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CONFIDENTIAL.

PART II.

CORRESPONDENCE

RELATIVE TO THE

OCCUPATION

OF THE

ISLAND OF SAN JUAN

BY

UNITED STATES' TROOPS.

October 1859 to July 1860.

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CONFIDENTIAL.

Correspondence relative to the Occupation of the Island of
San Juan by United States' Troops.

PART II.

No. 1.

Lord Lyons to Lord J. Russell.—(Received October 31.)

(No. 229.)

My Lord,

Washington, October 13, 1859.

I HAVE the honour to inclose a copy of a letter which was published in a Washington newspaper last night, and which purports to be the answer of General Harney to Governor Douglas' communication of the 13th August last, respecting the occupation of the Island of San Juan by United States' troops.

I have made inquiries at the State Department respecting the authenticity of the letter, and have learned that it is thought there to be authentic.

I have, &c.
(Signed) LYONS.

Inclosure in No. 1.

Extract from the "Washington States" of October 12, 1859.

THE SAN JUAN ISLAND AFFAIR.—The Portland papers of the 10th September publish a reply by General Harney to the letter addressed to him by Governor Douglas, of date 13th August. It is as follows:—

“His Excellency James Douglas, C.B., Governor of Vancouver's Island and its Dependencies, Vice-Admiral of the same, &c.

“Head-Quarters, Department of Oregon, Fort Vancouver,

“Sir,

“Washington Territory, August 24, 1859.

“I HAVE the honour to acknowledge the receipt of your communication of the 13th instant, which came to me by mail this morning. The copy of Mr. Marcy's despatch of 17th July, 1855, to Her Majesty's Minister at Washington, stated in your communication to be inclosed, was not received. This, I presume, was an accidental omission in the transmission of your letter.

“It was with pleasure I received from your Excellency a prompt disavowal of any intention on the part of the British authorities of Vancouver's Island to commit any aggressions upon the rights of American citizens residing on San Juan Island, and I desire to communicate to you

that I shall forward this despatch, by the first opportunity, to the President of the United States, to enable him to consider it in connection with all the facts duly reported to him, attending the occupation of San Juan Island by a portion of the troops under my command.

“Your Excellency has been pleased to express how anxious you have ever been to co-operate with the officers of the United States’ Government in any measure which might be mutually beneficial to the citizens of the two countries; and your regret is signified that communication with you on the occupation of San Juan Island had not been sought during my late agreeable visit to your Excellency at Victoria.

“I beg to offer in reply that I have cordially reciprocated the sentiments of friendship and goodwill you have manifested towards American interests from the period of my service with this command. In that time I have, on two different occasions, notified the Government of the United States of your acts affecting our citizens, in terms of commendation and praise, as assurances of a proper appreciation of the confidence reposed by my Government in that of Her Majesty. On my late visit to Victoria, I was without knowledge that any occurrence had taken place on San Juan Island to outrage the feelings of its inhabitants, else I should then have informed your Excellency what I conceived it became incumbent for me to do under such circumstances.

“The explanation which your Excellency has advanced, while it serves to remove the impression, at first created, of a direct action on the part of the British authorities of Vancouver Island, in the recent occurrences on San Juan Island against the right of our citizens, it does not expose any evidence of a preventive nature to a repetition of the acts which have caused so serious misunderstanding in the minds of the American people on San Juan Island, nor has the course which events have taken since the occupation of the island by the troops of my command, been of such character as to reassure these people, could the contents of your despatch be announced to them.

“From what has taken place, I do not feel myself qualified to withdraw the present command from San Juan Island until the pleasure of the President of the United States has been made known on the subject. I can, however, frankly assure your Excellency that the same motives which have induced me to listen to the appeals of my own countrymen will be exerted in causing the rights of Her Majesty’s subjects on San Juan to be held inviolate.”

“I have, &c.
(Signed) “W. S. HARNEY,
“Brigadier-General Commanding.”

No. 2.

Lord Lyons to Lord J. Russell.—(Received October 31.)

(No. 235.)

My Lord,

Washington, October 17, 1859.

I HAVE the honour to inclose the copy of a note in which, in execution of the instruction conveyed to me by your Lordship’s despatch No. 68 of the 26th ultimo,* I have earnestly recommended to the attention of General Cass the views of Her Majesty’s Government respecting the Island of San Juan, as stated in that despatch; and have, moreover, informed him that the course of Her Majesty’s Government will be guided by the nature of his reply.

Previously to sending in this note, I stated its contents verbally to General Cass, and urged, to the best of my ability, the prudence and importance of concluding the whole question without delay in the manner proposed by Her Majesty’s Government.

General Cass said that a joint occupation of San Juan for the moment was what the United States’ Government would probably propose; and

* See Part I, No. 16.

that he hoped to be able before the end of this week to write to me a complete answer to all my communications concerning the island.

I have, &c.
(Signed) LYONS.

Inclosure in No. 2.

Lord Lyons to General Cass.

Sir,

Washington, October 15, 1859.

I HAVE the honour to inform you that I received this morning from Her Majesty's Principal Secretary of State for Foreign Affairs a despatch informing me that Her Majesty's Government had had under their consideration my reports of the communications which had taken place between you, Sir, and myself, previously to the 14th of last month, relative to the Island of San Juan.

Her Majesty's Government awaited with anxiety the further decision of the Government of the United States respecting that island.

The withdrawal of the United States' troops, or an arrangement for joint occupation by British Marines and the military force of the United States, would provide for the immediate difficulty.

But the course most conducive to permanent relations of friendship between the two countries would be the acceptance by the United States of the fair and equitable proposal contained in the despatch from Lord John Russell, dated the 24th August last, of which I had the honour to place a copy in your hands on the 12th of last month.

I am instructed, Sir, to recommend these points to your attention, and to inform you that the course of Her Majesty's Government will be guided by the nature of your reply.

I have, &c.
(Signed) LYONS.

No. 3.

The Secretary to the Admiralty to Mr. Hammond.—(Received November 2.)

Sir,

Admiralty, November 1, 1859.

I AM commanded by my Lords Commissioners of the Admiralty to send you, herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, extracts of a letter from Rear-Admiral Baynes, dated the 11th September, relative to the state of affairs at the Island of San Juan, now occupied by the forces of the United States, and on other parts of the station under his command.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure in No. 3.

Rear-Admiral Baynes to the Secretary to the Admiralty.

"Ganges," in *Esquimalt Harbour, Vancouver's Island,*
(Extract.) *September 11, 1859.*

THE "Ganges," "Pylades," "Tribune," "Satellite," and "Plumper," remain at Vancouver's Island, where everything continues quiet.

The "Satellite" is anchored in Griffin Bay, in the Island of San Juan, occupied by the United States' forces. Captain Prevost reports, that the hill south of the American camp has been marked out for fortifying: in some places it has been levelled, and working parties have been lately employed, preparing for throwing up earthworks. The eight 32-pounder guns are placed there.

The number of squatters has considerably increased; but I am happy to say no difficulties have arisen between the United States' troops and the English squatters. Major de Courey, Stipendiary Magistrate, continues on the island.

The supernumerary detachment of Marines, with the exception of a small party on board the "Satellite," are still disembarked for special service in these colonies, and are now in Victoria, awaiting the decision of Her Majesty's Government as to the course it may be necessary to take in reference to San Juan.

Their Lordships will see at this moment the impossibility of sending the "Ganges" to England, in compliance with their orders, until affairs are settled.

Nothing of importance has occurred on the coasts of Chili and Peru.

The United States' ships "Merriman," "Vandalia," and "Warren," store ship, were at Panamá on the 15th of August; the former had just arrived from Callao. It was reported that Flag Officer Long had been invalided, and succeeded in the command by Flag Officer Montgomery, who would hoist his flag in the "Merriman" until the arrival of the "Lancaster," which steam-ship was on her way to the Pacific.

The "Sarronac" was on the coast of Peru.

No. 4.

Lord Lyons to Lord J. Russell.—(Received Novem'ber 7.)

(No. 211.)

My Lord,

Washington, October 25, 1859.

I RECEIVED, three days ago, the despatch dated the 6th instant, No. 74,* in which your Lordship has done me the honour to acquaint me with the sentiments of Her Majesty's Government, upon receiving fuller information respecting the occupation of the Island of San Juan by United States' troops, and has directed me to press upon the Government of the United States the urgency of at once accepting the proposal respecting the north-west sea boundary, contained in your despatch No. 42 of the 24th of August last.†

I went immediately to General Cass, and recited to him verbally the substance of the despatch dated the 6th instant, which I had just received from your Lordship.

General Cass said that he had sent off, the day before, the answer of the United States' Government to your Lordship's proposal respecting the sea boundary. This answer was, he observed, addressed, in accordance with the usual form, to the United States' Minister in London. He conceived that the title of the United States to all the islands between Vancouver's Island and the Main, south of the 49th parallel of latitude, was indisputably established by it. It was, therefore, impossible to accede to your Lordship's proposal upon that subject.

The General told me, however, that he was about to write an answer to the note in which I had called for explanations respecting the recent occupation of San Juan by United States' troops, and that he was sure that the information he should give would completely satisfy Her Majesty's Government upon that point.

The General accordingly sent to me, yesterday, a note, dated the 22nd instant, of which, and its inclosures, I have the honour to transmit copies herewith. One of the inclosures is a copy of the instructions given to General Scott.

Your Lordship will perceive that the General is directed, even if a collision should have taken place before his arrival, to establish (if it can be done in an honourable manner) a temporary joint occupation of San Juan, giving the advantage to neither party.

I have the honour to inclose a copy of a note which I have written to General Cass in reply. I have said little more than that I will hasten

* See Part I, No. 32.

† Ibid., No. 1.

to communicate to Her Majesty's Government copies of his note and its inclosures.

I have, &c.
(Signed) LYONS.

Inclosure I in No 4.

General Cass to Lord Lyons.

*Department of State, Washington,
October 22, 1859.*

My Lord.

I HAVE had the honour to receive your Lordship's note of the 1st instant, in which you recall my attention to your previous note of the 12th of May, on the subject of the recent occupation of the Island of San Juan by troops of the United States.

In several conversations with your Lordship I have endeavoured to place you fully in possession of such information on this subject as the President has received, and of the general views of this Government with respect to it. You are aware that on the 14th of July, 1853, Mr. Marcy, the late Secretary of State, addressed a letter to Governor Stevens, of Washington territory, with the special purpose of preventing any conflict on the island, pending the settlement of the title to it, which was in dispute between the two countries.

