

the channel and the straits being so connected in the second paragraph as to be governed by the preceding words, "through the middle of."

Now, the extent of the waters here designated as Fuca's Strait is not in controversy. It is true, indeed, that by some writers, amongst whom may be mentioned Mr. Robert Greenhow, the Librarian to the Department of State of the United States, and the author of a Memoir, Historical and Political, on the North-West Coast of North America, published in 1840 by direction of the Senate, the term "Fuca's Strait" has been used prior to the Treaty of 1846 to denote the whole of the channel through which it was supposed that the Greek pilot, Juan de Fuca, found a passage into the Polar Sea in the sixteenth century. Thus Mr. Greenhow, in his "History of Oregon" (p. 27), speaking of the three great groups of islands south of 54° 40' north latitude, says, "The southernmost group embraces one large island, and an infinite number of smaller ones, extending from the 49th parallel to the 51st, and separated from the continent on the south and east by the channel called the Strait of Fuca." There is a slight inaccuracy, it may be observed, in this passage as regards the latitude of the group of islands; but Mr. Greenhow, in a previous passage of the same work (p. 22), has described the channel which he has in view with greater accuracy, as running eastward about 100 miles between the 48th and 49th parallels of latitude, and then turning to the north-west.

The view of Her Majesty's Government is, that the term "Fuca's Straits" is used in the Treaty of 1846 to signify the lower portion only of Mr. Greenhow's Channel, namely, the inlet of the sea which extends eastward from the Pacific Ocean to the entrance of the passage, through which Vancouver continued his voyage to the northward, and which he has laid down in his chart as a navigable channel, connecting Fuca's Strait with the upper waters of the ancient Gulf.

In accordance with this signification of Fuca's Straits, Her Majesty's Government submits to His Imperial Majesty that the term "Fuca's Straits" must be taken to have been inserted in the second paragraph of the 1st Article of the Treaty of 1846, for the sake of describing with greater precision the course of the boundary line, and that it is one of the necessary conditions of the boundary line, that it should be drawn *through the middle of the inlet of the sea, of which Cape Flattery may be regarded as the south-western extremity, and Deception Pass as the north-eastern extremity.*

Now a line may be properly said to be drawn through the middle of this inlet, if it be drawn in either of two ways, namely, if it be drawn lengthways, or if it be drawn breadthways. There can however be no doubt as to which of such alternative lines is required to satisfy the Treaty, as the line is to be drawn to the Pacific Ocean, and this can only be effected by *drawing the line through the middle of Fuca's Straits lengthways.* Upon this point in the case, Her Majesty's Government submits to His Imperial Majesty that there can be no reasonable doubt.

Her Majesty's Government further submits to His Imperial Majesty that, in order that the second paragraph of the 1st Article of the Treaty of 1846 shall be consonant to the third paragraph, in other words in order to account for and give reasonable effect to the third paragraph, whereby the navigation of the whole of Fuca's Straits is secured to both the High Contracting Parties, the second paragraph must be interpreted as requiring the line to be drawn *southerly through the middle of a channel which will allow it to enter the head waters of Fuca's Straits, and to be continued through the middle of the Straits in an uninterrupted line to the Pacific Ocean*; in other words the boundary line after it has entered Fuca's Straits must divide the waters of the Straits in such a manner, as to render the proviso necessary, which is embodied in the third paragraph.

For the purpose of bringing this part of the case more completely before the mind of His Imperial Majesty, Her Majesty's Government will recapitulate briefly the characteristics of Fuca's Straits, as they bear upon the question.

The breadth, then, of Fuca's Straits, where they leave the Pacific Ocean between Cape Flattery on the Continent, their southern point, and Bonilla Point on Vancouver's Island, their northern point, is thirteen miles. Within these points they soon narrow to eleven miles, and carry this width on an east course for forty miles. They then take an east-north-east direction to the shore of Whidbey Island. Between Race Islands and the southern shore is the narrowest part of the Straits. Their least breadth, however, in this part is not less than eight miles, after which the Straits expand immediately to seventeen miles, a width which they maintain more or less in the part where the Canal de Haro enters them. On the other hand, it is difficult to define precisely the place where the waters of Fuca's Straits merge in those of

The consonance of the second and third paragraphs of the Treaty.

Chart No. 4.

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