

No. 13.

Lord Stanley to Mr. Thornton.

Sir,

Foreign Office, October 17, 1868.

I TRANSMIT to you herewith a copy of a Protocol which I have this day signed with Mr. Reverdy Johnson, recording the desire of Her Majesty's Government, and of that of the United States, to close the discussion respecting the Water Boundary under the Oregon Treaty.

I am, &c.
(Signed) STANLEY.

Inclosure in No. 13.

Protocol recording desire of Her Majesty's and the United States' Governments to close Discussion respecting Water Boundary.

THE Undersigned, Edward Henry Lord Stanley, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary, and Minister Plenipotentiary from the United States of America, being respectively authorized and empowered to place on record the bases on which Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are prepared to close all further discussion with regard to the true direction of the line of Water Boundary between their respective possessions, as laid down in Article I of the Treaty concluded between them on the 15th of June, 1846, have agreed upon the following Protocol:—

I. Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, that the line of boundary between the territories of Her Britannic Majesty and those of the United States, from the point on the 49th parallel of north latitude, up to which it had already been ascertained, should be continued westward along the said 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:"—and whereas the Commissioners appointed by the two High Contracting Parties to mark out that portion of the boundary which runs southerly through the middle of the channel aforesaid have not been able to determine which is the true line contemplated by the Treaty:

It is agreed to refer to some friendly Sovereign or State to determine the line which, according to the terms of the aforesaid Treaty, runs southerly through the middle of the channel which separates the Continent from Vancouver's Island, and of Fuca's Straits, to the Pacific Ocean; and it is further agreed, that within three months after the exchange of the ratifications of any Treaty that may hereafter be concluded for giving effect to the terms of this Protocol, the Contracting Parties shall select some friendly Sovereign or State to act as referee in the premises.

II. If such Sovereign or State should be unable to ascertain and determine the precise line intended by the words of the Treaty, it is agreed that it shall be left to such Sovereign or State to determine upon some line which, in the opinion of such Sovereign or State, will furnish an equitable solution of the difficulty, and will be the nearest approximation that can be made to an accurate construction of the words of the Treaty.

III. It is agreed that such Sovereign or State shall be at liberty to call for the production of, and to consult, all the correspondence which has taken place between the British and American Governments on the matter at issue, and to weigh the testimony of the British and American negotiators of the Treaty as recorded in that correspondence as to their intentions in framing the Article in question; and such Sovereign or State shall farther be at liberty to call for the reports and correspondence, together with any documents, maps, or surveys bearing on the same, which have emanated from, or were considered by, the Commissioners who have recently been employed by the two Governments to endeavour to ascertain the line of boundary as contemplated by the Treaty, and to consider all evidence that either party may produce. But the referee shall not depart from the true meaning of the Article as it stands, if he can deduce that meaning from the words of the Article,