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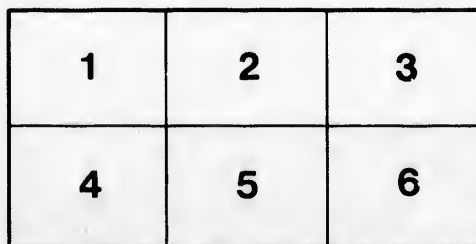
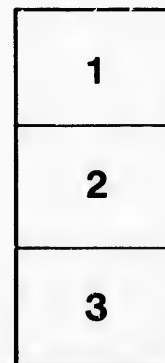
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BY
LIEUT.-COL. COFFIN,

COMMISSIONER OF
Ordnance and Admiralty Lands,
DOMINION OF CANADA.

QUIRKS OF DIPLOMACY.

READ BEFORE THE
Literary and Scientific Society
OF OTTAWA,
JANUARY 22, 1874.

Montreal:
JOHN LOVELL, ST. NICHOLAS STREET.
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QUIRKS OF DIPLOMACY.

QUIRKS OF DIPLOMACY.—What *are* Quirks of Diplomacy? It is right to answer this query, at once, by explaining the meaning of the word "quirk." A quirk, says Worcester, in his excellent Dictionary, is "a twist or turn from the straight or right way." Johnston, quoting Burton, defines it to be "an artful distinction." Now, diplomacy has been held, to be the science of artful distinctions, and its earlier professors piqued themselves, not a little, on their ingenuity in twisting common sense, and turning common language, from the right or straight way. With these men "words were made to disguise thoughts." They regarded diplomacy and duplicity as synonymous terms. Good Sir Henry Wotton, a name familiar to all old Etonians, spoke very undiplomatic truth, when he gave a "pleasant definition of an ambassador" in these words, "*Legatus est vir bonus, peregré missus, ad mentendum Reipublicæ causâ,*" which, at a later period, with equal discretion and wit, he interpreted, thus "an ambassador is an honest man, sent to *lie abroad* for the good of his country." Such was his estimate of his own craft, in the days of our James the 1st, A.D., 1612.

But the progress of human ideas has shown that, as with all other sciences, the foundation of the science of diplomacy is truth and it is a proud satisfaction to know that "artful distinctions" have been long since discarded by the manly and practical diplomacy of England; that the publicity due to

a Constitutional and Parliamentary form of Government, has impressed upon it that sterling characteristic of the national mind—a “love of right, a hate of wrong,” and a contempt of gain bought by the sacrifice of honesty. And if, in the course of a long and honorable career, England has committed errors; if, in her own despite, by the force of currents unknown to mariners, she has been driven from “the straight or right way,” no ignoble or mercenary motive can be charged against her. Her errors point in another direction. Truthfulness can never be excessive, but there may be an excess of frankness, and an excess of generosity, pernicious, as affecting the interests of others. But, if chargeable with errors such as these, she has ever shown herself ready to repair them; she has never shirked responsibility to foe or friend; she has been munificent in reparation, and she can afford it; she can point to the magnificent structure she has raised, to the wealth and to the power of the Empire, and, great in all things, acknowledge great errors, redeemed by still greater sagacity, and reply to the *persiflage* of a school of foreign negotiators, which is not altogether extinct, by a light proverb in their own language,—“*Il rit bien qui rit le dernier.*”

It is the purpose of this Lecture to review, briefly, so much of the Diplomatic transactions of England as affect the Dominion of Canada, and to invite the attention of a Canadian audience to the purport of Treaties which, having been made between England and other countries, are still in force, and continue to exercise a potent influence on the present prosperity and future destinies of Canada.

The Treaties to which we shall refer may be thus briefly summarized:

1st. The Treaty concluded at Paris, 10th February, 1763,

by which the Canada of France devolved to the British Crown.

2nd. The Treaty of 1783, also a Treaty ratified at Paris the 3rd September, by which the Independence of the United States of America was acknowledged, and the boundaries of their territories defined.

3rd. Jay's Treaty, so generally designated, signed in London 19th November, 1794.

4th. The Treaty of Ghent, made in 1814, 24th December, terminating the war, known to us, as the War of 1812, again defining, but ambiguously, the territorial boundaries of Great Britain on this continent, and of the United States. This Treaty led to other Treaties, which afforded a good deal of explanation, but were not always satisfactory, to wit, to

5th. The Convention of 1818.

6th. To the Treaty of Washington, 9th August, 1842, better known as the Ashburton Treaty.

7th. To the Treaty of Washington, 15th June, 1846, known as the Oregon Treaty, and, finally,

8th. To the last Treaty of Washington, the Treaty of the 8th May, 1871, which has been the subject of so much controversy in Canada.

