

## II.

But I do not admit that the privileges conferred by the first article of the English treaty were extended to the waters of Behring Sea. If it be asserted that Behring Sea is "a part of the Pacific ocean," I answer, it is not a part that is "commonly called the Pacific ocean," and it is only to such parts of that ocean that the privileges are extended.

The language of the treaty is, "in any part of the ocean commonly called the Pacific ocean."

Now, it seems to me, that if it were intended that this definition embraced the entire Pacific ocean, and also included Behring Sea, the restricting words "commonly called" would have been omitted.

If the privileges were to be exercised in the Pacific ocean and not restricted to such parts as are commonly called the Pacific ocean, the framers of the clause would have written the words "Pacific ocean," which have a fixed and well-known signification.

But the framers of the treaty, for reasons which will readily suggest themselves, and which I will presently notice, saw fit to restrict the limits, within which the privileges were to be exercised, to such parts of the ocean as were *commonly called* the Pacific ocean, thereby interdicting their exercise in any of the waters which might be claimed to be a part of that ocean, unless such waters were commonly called the Pacific ocean.

They knew that traders and fishermen would have no accurate knowledge as to the actual boundary of the Pacific ocean in relation to connecting bodies of water, such as the Yellow Sea, the Sea of Okhotsk, and Behring Sea; but there could be no excuse for trespassing across the boundary of what is commonly called the Pacific ocean, within the limits of which, and not beyond, these privileges were to be exercised.

Surely there was some reason for restriction or limitation, or the words "commonly called" would have been omitted. The framers of the treaty evidently assumed that, there were waters which were commonly called the Pacific ocean, and