf, Oman, and Central Arabia" Vol I (1915), (pp. 787-840, 906-913, 2220-2221, 2233-2234, 2241-2242, 2253, 2258, 2288-2289). 439-511
84. Treaty between the British Govt. and Ruler of Qatar, 3 November 1916 (Aitchison's Treaties, Vol. XI, pp. 258-261). 512-516
85. Memorandum from India Office to Govt. of India, 16 September 1919 (L/P&S/10/850). 517
86. Memo from Maj. Dickson, British Political Agent, to British Deputy Political Resident, 6 December 1919 (IOR L/P&S/10/850). 518-521
87. Memo from Maj. Dickson, British Political Agent, to British Deputy Political Resident, 17 January 1920 (IOR L/P+S/10/850). 522-524
88. Letter Maj. Daly, British Political Agent, to Lt Col Knox, British Political Resident, 17 October 1923 (R/15/1/338). 525-526
89. C.K. Daly's Administration Report of the Bahrain Political Agency for the year 1923 (IOR R/15/1/713/4). 527-528
90. Bahrain Oil Concession 1925 (R/15/1/649). 529-547
91. Letter from Ruler of Qatar to Mr Lees and Haji Williamson, 10 March 1926. 548
92. Letter from Lt. Col. Prideaux, British Political Resident, to Foreign Secretary of the Govt. of India, 10 July 1926 (IOR R/15/1/626). 549

93. Note by Maj. Barrett, British Political Agent, 17 January 1927 (R/15/2/119). 550-551
94. Letter from British Political Resident in the Persian Gulf, to the Secretary of State for the Colonies, London, 2 April 1928. 552
95. Telegram from Secretary of State for India to Viceroy, 15 August 1929. 553-555
96. Indenture between Ruler of Bahrain and E&G, by which the Bahrain Concession was assigned to BAPCO, 12 June 1930 (IOR R/15/1/650). 556-560
97. Letter from Capt. Prior, British Political Agent, to Lt. Col. Biscoe, British Political Resident, 2 August 1930 (FO 371/14483). 561-565
98. Letter from Lt. Col. Biscoe, British Political Resident, to Foreign Secretary to Govt. of India, 18 August 1930 (FO 371/14483). 566-569
99. Memorandum by Lt. Col. Loch, British Political Agent, 13 June 1933 (IOR R/15/2/10/23). 570-571
100. Memorandum from Lt. Col. Loch, British Political Agent, to Lt. Col. Fowle, British Political Resident, 25 June 1933 (R/15/1/626). 572-573
101. A.F. Williamson's report entitled "Notes on Qatar", 14 January 1934 (pp. 131-135). 574-579
102. Lease between Ruler of Bahrain and BAPCO, 29 December 1934 (IOR R/15/1/661). 580-611
103. Letter from Lt. Col. Fowle, British Political Resident, to Ruler of Qatar, 11 May 1935. 612-614
104. Qatar oil concession, 17 May 1935 (IOR R/15/1/633). 615-620
105. Map accompanying Qatar Oil Agreement 1935 (IOR R/15/1/631). 621
106. Political Agreement between His Majesty's Govt. and the Anglo Persian Oil Company, 5 June 1935 (IOR R/15/1/633). 622-624
107. Letter from Lt. Col. Fowle, British Political Resident, to Ruler of Qatar, 21 September 1936. 625-626
108. Letter from K Skinner, BAPCO, to H Ballantyne, BAPCO 5 December 1936. 627-628
109. Note of Lt. Col. Loch, British Political Agent, 13 March 1937 (IOR R15/2/202). 629

110. Translation of letter from Ruler of Bahrain to Lt. Col. Loch, British Political Agent, 14 March 1937 (IOR R/15/2/202). 630
111. Memorandum of Lt. Col. Loch, British Political Agent, 16 March 1937 (IOR R/15/2/202). 631
112. Telegram from Lt. Col. Fowle, British Political Resident to Lt. Col. Loch, British Political Agent, 25 March 1937 (IOR R/15/2/202). 632
113. Telegram from Lt. Col. Loch, British Political Agent, to Lt. Col. Fowle, British Political Resident, 30 March 1937 (IOR R/15/2/202). 633
114. Note of British Political Agent, 12 April 1937 (IOR R/15/2/202). 634
115. Letter from Ruler of Bahrain to British Political Agent, 14 April 1937 (IOR R/15/2/202). 635
116. Letter from Rashid bin Mohomed Al Jabor, headman of the Naim, to Ruler of Bahrain, 3 Safar 1356, (15 April 1937) (IOR R/15/2/202). 636
117. Translation of letter from Acting Superintendent of Land Department, Bahrain, 22 April 1937. 637
118. Request for registration of property in Zubarah region in Bahraini Land Registration Directorate, 23 April 1937. 638-641
119. Telegram from British Political Agent to Lt. Col. Fowle, British Political Resident, 23 April 1937 (R/15/2/202). 642-643
120. Letter from Chief of Naim tribe to Ruler of Bahrain, 12 Safar 1356 (24 April 1937). 644
121. Letter from Chief of Naim tribe to Ruler of Bahrain, 13 Safar 1356 (25 April 1937). 645
122. Telegram from British Political Agent, to British Political Resident, 26 April 1937 (IOR R/15/2/202). 646
123. Memorandum by Weightman, British Political Agent, 28 April 1937 (IOR R/15/2/202). 647-648
124. Telegram from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 30 April 1937 (IOR R/15/1/309). 649
125. Letter from Ruler of Qatar to Rashid bin Mohomed Al Jabor, April 1937 (IOR R/15/2/202). 650-651