By the Treaty of Paris, ratified in 1763, three years after the capture of Quebec and the capitulation of Montreal, England acquired all the French possessions on the Continent of America. By the Treaty of 1783, confirming the Independence of the United States, England relinquished, not only the territory claimed by each State of the Union, severally, but abandoned to the General Government immense tracts of territory unsettled and, in fact, unexplored and unknown. The prevailing ignorance of the time was innocently shown in the Treaty itself. The North-Western

angle of demarcation was fixed at the North-West angle of the Lake of the Woods, from which point of departure it was to run *due west*, to the sources of the Mississippi. It was subsequently found that the sources of the Mississippi were many hundred miles to the *south*, that the line prescribed was, in fact, an impracticable line. It was, consequently, by Jay's Treaty, 1794, and the Convention of 1815, changed to the line 49 of Northern parallel, more in accordance with the intent of the Treaty, and still more with the interests of the United States. England retained simply her loyal Colonies or Provinces of New Brunswick and Nova Scotia, the Island of Newfoundland, the Hudson's Bay Territory, including Prince Rupert's Land, and her acquisitions from the French Crown, which have since expanded and extended across the Continent to the Rocky Mountains and the Pacific Ocean.

But these vast extents of territory were wanting in cohesion. Contiguous and conterminous, they were yet, by force of physical circumstances—from climate—from remoteness, long drawn out—by barriers of Lake and Ocean—by icy barriers in winter, and by Treaty barriers all the year round—left separate and apart, debarred from intercommunication at the present, and, to all human prescience, in the future. The Northern Line of demarcation between the countries, established in 1783, terminating at the North-West point of the Lake of the Woods, drove England and Canada into the Arctic regions, inaccessible except by birch canoe or Indian dog-sled. A little more of foresight, a little less of precipitation, and some knowledge of physical geography, would, without question, have secured to Canada, in 1783, a roadway, at the least, to the North-West. But that which, in 1783 was unobserved and unappreciated, was, at a later period, in 1814,

with open eyes flung aside, with all the spendthrift generosity and sublime indifference of diplomacy. Men in Canada, however proud, and justly proud, of the events of the war of 1812, are not always mindful of the practical results, won, chiefly too, by the gallantry of native Canadians, and *quirked* away recklessly by the Treaty of Ghent. It may be well to recall the fact, that in December, 1814, England was in a position to have forestalled and foreclosed for ever the mortifying humiliation of the Ashburton Treaty of 1842, and to have secured to herself, at the same time, on the largest scale, and on the shortest line, a right of way to her North-West Territories. In December, 1814, she was, by conquest, in actual possession of the fortress of Michilimacinae—called Macinaw, for shortness—of Lake Michigan, of the site of the present City of Chicago, and of a line of territory terminating at the fort of Prairie du Chien, on the Mississippi,—had won back in fair fight, and held by right of war, the whole of the Territory conceded in 1783, and which now constitutes Michigan, and the more Northern States of Wisconsin and Minnesota. In the autumn of 1814 Colonel McKay, an Indian trader—a man endowed with a natural genius for war-like enterprise, well known afterwards as a citizen of Montreal, and father to the present Judge McKay, of the Superior Court of Montreal—with the consent of the British military authorities, and to protect Macinaw from American aggression, embodied a force of Indians and Half-breeds, Orkney-men and voyageurs, among the latter the well-known French Canadian, Captain Rolette, and with this heterogeneous force, ably led, and wonderfully kept in hand, penetrated into the wilderness, 453 miles, captured a strong palisaded work, supported by a powerful gun-boat on the Mississippi, annexing thereby to Canada the whole intermediate territory

and holding it militarily, until restored to the United States by the Treaty of Ghent.

It may be well, also, to remind the men of Canada that, in this same month of December, 1814, England held, not by force of arms alone, but by the eager adhesion of the people of the country, the whole of that part of Massachusetts, now Maine, lying between New Brunswick on the east, Canada on the north, and the Penobscot on the west. In the months of July and September, 1814, expeditions organized by Sir John Coape Sherbrooke, governor of Nova Scotia, occupied 100 miles of territory, west of New Brunswick, including the whole of the "disputed territory" fraught in later years, with so much of difficulty, and, according to Lord Palmerston, with the disgrace of the "shameful capitulation" of 1842. In December, 1814, this territory was ours, not only by right of war, but with the consent and content of the population. Remember too, that this was the epoch of the Hartford Convention. Ingersoll, an American historian of the time, writes "without a blow struck, part of Massachusetts passed under the British yoke, and so remained "without the least resistance until restored at the peace."

The restoration was made under the 1st Art. of the Treaty of Ghent, concluded in this same month of December, 1814. The negotiators met, and, almost as a preliminary, commenced operations by a mutual peace-offering, fair enough in outward show, but in reality, unequal and delusive. It was agreed without hesitation, and apparently without enquiry, "to restore all territories, places and possessions whatsoever, taken from either party, by the other, during the war." The British restored Forts Niagara and Macinaw—the fort at Prairie du Chien, and the territory intervening between the mouth of the river Wisconsin and the line

49°. They gave up their acquisitions in Maine then Massachusetts, accepting, as a consequence, a vexatious controversy and a disputed territory. On the Pacific Ocean they gave up Astoria, on the southern shore of the mouth of the River Columbia—then consisting of a few ruined huts, which not only never had been captured, but was actually, at the time of surrender, the property, in possession of British subjects. With effervescent good nature, overstraining the meaning of that fatal principle, so appropriately draped in a dead language—that of the *statu quo ante*, they gave to the Americans a "*pied à terre*," "which was afterwards tortured," says the Quarterly Review, "into an abandonment, and an admission of adverse possession," and created the diplomatic leverage, which, in 1846, pried Great Britain and Canada out of the Territory of Oregon.

