

CONFIDENTIAL.

*Memorandum respecting the Island of San Juan.*

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THIS question with the Americans in regard to the Island of San Juan, is one the solution of which must depend upon the interpretation to be given to the Treaty of 1846, by which the boundaries of the British and United States' possessions westward of the Rocky Mountains were settled and defined.

It should never be lost sight of that this is a Treaty question—a question to be determined not by the estimate which Great Britain and the United States may have formed of what was the value of their respective titles to the Oregon territory before the Treaty of 1846 was signed, nor by assertions made in the face of the Treaty as to the intentions of this or that Government at the time the Treaty was negotiated, nor, as regards the water boundary, by comparisons instituted since the Treaty was signed, with regard to the relative merits of this or that channel, but by a reference to the wording of the Treaty itself.

Now, Article I of the Treaty of 1846 runs as follows:—

“From the point on the 49th parallel of north latitude where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: Provided, however, that the navigation of the whole of the said channel and straits south of the 49th parallel of north latitude remain free and open to both parties.”