126. Letter from Capt. Hickinbotham, British Political Agent (IOR R/15/1/309), to Lt. Col. Fowle, British Political Resident, enclosing report entitled "Zubarah Incident" (IOR R/15/1/309) and memorandum entitled "Possible Basis for Compromise" (IOR R/15/2/202), 3 May 1937. 652-665
127. Memorandum from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 5 May 1937 (IOR R/15/2/202). 666-673
128. Note by Capt. Hickinbotham, 29 May 1937 (IOR R/15/1/369). 674-675
129. Letter from Ruler of Qatar to Lt. Col. Trenchard Fowle, British Political Resident, 9 June 1937 (IOR R/15/1/369). 676-678
130. (a) Letter from C. Belgrave, Adviser to Govt. of Bahrain, to Capt. Hickinbotham, British Political Agent, 20 June 1937. 679-680
- (b) Transcript of letter from C. Belgrave, Adviser to Govt. of Bahrain, to Capt. Hickinbotham, British Political Agent, 20 June 1937. 681-682
131. Report by Abdullah bin Hasan, Messenger of Ruler of Bahrain, 22 June 1937 (IOR R/15/2/203). 683-684
132. Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 23 June 1937 (IOR R/15/1/370). 685
- 132A. Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 23 June 1937 (IOR R/15/2/203). 686
133. Foreign Office Minutes entitled "Eastern and Southern Frontiers of Arabia", 25 June 1937 (FO 371/30777 XC/132657). 687-689
134. Letter from Representatives of Ruler of Bahrain to Representatives of Ruler of Qatar, June 1937 (R/15/1/370). 690

-VOLUME 4-**ANNEXES 135 TO 234
(ZUBARAH AND HISTORICAL DOCUMENTS)**

Annex No.	Description	Page No.
135.	Letter from Ruler of Bahrain to Capt. Hickinbotham, British Political Agent, 1 July 1937 (IOR R/15/2/203).	691-692
136.	Note by Capt. Hickinbotham, British Political Agent, of interview with C. Belgrave, Adviser to Govt. of Bahrain, 1 July 1937 (IOR R/15/2/203).	693-694
137.	Telegram from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 2 July 1937 (IOR R/15/1/370).	695
138.	Telegram from Lt. Col. Fowle, British Political Resident, to India Office, London, 2 July 1937 (IOR R/15/2/203).	696-697
139.	Letter from C. Belgrave, to Capt. Hickinbotham, British Political Agent, 2 July 1937 (IOR R/15/1/370).	698
140.	Telegram from Lt. Col. Fowle, British Political Resident to Secretary of State for India, 4 July 1937 (IOR/R/15/1/370).	699-700
141.	Letter from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 4 July 1937 (IOR R/15/1/370).	701-702
142.	Telegram from Capt. Hickinbotham, British Political Agent, to Senior Naval Officer, Persian Gulf Division, 5 July 1937 (IOR R/15/2/203).	703
143.	(a) Letter from Ruler of Bahrain to Capt. Hickinbotham, British Political Agent, 6 July 1937.	704-705
	(b) Transcript of letter from Ruler of Bahrain to Capt. T. Hickinbotham, British Political Agent, 6 July 1937.	706
144.	Letter from Ruler of Bahrain to Capt. Hickinbotham, British Political Agent, 6 July 1937 (R/15/2/203).	707
145.	Letter from C. Belgrave, Adviser to Govt. of Bahrain, to British Political Agent, 6 July 1937 (IOR R/15/2/203).	708

146. Telegram from Govt. of India to Secretary of State for India and Lt. Col. Fowle, British Political Resident, 6 July 1937 (IOR R/15/1/370). 709
147. Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India and Govt. of India External Affairs Department, 9 July 1937 (IOR R/15/2/203). 710
148. Draft Telegram under cover of letter from India Office to T.V.Brenan, 10 July 1937 (FO 371/20783 XC/132657). 711-713
149. Letter from Ruler of Qatar to Capt. Hickinbotham, British Political Agent, 11 July 1937 (IOR R/15/2/203). 714-715
150. Statement by Shaikh Rashid bin Muhammed, 13 July 1937 (IOR R/15/1/370) 716-717
151. Letter from Capt. Hickinbotham, British Political Agent, to Ruler of Qatar, 14 July 1937 (IOR R/15/2/203). 718
152. India Office Memorandum, 14 July 1937 (FO 371/20783). 719-721
153. Letter from Ruler of Qatar, to O. Kirkpatrick Caroe, British Political Resident, 17 July 1937 (IOR R/15/2/203). 722-723
154. Telegram from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 24 July 1937 (IOR R/15/2/204). 724
155. Letter from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 30 July 1937 (IOR R/15/2/204). 725
156. Letter from Lt. Col. Fowle, British Political Resident, to Capt. Hickinbotham, British Political Agent, 12 August 1937 (IOR R/15/2/204). 726
157. Letter from S.H. Longrigg, PCL, to Walton, India Office, 16 August 1937. 727-728
158. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to Capt. Hickinbotham, British Political Agent, 19 August 1937 (IOR R/15/2/204). 729-730
159. Letter from Capt. Hickinbotham, British Political Agent, to Capt. Galloway, Secretary to British Political Resident, 16 September 1937 (IOR R/15/2/204). 731-732
160. Letter from Capt. Hickinbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 22 September 1937 (IOR R/15/2/437). 733-738