On the other hand the Americans gave up nothing, for the simple reason that they had nothing to give. They had, for a short time, occupied a small portion of the western frontier of Canada, and had burnt the village of Amherstburg, but they had long before withdrawn to Detroit, and had not even left a sentry on the Canadian shore.

Let us, now, for one moment, consider the attitude and the temper, the situation and the power of the two nations, at this critical moment of time. The recent success at Plattsburg—the battle of New Orleans took place after the signing of the Treaty—had no doubt reanimated America, but the depression among the people was great. The costs and sacrifices of the war had been enormous; the General Government was in a state of bankruptcy. The American Marine had been driven from the ocean; trade and commerce were prostrate; a large portion of the population was dissatisfied, nay, disaffected. The Hartford Convention was actually in

session, and the Eastern States threatened to secede. If we may judge from the writings of the times, America was defiant in aspect, but very sick at heart.

On the other hand, England was jubilant, her long contest with Napoleon had been crowned with success. Her cup was full to the overflowing, and it overflowed with good nature and good-will. She was eager to be generous and could afford generosity. *We* might appreciate the sentiment better, were we not the victims of it—we should like it more, if we felt it less.

For, if at this moment, free as she was to act, and with immense forces at her disposal, had she resolved to retain her territorial conquests, as a compensation for the costs of the war, there can be no doubt, but, that, at the present day, the Province of New Brunswick would have extended to the Penobscot, and the Canadian Pacific Railway would have been some 1500 miles the shorter.

The improvident concessions of 1814 threw us back upon the provisions of the Treaty of 1783, which, so far as they related to the north-eastern boundary, were, in the language of the king of Holland's award, "inexplicable and impracticable." The words of the Treaty, if they meant anything, meant self-immolation—an act of national "harikari" for the special delectation of the American public. This was clearly impracticable and inexplicable, and a Treaty which could bear such misconstruction, was no Treaty at all. It was a mutual misunderstanding—and both parties agreed to view it in this light, so far as related to the boundary between New Brunswick and Maine—but, the re-opening of the question was attended by evil auguries. The popular feeling in the United States was adverse to retrocession. It was desperately resisted in the American Senate. It involved the

still greater family question of state rights. Maine raved like a maniac, and was ready for a free-fight with all creation. She defied England, ran-a-muck at Canada, and shook her impious fist in the face of her own maternal Government. The two countries were brought to the verge of a war. The immediate danger was stayed by the personal intervention of the great Peacemaker—a well deserved and honourable title—General Winfield Scott. These perilous complications were cleared up, and closed by the Treaty of 1842, or the Ashburton Treaty.

It must be owned that, under the critical circumstances of the time, the Ashburton Treaty did all that could be done. It gave us a boundary, shorn of the American pretensions, but by no means equal to our just rights, as proved, subsequently, by the production of the celebrated Franklin or "red line" map, but it gave us peace, and the satisfaction of knowing that New Brunswick had made great sacrifices for "the good of the Empire." While upon this subject, it is but fair to state, in explanation of the course taken by Daniel Webster, that although, doubtless, the Franklin or "red line" map, discovered by David Sparks in the *Archives des affaires Etrangères*, at Paris, was in his hands, during these negotiations, this piece of evidence was not conclusive. It afforded strong presumption, but not absolute proof, of the correctness of our claims, under the Treaty, which, however, we had abandoned when we abandoned the Treaty itself and accepted an arbitration. Nor could a public minister or a private advocate be expected to make out his adversary's case; but, one thing is now certain, that, in secret conclave, the presumptions raised by the "red line" map were employed by Daniel Webster to moderate the formidable opposition of the Senate, and to overcome the

intractable violence of Maine, and secured peace between the two countries, at a moment when it was additionally endangered by the Canadian revolt and its consequences,—by the cases of the *Caroline* and the *Creole*,— by the right of search question,— and by the hostile attitude of the French press and the French people, in these days, periodically afflicted with Anglo-phobia.

Nor can the famous expression, the “shameful capitulation,” of Lord Palmerston, pass altogether unchallenged. It came ill from the mouth of one who, in 1833, had rejected a compromise, which, if accepted then, would have foregone all need for capitulation in 1842. In 1833, May 28, General Jackson, with that sincere love of peace which actuates all true and tried soldiers, made a proposition to the British Government, through his Secretary of State, Mr. Livingston, and Sir Charles Vaughan, our Minister at Washington, which, in the reprobatory language of Albert Gallatin, one of the oldest diplomats and ablest statesman of America, was denounced “as a proposal to substitute for the due North Line, another which would have given to Great Britain *the greater part, if not the whole*, of the disputed territory.” “Why the proposal was made, and why it was not accepted,” adds Mr. Gallatin, “cannot be otherwise accounted for, “so far at least as regards the offer, than by a complete “ignorance of the whole subject.” This favourable opening for an arrangement was rejected by the Government of Lord Palmerston, but, whether from complete ignorance or haughty indifference, it was only exceeded in mischief to Canada, by the “childlike and bland, heathen Chinese” style, of the concessions of the Treaty of Ghent.