While this Government had no doubt whatever that the island belonged to the United States, it was quite willing, for this very reason, to await the result of negotiations which might be expected to lead to this conclusion.

A copy of Governor Marcy's letter was communicated to Mr. Crampton, then Her Majesty's Minister in Washington, and on the 18th of July, 1855, he replied, "entirely concurring in the propriety of the course recommended" to Governor Stevens; and expressing his intention to advise a similar course on the part of the local authorities of Great Britain.

Nothing had been done on the part of the United States to change this condition of affairs at the time when General Harney thought it necessary, for the protection of American citizens, to direct a military force to take position on the island.

In verbally communicating to you these facts, I also informed your Lordship that General Scott had been ordered to Washington territory, with a view to ascertain the precise condition of affairs in that region, and with instructions calculated to prevent any further conflict of jurisdiction on the island pending the negotiations between the United States and Great Britain on the subject of their mutual claims to it under the Treaty of 1846.

The President fully concurs in the opinion expressed by Governor Marcy, that the island is a part of the possessions of the United States, and he confidently hopes that this may be soon established by friendly discussion, without further collision of any character between the citizens and subjects of the two countries residing in the vicinity of the island.

Thinking it quite right that what has thus been stated in conversation should be repeated in a more distinct and formal manner, the President has instructed me to address to you this note, and to inclose to you copies of the instructions recently issued on the subject, by the Secretary of War, to General Scott, and by this Department to the Governor of Washington territory.

In the transmission of these copies I trust your Lordship will see renewed evidence of the desire of this Government to maintain the most frank and friendly relations with that of Great Britain.

I embrace, &c.
(Signed) LEW. CASS.

Inclosure 2 in No. 4.

Mr. Drinkard to General Scott.

Sir,

War Department, September 16, 1859.

THE President has been much gratified at the alacrity with which you have responded to his wish that you would proceed to Washington territory, to assume the immediate command, if necessary, of the United States' forces on the Pacific coast. He has directed me to call your special attention to the present threatening attitude of the British and American authorities at and near the Island of San Juan. The two Governments have differed on the question of title to this island under the Treaty concluded between them at Washington on the 15th June, 1846. The decision of this question depends on whether the Treaty line, in passing "from the middle of the channel, on the 49th parallel of latitude, which separates the continent from Vancouver's Island to Fuca's Straits," ought to be run through the Canal de Haro or the Rosario Strait. If through the Canal de Haro, the island belongs to the United States; but if through the Rosario Strait, to Great Britain.

This is not the proper occasion to discuss the question of title; if it were, it might be shown that all the territory which the American Government consented to yield, south of the 49th parallel of latitude, was the Cape of Vancouver's Island. The idea that the Treaty intended to give Great Britain, not only the whole of that large and important island, but all the islands south of 49° in the archipelago between the island and the continent, was not, at the time, entertained, either by the President or Senate of the United States.

In order to prevent unfortunate collisions on that remote frontier, pending the dispute, Mr. Marcy, the late Secretary of State, on the 14th July, 1855, addressed a letter to the Honourable Isaac J. Stevens, then Governor of Washington territory, having a special reference to an "apprehended conflict between our citizens and the British subjects on the Island of San Juan." In this letter Governor Stevens is instructed, "that the officers of the territory should abstain from all acts on the disputed ground which are calculated to provoke any conflict, so far as it can be done without implying the concession to the authorities of Great Britain of an exclusive right over the premises. The title ought to be settled before either party should attempt to exclude the other by force, or exercise complete and exclusive sovereign rights within the fairly-disputed limits." Three days thereafter, on the 19th July, 1855, Secretary Marcy addressed a note to Mr. Crampton, then the British Minister at Washington, communicating to him the material portion of his letter to Governor Stevens. Copies of both these letters are herewith inclosed.

Thus matters stood, until General Harney deemed it proper, for the purpose of affording protection to American citizens on the island, and the neighbouring territories of the United States, to direct Captain George E. Pickett, 9th Infantry, "to establish his company on Bellevue, or San Juan Island, in some suitable position near the harbour, at the south-eastern extremity." At the same time the steamer "Massachusetts" was placed under the orders of Lieutenant-Colonel Silas Casey, 9th Infantry, "for the better protection and supervision of the waters of Puget Sound," with instructions to co-operate with Captain Pickett. These instructions were promptly executed: Captain Pickett immediately proceeded to the island with his company, and established a military post at its south-eastern extremity.

It is unnecessary for me to compile for you, from the papers in the Department, a statement of the condition of affairs in and near the Island of San Juan, because you will be furnished with copies of all these papers. I would refer you especially to the two despatches of General Harney, dated the 19th of July and the 7th of August, and to my despatch to him of the 3rd instant, in reply to his of the 19th of July. Suffice it to say, that they present a condition of affairs demanding the serious attention of this Government.

It is impossible, at this distance from the scene, and in ignorance of what may have already transpired on the spot, to give you positive

instructions as to your course of action. Much, very much, must be left to your own discretion, and the President is happy to believe that discretion could not be intrusted to more competent hands. His main object is to preserve the peace, and prevent collision between the British and American authorities on the island, until the question of title can be adjusted by the two Governments.

Following out the spirit of Mr. Marcy's instructions to Governor Stevens, it would be desirable to provide during the intervening period, for a joint occupation of the island under such guards as will secure its tranquillity without interfering with our rights. The President perceives no objection to the plan proposed by Captain Hornby, of Her Majesty's ship "Tribune," to Captain Pickett; it being understood that Captain Pickett's company shall remain on the island to resist, if need be, the incursions of the northern Indians on our frontier settlements, and afford protection to American citizens resident thereon. In any arrangement which may be made for joint occupation, American citizens must be placed on a footing equally favourable with that of British subjects.

But what shall be your course should the forces of the two Governments have come into collision before your arrival? This would vastly complicate the case, especially if blood should have been shed. In that event, it would still be your duty, if this can, in your opinion, be honourably done under the surrounding circumstances, to establish a temporary joint occupation of the island, giving to neither party any advantages over the other. It would be a shocking event if the two nations should be precipitated into a war respecting the possession of a small island, and that only for the brief period during which the two Governments may be peacefully employed in settling the question as to which of them the island belongs.

It is a possible, but not a probable, case, that the British authorities, having a greatly superior force at their immediate command, may have attempted to seize the island, and to exercise exclusive jurisdiction over it; and that our countrymen in those regions may have taken up arms to assert and maintain their rights. In that event, the President feels a just confidence, from the whole tenour of your past life, that you will not suffer the national honour to be tarnished.

If we must be forced into a war by the violence of the British authorities, which is not anticipated, we shall abide the issue as best we may, without apprehension as to the result.

I am, &c.
(Signed) W. R. DRINKARD.
Acting Secretary of War.

Inclosure 3 in No. 4.

General Cass to Governor Gholson.

*Department of State, Washington,
September 15, 1859.*

Sir,

THE information which has reached here, showing the serious state of things connected with the Island of San Juan, has induced the President to order Brevet Lieutenant-General Scott to that quarter to take the command of our military and naval forces, with such instructions as the circumstances call for. It is to be hoped that a firm and discreet course will prevent the occurrence of any further difficulties there, so that the matter in dispute may be settled by the respective Governments. General Scott has been requested to explain to you the views of the President, and also to show you the instructions he has received.

I write you by the direction of the President, who desires that you would co-operate with General Scott, and exert your official authority, as well as your personal influence, to carry into effect the objects committed to him.

I am, &c.
(Signed) LEW. CASS.

Inclosure 4 in No. 4.

Lord Lyons to General Cass.

Sir,

Washington, October 24, 1859.

I BEG to acknowledge the receipt of the note dated the day before yesterday, which you have done me the honour to address to me, with regard to the recent occupation of the Island of San Juan by United States' troops. I did not fail to transmit to Her Majesty's Government reports of the conversations which I had the honour to hold with you upon this subject; and I will now hasten to communicate to them copies of your note and its inclosures.

I have, &c.
(Signed) LYONS.

No. 5.

General Cass to Mr. Dallas.—(Communicated to Lord J. Russell by Mr. Dallas, November 12.)

Sir,

Department of State, Washington, October 20, 1859.

WHEN the Treaty of 1846 had been concluded between the United States and Great Britain, it was believed that all controversy concerning the boundary between their respective possessions on the North-West Coast of America was for ever set at rest. In order to accomplish this result, the United States had relinquished its title, which it regarded as clear and unquestionable, to all that portion of Oregon territory which was included between the parallels of 49° and 54° 40' north latitude, and, for the sake of peace, had even consented to a deflection from the 49th parallel, so as to leave Vancouver's Island undivided to Great Britain.

After these concessions, I need not explain to you with what regret and disappointment this Government now finds its title drawn in question to still other territory south of the parallel of 49°, its right to which it thought was beyond any possible dispute. When the first doubt concerning it was suggested, it was hoped it might be readily determined by the Commissioners who should be appointed on the part of both Governments to survey and mark out the Treaty line. You are aware, however, that the Commissioners appointed for this purpose were unable to agree as to that part of the boundary which lies between the point of deflection on the 49th parallel and the Straits of Fuca, and that they reported their disagreement to their respective Governments.

A new subject of difference has thus arisen between the two countries, the adjustment of which, we are admonished by recent events, cannot be long delayed without serious hazard to their friendly relations. It is, doubtless, in this view of it that the British Government has recently proposed to the United States to adopt what it regards as a compromise line of boundary between the conflicting claims of the two Commissioners. This proposal is made in a despatch from Her Majesty's Principal Secretary of State for Foreign Affairs, to Lord Lyons, the British Minister in Washington, dated August 24, 1859, a copy of which he was directed to furnish to this Department, and of which a copy will also accompany this note.* The President has not failed to consider this despatch with all that attention which is due to the importance of its subject; and he cordially reciprocates the desire expressed by Her Majesty's Government for "a mutually satisfactory and honourable settlement of the question" in controversy. He concurs, also, with Lord John Russell, that, after the gradual disappearance, one after another, of so many of those points of difference which have disturbed the relations of the two countries, no reasonable doubt should be entertained that this new question which has arisen will, in like manner, be amicably adjusted.