161. Letter from J.S. Black, BAPCO, to H. Weightman, British Political Agent, 8 June 1938. 739-742
162. Letter from Ruler of Bahrain to Hugh Weightman, British Political Agent, 26 April 1939. 743
163. India Office (Political Department) minute by C.E.M. Hemingway 12 May 1939 (IOR L/P&S/12/3895). 744-747
164. Memorandum from Belgrave, Adviser to Govt. of Bahrain, to Edward Wakefield, British Political Agent, 11 June 1942 (IOR R/15/2/204). 748
165. Letter from Capt. Hickinbotham, British Political Agent, to Ruler of Qatar, 8 February 1944 (IOR R/15/2/205). 749-750
166. Capt. Hickinbotham's proposal for the settlement of the Zubarah dispute, February 1944 (IOR R/15/2/205). 751
167. (a) Agreement signed by Ruler of Qatar and Ruler of Bahrain on 17 June and 23 June 1944 respectively (IOR R/15/2/205). 752/753
- (b) Transcript of Agreement signed by Ruler of Qatar and Ruler of Bahrain, 17 June and 23 June 1944. 754
168. Note of British Political Agent's meeting with Ruler of Qatar, 18 June 1944 (IOR/R/15/2/205). 755-759
169. Letter from Maj. Hickinbotham, British Political Agent, to Lt. Col. Prior, British Political Resident, 24 June 1944 (IOR R/15/2/205). 760
170. Letter from Ruler of Bahrain to Major Hickinbotham, British Political Agent, 14 September 1944. 761-762
171. (a) Translation of letter from Ruler of Bahrain to Major Hickinbotham, British Political Agent, 3 October 1944. 763
- (b) Transcript of a translation of letter from Ruler of Bahrain to Major Hickinbotham, British Political Agent, 3 October 1944. 764-765
172. (a) Letter from Maj. Hickinbotham, British Political Agent to Lt. Col. Prior, British Political Resident, 4 October 1944. 766-769
- (b) Transcript letter from Maj. Hickinbotham, British Political Agent to Lt. Col. Prior, British Political Resident, 4 October 1944. 770-774

173. (a) Letter from Maj. Hickinbotham, British Political Agent, to Ruler of Bahrain, 1 November 1944. 775
- (b) Transcript of letter from Maj. Hickinbotham, British Political Agent, to Ruler of Bahrain, 1 November 1944. 776
174. Letter from Ruler of Bahrain to Ruler of Qatar, 24 January 1945 (IOR R/15/2/205). 777
175. Letter from Ruler of Qatar to Ruler of Bahrain, 30 January 1945 (IOR R/15/2/205). 778
176. Letter from Ruler of Qatar to Maj. Hickinbotham, British Political Agent, 1 February 1945 (IOR R/15/2/205). 779
177. Letter from Ruler of Bahrain to Maj. Hickinbotham, British Political Agent, 3 February 1945 (IOR R/15/2/205). 780
178. (a) Letter from Maj. Hickinbotham, British Political Agent, to Ruler of Bahrain, 6 March 1945. 781
- (b) Transcript of letter from Maj. Hickinbotham, British Political Agent, to Ruler of Bahrain, 6 March 1945. 782
179. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to Lt. Col. Prior, British Political Resident, 11 April 1945 (IOR R/15/2/205). 783-784
180. Letter from Lt. Col. Galloway, British Political Agent, to Lt. Col. Hay, British Political Resident, 11 June 1946 (IOR R/15/2/605). 785-787
181. Letter from Lt. Col. Hay, British Political Resident, to Lt. Col. Galloway, British Political Agent, 15 June 1946 (IOR R/15/1/371). 788-789
182. (a) Note by Lt. Col. Galloway on his meeting with Ruler of Bahrain on 2 November 1946 (IOR R/15/2/605). 790
- (b) Transcript of note by Lt. Col. Galloway on his meeting with Ruler of Bahrain on 2 November 1946. 791-792
183. Letter from Ruler of Bahrain to British Political Agent, 5 March 1947 (IOR R/15/2/605). 793
184. Letter from Edward Wakefield, British Political Agent, to Lt. Col. Prior, British Political Resident, 11 January 1948. 794
185. Report entitled "Note on Developments in the Zubarah Case", 1948 (FO 371/68324). 795-797

