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But it may be said, that there is evidence that the Canal de Haro was contemplated by the United States' Government, and that they had charts in their possession, which satisfied them that it was a navigable and safe channel, equally as the channel along which Vancouver sailed. The reply to such an argument is not far to seek. If it can be established that one of the parties to the Treaty had knowledge only of one navigable Channel corresponding to the provisions of the Treaty, the fact that the other party was aware of another navigable Channel could never justify such an interpretation being given to the Treaty, as should bind the former to accept the Treaty in a sense of which it did not know it to be capable, when the Treaty may be interpreted in a sense in which both parties were aware that it was capable of being interpreted. *The reason of the thing is against such an interpretation, as has been proposed to be given to the Treaty on the part of the United States' Government.*

There is a further reason, why the Canal de Haro does not satisfy the language of the Treaty.

The commencement of the boundary line, which is to be drawn southerly, is described in the Treaty as being in a Channel under the 49th parallel of north latitude; but a glance at the chart will satisfy His Imperial Majesty that the Canal de Haro cannot, in any proper sense of the words, be held to commence under that parallel. It has a distinct commencement between Saturna Island and Patos Island, under a lower parallel. *It has, therefore, not only a distinguishing name, but it has its typical characteristics which distinguish it from the channel described in the Treaty of 1846 as identical with the channel under the 49th parallel of north latitude.*

The Fifth Rule of Interpretation.

The fifth rule of interpretation, to which Her Britannic Majesty's Government invited the attention of His Imperial Majesty is, that *Treaties are to be interpreted in a favourable rather than in an odious sense.*

"We are not to presume," says Vattel (sec. 30), "without any strong reasons that the Contracting Parties intended to favour the other to his own prejudice, but there is no danger in extending what is for the common advantage. If, therefore, it happens that the Contracting Parties have not made known their will with sufficient clearness and with all the necessary precision, it is certainly more conformable to equity to seek for that will in the sense most favourable to equality and the common advantage."

Now, it may be stated by Her Majesty's Government without fear of contradiction, that, at the time when the Treaty of 1846 was signed at Washington, no charts were in the possession of those, who navigated the interior sea between the Continent and Vancouver's Island, but Vancouver's Chart, and possibly a Spanish Chart purporting to be constructed in 1795 upon the surveys made by the "Sutil" and "Mexicana." Of the latter chart, indeed, Her Britannic Majesty's Government had no certain knowledge in 1846, for the only Spanish chart of those waters, which is to be found in the archives of the British Admiralty at Whitehall, did not come into its possession until 1849. Neither, however, of those Charts are there any soundings of a navigable passage through the Canal de Haro. It is true, indeed, that in the Spanish Chart some soundings are given of Cordova Channel, in which the boats of the "Sutil" and "Mexicana" appear to have crept close along the shore; but there are no soundings to guide a vessel out of the Canal de Haro into any part of the upper waters, which is south of 49° parallel of north latitude. An interpretation, therefore, of the Treaty, which would declare the Canal de Haro to be the channel, down which the boundary is to be carried, would be to declare that Her Britannic Majesty's Government intended to conclude the Treaty of 1846 *intended to favour the United States' Government to its own prejudice*, for it would be to declare that Her Britannic Majesty's Government intended to abandon the use of the only channel leading to its own possessions, which would be navigable and safe, and to confine itself to the use of a channel respecting which it had no assurance that it was even navigable in its upper waters for sea-going vessels, nay, respecting which it is not too much to say, that Her Britannic Majesty's Government had a firm belief that it was a dangerous strait. On the other hand, an interpretation which would declare Vancouver's Channel, now distinguished by the name of the Rosario Strait, to be the common boundary, will give to both Parties the use of a Channel, which was known to both Parties at the time when the Treaty was made, to be a navigable and safe channel. The two Parties in respect of such an interpretation would be placed in a position of equality.

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The Fifth Rule of Interpretation.

A favourable interpretation to be preferred to an odious interpretation.

The Charts in use in 1846.

Chart No. 2.

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