It is impossible, however, to reconcile these just and friendly sentiments of his Lordship with the declaration which is made in another part of the same despatch, that the British Government is already determined, under any circumstances whatever, to maintain its right to the Island of San Juan. "The interests at stake in connection with the retention of that island are too impor-

* See Part I, No. 1.

tant," it is said, "to admit of compromise; and your Lordship will, consequently, bear in mind that, whatever arrangement as to the boundary line is finally arrived at, no settlement of the question will be accepted by Her Majesty's Government which does not provide for the Island of San Juan being reserved to the British Crown."

If this declaration is to be insisted on, it must terminate the negotiation at its very threshold, because this Government can permit itself to enter into no discussion with that of Great Britain, or any other Power, except upon terms of perfect equality; and when Her Majesty's Government declares that it will never yield its right to the Island of San Juan, this Government has only to declare a similar determination on the part of the United States, in order to render any farther discussion of the subject entirely fruitless.

I cannot persuade myself, however, that any such result as this was contemplated by Her Majesty's Government, or that the United States could have been expected to enter upon a negotiation where its own claim was excluded in advance, and the only adjustment possible was that claimed by the opposite party. But for this confidence which he feels in the good intentions of Her Majesty's Government, the President, I am instructed to say, would not feel himself at liberty to entertain the proposition of Lord John Russell, even for the purpose of discussion; and it is only because he believes that the objectionable declaration by which it is accompanied will receive a prompt explanation or withdrawal, that he has instructed me to offer some observations in respect to it.

The proposition being a proposition of compromise, assumes, of course, that the difference between the two Governments, as to the meaning of the Treaty in that part of it which is in controversy, is wholly irreconcilable. The President is not prepared, however, to reach this conclusion, until every reasonable effort has been exhausted to avoid it; and he cannot help expressing his regret that the British Government should have thought it necessary to abandon the Treaty line for a line purely arbitrary, before any discussion whatever had been had on the subject with the United States.

It is quite true that the Commissioners of the two countries who were appointed in 1856 failed to reach an agreement as to the water-boundary between Vancouver's Island and the continent; but this very failure may have been induced by the conviction with which the British Commissioner seems to have entered upon his work, that a disagreement was inevitable. Such a result was even contemplated in the original instructions under which Captain Prevost commenced his labours, and he was authorized in view of it to propose the very compromise which is now suggested by Lord John Russell, while he appears to have received substantially the same caution with respect to the Island of San Juan, which is given to Lord Lyons in the annexed despatch. Without entering into any comment upon the peculiar character of these instructions, or undertaking to determine how far they influenced the course of the British Commissioner, I think they are calculated to explain in some measure the failure of the Commission, and to justify the hope which the President still entertains, that the true line of the Treaty may yet be agreed upon by the two Governments.

The Treaty provides "that the boundary line shall be continued westward along the said 49th parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's 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 said channel and straits, south of the 49th parallel of north latitude, remains free and open to both parties."

It is much to be regretted, undoubtedly, inasmuch as the present controversy has arisen, that there was not annexed to the Treaty of 1846, any map or chart, by which the true meaning of the expressions made use of in this Article could be authoritatively ascertained. Unquestionably, however, this neglect was occasioned, and the terms of the Article are less precise than they would otherwise have been, in consequence of the conviction of the negotiators of the Treaty that their purpose in framing it was too clear to be misunderstood, and that where this purpose was known, two great nations could never enter into a conflict about the collocation of words or the signification of a doubtful phrase. In this belief, I am persuaded that the negotiators were only just to their respective Governments, and that, if the purpose of the Article can be once determined, in harmony with the general tenour of its language, this discussion

will be for ever terminated. It is to this inquiry, therefore, that I shall first address myself.

The Oregon negotiation which resulted in the Treaty of 1846, originally involved, as you are aware, the whole of that territory west of the Rocky Mountains between the parallels of 42° and 54° 40' north latitude, which is now occupied, south of the British line, by the State of Oregon and the Territory of Washington. When President Polk came into office in 1845, he found this whole region still in the joint occupation of the United States and Great Britain, under the Treaty of 1827. Repeated efforts had been made to accomplish an amicable division of the territory between the two countries upon this basis of the parallel of 49°, and a proposition for compromise was actually pending in Washington when Mr. Polk became President. Under these circumstances he felt himself bound to continue the negotiation, although in his inaugural address he had declared his full conviction that we had a clear title to the whole territory. He repeated the offer, therefore, which Great Britain had previously declined to adopt—the parallel 49° as the boundary between the United States and that Government; and he offered, in addition, to make free to Great Britain, any port or ports in Vancouver's Island south of that parallel which the British Government might desire.

In his note of July 12, 1845, announcing to Mr. McLane, who was then the American Minister in London, that this offer had been made, Mr. Buchanan, the Secretary of State, took care to explain that it was only made by the President in deference to the repeated action of his predecessors, and that, with a single exception, it was to be regarded as the ultimatum of this Government.

"From what has been said," he writes, "you will perceive how wholly impossible it is for the President to accept any terms of compromise which would bring the British south of the parallel of 49°; and this you may intimate to the British Minister in conversation, should you deem it wise under the circumstances. The only exception to this rule which could possibly be made might be the concession, for an adequate equivalent, of the small Cape of Vancouver's Island, south of this latitude."

The offer, however, was rejected by the British Minister at Washington, and was immediately withdrawn; Great Britain being informed, at the same time, that it would not be renewed, and that no farther proposition would be made by the United States. It remained for the British Government, therefore, to determine what other steps, if any, should be taken to continue the negotiation.

The first proposal which was then made was a proposal for arbitration, and this was declined by the President, for the avowed reason, among others, that its acceptance might possibly result in bringing the British possessions below the parallel 49°. Meanwhile, a resolution was passed by the Senate advising the President to give the necessary notice to terminate the Treaty of 1827, which provided for the joint occupation of Oregon, and this notice was given.

In this serious condition of affairs, renewed efforts were made through Mr. McLane, in London, to induce the President to repeat his offer of July 12, which had been rejected by Mr. Pakenham, without any reference of it to his Government; but the President refused to change his position. In reference, however, to that or any similar offer which might be made by Great Britain, he made no secret of the course which he might be expected to pursue.

"He would not now authorize," Mr. Buchanan wrote to Mr. McLane on the 29th January, 1846, "the conclusion of a Treaty on that basis; but the Senate, his constitutional advisers, are now in Session. The question of peace or war may be involved in the issue.

"In deference to the Senate, under these circumstances, he would, in the first instance, feel it to be his duty to submit such a proposition for their previous advice.

"The President will accept nothing less than the whole territory, unless the Senate should otherwise determine. The only question which he will decide, is, whether the new proposition, should any such be made, be of a character to justify its submission to the Senate for their previous advice."

With these views before him, and which were communicated to Her Majesty's Government, Mr. McLane was authorized to receive and transmit to his Government any proposition which Lord Aberdeen might make to him for that purpose; but the negotiation was in no event to be transferred to London.

On the 15th of May, the proposition seems to have been determined on by Great Britain, and Mr. McLane was then, for the first time, informed of it.

"I had a lengthened conference with Lord Aberdeen," he wrote to Mr. Buchanan on the 18th of May, "on which occasion the resumption of the negotiation for the amicable settlement of the Oregon question, and the nature of the proposition he contemplated submitting for that purpose, formed the subject of a full and free conversation. I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow, to submit a new and further proposition on the part of this Government for the partition of the territory in dispute. The proposition most probably will offer, substantially, first, to divide the territory by the extension of the parallel of 49° to the sea, that is to say, to the arm of the sea called Birch's Bay; thence by the Canal de Arro, and Straits of Fuca, to the ocean; and confirming to the United States what indeed they would possess (without any special confirmation) the right freely to use and navigate the Strait throughout its extent."

After further describing the proposal, Mr. McLane adds, that he has reason to know that it is not an ultimatum, but that Mr. Pakenham would have no authority to modify it without consulting his Government; and he expresses also the confident opinion that it will not be "possible to obtain the extension of the 49th parallel to the sea, so as to give the southern Cape of Vancouver's Island to the United States."

In conformity with the expectation of Mr. McLane, the British proposal was sent to Mr. Pakenham by the steamer of May 19, and on the 6th of June it was presented by Mr. Pakenham to Mr. Buchanan.

The proposal thus made was precisely the present Treaty of 1846. On the 10th of June it was laid before the Senate by the President, with a request for "their advice as to the action which, in their judgment, it may be proper to take in reference to it."

On the 12th of June the Senate adopted a resolution, advising the President "to accept the proposal of the British Government." Four days afterwards the Treaty was sent to the Senate for its approval, and on the 18th of June it was ratified, in the precise form in which it came from the British Government.

From this narrative, whatever may be said of the language which the negotiators of the Oregon Treaty employed to give effect to their intentions, there can be no doubt, it seems to me, as to the boundary which they had in view. The great controversy was ended on the 49th parallel of north latitude. It is at this parallel that the boundary begins in Article I. It is this parallel which controls the British right of navigation "in the great branch of the Columbia river" in Article II. It is this parallel which is referred to, also, in Article III, in connection with the possessory rights of the Hudson's Bay Company. It is this parallel, moreover, which has been the basis of every Oregon negotiation which has ever been undertaken by either country. It was adopted at last in 1846, and now remains, with a single exception, the undisputed North-Western Boundary of the United States. Had Vancouver's Island never existed, this exception would have been neither proposed nor conceded, but the boundary of 49° would have run directly to the ocean. Great Britain urged, however, that a divided jurisdiction on this island might be a source of constant difficulty to both countries, and since by far the larger part of it was north of the line, she insisted that the line should be deflected far enough to the south to leave the whole of it in her possession. Even this claim was strenuously resisted, and the United States endeavoured for a long time to avoid it, by offering to concede the freedom of the harbours in the southern part of the island instead of conceding the territory itself. Great Britain, however, refused to yield, and the deflection was finally adopted. It was adopted for the single purpose of leaving Vancouver's Island undivided. This was all that the British Government claimed, and this was all that the American Government conceded. Mr. Buchanan had written to Mr. McLane that, except for this purpose, the President would never consent to bring the British boundary a single inch below the parallel of 49°, and no other purpose than this was anywhere avowed. If the British Government had desired still other territory south of 49°, it is quite incredible that this desire should never have been announced. The geography of that region, it is true, was less perfectly known at that time than it now is; but on all the maps, the Canal de Haro and the archipelago east of it were laid down with sufficient accuracy. No claim was

made, however, to the possession of these islands, and the very Island of San Juan, which is now so highly estimated by the British Government, was suffered then to pass unnoticed. There can be no reasonable doubt, therefore, that in the language employed by Senator Benton, in his speech in support of the Treaty, "the line established by that Article (the 1st) . . . follows the parallel of 49° to the sea, with a slight deflection . . . to avoid cutting the south end of Vancouver's Island." This being established, it remains now to inquire in what manner the intention of those who negotiated the Treaty was carried into effect.