186. Letter from Ruler of Bahrain to C.J. Pelly, British Political Agent, 798-799
2 March 1948 (FO 371/68324).
187. (a) Letter from H. Ballantyne, BAPCO, to L. Pyman of Foreign 800
Office, 2 June 1948.
- (b) Transcript of letter from H. Ballantyne, BAPCO, to 801
L. Pyman of Foreign Office, 2 June 1948.
188. Letter from H. Ballantyne, BAPCO, to C. Belgrave, Adviser to 802-808
Govt. of Bahrain, 2 June 1948.
189. Letter from Ruler of Bahrain to, Ernest Bevin, British Foreign 809-814
Secretary, 24 June 1948 (FO 371/68324 96694).
190. Letter from Lt. Col. Hay, British Political Resident, to 815-824
Ernest Bevin, MP, 14 July 1948 (FO 371/68324)
191. Foreign Office discussion paper and draft letter attached thereto, 825-832
21 July 1948 (FO 371/68324).
192. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to 833-835
H. Ballantyne, BAPCO, 9 October 1948.
193. Representations on Zubarah to Foreign Office, 4 August 1949. 836-837
194. Letter from Foreign Office to Lt. Col. Hay, British Political 838-839
Resident, 3 September 1949 (FO 371/74971 96754).
195. Letter from Foreign Office to Lt. Col. Hay, British Political 840
Resident, 12 October 1949 (FO 371/74971 96754).
196. Letter from Lt. Col. Hay, British Political Resident to Foreign 841
Office, 7 February 1950 (FO 371/82091 96754).
197. Letter from C.J. Pelly, British Political Agent to Sir Rupert Hay, 842-843
British Political Resident, 20 March 1950 (FO 371/56091).
198. Letter from C.J. Pelly, British Political Agent to Sir Rupert Hay, 844-851
British Political Resident, 23 April 1950 (FO 371/82691).
199. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to 852
R. Andrew, British Political Agent, 26 June 1950.
200. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to W. Laver, 853
British Political Agent, 15 April 1952.
201. Letter from W.S. Laver, British Political Agent, to C. Belgrave, 854
Adviser to Govt. of Bahrain, 19 May 1952 (FO 1016 547).

202. Letter from Ruler of Bahrain to Lt. Col. Hay, British Political Resident, 18 March 1953 (FO 1016/266 XC 148 248). 855
203. Telegram from Lt. Col. Hay, British Political Resident, to Ewart Biggs, British Political Agent, Doha, 17 April 1953, (FO 1016/266 XC 13549). 856
204. (a) Minutes of meeting between Ruler of Bahrain and British Minister of State, 16 June 1953 (FO 371/IC XL 273 96333). 857-859
- (b) Transcript of minutes of meeting between Ruler of Bahrain and British Minister of State 16 June 1953. 860-862
205. Copy minutes by J. Wall, British Officiating Political Agent, 5 November 1953 (FO 1016/266 XL 148248). 863-864
206. Letter from J. Little, British Political Agent, to Ruler of Bahrain, 17 January 1954. 865-873
207. Letter from Foreign Office to B. Burrows, British Political Resident, 29 April 1954 (FO 371/107812 96853). 874
208. (a) Telegram from B. Burrows, British Political Resident, to Foreign Office, 2 May 1954 (FO 371/107812 96853). 875-878
- (b) Transcript of letter from B. Burrows, British Political Resident, to Foreign Office, 2 May 1954. 879-883
209. Letter from B. Burrows, British Political Resident, to Ruler of Bahrain, 5 May 1954. 884-886
210. Note by C. Gault, British Political Agent, to B. Burrows, British Political Resident, 18 March 1957 (FO 1016/586 XC 14078). 887
211. Note by C. Gault, British Political Agent, 7 May 1957 (FO 1016/586 XC 14078). 888-890
212. Foreign Office minutes by C. Gault, British Political Agent, entitled "Zubarah Dispute", 13 June 1957 (FO 371/126935 XC 156317). 891-895
213. Letter from B. Burrows, British Political Resident, to Ruler of Bahrain, 10 August 1957. 896-899
214. Foreign Office minutes by M. Man, British Political Resident, entitled "Zubarah", 1 June 1960. 900-904
215. Letter from British Political Agent to Foreign Office, 31 October 1960. 905-907

216. Letter from M.C.G. Man, British Political Resident, to J.C. Moberly, British Political Agent, 15 November 1960. 908-909
217. Extracts from C. Belgrave "Personal Column" London, 1960, p. 156). 910-911
218. Letter from Ruler of Bahrain to Sir George Middleton, British Political Resident, 8 February 1961. 912-921
219. Foreign Office Arabian Department Minutes by M. Man, British Political Resident, entitled "Zubara", to R. Beaumont, Foreign Office, 21 February 1961 (FO 371/156721 26335). 922-924
220. Minute by F Burrows, Foreign Office Arabian Department, 2 May 1961 (FO 371/156721 26335). 925-926
221. Letter from Ruler of Bahrain to British Political Agent, 9 May 1961 (FO 371/156721 26335). 927
222. Letter from British Political Resident to R. Beaumont of Foreign Office, 18 May 1961 (FO 371/156721 26335). 928-930
223. Letter from E. Wiltshire, British Political Agent to Ruler of Bahrain, 29 July 1961. 931-934
224. Memorandum from Qatar delegation to XIV session of the UNESCO General Conference, 31 October 1966. 935-936
225. Peter Lienhardt, "The Authority of Shaykhs in the Gulf: An Essay in Nineteenth-Century History" in *Arabian Studies*, Vol II (1975) edited by Serjeant and Bidwell, pp. 61-75. 937-945
226. R.S. Zahlan "The Creation of Qatar" (London, 1979, pp. 13-15 80-85). 946-951d
227. Extract from Fuad I. Khuri "Tribe and State in Bahrain" (Chicago, 1980, pp. 13-34, 44). 952-975
228. Interview of Shaikh Jasim Bin Abdullah Bin Khalifa Bin Muhammad Bin Ibrahim Aal Khalifa conducted by Dr Ali Aba Hussein, 14 December 1980. 976-980
229. Anie Montigny-Kozłowska "Evolution d'un groupe bedouin dans un pays producteur de petrole: les Al-Na'im de Qatar" (Paris, 1985, pp. 52-53). 981-983a
230. Extracts from the thesis presented by Ibrahim Ali Abdel entitled "British Policy towards Bahrein and Qatar 1871-1914" (Lancaster, 1988, p. 111). 984-985