Much had been done thus far, for the “good of the Empire” and the “love of peace,” but we had deeper depths to

traverse still. By the Ashburton Treaty we gave up one half of the territory in dispute, but by the next Treaty—the Oregon Treaty—we gave up the whole. In both cases, Canada reminds us of a rabbit or a dog in the hands of an experimental anatomist. Like animals doomed to vivisection for the benefit of science, she has been operated upon unsparingly, for the good of the Empire. Diplomatic doctors, in constantly recurring succession, have given her up, and given her over. She has been the victim of an endless exhibition of Treaties, applied allopathically, and then, by force of counter irritants, has been *treated* nigh unto death. It might have been presumed that thus far, enough had been done to satisfy both the “good of the Empire” and the “love of peace”—that, in short, the “good of the Empire” could hardly have been bettered, by any further sacrifice, or the “love of peace” bought, at a higher price.

But no—the peace of this continent was destined to be no peace. Scarcely was the ink dry on the face of the Treaty of 1842, when the mercenary jade renewed her exactions and her outeries. She merely effected a “change of base” from the Atlantic to the Pacific sea-board, and demanded, incontinently, twelve degrees of latitude lying between the Rocky Mountains and the Pacific Ocean, as the price of continued favors. Great Britain claimed, and claimed most justly, the whole territory to be found between the 42 parallel of latitude and the Russian domain of Alaska. The Americans claimed up to 54° 40'. They “riled,” and they raged, and gave vent to the national wrath, in the fell alliteration of “fifty-four forty or fight.” But, who would fight for a scrap of coast, not much more in area than Spain and Portugal with the half of France thrown in? The game of brag and bluster succeeded—England compounded for the line

49°, gave up, once for all, about six degrees of latitude by three of longitude, and accepted in return the Southern cape of Vancouver Island as an excuse—a diplomatic excuse—for a capitulation far more inglorious, than the alleged capitulation of 1842.

I have been greatly assisted in my enquiries into the "outsets" of this transaction, by an excellent and exhaustive essay, written and published, during the pendency of these negotiations, in 1846, by my friend E. A. Meredith, Esq., the Vice-President of this Association, and I have to thank him for much of what follows. At the outset, it was conceded at once, in a frank and generous spirit, that the whole Territory having been held by the British Crown previous to the Independence of the United States, gave to England and America an equal right in it. This principle was agreed to by both nations, and recognized by the Convention of 1818, which gave to England and America a conjoint right of occupation for a period of ten years, which was afterwards extended for a like period. But the greed of the American people was insatiable. As its value became better known, they coveted the whole of the vineyard. American diplomacy, always with an eye to the Presidency, rode in on the spread eagle, in a very "quirky" spirit. We will not extend this, already lengthy lecture, by dwelling on their pretensions—whether under the Bull of Pope Alexander VI., or their Spanish Titles, or their American Titles, or the discoveries of Lewis and Clarke, or the previous occupation of Astoria,—all which, refuted often, proved simply, that

"Even though conquered, they could argue still."

As it was admitted that they had a right to share in the territory, a proposal was made to divide it. The most natural line of division was the River Columbia, from the line

49° to the sea. It gave to both countries the best defined and safest boundary. It gave to the Americans the larger and the richer half of the Territory. It gave them the discoveries of Lewis and Clarke. It gave them Astoria. But this was not enough. It gave them no harbor. The mouth of the Columbia was impracticable. Therefore they demanded harbors on Pugets Sound and Admiralty Inlet, and got them, and having got them, turned round and asked, "Why make two bites of a cherry? if we hold the harbors, what is the good of the remainder of the territory to you?" and on this showing, they got that too; and two years afterwards, in 1848, by the conquest of California, became possessed of the finest harbor on the whole Pacific coast, the harbor of San Francisco. Little wonder at the alacrity with which the American Senate ratified the Treaty of 1846, standing at that moment face to face with the Mexican war, though England scorned to make use of her "opportunity." And justly, may it be added, in the words of the Quarterly Review: "Never was the cause of a nation so strong as ours in this dispute; never, owing to unscrupulous assertions on one side, and to the courteous desire to waive irritating arguments on the other, was the case of a nation less decidedly put forth."

Such was the chief purport of the next Treaty—that of 1846, or, the Oregon Treaty. The line 49°, which by the Ashburton Treaty had been left indefinitely, in the Rocky Mountains, was extended from the Rocky Mountains to the middle of the Channel of the Gulf of Georgia, and, dividing that channel and the Straits of Fuca, southerly, so reached the Pacific Ocean. The American government, with rare magnanimity, waived their claim to the extension of the line 49° across Vancouver Island, gave up graciously the Southern Cape, and allowed Great Britain to remain in

undisturbed possession of the whole of her own dependency. In after discussions, the American Commissioner, Campbell, a man of shrewd wit and sharp practice, dwelt loftily and long, on the disinterestedness of America in this matter of "swapping armor,"—the gold of Glaucus against the brass of Diomed—and about 270,750 square miles of the El Dorado of the Northern Pacific, compensated—by a touch of Vancouver cement, laid on with a camel hair paint brush.

This Treaty of 1846, or the Oregon Treaty, has been also called the "Boundary Treaty" and has assumed, under that name, a significance, and a portent, not contemplated by its projectors. It gave rise to the St. Juan question, now so inauspiciously closed. This question never should have been a question at all. The British right, under the Treaty, to one-half of the channel between the Continent and Vancouver Island was unquestionable and, in this view, the Island of St. Juan was indisputably her's. How came it, then, that a question of right was allowed to take the shape of a question of compromise?