With respect to that part of the line of boundary which, in the words of the Treaty, "shall be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island," there appears to be no dispute, and there is no conflict, either, as to that part of it which leads through the Straits of Fuca to the ocean. The only portion of it which is called in question is that which leads from the point of deflection on the 49th parallel to Fuca's Straits; and, even here, I am unable, I confess, to appreciate the difficulties by which Her Majesty's Government seems to be embarrassed. The words of the Treaty are: "Through the middle of the said channel and of Fuca's Straits to the Pacific Ocean." Ordinarily, and in the absence of any other controlling circumstances, the way which would be selected from one given point to another, would be the shortest and the best way; in the present case, this is the Canal de Haro, which is undoubtedly the broadest, the deepest, and the shortest route by which the Straits of Fuca can be reached from the point of deflection. This pre-eminence was given to it by De Mopras as long ago as 1841, and it has been fully confirmed by subsequent surveys. The Canal de Haro may, therefore, be fairly regarded, from its own intrinsic merits merely, as the main channel down the middle of which the Treaty boundary is to pass to the Straits of Fuca; it is the only channel, moreover, which is consistent with the purpose of those who negotiated the Treaty, for it is the only channel which separates Vancouver's Island from the continent without leaving something more to Great Britain south of the 49th parallel than the southern cape of that island. The Rosario Channel claimed by Captain Prevost would surrender to Great Britain not only Vancouver's Island, but the whole archipelago between that island and itself; while the middle channel, which is proposed as a compromise by Lord John Russell, would, in like manner, concede the important Island of San Juan. These considerations seem to be almost conclusive in favour of the Haro Channel; but they are abundantly confirmed by evidence contemporaneous with the negotiation of the Treaty. The description given by Mr. McLane, immediately after he had an interview on the subject with Lord Aberdeen, of what the British proposal would be, has already been mentioned, and carries the line, in so many words, down the Canal de Haro. Equally clear is the statement by Senator Benton as to what the proposition was. Colonel Benton was one of the most earnest members of the Senate in his support of the Treaty, and he was better acquainted, perhaps, than any other member with the geography of the region in dispute. His construction, therefore, of the Treaty, at the very time it was before the Senate for ratification, is entitled to no inconsiderable weight. On that occasion he said:—

Article I "is in the very words which I myself would have used . . . and that Article constitutes the Treaty. With me it is the Treaty. . . . The great question was that of boundary . . . When the line reaches the channel which separates Vancouver's Island from the continent . . . it proceeds to the middle of the channel, and thence turning south through the Channel de Haro (wrongly written 'Arro' in the maps), to the Straits of Fuca."

Mr. Buchanan, who signed the Treaty, was equally explicit in his understanding of this part of it. In a letter to Mr. McLane, dated the 6th of June, 1846, the very day on which the Treaty was presented by Mr. Pakenham to Mr. Buchanan (a copy of which is now before me), he expressly mentions the Canal de Haro as the Channel intended by the Treaty; and subsequently, on the 28th December, 1846, Mr. Bancroft having written to him on the subject from London, he inclosed to him a traced copy of Wilkes' Chart of the Straits of Arro, and added in his letter: "It is not probable, however, that any claim of this character will be seriously preferred by Her Britannic Majesty's Govern-

ment to any island lying to the eastward of the Canal de Arro, as marked in Captain Wilkes' map of the Oregon territory."

Mr. Bancroft, who was a member of President Polk's Cabinet when the Treaty was concluded, wrote repeatedly to Lord Palmerston after receiving this chart, and uniformly described the Straits of Arro "as the channel through the middle of which the boundary is to be continued." He seems at one period to have been informed that the Hudson's Bay Company were inclined to encroach upon the islands east of the Haro Channel, and to claim them under the Treaty, but he did not rely fully upon this information; and "the Ministry," he said, "has, I believe, no such design. Some of its members would be the first to frown on it."

The Canal de Haro, then, as being the best channel leading from the point of deflection to the Straits of Fuca, as answering completely the purpose for which the deflection was made, as being the only channel between the island and the mainland which does answer this purpose, and as being supported, also, by a large amount of personal testimony contemporaneous with the Treaty, must fairly be regarded, in my judgment, as the Treaty channel.

Nor are there any important difficulties which seem to me to be necessarily in conflict with this conclusion. Lord John Russell, indeed, says that "it is beyond dispute that the intentions of the British Government were, that the line of boundary should be drawn through Vancouver's Channel;" but this assumption is wholly inconsistent, not only with the Treaty itself, but with the statements both of the Earl of Aberdeen and of Sir Richard Pakenham. Lord Aberdeen declares that "it was the intention of the Treaty to adopt the *mid-channel of the Straits* as the line of demarkation, without reference to islands, the position, and indeed the very existence, of which had hardly at that time been accurately ascertained;" and he has no recollection of any mention having been made during the discussion, of any other channel than those described in the Treaty itself.

Sir Richard Pakenham is still more explicit. Neither the Canal de Haro, nor the Channel of Vancouver, he says, could, as I conceive, exactly fulfil the conditions of the Treaty, which, according to their literal tenour, would require the line to be traced along the middle of the channel (meaning, I presume, the whole intervening space), which separates the Continent from Vancouver's Island. He adds, further, that he has no recollection whatever that any other channel was designated in the discussions than that described in the language of the Treaty. Surely there is nothing in this testimony which supports the statement of Lord John Russell, that the channel of Vancouver was the channel intended by the Treaty; but, on the contrary, another and an entirely different channel is suggested as that which the Convention requires.

After these statements of Lord Aberdeen and Sir Richard Pakenham, the Rosario Channel can no longer, it seems to me, be placed in competition with the Canal de Haro. Whether the latter is the true channel or not in the opinion of the British negotiators, it is quite certain, by the concurrent testimony of both the American and British negotiators, that the former channel is not.

In respect, moreover, to the Canal de Haro, the other considerations to which I have referred appear to me to quite outweigh the mere want of recollection of Lord Aberdeen and Sir Richard Pakenham, or their general impression, at this time, as to what is required by the literal language of the Treaty. In this connection there is one allusion in Sir Richard Pakenham's Memorandum, to which I think it right to call your special attention. It is the reference which he makes to his final instructions from Lord Aberdeen, dated May 18, 1846, and describing the boundary line which he was authorized to propose to Mr. Buchanan. These instructions were shown by Lord Napier to Mr. Campbell, and according to his clear recollection, the description quoted by Sir Richard Pakenham was followed in the despatch by these words:—"thus giving to Great Britain the whole of Vancouver's Island and its harbours." This places beyond controversy the object which was intended by deflecting the Treaty boundary south of the parallel of 49°, and ought to have great weight, undoubtedly, in determining the true channel from the point of deflection to the Straits of Fuca.

During the discussion of this subject by the Joint Commissioners, some critical objections, I am aware, were made by Captain Prevost to the adoption of the Canal de Haro as the Treaty channel; but these were so fully answered by

Mr. Campbell, whose whole argument, indeed, is marked both by ability and research, that I do not think it necessary now to review them. One of them, which distinguishes between the separation of the continent from the island, and that of the island from the continent, has been set at rest by the testimony of the British negotiators, in favour of a middle channel of the Straits, and in exclusion of the channel nearest to the continent. Even were this otherwise, I confess my inability to attach any importance to the distinction upon which Captain Prevost thought it his duty to dwell at some length. Where a separation of two objects from each other is to be described, it seems to me quite immaterial which of them is placed first in the words of the description.

Another of these objections which were discussed by the Commissioners has been thought worthy of a place in the despatch of Lord John Russell. "If the boundary line," his Lordship contends, "had been intended to pass through the Haro Channel, the Treaty must have been otherwise worded. The Haro Channel could not have been regarded or described as a portion of the channel commencing with the Gulf of Georgia, for it is neither the channel discovered by Vancouver, nor is it, in regard to its general configuration, a continuation in a southerly direction of the Gulf of Georgia."

It is a sufficient answer to this objection that there is nothing said in the Treaty either of the Gulf of Georgia or of the Straits of Vancouver, and that the objection, therefore, assumes the whole question in dispute. Undoubtedly there were many inaccuracies upon the maps of that region which existed in 1846; but since the very map of Vancouver, which his Lordship claims was the only map then before the British negotiators, describes the whole space between Vancouver's Island and the continent as a part of the entire body of water which he calls the Gulf of Georgia, I do not see why the Canal de Haro is not just as much a continuation of that Gulf as the Straits of Rosario; and if either of the channels in the space is to be excluded from a participation in the Gulf, it would be quite extraordinary that the broadest and best of them should be the one selected for this exclusion. Equally extraordinary is it that the Canal de Haro should be regarded as not running in a southerly direction to the Straits of Fuca, because it sometimes inclines to the west, while no such objection is thought to apply to the Channel of Rosario, although this channel inclines for a long distance to the east, and cannot properly be said to flow into the Straits of Fuca at all. The truth is, that the word "southerly" was used in no such restricted sense as that contemplated by this objection, but only to designate the general direction from the point of deflection on the line of 49° to the ocean. The language is, "through the middle of the said channel and of Fuca's Straits to the Pacific Ocean." Yet, in order to reach the ocean through Fuca's Strait's, by any channel whatever, it is necessary to run, not only west, but even a little north of west. It is none the less true, however, for this, that the Treaty line must run "southerly through the middle of the channel and of Fuca's Straits to the ocean." That the term "southerly," moreover, was not deemed inapplicable to the Canal de Haro by those who assisted in giving effect to the Treaty, is quite evident from the language already quoted from Colonel Benton, who describes the Treaty line as "turning south through the Channel de Haro to the Straits of Fuca."

This channel, however, it is said by his Lordship "was not at that time known, at all events by Her Majesty's Government, to be navigable for shipping, but, on the contrary, it was supposed to be a dangerous, if not an unnavigable, strait."

