

Statement.

either in the preamble of the Treaty, or in the Article describing the boundary; nor can it be sustained on the ground of anything contained in any of the contemporaneous documents exchanged between the Contracting Parties. It is true that the severance of Vancouver's Island by a boundary line drawn continuously on the 49th parallel was the salient objection raised on the part of Her Majesty's Government to the United States' proposal for continuing the boundary on that parallel from the Rocky Mountains to the Pacific. That proposal disregarded the physical conditions of the tract through which the line would run. It is true also that a deflection of the line so as not to sever Vancouver's Island was made in effect a condition *sine quâ non* on the part of Her Majesty. It may even be admitted that the prevention of this severance was the motive for Article I of the Treaty. The nature of the motive is not necessarily a measure of the scope of the stipulation.

13. It is plain on the face of the Article that the Contracting Parties had further and other aims. If the sole object of the stipulation had been to keep Vancouver's Island one, a very simple provision would have sufficed. It would have been enough to say: the whole of Vancouver's Island shall belong to Her Britannic Majesty. The Article in effect says this. But it says more, in two respects. First, it in effect vests in Her Majesty, as against the United States, the whole territorial sovereignty and property over and in all land and sea adjacent to the island, on its eastern and southern sides, lying within the mid-channel line (wherever drawn), although lying beyond the ordinary territorial three-mile limit. Secondly, it secures to Her Majesty's subjects freedom of navigation throughout the whole extent of the boundary channel and of the Straits of Fuca. These two provisions in combination effect what was plainly one of Lord Aberdeen's main objects in the arrangement, namely, the preservation to Her Majesty's subjects of unquestionable and abundant facilities of access to the British coasts and harbours north of the 49th parallel. Had the boundary line been continued on the 49th parallel to the ocean, the navigation of the Gulf of Georgia from the southward would have been sealed to British subjects.

14. The Article speaks for itself. The preservation of the unity of Vancouver's Island was of the essence of the arrangement, but there were collateral arrangements. The difference now referred to arbitration presupposes the existence of such arrangements; the controversy is as to their extent.

15. Lord Aberdeen's instructions to Mr. Pakenham cannot be read so as to cut down the effect of the Treaty. They must be interpreted so as to correspond in scope with the project of the Treaty prepared and sent contemporaneously by Lord Aberdeen. The words quoted by Mr. Bancroft (page 19) from Lord Aberdeen's instructions are:—

*"Leaving the whole of Vancouver's Island with its ports and harbours in the possession of Great Britain."**

The form of expression requires little explanation. Lord Aberdeen naturally dwelt on the most prominent part of the arrangement which Mr. Pakenham was to propose, namely, the securing the possession to this country of the whole of Vancouver's Island. He referred only to the broad geographical feature, the mention of which was supposed to be sufficient for the matter under discussion. There is nothing in his words to exclude any additional advantage which the terms of the project of the Treaty would give to this country, and more (it is plain) the project did give.

* In this passage the words in italics are in Mr. Bancroft's Memorial printed with widened spaces between the letters, the mode of printing used in German to show emphasis, corresponding to the use of italics in the printing of English. The like observation applies to other passages cited in this Statement from Mr. Bancroft's Memorial.

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