This controversy has become history, and it behoves Canadians to mark, learn and digest it. There can be no doubt but that, from the first, the British authorities insisted, perversely, that the Rozario channel was the right channel of the Treaty. The Americans retaliated, and, with equal pertinacity, insisted on the Haro channel. Both sides were imperfectly informed, and each took its information from interested parties. It became manifest, from the first, also, that it was in the interest of the Americans to ignore the real meaning of the Treaty, and to encourage the delusion of the British, and they succeeded, by the play of their opponents, not only in making their game, but in winning it.

Both parties, at remote distances, had, no doubt, recourse

to the best source of information within reach. The British Government turned naturally to the Hudson Bay Company. We find the name of Sir John Pelly, governor of the Hudson Bay Company, prominent in the early stages of these transactions; they had been the first explorers; they were the first occupants of the country; They knew all that was then known about it; in their intercourse with Vancouver Island from the mouth of the Fraser River they had always navigated the Rozario channel; they knew that it was the best, and they brought themselves to believe that it was the right channel, and this belief was strengthened by the knowledge that its maintenance would secure to them, under their lease from the Crown, the 400 square miles of island, islet, rock and water, which make up the Georgian Archipelago; they counselled as they believed, judging with the judgment of shrewd and intelligent traders, but the questions evoked by the Treaty of 1846 demanded the foresight and the forethought of statesmen.

Viscount Milton has produced a book, printed in 1869, entitled, "A history of the St. Juan Water Boundary Question, as affecting the Division of Territory between Great Britain and the United States," interesting in details and valuable as presenting, in a compendious form, a large amount of official information, which, even with his opportunities, was obtained with difficulty. We cannot, however, agree with him in his conclusion.

His Lordship has written mainly to expose the miserable policy of compromise. He denounces the action of Lord John Russell, who, in 1859, for the sake of the settlement of the Boundary difficulty, offered to accept the Douglas channel as a compromise. The Douglas channel would have given to Great Britain the Island of St. Juan, and to the United

States, all the remainder of the Georgian Archipelago. He contends that the Rozario channel, as claimed by us, was our unquestionable and indisputable right, and that, to give up one rock or islet of the 400 square miles which intervene between the Rozario and Haro channels, was a fatuous abandonment of great national interests. Here we take leave to differ with his Lordship. We do not feel that, under the plain reading of the Treaty of 1846, we ever had the least right to the Rozario channel, still less under that Treaty, could the Haro channel be imposed upon us. Under that Treaty the true passage or channel, if any, was the Douglas channel, and the error committed by Lord John Russell was not so much in suggesting the Douglas channel as a *compromise*, as, in not having insisted on it as a *right*.

But the fact is that, in 1859, Lord John Russell, was already hampered by the acts of his predecessors. At an earlier period England, ill-advised, had asked too much. She had thereby raised a false issue, and had been shrewdly and irreparably checkmated. So far back as 1848, under instructions to Mr. Crampton, she had officially claimed the Rozario channel, not so much under the Treaty of 1846, as under the construction she chose to put upon it. She claimed that it was the best, if not the only, navigable channel then known and used. On the other hand it was shown or contended that the Haro channel was just as good, and upon the quarrel, in this shape, the contestants joined issue. Never was there a more erroneous issue raised, or a more pernicious. Neither does the Rozario nor the Haro correspond with the meaning of the Treaty; the Douglas channel alone conforms to both letter and spirit, and, if *insisted upon from the first*, would have, most assuredly, given to England the great bone of contention, St. Juan Island.

The fact is that the whole fabric of argument originated in a misconception, which, by force of reiteration, had assumed the semblance of reality. It is incomprehensible how the plain language of the Treaty could have been so perverted. Now, what are the words of the first article of the Treaty of 1846?

ARTICLE I.

"From the point on the forty-ninth parallel of north latitude, where the boundary, laid down in existing treaties and conventions between Great Britain and the United States, terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the Continent from Vancouver Island, and thence, southerly, through the middle of the said channel and of Fuca's Straits to the Pacific Ocean.

"*Provided*, however, that the navigation of the whole of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both parties."

Nothing can be plainer, more intelligible or more practical, than the meaning of this first article of the Treaty of 1846. It prescribes that the line of the water boundary, starting from a given point on the 49th parallel, *in the middle of the channel which separates the continent from Vancouver Island*, should pass thence, southerly, through the middle of the said channel and the Straits of Fuca, to the Pacific Ocean. The channel spoken of is the Grand channel, *the whole space*, whether of island, rock or water, which separates the continent from Vancouver's Island. No mention is made in the Treaty of interjacent islands or

of intermediate channels, simply, because the negotiators, working at Washington, by the aid of imperfect and untrustworthy charts, knew but little on the subject. These gentlemen, with unsafe knowledge, but perfect honesty of purpose, did the best thing, if not, the only thing, they could do. They had no time to pause; urged by the clamor of the hour, and by the commercial anxieties of two great nations, they brought the Treaty rapidly to a close, determining that the water boundary should be a line drawn in the middle of the channel—the *whole space or channel*—which separates the continent from Vancouver Island; and to preclude injustice or inconvenience to either of the contracting powers, they carefully and emphatically *provided*, in the same article, that the navigation of the *whole* of the *said* channel, including of course all intermediate and subordinate channels, should be free and open to both parties.