At this statement of his Lordship, I can only express my great surprise, because this channel had been discovered as early as 1798, was distinctly marked in every considerable chart of that region which existed in 1846, had been personally examined by Captain Wilkes in his exploring expedition, and had been particularly described by De Mopras as the "easiest passage" between Vancouver's Island and the continent. I am at a loss to understand, moreover, for what purpose this erroneous opinion, which is said to have been entertained by Her Majesty's Government, is now mentioned by his Lordship. If it is intended to be claimed that the Canal de Haro was set aside by the British negotiators as the Treaty line, because they believed it to be unnavigable and dangerous, it is only necessary to oppose to this claim the testimony of the negotiators themselves, both of whom declare that neither of the channels between Vancouver's Island and the continent was, within their recollection, the subject of

consideration in 1846, and both of whom seem to have no other resort for the meaning of the Treaty itself. Whatever may have been the view entertained of it, however, by the British Government, it is quite certain now that it is, on the whole, the best channel within the space in question; while from the point of deflection on the 49th parallel to the Straits of Fuca, it is, by very far, also the shortest passage. Even, therefore, if it were to be conceded that the channel of the Treaty is an impossible one, the Canal de Haro would seem to be pointed out, by its position and character, as the best line of agreement which could possibly be selected.

The Douglass Channel, which is suggested by Lord John Russell, is admitted (on the contrary) to be an inferior channel, scarcely capable of navigation, except for steamers, and is chiefly recommended for adoption because it would leave the Island of San Juan to Great Britain. In this point of view it is urged with much earnestness by his Lordship, upon a consideration of what is alleged to be the great importance of the island to Great Britain, and its comparative worthlessness to the United States. This consideration seems to be pressed, moreover, with the greater confidence, because his Lordship seems to think that it was under the influence of a similar argument that Great Britain yielded to this Government, both in 1842 and 1846, the larger portion of the territory which, on each of these occasions, was in dispute between the two countries.

There may be occasions, doubtless, where this argument of mutual convenience would be entitled to much weight, and on every such occasion there is no Government which would be more likely to do justice to it than the Government of the United States. I know of nothing, however, in the present case which brings it properly within this rule. His Lordship indeed says that much importance is attached to the retention of the island by British Colonial authorities, and by Her Majesty's Government; but no reason is given for this by his Lordship, and I am quite unable to understand by what process it is that he has reached the conclusion that the island is only valuable to Great Britain. Its limited agricultural resources, and its harbours, might certainly be of equal interest to either country; and since both Governments hold important possessions in its neighbourhood, its value in a military point of view cannot be fairly overlooked by either of them.

This whole argument, from mutual convenience, however, can only be entitled to weight where there is no possible mode of agreeing upon title, and since the President entertains a strong conviction that the American title to the Island of San Juan can be clearly maintained under the Treaty of 1846, it is unnecessary to pursue the discussion upon this point.

But if this were otherwise, and the argument of relative importance was fairly within the case, it could possibly derive no aid from the considerations which have been presented in connection with the Treaties of 1842 and 1846. Under the latter Treaty, as you are aware, a large tract of territory was surrendered to Great Britain for the sake of preserving friendly relations between the two countries, which, in the deliberate judgment of this Government, was a rightful possession of the United States; and this marked exhibition of its regard for peace, and its conciliatory spirit towards Great Britain, cannot be justly employed now as a precedent for another cession in the same region. A similar exhibition was made by the United States in the Treaty of 1842, and this example has been rendered peculiarly marked, because at this time there can be no doubt whatever that the whole claim of the United States on that occasion was just and valid. Within a year after the Treaty of Washington was concluded, it was stated in Parliament by Sir Robert Peel (and the disclosure was then for the first time made) that there was in the library of King George III (which had been given to the British Museum), a copy of Mitchell's map, in which the boundary, as delineated, "follows exactly the line claimed by the United States."

Mr. Everett, who was then our Minister in London, took the earliest opportunity to examine it, and in a statement recently published on the subject, he says: "On four places upon this line are written the words, in a strong bold hand, 'The boundary, as described by Mr. Oswald.' There is documentary proof that Mr. Oswald sent the map used by him in negotiating the Treaty to King George III, for his information; and Lord Brougham stated in his place in the House of Peers, that the words four times repeated, in different parts of the line, were, in his opinion, written by the King himself. The boundary is marked in

the most distinct and skilful manner, from the St. Croix all round to the St. Mary's, and is precisely that which has always been claimed by us. There is every reason to believe that this is the identical copy of Mitchell's map officially used by the negotiators, and sent by Mr. Oswald, as we learn from Dr. Franklin, to England. Sir Robert Peel informed me that it was unknown to him till after the Treaty, and Lord Aberdeen and Lord Ashburton gave me the same assurance. It was well known, however, to the Agent employed under Lord Melbourne's Administration in maintaining the British claim, and who was foremost in vilifying Mr. Webster for concealing the red line map."

It is quite obvious from the facts in this statement, which, you are aware, were made the subject of comment in the American Senate, at the time of their development, that the whole concession of territory which was made by the Treaty of Washington, was made by the United States.

The argument to be drawn from both the cases thus cited by Lord John Russell, is a conclusive demonstration of that goodwill and friendly disposition which have always characterised the intercourse of this Government with that of Great Britain, and which, I trust, upon all proper occasions, will still continue to exert their influence.

I have thus presented for the first time since the report of the Commissioners was made to their respective Governments, the views of the President with respect to it. I have done this with great frankness, but in a spirit, I trust, of candour and moderation, and with an earnest desire, I am sure, for an early and satisfactory adjustment of the question at issue.

If I have not dwelt at length upon the particular proposal made by Lord John Russell, this has only been because the President, in view of his own strong convictions on the subject, still entertains the hope that the Treaty itself may be found sufficient for the parties to it, and that there may be no necessity, therefore, for seeking a line outside of it.

You will present these views to Her Majesty's Government in that same conciliatory spirit which, in the despatch of Lord John Russell, is urged upon Lord Lyons, and you will enforce them with such appropriate arguments as may occur to you, and you may find it suitable and convenient to present.

You will, also, read this despatch to Lord John Russell, and leave with him a copy of it.

I am, &c.
(Signed) LEW. CASS.

No. 6.

Mr. Elliot to Lord Wodehouse.—(Received November 25.)

My Lord,

Downing Street, November 24, 1859.

WITH reference to your letter of the 10th instant, inclosing copies of a despatch and of its inclosures from Her Majesty's Minister at Washington, containing the instructions which have been sent by the United States' Government to General Scott and Governor Gholson with respect to the occupation of the Island of San Juan, I am directed by the Duke of Newcastle to transmit to your Lordship, for the information of Lord John Russell, the copy of a despatch which his Grace addressed to the Governor of Vancouver's Island on the 16th instant on this subject.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure in No. 6.

The Duke of Newcastle to Governor Douglas.

Sir,

Downing Street, November 16, 1859.

WITH reference to my despatch of the 29th of September, marked Confidential, in which I transmitted to you copies of the correspondence

that had taken place between Her Majesty's Government and Her Majesty's Minister at Washington respecting the occupation of San Juan, I have to inform you that the Government of the United States has declined to accept the compromise of the question of title to the island which was proposed in Lord John Russell's despatch of the 24th of August.

I inclose, herewith, a copy of the instructions given to General Scott by the United States' Secretary of State for War,* from which you will perceive that the United States' Government have accepted the proposal for a joint occupation of the island, pending the settlement of the question of title; and I have to authorize you to act upon any proposition which may be made to you by General Scott to carry this arrangement into effect, and to place in the island a force equivalent to that retained by the United States.

I have, &c.
(Signed) NEWCASTLE.

No. 7.

The Secretary to the Admiralty to Mr. Hammond.—(Received November 28.)

Sir,

Admiralty, November 25, 1859.

WITH reference to my letter of the 1st instant, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Lord John Russell, that Rear-Admiral Baynes, under date 27th September last, reports that Her Majesty's ship "Satellite" was at the Island of San Juan, where affairs continued in the same state as reported in his letter of the 11th September, a copy of which has been forwarded to you.

I am, &c.
(Signed) W. G. ROMAINE.

No. 8.

Lord J. Russell to Lord Lyons.

(No. 114.)

My Lord,

Foreign Office, November 29, 1859.

I HAVE received from Mr. Dallas a note from General Cass to him, dated the 20th ultimo, on the subject of the disputed territory of San Juan.

That despatch has been the subject of serious consideration by Her Majesty's Government; and I hope, in the course of a week or ten days, to be able to send you an answer to it.

In the meantime, I wish you to remove, if possible, an unfavourable impression from the President's mind with respect to a declaration contained in my despatch of the 24th of August.

That declaration, which was to the effect, that "no settlement of the question will be accepted by Her Majesty's Government which does not provide for the Island of San Juan being reserved to the British Crown," appears to have given rise to some misconception.

When the meaning of a Treaty is, in the opinion of one of the parties, clearly in favour of the interpretation it has adopted, but the interests at stake are unimportant, the point in dispute may be willingly yielded, for the sake of peace and good neighbourhood. But when the meaning is, in the opinion of one of the parties, clearly in their favour, and the interests at stake are, at the same time, highly important, a concession which would involve both an evident right and a valuable interest can hardly be expected.

Such was the sense in which I wrote that we could not accept a settlement which would deprive the British Crown of the Island of San

* Inclosure 2 in No. 4.

Juan. The right to the sovereignty of that island is, in the opinion of Her Majesty's Government, evident on the face of the Treaty; the importance of that island to the security of Her Majesty's possessions in Vancouver's Island and British Columbia is as well known to the citizens of the United States as to the Queen's subjects in North America.

You will assure General Cass that if, in the opinion of Her Majesty's Government, the United States could rightfully claim the Island of San Juan, Her Majesty would be advised to surrender it, however great, in our eyes, the importance of the position which would thus be to be yielded.

Or, if the importance of the island, in our eyes, were trifling, although our right was, in our opinion, perfectly clear, we should be disposed to consider the matter with a view to remove every source of difference with the United States, in which great interests were not involved.

Further than this, Her Majesty's Government can hardly be expected to go. It is in this spirit that I shall address you, as I have already intimated, upon the whole subject in dispute, and I hope to do so very shortly.

I am, &c.
(Signed) J. RUSSELL.

P.S.—You will read this despatch to General Cass, and will leave with him a copy of it.

No. 9.

