

the canal De Haro, with which it unites by means of this narrow channel.

Now, let us compare the depth of the remaining portion of the Rosario line, commencing east of Potos Island with that of the strait De Haro, running from the same narrow channel down round the west side of San Juan and between it and Vancouver's into the straits of Fuca, to a parallel of latitude which gives us San Juan with other islands of the archipelago, and on which parallel the canal de Haro and the Rosario straits meet and form the straits of Fuca. I say let us compare the depth of water on these two competing lines of channel.

We have the following results: the soundings along the American or De Haro line are as follows: 80, 84, 87, 94, 100, 96, 123, 93, 118, 120, 70, 33, 85, 70, 83, 105, 182, 170, 105, 100, 121, 143, 178, 94, 113, 173, 95, 103, 120, 91, 157, 149, 155, 141, 140, 165, 150, 153, 95, 122, 116, 85, 109, 97, 115, 89, 109, 92, 97, 75, 96, 97, 108, 89, 29, 91, 96, 97; presenting an average depth on this De Haro line of one hundred and ten and a half fathoms.

On the Rosario line we have the following soundings: 89, 82, 74, 66, 70, 63, 64, 59, 67, 34, 34, 47, 63, 62, 63, 40, 46, 40, 49, 66, 36, 41, 56, 45, 54, 29, 30, 34, 29, 34, 25, 29, 38, 60, 37, 55, 25, 60, 21, 53, 23, 26, 42, 30, 28, 43, 48, 60, 38, 42, 36, 40, 40, 44, 43, 40; presenting an average depth on the Rosario line of sixty-five and a half fathoms, the difference in favor of the De Haro channel being fifty-five fathoms or a distance of about fifty miles on each line, or, to speak more intelligibly, from the southeast end of the Gulf of Georgia to the head of the straits of Fuca, so that along the northern portion of these two lines there are twenty-five fathoms of water in our favor, and on the southern portion fifty-five fathoms.

I have said there are various channels passing among these islands between the line of De Haro and that of Rosario, one of which, running on the east side of San Juan Island, known as President's passage, was proposed by the British commissioner to the American commissioner as a compromise between the De Haro and the Rosario lines.

This compromise line was very properly rejected by the American commissioner. It has none of the features of "the channel" mentioned in the treaty. Its average depth falls short even of the Rosario channel, and it is evident that the offer was a mere makeshift on the part of the British commissioner to grasp San Juan Island.

It is indubitable, for it is expressed in the first article of the treaty in clear terms, that the boundary "shall be continued westward along the forty-ninth parallel of north latitude to the middle of the channel," &c.

Here, in the clearest language, the treaty recognizes a channel "in the middle" of which

this forty-ninth degree boundary is to terminate. And from this point of intersection the boundary is to be deflected, and is to run "through the middle of said channel and of Fuca straits to the Pacific ocean."

This language implies, as I have remarked, that "the channel" and "Fuca straits" form one continuous water-course from the point of beginning on the forty-ninth degree around into the ocean; and this language was perfectly consistent with the notorious fact, well understood by navigators and geographers, that there was exactly such a channel.

The negotiators of the treaty on both sides well understood this, and no dispute or denial of its existence ever arose; and it was equally well known that Vancouver's Island lay to the west of this water-course. The first article recognizes this channel and strait as such water-course, for it provides in express terms—

"That the navigation of the whole of said channel and straits south of the forty-ninth degree of north latitude shall remain free and open to both parties."

Here, then, is the water-course described in the first article as the channel "through the middle of which and of Fuca straits" the boundary runs to the Pacific ocean. I say the middle of the channel and the middle of Fuca straits, that channel and those straits being contemplated as one and the same continuous water-course, and having, in the words of the treaty, a "middle;" that is, a line or *filum* in the "middle" of the water-course.

This "middle" is the boundary as established by the treaty.

Now, what is the "middle" of a stream or water-course, used as a boundary between nations, in the sense of the law of nations?

I do not refer to the rule of the English common law touching riparian rights where lands are bounded on a stream not navigable. In such cases the grant extends to the middle of the stream. Each opposite owner holds the bed of the river to the middle of the bed; that is, to a line running along on the bottom and corresponding exactly with a surface line on the water equidistant, or equidistant upon an average, from the respective shores; this surface line cutting in two all the islands that lie on it and giving moieties of them to the opposite proprietors or grantees. This principle of the common law, sound in itself but having relation only to the interests of private parties, is inapplicable to the water boundaries of nations. The principle, it is to be observed, applies, as the English books all say, only to grants of land bounded "on a river," or "by a river," or "on" or "along" the "shore," or "bank," or "margin" of a "river or stream." No such descriptive words are used in the treaty. Between the mainland of the continent and that of Vancouver the whole space is covered with water,