231. Angela Clarke "Bahrain Oil and Development 1929-1989" 986-1011
(1991, pp. 62-87).
232. Extract from Klaus Ferdinand "Bedouins of Qatar" 1012-1013d
(London, 1993, pp. 41, 44-47).
233. (a) Translation of statement of Mohammed bin Mohammed bin Theyab Al Naimi, 6 September 1996. 1014-1018
- (b) Statement of Mohammed bin Mohammed bin Theyab Al Naimi, 6 September 1996. 1019-1024
234. (a) Translation of statement of Saleh bin Muhammed Ali bin Ali al Naimi, 14 September 1996. 1025-1028
- (b) Statement of Saleh bin Muhammed Ali bin Ali al Naimi, 14 September 1996. 1029-1033

-VOLUME 5-

**ANNEXES 235 TO 304
(HAWAR ISLANDS)**

Annex No.	Description	Page No.
235.	Letter from Capt. Prideaux, British Political Agent, to Maj. Cox, British Political Resident, 20 March 1909 (Records of Bahrain, Vol. 3, pp. 383-387).	1034-1038
236.	Letter from Capt. Prideaux, British Political Agent, to British Political Resident, 4 April 1909 (IOR R/15/2/547).	1039-1043
237.	Administration Report for the Bahrain Political Agency for the year 1909 (The Persian Gulf Administration Reports, 1986, Vol. VI, pp. 69-73).	1044-1048
238.	Judgement made by Qadi of Shara Court, Bahrain in the year 1327 Hejrah (1909) (Records of Bahrain, Vol. 5, p.244).	1049
238A.	Judgement made by Qadi of Shara Court, Bahrain in the year 1328 Hejrah (1910) (IOR R/15/2/547).	1049a
239.	(a) Translation of letter from Ruler of Bahrain to Maj. Cox, British Political Agent, 15 January 1911.	1050
	(b) Letter from Ruler of Bahrain to Maj. Cox, British Political Agent, 15 January 1911.	1051

240. Administration Report for Bahrain Political Agency for the year 1911, (The Persian Gulf Administration Reports, 1986, Vol. VI, pp. 98-99). 1052-1063
- 240A. (a) Translation of resolutions approved at the meeting of the Ottoman Cabinet Council on 19 April 1913 (Ottoman Archives). 1063a
- (b) Resolutions approved at the meeting of the Ottoman Cabinet Council on 19 April 1913 (Ottoman Archives). 1063b-1063d
- 240B. Secret Declaration annexed to Convention between United Kingdom and Turkey regarding the Persian Gulf and adjacent territories, 29 July 1913. 1063e
241. Letter from Maj. Daly, British Political Agent, to British Political Resident, 30 January 1922. 1064
242. Particulars of case no. 264/1351, 1932 (IOR R/15/2/547). 1065
243. Bahrain court record for case no. 264/1351, 1932. 1066
244. (a) Transcript of translation of Bahrain Court Record for case 6/1351 (1932). 1067
- (b) Translation of Bahrain Court Record for case 6/1351 (1932). 1068
- (c) Bahrain Court Record for case 6/1351 (1932). 1069
245. Letter from Police Directorate to the Bahrain Court, 14 April 1936. 1070
246. Letter from C. Belgrave, Adviser to the Govt. of Bahrain, to Lt. Col. Loch, British Political Agent, 28 April 1936 (IOR R/15/1/688). 1071-1073
247. Letter from Lt. Col. Loch, British Political Agent, to Lt. Col. Fowle, British Political Resident, 6 May 1936 (IOR R/15/1/688). 1074-1075
248. Letter from J.C. Walton, India Office, to J. Skliros of PCL, 14 May 1936 (IOR R/15/1/688). 1076
249. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to Head Natur, 10 November 1937. 1077
250. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to E.V. Packer, PCL, 31 January 1938. 1078