The Secretary to the Admiralty to Mr. Hammond.—(Received December 2.)

Sir,

Admiralty, December 2, 1859.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, an extract from a letter of Rear-Admiral Baynes, dated the 11th October, with copy of its inclosure, relating to the state of affairs in British Columbia and Vancouver's Island, and proceedings at the Island of San Juan.

I am, &c.
(Signed) C. PAGET.

Inclosure 1 in No. 9.

Rear-Admiral Baynes to the Secretary to the Admiralty.

*"Ganges," in Esquimalt Harbour, Vancouver's Island,
(Extract.) October 11, 1859.*

I REQUEST you will inform the Lords Commissioners of the Admiralty that the "Ganges," "Pylades," "Tribune," "Satellite," and "Plumper," remain at Vancouver's Island, and that everything continues quiet in this and the adjacent colony.

2. Between the 30th ultimo and 4th instant, I passed through the Haro and Rosario Straits in the "Plumper," visited Nanaimo in Vancouver's Island and Buzzard's Inlet in British Columbia, crossing over from the latter to New Westminster, a distance by land of only six miles.

3. The Civil authorities of Washington territory have already commenced exercising jurisdiction over San Juan Island. The Inspector of Customs issued a notice on the 24th ultimo, a copy of which I inclose, prohibiting the landing of goods from vessels that have not cleared out at Port Townsend and obtained a permit from the Collector at that place.

Captain Prevost, of the "Satellite," who is watching British interests at San Juan, reports that on the 30th ultimo, on the return of Major De Courey, the Stipendiary Magistrate, who had been at Victoria on a few days' leave of absence, the revenue officer refused to allow his luggage to

be landed unless he produced a permit from the Custom-house at Port Townsend.

The difficulty, however, was settled by the discretion of Captain Prevost, by receiving Major De Courcy and his luggage on board the "Satellite," and communicating with the officer in command of the United States' troops, who immediately directed that the luggage in question should be landed without further inconvenience.

The Custom-house officer subsequently came on board the "Satellite," expressed his regret at the occurrence, and has written to his superiors for instructions, which, I hope, may prevent any further difficulties arising.

4. I am glad to be able to state that desertions from the ships stationed here have been much less frequent, and the crews have had leave granted to them the same as at other ports.

5. The American merchant-ship "Northern Eagle," of 664 tons, was destroyed by fire, a few hours after her arrival in Esquimalt Harbour, on the night of the 21st ultimo. She was from San Francisco with a quantity of hay on board, and had been chartered to take a cargo of lumber from Puget Sound to Australia. Every assistance was rendered by the squadron, and although it was impossible to save the ship, a large number of her stores were rescued from the flames.

The master, Mr. Thomas McKinney, expressed his gratitude in a letter to me, for the aid rendered by the "Ganges," "Pylades," "Tribune," and "Plumper;" and it affords me much gratification in bringing to their Lordships' notice the exertions and conduct of Commander Burgoyne, of the "Ganges," and the officers and crews of the several ships employed under his command on the occasion.

Inclosure 2 in No. 9.

Notice.

AS the Revenue Law of the United States is now enforced on the islands east of the Canal de Haro, captains of vessels bound to this port are hereby notified that they must enter and clear their vessels at the Custom-house at Fort Townsend before landing goods on this island, and in no case are goods from a foreign port allowed to be landed from boats, canoes, or other water crafts, without first obtaining permit from the United States' Collector of Customs at Fort Townsend. All persons found landing goods without proper permit, are liable to have their goods and vessels confiscated.

Given, &c., September 24, 1859.

(Signed)

PAUL K. HUBBS, JUN.,
United States' Inspector of Customs.

No. 10.

Lord Lyons to Lord J. Russell.—(Received December 9.)

(No. 267.)

My Lord,

Washington, November 25, 1859.

I HAVE received this morning a private letter from Rear-Admiral Baynes, written on board Her Majesty's ship "Ganges," at Esquimalt, Vancouver's Island, on the 27th ultimo.

Admiral Baynes informs me that he had on the previous evening received from Governor Douglas a copy of a despatch which General Scott had sent to his Excellency by an Aide-de-camp, and which contained a proposal respecting the Island of San Juan.

The Admiral says that he had made arrangements to give me early information by telegraph of the terms of this proposal, and adds that he trusts everything will now take a favourable turn. No telegram or other

communication stating the terms of General Scott's proposal has yet reached me.

General Cass told me this morning that the Government had not received any recent intelligence from General Scott, but that there could be no doubt that the proposal made by him to Governor Douglas must have been for a joint occupation of San Juan by British and American troops upon perfectly equal terms.

I have, &c.
(Signed) LYONS.

No. 11.

Lord Lyons to Lord J. Russell.—(Received December 12, 7 P.M.)

(Telegraphic.)

Washington, December , 1859.

GENERAL DOUGLAS writes on the 26th October, after he had received General Scott's proposal, that he feels satisfied that a course may be agreed upon which may be mutually satisfactory to both nations until the sovereignty of San Juan shall have been settled.

No. 12.

Lord Lyons to Lord J. Russell.—(Received December 12, 7 P.M.)

(Telegraphic.)

Washington, December , 1859.

UNITED STATES' Secretary of State desires me to inform your Lordship in the utmost confidence, mention of the relations with England, in the President's Message, will be this time as follows:—The immediate difficulty, San Juan, about to be settled by General Scott on the basis of Secretary Marcy's letter. The right of the United States to the sovereignty incontestable, but that asserted by diplomatic negotiation, and no further communication to be made to Congress at present. The contemplated arrangements in Central America not yet completed by Great Britain, but this not the fault of Her Majesty's Government.

No. 13.

Lord Lyons to Lord J. Russell.—(Received December 14.)

(No. 268.)

My Lord,

Washington, November 22, 1859.

WITH reference to my immediately preceding despatch (No. 267 of the 25th instant), I have the honour to inclose a copy of a telegram addressed by General Scott to the United States' Secretary of War, from Fuca Straits, on the 27th ultimo. This document was put into my hand by General Cass on the afternoon of the day before yesterday.

Several hours later, on the same day, I received a telegraphic despatch in cypher from Rear-Admiral Baynes, the text of which I have the honour to inclose. The date has not been clearly transmitted by the telegraph, but the despatch was no doubt drawn up by the Admiral at Esquimalt, Vancouver's Island, on the 26th ultimo.

It appears that the terms of the proposal made by General Scott to Governor Douglas are:—Joint occupation of a separate portion of the Island of San Juan by 100 military, with their appropriate arms only.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 13.

General Scott to Mr. Floyd.

(Telegraphic.)

Fuca Straits, October 27, 1859.

TWO days ago I dispatched from Fort Townsend a communication to Governor Douglas, proposing a temporary adjustment, on the basis suggested by the President in his instructions to me. There has been no answer yet. No doubt the proposition will be accepted.

Everything tranquil in these islands.

Inclosure 2 in No. 13.

Rear-Admiral Baynes to Lord Lyons.

(Telegraphic.)

GENERAL SCOTT arrived at Port Townsend on the 25th instant (*i. e.*, of October), and immediately sent an Aide-de-camp to Governor Douglas with a despatch containing the following proposal, as a basis for the temporary adjustment of the present difficulty:—

“Joint occupation of a separate portion of the Island by 100 military, with their appropriate arms only.”

The Governor sends me a copy of the despatch. I have not time to communicate with him before the packet will sail.

No. 14.

Lord J. Russell to Lord Lyons.

(No. 123.)

My Lord,

Foreign Office, December 16, 1859.

MR. DALLAS communicated to me on the 12th ultimo, the despatch from General Cass of which I inclose a copy, in reply to the communication which, by my despatch No. 42 of the 24th of August, you were directed to make to the Government of the United States, on the subject of the water-boundary between Her Majesty's possessions and those of the United States, under the Treaty of 1846.

Although Her Majesty's Government cannot concur in the conclusions at which General Cass has arrived, they receive with satisfaction the assurance that the Government of the United States reciprocate their desire that this question may be discussed between the two Governments in a friendly spirit.

My instruction of the 24th of August, as your Lordship is aware, was sent off from this country many days before the intelligence of General Harney's proceedings had reached Her Majesty's Government: the proposal, therefore, which it contained was not made, as General Cass seems to think, in view of the seizure of San Juan by United States' troops. So far was this from being the case, that I cannot help saying, that if that instruction had not been already on its way to Washington when the news of General Harney's aggression became known in this country, it would have been impossible for Her Majesty's Government to have acted upon their intention to propose a friendly compromise of the question in dispute, until they had learned that General Harney's proceedings had not been approved, and that matters had been restored to their former footing.

My despatch, however, was already, or shortly afterwards, in your Lordship's hands; and, under the circumstances, you acted judiciously in at once communicating its contents to the United States' Government. On the other hand, the explanations which that Government has since given, and the instructions furnished to General Scott, have relieved Her Majesty's Government from all further difficulty as to pursuing this negotiation.

I have already, in my despatch No. 114 of the 29th ultimo, instructed you to explain to the United States' Government the sense in which I had stated "that no settlement of the question will be accepted by Her Majesty's Government which does not provide for the Island of San Juan being reserved to the British Crown."

Your Lordship is aware that the question in dispute was not restricted to the Island of San Juan only. The Commissioners, indeed, seem to have been agreed as to the general direction which the boundary line, running westwards from the Continent, should follow on reaching the centre of the Gulf of Georgia; but as to the particular course which it should take in order to arrive at the Straits of Fuca, the divergence of opinion was extreme. Captain Prevost considered that the line should be continued down the Rosario Strait; Mr. Campbell held that it should be run through the Haro Channel. The contest was not, therefore, a contest for the Island of San Juan only, but it also embraced the important Islands of Lopez and Orcas, and the cluster of smaller islands in their immediate neighbourhood. In short, the area in dispute was the whole Archipelago lying between Rosario Strait and the Haro Channel.

In pointing out, therefore, to your Lordship that in whatever manner the question was ultimately settled, Her Majesty's Government could not yield the Island of San Juan, Her Majesty's Government were, by implication, abandoning a large part of the territory they had claimed, and were merely insisting on the retention of an island which, from the peculiarity of its situation, it was impossible for Her Majesty's Government to cede without compromising interests of the gravest importance.

The Government of the United States further takes exception to the tenour of the instructions given to the British Commissioner, as limiting the free exercise of his judgment in regard to the Island of San Juan.

