

It is a reasonable presumption from this Preamble, that Her Britannic Majesty's Government, which drew up the paragraph of the Treaty of 1846, the meaning of which is in controversy, *had a definite boundary line in view*, which would terminate all doubt and uncertainty as to the limits, within which the respective Parties to the Treaty were henceforth to exercise rights of sovereignty.

The Treaty of 1846, it should also be borne in mind, was not an ordinary Treaty of friendship or alliance, in which a paragraph respecting mutual boundaries was inserted amongst paragraphs relevant to other matters; but it was a Treaty, of which the *primary object was the settlement of a boundary line*, and it would be unreasonable to attach a vague and uncertain meaning to any words descriptive of the boundary line, if such words are susceptible of a *definite and certain meaning*.

The object of the Treaty.

It is not too much to say, and it will probably not be disputed—for it has been so stated by one of the most eminent of American statesmen—that the great aim of the United States in 1846 was to establish the 49th parallel of north latitude as the line of boundary on the western side of the Rocky Mountains, "*not to be departed from for any line further south on the Continent*;" and that with regard to straits, sounds, and islands in the neighbouring seas, they were subjects of minor importance, to be dealt with in a spirit of fairness and equity. (Speech of Mr. Webster before the Senate of the United States, March 30, 1846.)

On the other hand, it is notorious, and it is also patent on the face of the Treaty itself, that the great aim of Her Britannic Majesty's Government was to meet the views of the United States' Government in regard to the 49th parallel of north latitude with *as little sacrifice as possible of the rights heretofore enjoyed by the Hudson's Bay Company and other British subjects in the waters south of that parallel*.

No name is given to the Channel.

Now it is a remarkable feature of the Treaty that *no name is given to the Channel*, to the middle of which the 49th parallel of north latitude was to be continued after leaving the Continent, and through the middle of which it was to be drawn southerly after being deflected from that parallel. The channel is described as "the Channel separating the Continent from Vancouver's Island," and the line is simply directed to be drawn "southerly through the middle of the said Channel and of Fuca's Straits." The presumption arising from this description of it is that *the Channel intended by the Treaty was the only Channel then used by sea-going vessels*, and that it had no distinguishing name, but that upon the face of the charts then in use, it would readily answer the description given of it in the Treaty, and would admit of the boundary line being deflected and continued through the middle of it and of Fuca's Straits to the Pacific Ocean.

Chart No. 2.

It will be seen by His Imperial Majesty, on an examination of Vancouver's Chart, which was the most accurate chart known to Her Britannic Majesty's Government at the time when the Treaty was made, and which was the Chart under the consideration of Her Britannic Majesty's Government when they framed the 1st Article of the Treaty, that the name of the Gulf of Georgia is assigned in that Chart *to the whole of the interior sea*, which separates the Continent from the group of islands, the chief of which is called Quadra and Vancouver's Island, such being the name of the largest island at the time when the chart was constructed, and that *no distinguishing name* is assigned either to the channel up which Vancouver sailed to the northward, or to the portion of the Gulf in the 49th parallel of north latitude. Her Majesty's Government accordingly contends—(1) that the boundary line, which is directed by the Treaty to be continued westward along the 49th parallel of north latitude to the middle of a channel without any distinguishing name, and thence southerly through the middle of the said channel and of Fuca's Straits, is intended by the words of the Treaty to be drawn through the middle of a channel which had, at that time, no distinguishing name; and (2) that, as the channel now called the Rosario Strait is found in the charts of the period (1846) without any distinguishing name assigned to it, and in other respects corresponding with the requirements of the Treaty, such channel ought to be preferred to the Canal de Haro, which bore a distinguishing name at that period.

Her Britannic Majesty's Government contends, on this part of the case, that to draw the line through the middle of the waters distinguished in Vancouver's Chart from the Channel, through which he sailed, by the name of the "Canal de Arro," and which waters are represented in that chart as unsurveyed, would be to continue the line not through "the said Channel"—that is, a Channel without any distinguishing name—but through a channel which, at the time the Treaty was made, was distinguished by name from the channel surveyed by Vancouver. No reason can well be assigned, if such a channel was contemplated by both parties, why it should not have been designated by its distinguishing name to prevent all uncertainty.

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