251. Police Orders by C. Belgrave, Adviser to Govt. of Bahrain, 1079
1 February 1938.
252. Letter from E.V. Packer, Manager of PCL, to C. Belgrave, 1080
Adviser to Bahrain Govt., 19 February 1938
(IOR R/15/2/204).
253. Annual Report of Govt. of Bahrain, 1081-1089
(March 1937-February 1938, pp. 10-11, 16-17).
254. Note by Lt. Col. Fowle, 5 April 1938 (FO 371/21822). 1090-1091
255. Letter from T.V. Brenan, Foreign Office, to J.P. Gibson, India 1092-1093
Office, 13 April 1938 (FO 371/21822 97609).
256. Qatar Claim in the form of two letters from Ruler of Qatar to 1094-1095
British Political Agent, 10 May and 27 May 1938, (letter from
Ruler of Qatar to H. Weightman, British Political Agent,
10 May 1938 (IOR R/15/1/690)).
257. Letter from H. Weightman, British Political Agent, to 1096-1097
Lt. Col. Fowle British Political Resident, 15 May 1938
(Records of Qatar, Vol. 6, pp. 19-22).
258. Letter from H. Weightman, British Political Agent, to Ruler of 1098-1100
Qatar, 20 May 1938 (IOR R/15/1/690).
259. Police Orders from C. Belgrave, Adviser to Govt. of Bahrain, 1101
24 May 1938.
260. Qatar Claim in the form of two letters from Ruler of Qatar to 1102-1105
British Political Agent, 10 May and 27 May 1938 (letter from
Ruler of Qatar, to H. Weightman, British Political Agent, 27
May 1938) (IOR L/P+S/12/3895).
261. Note by C. Belgrave, Adviser to Govt. of Bahrain, entitled 1106-1111
"The Hawar Islands", 29 May 1938 (IOR R/15/2/547).
262. Letter from H. Weightman, British Political Agent to Lt. Col. 1112-1114
Fowle, British Political Resident, 3 June 1938
(IOR R/15/2/547).
263. Letter from Ruler of Qatar, to H. Weightman, British Political 1115-1116
Agent, 15 June 1938 (IOR R/15/1/690).
264. Letter from Lt. Col. Fowle, British Political Resident, to the 1117
Secretary of State to the Govt. of India and copied to
H. Weightman, British Political Agent, 27 June 1938
(IOR R/15/2/547).

265. Letter from Ruler of Qatar to H. Weightman, British Political Agent, 8 July 1938. 1118
266. Letter from Ruler of Qatar to H. Weightman, British Political Agent, 12 July 1938 (IOR R/15/2/1858). 1119-1120
267. Letter from Acting Adviser to Govt. of Bahrain to H. Weightman, British Political Agent, 17 July 1938 (IOR R/15/2/1858). 1121
268. Letter from H. Weightman, British Political Agent to Ruler of Qatar, 19 July 1938 (IOR R/15/2/1858). 1122-1123
269. Letter from the Secretary of State for India, to British Political Resident, 21 July 1938 (IOR R/15/1/691). 1124
270. Letter from Capt. Howes, British Political Agent, to Acting Adviser to Govt. of Bahrain, 14 August 1938. 1125
271. Letter from PCL to H. Weightman, British Political Agent, 27 September 1938 (IOR/R/15/2/547). 1126
272. Letter from H. Weightman, British Political Agent, to C. Belgrave, Adviser to Govt. of Bahrain, 8 November 1938. 1127
273. Letter from H. Weightman, British Political Agent to Galloway, British Political Resident, 15 December 1938 (IOR R/15/2/547). 1128
274. Bahrain Counter-Claim in the form of a letter from C. Belgrave, Adviser to the Govt. of Bahrain to H. Weightman, British Political Agent, 22 December 1938 (IOR R/15/2/547). 1129-1135
275. British Military Report entitled "Appreciation of the situation regarding the Defence of Qatar Peninsular", January 1939. 1136-1140
276. Letter from H. Weightman, British Political Agent, to Ruler of Qatar, 5 January 1939 (IOR R/15/2/547). 1141-1142
277. Letter from Ruler of Qatar to H. Weightman, British Political Agent, 19 March 1939. 1143
278. Translation of letter from Ruler of Qatar to H. Weightman, British Political Agent, 30 March 1939 (Records of Bahrain, Vol. 5, pp. 279-280). 1144-1145
279. Qatar Rejoinder (in the form of a letter from the Ruler of Qatar to the British Political Agent) 30 March 1939 (Records of Bahrain, Vol. 5, pp. 281-295). 1146-1162

280. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to H. Weightman, British Political Agent, 20 April 1939. 1163-1164
281. Report of H. Weightman, (in the form of a letter from H. Weightman, British Political Agent, to Lt. Col. Fowle, British Political Resident), 22 April 1939 (Records of Bahrain, Vol. 5, pp. 252-259). 1165-1172
282. Letter from Lt. Col. Fowle, British Political Resident, to Secretary of State for India, 29 April 1939 (Records of Bahrain, Vol. 5, p. 300). 1173
283. India Office Minute, 7 June 1939 (FO/371/23185). 1174-1175
284. (a) Letter from C. Baxter, Foreign Office, to Secretary of State, India Office, 13 June 1939 (IOR R/15/2/547). 1176
- (b) Transcript of letter from C. Baxter, Foreign Office to Secretary of State, India Office, 13 June 1939. 1177
285. Letter from PCL to Under Secretary of State for India, 30 June 1939 (IOR R/15/2/547). 1178-1180
286. Letter from Deputy Secretary to Govt. of India to Lt. Col. Fowle, British Political Resident, 1 July 1939. (Records of Political Department, India Office). 1181
287. Letter from Lt. Col. Fowle, British Political Resident to Ruler of Bahrain, 11 July 1939. 1182
288. Letter from Lt. Col. Fowle, British Political Resident to Ruler of Qatar, 11 July 1939. 1183
289. Letter from Ruler of Qatar to Lt. Col. Fowle, British Political Resident, 4 August 1939 (Records of Bahrain, Vol. 5, pp. 302-304). 1184-1186
290. Letter from J. Black, BAPCO to C. Belgrave, Adviser to Govt. of Bahrain, 8 October 1939. 1187
291. Letter from Ruler of Qatar to Lt. Col. Prior, British Political Resident, 18 November 1939 (IOR R/15/2/547). 1188-1189
292. Report entitled "Qatar" by H. Weightman, 5 December 1939 (pp. 432-433, 435, 438-441) (IOR R/15/2/142). 1190-1194
293. Expenditure Summary for the Govt. of Bahrain for 1358H (1939) (Records of Bahrain, Vol. 5). 1195-1201

