

Minute.

I think the passage in the draft memorandum about the strength of our title to Hull Island can stand, although it would be interesting to know on what date the initial discovery by the U.S. took place, whether the discoverer was an officer in the U.S. navy or other U.S. Government official, and whether formal claim to the island on behalf of the U.S. was made. It would also be interesting to know whether any U.S. citizens have ever lived on the island and whether there is any record of any attempt by the U.S. Government to exercise sovereignty over the island, e.g. by the grant of leases in respect of it.

However, so far as our records go, the position seems to be that the U.S. never followed up their initial discovery by any effective occupation or by the exercise of any effective sovereignty over the island. In these circumstances the inchoate title which the initial discovery may have given them must be held to have lapsed, as it is an accepted principle of international law that discovery by itself does not confer a title, but only a right to complete the title within a limited period by following it up with occupation or at any rate the exercise of sovereign rights. If this is not done the territory in question becomes once more ownerless and subject to acquisition by any other Power.

So far as we know, we are the only country to have effectively occupied the island and to have exercised sovereign rights over it. In these circumstances we ought to be able to take the case to arbitration, if necessary, with confidence.

(Intlld.)

17th January, 1939.