That such was the true intendment of the Treaty is confirmed by the language of Sir Richard Pakenham, the British negotiator, used at a subsequent period, in explanation of the transactions of 1846, and referred to by Lord John Russell in his despatch of the 24th August, 1859. He says: "It is my belief that neither Lord Aberdeen, nor Mr. McLane, nor Mr. Baneroff possessed at that time a sufficiently accurate knowledge of the hydrography or the geography of the region in question, to enable them to define more accurately what was the intended line of boundary that is expressed in the words of the Treaty," and again, "all that we knew about it was, that it was to run through the *middle of the channel which separates the continent from Vancouver Island*, and thence southerly through the middle of the said channel and of Fuca Straits to the Pacific Ocean."

The same view too has been recently supported by a very great European authority. The *London Times* of the 11th November, 1872, contained, as translated from an Italian Journal, a letter from the Chevalier Negra, a scholar and statesman, now ambassador at the court of McMahon, whose name alone commands attention, strongly confirmative of the view taken above. He says :

“By the Oregon Treaty of 1846, English and Americans
“agreed that the 49th degree of latitude should form their
“boundary from the Rocky Mountains to the Gulf of Georgia, and that, from that gulf to the Straits of Juan de Fuca,
“the frontier line should run in the middle of the channel
“that separates the continent from Vancouver Island * *
“But is not the entire space, as I think, and as Capt. Pro-
“vost truly said in 1857, a channel like the English Chan-
“nel? and should not the boundary line, therefore, accord-
“ing both to the spirit and the letter of the Oregon Treaty,
“pass through the middle of the great channel, of course
“with the curves necessary to give to the English or to the
“United States, the undivided property of the islands
“through which a straight line would cut, according as the
“greater part of the Island was found upon the English or
“the American side of the line? I can discern no geogra-
“phical reason for dividing back, as the English might like
“to do, the line eastwards to the Rozario Channel; or, for
“pushing it over to the west to the Haro Channel, as was
“decided at Berlin. Neither in the first nor in the second
“case, is the line in the middle of the channel, and the
“channel comprises all the space between Vancouver Island
“and the continent, and is everywhere navigable, although
“the navigation be better in the broader waters of the
“Rozario and better still in those of Haro.”

Had the Treaty been thus read and thus acted on *ab initio*, had this dividing line been insisted upon from the first, we should possess now as a *right*, that which Lord John Russell proposed as a *compromise*.

For, take the Admiralty chart, and with a pair of dividers trace a line "commencing in the midst of the channel" on the line 49° and running southerly down the middle of the *said channel* which separates the continent from Vancouver Island following the curvature of the same, at all times equidistantly from the shore of the continent and of Vancouver Island, down to Fuca's Straits, regardless of all secondary channels, and of all rocks and islets by the way, and we produce a line in accordance with the letter and the spirit of the Treaty, running as nearly as possible through what is now known as the Douglas Channel, which would give to Great Britain the exclusive right to the Island of St. Juan and to the United States an equal right to Orcas Island and other fine islands, while the Haro Channel and the Rozario Channel and the Douglas Channel itself, and all other intermediate channels or passages, would have remained free and open to the navigation of both nations. It is difficult to conceive how any misconception could have arisen. We remember in our juvenile days, to have seen a quaint, highly colored, caricature of the younger Pitt, whose exhaustive budgets and marvellous exiguity of form had obtained for him the *sobriquet* of the "bottomless Pitt." The Chancellor of the Exchequer is addressing the House, with extended arm and flashing eye, while the excitement of the debate has disarrayed his garments, and exposed, irrepressibly, the lank contour of his frame. "Mr. Speaker," exclaims the orator, "Where there is a fundamental deficiency, why call for paper?" We apply the incident in the present case, and

ask, where there is a fundamental deficiency, in the absolute absence of all ambiguity, why call for complications?

It has been before observed that the subject was one demanding the foresight and forethought of statesmen. Now what did the statesmen do? Acting under instructions from his Government, we find that, in 1848, the British Minister at Washington blandly suggested to the American Government, in the most honied accents of diplomacy, that, as the Rozario Channel was, beyond a doubt, the right channel, the sooner it was declared so, the more gratifying it would be, and so on, with the usual reciprocations. The Americans, not to be outdone in "bunkum," replied handsomely, and rejoined, "Haro." Here was the first official false step. This first startling impress on the sand became thenceforth hard and ineffaceable as granite.

The discussion was thenceforth nursed assiduously, and kept warm carefully, up to the year 1856, when a joint commission was appointed to settle the water boundary. The American Commissioner was Alexander Campbell, the British, Captain Prevost, R.N. The Commissioners met, reciprocated, and altercated. Prevost moored, fore and aft, in the Rozario Channel, prepared for action. Campbell was equal to any emergency in the Haro Channel. At this safe distance, they exchanged broadsides of minutes and memoranda. At length Prevost, weary of feints and dodges, broke ground, and put in a suggestion of compromise. He proposed the "Douglas" Channel, and advised his opponent to accept it at once, as he would never have another chance. Campbell answered, that he did not want another chance, and would never accept it, if he had.