294.	Letter from Ruler of Qatar to H. Weightman, British Political Agent, 7 June 1940 (IOR R/15/2/547).	1202-1203
295.	Letter from M. Fripp, BAPCO Representative, to C. Belgrave, Adviser to Govt. of Bahrain, 10 August 1941.	1204
296.	Letter from Lt. Col. Hay to Secretary to Govt. of India, 19 November 1941 (Records of Qatar, Vol. 6, pp. 559-561).	1205-1207
297.	Letter from British Political Agent, to Ruler of Qatar, 23 December 1947 (IOR R/15/2/430).	1208-1210
298.	Letter from R.M. Brown, BAPCO Chief Local Representative, to Adviser to Govt. of Bahrain, 13 July 1949.	1211
299.	Letter from M. Man, British Political Resident, to R. Beaumont, Foreign Office, 21 February 1961 (FO 371/1567 21 26335).	1212-1213
300/301.	Qatar Diary No. 2 of 1961 - for the period February 2-March 1, 1961 (FO 371/156974 9536).	1214-1221
302.	Letter from W. Schmidt, BAPCO, to Secretary to Govt. of Bahrain, 28 October 1961.	1222-1224
303/304.	Letter from Ruler of Bahrain to W. Schmidt of BAPCO, 2 November 1961.	1225-1249

-VOLUME 6-

**ANNEXES 305 TO 352
(HAWAR ISLANDS, APPLICABLE LAW AND
MARITIME DELIMITATION)**

Annex No.	Description	Page No.
305/306.	Letter from K. Khalifa, Head of Finance of Govt. of Bahrain to E. Wiltshire, British Political Agent, 5 June 1966.	1250-1282
307.	R.S. Zahlan "The Making of the Modern Gulf States: Kuwait, Bahrain, Qatar, the United Arab Emirates and Oman" (London, 1989, pp. 140-141).	1283-1285
308/309.	J. Crystal "Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar" (1990) (p. 166).	1286-1328

310. Archaeological Report on the Hawar Islands, by Professor Paolo Costa, University of Bologna, 17 January 1995. 1329-1353
311. Extract from Bahrain Telephone Directory 1996-97 (pp. 77-80). 1354-1358
312. Advertisement of Gulf Tourism Company, 25 June 1996. 1359-1362
313. (a) Translation of Statement of Hamoud bin Muhanna bin Hamad al Dosari, 7 September 1996. 1363-1369
- (b) Statement of Hamoud bin Muhanna bin Hamad al Dosari, 7 September 1996. 1370-1378
314. (a) Translation of Statement of Nasr bin Makki bin Ali al Dosari, 16 September 1996. 1379-1385
- (b) Statement of Nasr bin Makki bin Ali al Dosari 16 September 1996. 1386-1391
315. (a) Translation of Statement of Salman bin Isa bin Ahmad bin Saad al Dosari, 15 September 1996. 1392-1395
- (b) Statement of Salman bin Isa bin Ahmad bin Saad al Dosari, 15 September 1996. 1396-1399
316. (a) Translation of Ibrahim bin Salman bin Ahmed Al Ghattam, 15 September 1996. 1400-1406
- (b) Statement of Ibrahim bin Salman bin Ahmed Al Ghattam, 15 September 1996. 1407-1413
317. Agreement entered into by Ali bin Khuleefa, Sheikh of Bahrain, 6 September 1868 (Aitchison's Treaties, Vol. XI, pp. 236-237). 1414-1416
318. Exclusive Agreement of the Shaikh of Bahrain with the British Government, 13 March 1892 (Aitchison's Treaties, Vol. XI, p. 238). 1417-1418
319. M.J. Mustill and S.C. Boyd "The Law and Practice of Commercial Arbitration in England" (1989, p. 15). 1419-1420
320. E.W. Streeter "Pearls and Pearling Life" (London, 1886, pp. 213-221) 1421-1430
321. Report by the Law Officers, Finlay and Carson, 11 February 1905 (F0371/91288). 1431-1433