Her Majesty's Government cannot admit that a Government is precluded from laying down rules for the guidance of its Commissioner, or from restricting his discretionary power within certain bounds; but the fact is that, by the instructions with which Captain Prevost was furnished, he was authorized, in case he should be of opinion that the claims of Her Majesty's Government to consider the Rosario Strait as the Channel of the Treaty could not be sustained, to adopt any other intermediate channel on which he and the United States' Commissioner might agree.

The Government of the United States animadverts on the contingency of a disagreement between the Commissioners having been contemplated by those instructions, and alludes to Captain Prevost having been authorized to propose the very compromise which you were instructed by my despatch No. 42 of the 24th of August to offer.

But it surely is not unreasonable, in entering into a negotiation, to contemplate the possibility of failure, and to provide for such a contingency, by directing in that case a compromise to be proposed; and it appears to Her Majesty's Government that no other inference can fairly be drawn from this circumstance, than that the British Government were always ready, with a view to a good understanding with that of the United States, to waive their extreme claim, and to agree to divide between the two States the islands over which they severally claimed exclusive sovereignty.

I now pass to a consideration of the main portions of General Cass' note. There are three points of importance which the Secretary of State relies upon in support of the United States' claim:—

1. That the 49th parallel of north latitude was fixed by common consent as the boundary between the respective possessions of the two countries in that region.

2. That the Haro Channel was the channel which the negotiator of the Treaty of 1816 had in view; and,

3. That the channel described in the Treaty answers to that channel.

With respect to the first point, the Secretary of State argues on the assumption that the title of the United States to the whole of the territory included between the parallels of 42° and 54° 40' north latitude had

been clear and unquestionable, and he would consequently leave it to be inferred that Great Britain holds her present possessions in that quarter, not in virtue of any right or claim which she may have previously possessed, but solely through the concessions made to her by the United States in the Treaty of 1846.

Undoubtedly, the title by which Great Britain now holds British Columbia and Vancouver's Island is the same as that by which the United States possess the Oregon State and Washington territory, viz., the Treaty of 1846; but when General Cass asserts that, previously to that Treaty the title of the United States to the whole of the territory between the parallels of 42° and 54° 40' had been clear and unquestionable, Her Majesty's Government can only reply that, in their opinion, it was the title of Great Britain to that territory which was clear and indisputable.

It would serve no good purpose, however, to re-open a question which was settled by the Treaty of 1846, and I shall, therefore, only observe that the principle that both countries had claims to the disputed territory was recognized by the Conventions of 1818 and 1827, and by the joint occupancy established on the failure of the attempts to effect an equitable partition of that territory.

General Cass goes on to say, that when Mr. Polk became President, in 1845, the United States' Government repeated the offer which the British Government had previously rejected of the parallel of 49° as the boundary, and that it further offered to make free to Great Britain any port or ports in Vancouver's Island south of that parallel which the British Government might desire. General Cass says truly, that the British Envoy immediately rejected that offer. The words employed by Mr. Pakenham were, "that he trusted the American Plenipotentiary would be prepared to offer some further proposal for the settlement of the Oregon question more consistent with fairness and equity, and with the reasonable expectations of the British Government."

After dwelling upon the course taken by the United States' Government, with the view of maintaining its claim to the territory south of the 49th parallel, General Cass adverts to Mr. Mc Lane's report of what passed at the interview which he had with Lord Aberdeen on the 15th of May, 1846; and General Cass states that Mr. Mc Lane wrote subsequently to his own Government that he thought the "substantial offer" of the British Government would "probably" be: "to divide the territory by the extension of the parallel of 49° to the sea; that is to say, the arm of the sea called Birch's Bay, thence, by the Canal de Arro and Straits of Fuca, to the ocean."

General Cass goes on to say, that Mr. Benton spoke of the Canal de Haro, in the Senate, as the channel which had been agreed upon; and that Mr. Buchanan, who signed the Treaty, was equally explicit in his understanding of that part of it which relates to the water boundary. And he further refers to the despatch of Lord Aberdeen, which accompanied a final draft of the Treaty, "as placing beyond controversy the object which was intended by deflecting the Treaty boundary south of the parallel of 49°."

As General Cass has alluded to Lord Aberdeen's despatch, I shall proceed to quote, not an isolated expression, such as that which Mr. Campbell was able to repeat from his recollection of what was told him by Lord Napier, but a full extract of that portion of Lord Aberdeen's despatch which deals with the question of the 49th parallel:—

"The boundary," said Lord Aberdeen, "having been fixed by the Convention of 1818 between the possessions of Great Britain and the United States, and the line of demarkation having been carried along the 49th parallel of latitude for a distance of 800 or 1000 miles through an unfrequented and unknown country, from the Lake of the Woods to the Rocky Mountains, it appeared to the Government of the United States that it was a natural and reasonable suggestion that this line should be continued along the same parallel, for about half that distance, and through a country as little known or frequented, from the Rocky Mountains to the sea. And, indeed, with reference to such a country, the extension of any line of boundary already fixed might equally have been

suggested, whether it had been carried along the 49th or any other parallel of latitude.

“On the other hand, however, it may justly be observed, that any division of territory in which both parties possess equal rights, ought to proceed on a principle of mutual convenience, rather than on the adherence to an imaginary geographical line; and, in this respect, it must be confessed that the boundary thus proposed would be manifestly defective. It would exclude us from every commodious and accessible harbour on the coast; it would deprive us of our long-established means of water-communication with the interior for the prosecution of our trade; and it would interfere with the possessions of British colonists resident in a district in which it is believed that scarcely an American citizen, as a settler, has ever set his foot.”

“You will accordingly propose to the American Secretary of State that the line of demarkation should be continued along the 49th parallel from the Rocky Mountains to the sea coast, and from thence, in a southerly direction, through the centre of King George’s Sound and the Straits of Juan de Fuca to the Pacific Ocean, leaving the whole of Vancouver’s Island, with its ports and harbours, in the possession of Great Britain.”

In a separate despatch of the same date Lord Aberdeen inclosed to Mr. Pakenham a draft of the Treaty of 1846, which was accepted, as is stated by General Cass, by the United States’ Government without alteration.

General Cass will perceive from the extract which I have quoted above from Lord Aberdeen’s despatch, that Lord Aberdeen specified King George’s Sound as the channel down which the Treaty boundary was to run. What Lord Aberdeen meant by King George’s Sound may be clearly inferred from an extract, which I shall quote, from a letter addressed to him at that time by Sir John Pelly, the then Governor of the Hudson’s Bay Company, giving a summary of a conversation which he had held with Lord Aberdeen, on the 16th of May, namely, two days before the date of Lord Aberdeen’s despatch to Mr. Pakenham:—

“I have been considering the subject on which I had the honour of conversing with your Lordship on Saturday last, and, feeling that in the multiplicity of business which comes before your Lordship, some parts may have been overlooked, or that I may not have been sufficiently explicit, I have thought it advisable to trouble you with a few lines.

“In the first place, I assume that the 49th degree of latitude, from its present terminus, will be continued across the continent to the water known as the Gulf of Georgia, and be the line of demarkation of the continent between Great Britain and the United States.

“The next question on which the Governments of the two countries will have to decide will be as to the islands abutting on and in the Gulf of Georgia, viz., one, Vancouver Island, intersected by the parallel of 49°, and others which are wholly on the south of that parallel. With respect to the former, I think, upon the principle of mutual convenience (and which I think should form the foundation of the Treaty), Great Britain is entitled to the harbour on its south-east end, being the only good one, those in Puget Sound being given up to the United States; that, with respect to the other islands, the water-demarkation line should be from the centre of the water in the Gulf of Georgia, in the 49th degree, along the line coloured red as navigable in the chart made by Vancouver, till it reaches a line drawn through the centre of the Straits of Juan de Fuca. The only objection to this, is giving to the United States the valuable Island of Whidbey; but I do not see how this can be avoided in an amicable adjustment.”

No inference can be fairly drawn from Lord Aberdeen’s silence on the subject of the islands of the Archipelago, than that allusion was made only to the broad geographical features, the mention of which was supposed to be sufficient for the matter under discussion.

It is to be observed, moreover, that Lord Aberdeen was fully alive to the importance of securing access to the British Possessions, and that he declined accordingly to accept a boundary “which would exclude us from every commodious and accessible harbour on the coast, and which

would deprive us of our long-established means of water communication with the interior ;” stipulations which the British Government felt that it was entitled to insist upon, in consideration of the vast extent of territory, including the Valley of the Columbia and a valuable sea-coast, which it was prepared to surrender to the United States, in order to arrive at an amicable adjustment of the questions in dispute between the two countries.

Having, I trust, sufficiently shown the intentions of the British Government as regards the water boundary, when they made the proposal which was adopted in the Treaty, I shall advert to Mr. Crampton’s report of what passed between him and Mr. Buchanan in January 1848, as showing, first, that the Government of the United States has long been aware that its claim to the Haro Channel as the boundary of the Treaty was not admitted by Her Majesty’s Government; and secondly, that the Secretary of State of the United States, who signed the Treaty of 1846, did not at that time contend that the Treaty gave to Great Britain nothing more than Vancouver’s Island.

Mr. Crampton on that occasion had stated to Mr. Buchanan the reasons which induced the British Government to maintain that the Rosario Strait was the channel spoken of in the Treaty, and he accordingly suggested that the instructions to the Commissioners to be appointed for marking out the boundary should be drawn up on the assumption that the line was to be run down that Strait.

Mr. Crampton reported that Mr. Buchanan, “speaking of the word ‘channel,’ as employed in the Convention of 1846, observed that he himself, and he presumed Mr. Pakenham, in negotiating and signing that Convention, had always conceived ‘channel’ to mean the main navigable channel, wherever situated.”

After some further remarks, Mr. Buchanan suggested that the point should be left for decision by the Commissioners

If Mr. Buchanan was of opinion that the channel spoken of in the Treaty was the “main navigable channel,” *wherever situated*, and if that question was to be decided by Commissioners, how can it be contended that the United States’ Government understood the Treaty as giving to Great Britain nothing beyond Vancouver’s Island ?

But General Cass, in his anxiety to prove that the Rosario Strait is not the channel of the Treaty, asserts that it cannot properly be said to flow into the Straits of Fuca at all.