Nothing of course remained to be done, but to return home and report progress. Acting on the diplomatic maxim

festina lenté, nothing more was done for three years, when Lord John Russell took the matter up, and in his memorable despatch of the 24th August, 1859, capped the climax, by formally proposing the Douglas Channel as a *compromise*.

At this time the splendid surveys of the British Admiralty were so far advanced, that all the great hydrographical facts must have been known in London. If not known, the despatch should have been delayed until they were. These facts, interpreted by the Treaty of 1846, would have justified his Lordship in brushing aside all previous misinterpretations and complications, in assuming new ground, and in demanding a centre line, or the Douglas Channel, as a *right*. Of course, the position, then taken, was conclusive. Nothing remained to be done, but to arbitrate between the two channels, the Haro and the Rozario.

But while Lord John Russell was penning his despatch in Downing Street, a great deal more had been, abruptly, done among the distant isles of the Pacific, than the mind of diplomacy could conceive, or its temper stand. The people of Oregon Territory coveted the island of St. Juan, and General Harney, an officer of the United States Army, on the most frivolous pretext, without warning, invaded the island, drums beating, colors flying, with all the pomp and panoply of war. Harney was a kleptomaniac of the school of the first Napoleon. He occupied first and explained afterwards, and his explanations aggravated the outrage. This was in July, 1859. The British Admiral at Esquimalt Harbor, ten miles distant, sent over ships of war, seamen and marines. For a time, the aspect of affairs was threatening in the extreme; but the tact and judgment of the British Governor, Douglas, averted a collision. The intelligence of this hostile irruption reached New York on the 7th September, 1859. Lord

Lyons was then our ambassador at Washington. His Lordship addressed, at once, to the American Cabinet, a note calm, grave, and resolute. The answer came promptly, and was enforced with energy. General Scott, commanding the American army,—again the Peacemaker of the time,—was despatched at once to the Oregon Territory, to supersede, if he could not control, his fantastic subordinate. Harney was ordered to report himself at Washington, at a safe distance from the scene of his mischievous exploit. The Americans ought to have withdrawn from an illegal occupation with becoming acknowledgment, but they did not, for reasons best known to diplomacy. Scott and Douglas, discreet men both, arranged for the joint occupation of the island, by British and American troops during the continued pendency of negotiations. On the 20th March, 1860, a detachment of British marines was landed on the island, and this joint occupation endured harmoniously, without let or hindrance, for a period of thirteen years.

This long delay was caused chiefly by the American Civil War. While the contest raged, the British Ministry, with gentlemanly delicacy, refrained from embarrassing a government, already, sore beset. This was acknowledged, with scrupulous courtesy indeed, by Mr. Seward in 1867, but the Hon. Reverdy Johnston was despatched to England with peaceful protestations and full powers.

During this long interval, the British Government had, no doubt, become slowly, but widely awake, to the important bearing of the questions at issue, and we now find a strong stand made, for the reopening and reconsideration of the whole subject, with *amended pleadings*.

The American Plenipotentiary appears to have been perfectly satisfied as to the equity of the British pretensions;

and acting on the great international policy of "honesty to all men," agreed with Lord Stanley, 10th Nov., 1868, to a protocol, by which the *meaning* of the first article of the Treaty of 1846 was referred to the arbitration of the President of the Swiss Confederation.

In pursuance of this protocol, on the 14th Jan., 1869, the Hon. Reverdy Johnston, charged with full power to this effect, and, no doubt, strengthened by the approval of his own Government, signed a convention with the Earl of Clarendon, referring to the Swiss President, the solution of the question, as to the true construction to be put on the first article of the Treaty of 1846, whether it meant the Haro Channel or the Rozario Channel, or the whole channel, or any intermediate channel.

Although this convention was recommended by the Senate Committee on Foreign Affairs for ratification, it was never brought before the Senate, and the period, within which the ratification should have taken place, expired.

The fact is, that the Senate of the United States never could be brought to face the convention of 1869. That body gibbed and shied, and at last fairly bolted, leaving the Treaty which, by their national representative at the Court of St. James, had been pledged to win, in a very undignified position on the floor of the House. The force of contrast made the matter worse, for the preceding Treaty, that of 1846, had been sanctioned with suggestive alacrity, at that rate of lightning speed, euphonistically known as "slick"—three days only having elapsed between the signing, and sealing, and the ratification. Many reasons were assigned, diplomatically, for the collapse, but the best answer is to be found in the 36th protocol of the Treaty of Washington

(8th May 1871), whereby this vexed question was again dealt with, and finally, thus :

"At the Conference of the 15th March, the British Commissioners proposed that the question of the water boundary should be made upon the basis of the Treaty of 1869," or the Reverdy Johnston Treaty.

"The American Commissioners replied that, though no formal note was taken, it was well understood that *that* Treaty had not been favorably regarded by the Senate." And, in this way we are introduced to the last Treaty of all, the Treaty of the 8th May, 1871, or the last Washington Treaty, in its relation, with this subject.