322. Letter from Lt. Col. Cox, British Political Resident, to British Political Agent, 11 July 1911 (IOR/R/15/2/14). 1434-1435
323. Govt. of India "Gazetteer of Arabia" India Office Records (p. 329) (IOR/L/MIL/17/16/2/i). 1436
324. Bahrain Political Diary for month ending 31 January 1920 (L/P&S/11/170). 1437-1438
325. Memorandum from British Political Agent to British Political Resident, 24 May 1924. 1439-1441
326. Telegrams exchanged between H.M.S. Cyclamen and British Political Resident, 19/20 June 1924. 1442
327. Letter from Director, Persian Gulf Section, Indo-European Telegraph Department to British Political Agent, 25 March 1927 (R/15/2/1371). 1443
328. Letter from Director of Customs to C. Belgrave, Adviser to Govt. of Bahrain, 10 May 1928 (R/15/2/125). 1444
329. Government of Bahrain Proclamation dated 20.10 AH 1349 (1930). 1445
330. Military Report on the Arabian Shores of the Persian Gulf, Kuwait, Bahrain, Hasa, Qatar, Trucial Oman and Oman, 1933 (L/NIL/17/15/141). 1446-1447
331. C. Belgrave "Pearl Diving in Bahrain" Journal of Royal Central Asia Society, Vol. XXI, July 1934. 1448-1450
332. Letter from E.A. Seal, Military Branch Admiralty, to Clauson, India Office, 29 April 1937 (IOR/R/15/2/546). 1451-1453
333. Memorandum from British Political Agent, to C. Belgrave, Adviser to Govt. of Bahrain, 5 July 1937 (IOR/R/15/2/546). 1454
334. Memorandum from C. Belgrave, Adviser to Govt. of Bahrain, to British Political Agent, 14 August 1937 (IOR/R/15/2/546). 1455
335. Memorandum from C. Belgrave, Adviser to Govt. of Bahrain, to British Political Agent, 14 August 1937 (IOR R/15/2/546). 1456
336. List prepared by Land Department, Govt. of Bahrain of pillars erected 1938-1939. 1457
337. Letter from Symon, India Office, to Lt. Col. Fowle, British Political Resident, 28 April 1938, enclosing PCL draft Bahrain lease and two charts (IOR R/15/1/689). 1458-1465

338. Government of Bahrain Notice, 15 April 1939. 1466
339. Memorandum from British Political Agent to C. Belgrave, Adviser to Govt. of Bahrain, 21 March 1940, with enclosures (IOR R/15/2/418). 1467-1469
340. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to British Political Agent, 18 June 1946. 1470
341. Letter from the British Political Agent, to Ruler of Qatar, 9 July 1946 (IOR R/15/2/430). 1471-1472
342. Letter from C. Belgrave, Adviser to Govt. of Bahrain, to British Political Agent, 10 July 1946 (IOR R15/2/430). 1473-1475
343. Letter from Ruler of Qatar to British Political Agent, 18 July 1946 (IOR R/15/2/430). 1476-1477
344. Letter from British Political Resident to H.M.'s Secretary of State for India, 18 January 1947 (IOR L/P&S/12/3006/6). 1478-1485
345. Translation of letter from Ruler of Bahrain to Pelly, British Political Agent, December 1947. 1486-1487
346. Letter from the Ruler of Bahrain to British Political Agent, 23 May 1949. 1488-1489
347. Letter from H.R. Ballantyne to C. Belgrave, Adviser to Govt. of Bahrain, 14 November 1949. 1490-1498
348. Testimony of Dr. A.S. Bhandarkar, Medical Officer, 12 October 1950. 1499-1501
349. Testimony of Jabor Musallam, Pearl Merchant, 26 October 1950. 1502-1506
350. Sir Rupert Hay "The Persian Gulf States and their Boundary Problems" *The Geographical Journal*, Vol. CXX Part 4, December 1954 (pp. 433-445). 1507-1514
351. Foreign Office Minutes including comments by I.M. Sinclair, 13 October 1955 (F0371/91288). 1515-1528
352. Statement of M. Al-Nimer, Representative of Bahrain, Third Law of the Sea Conference, 37th Mtg., 11 July 1974 (Official Records, Vol. I, 1974, p. 174 para 30). 1529-1530

-VOLUME 7-**LIST OF ILLUSTRATIVE MAPS**

Map No.	Description
1.	Political map of the Gulf of Arabia
2.	Bahrain and Qatar
3.	Traditional route from the main island of Bahrain to the Hawar Islands
4.	The Hawar Islands - locations
5.	The Zubarah region (with place names)
6.	Bahraini and Qatari territories
7.	Normal patrol limits on the Bahrain coastguard and shipping routes
8.	Southern sector: equidistance line with basepoints
9.	Bahrain's pearling banks
10.	Northern sector: equidistance line with basepoints
11.	Proposed maritime boundary
12.	Archipelagic baselines
13.	Median line (southern sector) using archipelagic baselines
14.	Median line (southern sector) using normal baselines
15.	Median lines (southern sector) using archipelagic and normal baselines
16.	Oxford Map of Qatar

CERTIFICATION

I, the undersigned, Jawad Salim Al Arayed, Agent of the State of Bahrain, hereby certify that the copies of the documents attached as documentary Annexes of the Memorial submitted by the State of Bahrain in Volumes 2 to 6 are accurate copies of the documents they purport to reproduce and that where a translation of such a document is attached that translation is an accurate translation of the document

This day of September 1996

Jawad Salim Al Arayed
Minister of State and Agent of the Sate of Bahrain

