

Statement.

Mr. MacLane says that the line proposed by Lord Aberdeen had been suggested by Mr. Everett, would not be so remote or so weak as it is.

(ix.) The statements of Mr. MacLane to his own Government can in no way bind Her Majesty's Government. Mr. MacLane does not say that he did, and there is no evidence that he did, ever specify any channel in his conversations with Lord Aberdeen. There is no evidence that he ever told Lord Aberdeen what he was going to report to his Government. The presumption to be drawn from Lord Aberdeen's despatch of 29 June 1846, to Mr. Pakenham, is to the contrary.* Mr. MacLane's letter was not published even in the United States until after the exchange of ratifications in London.* It could not, therefore, have reached Lord Aberdeen's knowledge before the transaction was closed.

(x.) Nor is there anything to affect Her Majesty's Government through Mr. Pakenham. There is no suggestion that Mr. Buchanan communicated to Mr. Pakenham Mr. MacLane's letter. On the contrary, it is evident, from Mr. Pakenham's despatch of the 29th July, 1846, that the letter was unknown to him till its unauthorized publication, as mentioned in that despatch.† Nor did Mr. Buchanan in any manner inform Mr. Pakenham of Mr. MacLane's view. In a Memorandum,‡ written in 1858, Sir Richard (formerly Mr.) Pakenham, states that Mr. Buchanan on the occasion of the Treaty "made no mention whatever of the Canal de Haro as that through which the line of boundary should run, as understood by the United States' Government." If, indeed, Mr. Buchanan had done so, that mere fact would be of no importance as against Her Majesty's Government. Mr. Pakenham was acting under strict instructions. If Mr. Buchanan had indicated the Canal de Haro as the boundary channel, Mr. Pakenham could only have answered as he did on the question of the effect of Article II, namely,—the Article speaks for itself.‡ He had no power to modify the project of Treaty in substance, and no power to bind his Government by assenting to or acquiescing in an interpretation which would have been equivalent to a serious modification.

20. It appears to Her Majesty's Government that this examination of Mr. MacLane's letter justifies them in submitting to the Arbitrator that the letter affords no support to the contention of the United States.

21. In addition to Mr. MacLane's letter, Mr. Bancroft refers to the speech of Mr. Benton in the Senate before mentioned. The passage in Mr. Bancroft's Memorandum is as follows (page 7):—

"A suspicion of ambiguity could not lurk in the mind of any one. Mr. Benton found the language so clear that he adopted it as his own. In his Speech in the Senate on the day of the ratification of the Treaty, he said:—

"The first Article of the Treaty is in the very words which I myself would have used if the two Governments had left it to me to draw the boundary line between them."

"The line established by the first Article follows the parallel of 49° to the sea, with a slight deflection through the Straits of Fuca to avoid cutting off the south end of Vancouver's Island. . . . When the line reaches the channel which separates Vancouver's Island from the Continent, it passes to the middle of the channel, and thence turning south through the Channel de Haro (wrongly written Arron on the maps) to the Straits of Fuca, and then west through the middle of the Strait to the Strait of Juan de Fuca. . . . the cluster of islands between de Haro's Channel and the Strait of Juan de Fuca."

22. Her Majesty's Government submit that the speech of Mr. Benton is even of less value, as evidence in support of the contention of the United States, than Mr. MacLane's letter.

(i.) It seems probable that Mr. Benton founded his exposition of the draft Treaty on Mr. MacLane's letter,§ extracts from which had been communicated by the President of the United States to the Senate. If so, Mr. Benton's interpretation is only a reflection of Mr. MacLane's.

(ii.) Mr. Benton may indeed have formed his opinion not directly on Mr. MacLane's letter, but on the same sort of ground on which it would appear Mr. MacLane's statement was made, namely, a knowledge (whether complete, or accurate, or not) of the local

* Historical Note, p. xvi.

† Included in Lord John Russell's despatch to Lord Lyons, 24th August, 1859; read, and copy given to the United States' Secretary of State. Appendix, No. 1.

‡ Historical Note, p. xvi.

§ This was Sir Richard Pakenham's view, as expressed in his Memorandum, Appendix, No. 1.