It was clear, from the stand taken above by the American negotiators, that no reopening of the question, no modification of the channels, could ever be approached, except weighted with grave liabilities. They offered, indeed, to abrogate the Treaty of 1846 so far, and to rearrange the boundary line as thereby established, or, in other words, to revive the American claim to Vancouver Island, with "fifty-four, forty, or fight." Diplomatic humanity revolted at the proposition. Better to endure all the ills we had, than to rush into unknown danger, on the Russian frontiers. Therefore, we were thrown back upon another reading of the *statu quo* principle equally distasteful to the Canadian ear, the *statu quo ante pactum*.

Then, at the Conference of the 29th April, the British Commissioners, bound by the chain of the sins of their predecessors, "proposed the middle channel, known as the Douglas Channel." "The American Commissioners declined to entertain the proposal." On their side they proposed the Haro, which was, of course, declined on the other. "Nothing therefore remained to be done but a reference to arbi-

tration to determine whether the line should run through the Haro Channel or the Rozario Straits. This was agreed to."

But the British Commissioners persisted still "they then proposed that the *arbitrator* should have the right to draw the boundary line through an intermediate channel. The American Commissioners declined the proposal, stating that they desired a *decision*, not a *compromise*."

Alas! most lame and impotent conclusion. Had the plain common sense construction of the Treaty of 1846 been apprehended from the first, the intermediate channel would have been the line of division, the Island of St. Juan, ours, and no compromises asked from either party.

Again, with forlorn desperation, the British Commissioners proposed "that it should be declared to be the proper construction of the Treaty of 1846, that all the channels were to be open to navigation by both parties. The American Commissioners stated they did not so construe the Treaty of 1846, and therefore could not assent to such a declaration."

Oh, conclusion, lamer still, and still more impotent! for thus it falls out. Under the plain common sense meaning of the Treaty of 1846, we were entitled to a line dividing the whole channel, between the continent and Vancouver Island, while all intermediate water and minor channels were open to both nations, but, under the St. Juan award—the Haro Channel having been declared to be the right and *only channel* under the Treaty—we are restricted to the water of that channel alone, the widest it is true, but beset with rocks and shoals, exposed to fogs and gales, and to the influence of tides and currents, which render sailing navigation difficult, if not dangerous, and we are debarred from the right of navigating any of the other, deeper and safer, intermediate channels.

Thus, the direct line of intercourse between New Westminster on the Fraser River, in British Columbia, and Victoria in Vancouver Island is hampered and crippled to the very verge of uselessness. The injury done is grievous beyond measure, still, it is not irreparable. There is little help for it beyond self help, but this sturdy auxiliary will not be wanting, and it will be hard if Canada cannot find a way for herself, yet, through this tangled skein of complexities and complications.

And now, let us hope, that we have seen the last of these unilateral conventions—that the eagle, filled to repletion, has folded, for aye, its predatory wing,—and that the British lion and the Canadian lamb, may ever henceforth slumber together, side by side, undisturbed by suggestive odors of mint sauce;—but, should these aspirations fail, should the need for other negotiations ever arise, we trust that they may be transferred to a more hopeful arena. The three last Treaties have been manipulated at Washington. We dislike the diplomatic atmosphere of this cis-Atlantic Capua, where the self-sufficient foreigner, piquing himself on his *savoir faire*—

Who knows whats what, and thats as high
As metaphysic wit can fly.

is bewildered by the most delicate attentions; where the voice is the voice of Jacob, but the hand is that of Esau; where the women are charming, the men hearty and hospitable, and the frolic withal, irreproachable, if not paid for at our expense. We doubt not the honor of our negotiators, but we distrust their good nature. The very sea voyage disturbs and demoralizes the British organism. Our people are apt to vaunt somewhat ostentatiously the trite Horatian axiom "*cælum non animum mutant*," &c., but, here it should

read, with an emendation. Our English bred-diplomats,

Non coelum stomachum, mutant, qui trans mare currunt.

They cross the Atlantic, predestined to give up everything, and they do so most effectually. Let us, therefore, in the future, profit by experiences, fraught with the qualms, as well as with the quirks of diplomacy.

It has been before remarked, that Canada, thrown upon its own resources, will, beyond all peradventure, relieve itself from embarrassments it did not create, let the cost be what it may; and, in conclusion, we may be allowed to express an entire confidence that this immense cost, caused by the acts of others will, in due time, receive generous and just consideration. If sacrifices have been made at the expense of Canada, for the good of the Empire, the Empire is bound to redress the balance. If through the carelessness of subordinates, the Alabama escaped from an English port; if England admits that this escape was to her blame, and that she is bound to pay the penalty of the mishap, it may fairly be claimed, that *foro conscientiae*, she is equally bound to compensate Canada, if by the acts of her negotiators in 1814, by the act of Lord Palmerston's government in 1833, by the act of Lord John Russell's government in 1859, and by the St. Juan award of 1872, Canada has been sacrificed for the good of the Empire. Admitting that she may have shared in the benefit, she ought not to bear more than her share of the cost. Great Britain has always shown a noble readiness to repair wrong. Let us point to the opportunity. We are about to embark in a great enterprise, as a national work, the construction of a railway which is to connect the Atlantic with the Pacific Ocean, and make the Empire, one and indivisible. Let Great Britain take her fair share in the cost of an undertaking of equal value to her and to us, and

thus compensate New Brunswick, and British Columbia, and our far western territories, for sacrifices made in the past, and encourage this Dominion, when called upon, to make still greater sacrifices in return.

Ottawa, 1st February, 1874.