I must confess myself unable to comprehend what General Cass means by that assertion. Surely he cannot desire to confine the appellation of “Straits of Fuca” to the mere point at which those Straits communicate with the Pacific? I can hardly imagine that such a proposition can have been seriously entertained by General Cass, and the less so because General Cass cannot be ignorant that the appellation of “Strait of Fuca” has, by one writer at least, and that one an American writer, namely, Greenhow, been applied to the whole of the water space separating Vancouver’s Island from the continent, between the 48th and 50th parallels of latitude.

General Cass expresses surprise because I said in my former despatch that the British Government in 1846 believed the Haro Channel to be a dangerous passage, and he adds that that channel had been examined by Captain Wilkes while on his exploring expedition. Now, Her Majesty’s Government never intended to assert that the Haro Channel had on no occasion before 1846 been visited by any mariner. What they meant to convey is, that before 1846 the Rosario Strait, and not the Canal de Haro, was the channel ordinarily used by shipping; and they continue to maintain that the channel now known as Rosario Strait had always been regarded as a continuation of the broad space of water called at the present day the Gulf of Georgia, whereas the Canal de Haro was looked upon as an independent channel. The names “Gulf of Georgia” and “Canal de Rosario” are, indeed, regarded by some writers as synonymous terms. De Mofras, who has been quoted by General Cass as speaking of the Canal de Haro as “le passage le plus facile,” adds, later on, “dans cette partie” (that is to say, at the 50th parallel) “le bras qui sépare

le continent de l'Île de Quadra et Vancouver, acquiert une largeur de quatre à sept lieues. *Les Espagnols l'appelèrent Canal del Rosario, mais Vancouver eût soin de changer ce nom en celui de Golfe de Georgie.*"

Again, Greenhow, who cannot be suspected of any leaning towards the British claim, unconsciously gave strong testimony in favour of that claim, when speaking of the meeting of the British and Spanish exploring vessels in 1792, in the middle of the Gulf, and of their having agreed to unite their labours, he says: "During this time they surveyed the shores of the great Gulf above mentioned, called by the Spanish '*Canal del Rosario*,' and by the English the '*Gulf of Georgia*,' which extended north-westward as far as the 50th degree of latitude."

But General Cass observes, that the Gulf of Georgia is not mentioned in the Treaty. This is, no doubt, true; but Lord Aberdeen, in the despatch which accompanied the draft of Treaty, instructed Mr. Pakenham to propose that the line should be run down the centre of the Gulf of Georgia, called by him "King George's Sound;" and as I have already shown that the terms "Gulf of Georgia" and "Canal de Rosario" have been indifferently applied to one and the same channel, a clear indication is afforded by Lord Aberdeen's despatch of the direction which he intended that the boundary line should take.

At all events we may appeal to Lord Aberdeen's despatch, as giving a more satisfactory and complete key to the meaning of the term "channel" spoken of in the Treaty than the despatch of Mr. Mc Lane, which refers to "Birch's Bay," and the "Canal de Arro;" neither of which are mentioned in the Treaty any more than the Gulf of Georgia. Mr. Mc Lane's despatch shows what he thought Lord Aberdeen would probably instruct Mr. Pakenham to propose; Lord Aberdeen's despatch proves what he actually did instruct Mr. Pakenham to propose.

General Cass refers, moreover, to Sir R. Pakenham's Memorandum, as evidence against the British claim; but your Lordship will observe that Sir R. Pakenham's object in that Paper was, not so much to enter upon the question as to what were the intentions of the negotiators of the Treaty, as to offer an opinion as to how far, with the information since acquired by the two Governments, the boundary line could, according to the literal words of the Treaty, be carried down either the Canal de Haro or the Channel of Vancouver.

Sir R. Pakenham seems to think that the conditions of the Treaty would obtain their most exact fulfilment if the line were carried through the Douglas Channel. According to General Cass, Sir R. Pakenham adds, that he has no recollection whatever that any other channel was designated in the discussion than that described in the language of the Treaty.

I must beg leave, however, to correct General Cass upon this point. What Sir R. Pakenham adds, is, that the Treaty "was signed and ratified without any intimation to us whatever on the part of the United States' Government, as to the particular direction to be given to the line of boundary contemplated by Article I of the Treaty."

These observations suffice to show that the arguments which General Cass has drawn from the supposed intentions of the negotiators of the Treaty, can be met by arguments of at least equal weight on our side; but, however we may be disposed to rely on the instructions of Lord Aberdeen and the letter of Sir John Pelly, and the United States on the statements of Mr. McLane and Mr. Benton, it must be confessed on both sides, that the interpretation of one party, without the expressed assent of the other, goes but very little way to remove the difficulty.

Had Lord Aberdeen and Sir J. Pelly obtained the consent of the United States' Government to their views in favour of the channel marked as navigable by Vancouver, or had Mr. McLane and Mr. Senator Benton obtained the assent of Lord Aberdeen and Mr. Pakenham to their opinion, that Haro's Strait was the channel intended by the Treaty, such agreement would have been conclusive. But separate interpretations not communicated to the other party to a Treaty, cannot be taken as decisive in a disputed question.

We are forced, therefore, to recur to the words of the Treaty, and Her

Majesty's Government are ready to disavow any intention of "abandoning the Treaty line for a line purely arbitrary."

"The Treaty provides," General Cass truly says, "that the boundary line shall be continued along the said 49th parallel of north latitude to the middle of the channel which separates the Continent from Vancouver's Island." Let us stop here; we have here something fixed, namely, a point on the 49th parallel of latitude, and half way between the Continent and Vancouver's Island. The Article proceeds, "and thence southerly, through the middle of the said channel." Here the meaning of the negotiators appears clear; the boundary line is to go "through the middle of the said channel."

If the whole space between the Continent and Vancouver's Island had been occupied by water, there can be no doubt that the words "middle of the said channel" would have been interpreted to mean drawing the line along the middle of the channel. When you say along the middle of the road, you do not mean one side of the road; when you say along the middle of the street, you do not mean one side of the street.

But it happens that the channel is not an uninterrupted space of water, but is intersected by various islands: hence the contested interpretation—one side contending for Haro's Channel, the other for Vancouver's, or the Rosario Channel.

I need not refer further to the arguments by which each nation has supported its views. But shall we not approach nearer to the spirit of the Treaty, if, as Sir R. Pakenham suggests, we draw a line equi-distant from the Continent and Vancouver's Island, and prolong it till we reach "Fuca's Straits and the Pacific Ocean," words which complete the description of the boundary?

Or, again, if it would be inconvenient to both nations to have five or six islands partially divided between them, would it not be fair and expedient to look for a channel which shall be the nearest approximation to that line midway between the Continent and the Island of Vancouver, which is designated by the Treaty? And if Douglas' Channel fulfils this condition, is it not the line most in accordance with the Treaty, as well as with general policy and convenience?

In Treaties by which a water or river boundary is established between two States, as, for instance, in the Treaty between Great Britain and the United States, of 1783, the dividing line is usually run along the mid-channel, or "thalweg," leaving to one State or the other any islands which may be in the channel, according as those islands lie on the one side or the other of the dividing boundary, but seldom, if ever, mentioning such islands. The same principle may be applied to the Treaty of 1846. The Treaty continues the dividing line of the 49th parallel to a point in the water half-way between the mainland and Vancouver's Island; and it says, in effect, that the boundary line shall be continued southwards along the middle of that channel, that is to say, along the middle of the space which lies between the Continent and Vancouver's Island, till it reaches the Straits of Fuca.

General Cass indeed observes, that the way selected should be the "shortest and the best way:" that the Canal de Haro is "the broadest, the deepest, and the shortest route" by which the Straits of Fuca can be reached from the point of deflection. But the Treaty says nothing of the "best" way, nor of the "broadest," nor of the "deepest," nor of the "shortest route." The reason is obvious. The object was not to enable vessels to reach the Pacific Ocean by the shortest route; that object is provided for by the other part of the Article, which provides that the navigation of the whole of the said Channel and Straits south of the 49th parallel of north latitude shall remain free and open to both parties: the object in tracing the boundary was to give each country an equal share of the channel which ran between their possessions, and therefore the line was directed to be drawn midway, and "through the middle of the channel."

In this case it is General Cass who deserts the line of the Treaty for an "arbitrary line," and that arbitrary line selected for no reason found in the Treaty, deduced from the Treaty, or applicable to the Treaty.

If I notice General Cass' allusion to the letters which he says Mr. Bancroft repeatedly wrote to Lord Palmerston in 1848, it is only for the purpose of placing on record what, no doubt, Mr. Bancroft duly reported to his Government at the time, viz., that Lord Palmerston gave Mr. Bancroft distinctly to understand that the British Government did not acquiesce in the pretension of the United States, that the boundary line should be run down the Haro Channel. But it is remarkable that it was in that very year 1848 that the United States' Senate gave orders for printing 20,000 copies of Fremont's Map, which, as well as the map prepared by the Surveyor-General of the State of Oregon in October 1852, carries the boundary line through the Rosario Strait. This is a circumstance of the greatest importance in determining the meaning of the Treaty.

General Cass has taken this occasion to assert that the whole concession of territory under the Treaty of Washington of the 9th of August, 1842, was made by the United States, and he has thought fit to bring a charge against the British Government in connection with that Treaty.

I am convinced it is best, on all accounts, that I should not follow General Cass in his endeavour to reopen that question. What Great Britain gave up by the Treaty of 1842 for the sake of peace, is so well known that any renewed controversy on the subject would be out of place.

Her Majesty's Government have been animated by a like spirit in the course they have pursued with regard to the present question; and if they have maintained the claim of Great Britain to the possession of San Juan, they have done so because they are convinced that the title of the British Crown to that island is sound, and because the possession of the island by Great Britain is necessary to secure a safe passage to the British Possessions on the mainland.

General Cass says that no Government would be more likely than the Government of the United States to do justice to the argument of mutual convenience, but he says he knows of nothing which brings the case of San Juan properly within that rule. The examination of the map, however, at once proves that this rule is peculiarly applicable to the present case.

There are now shown to be two considerable channels—the Canal de Haro on the one side, which passes close to the British territory^a of Vancouver's Island, and the Rosario Channel on the other, which passes equally near to the American Possessions on the mainland. If the possession of San Juan would give to Great Britain the command of the Haro Channel, the possession of the adjoining Islands of Orcas and Lopez would equally give to the United States the command of the Rosario Channel, so that each country would command a safe highway to its Possessions, free from all interference on the part of the other country.

It is obvious that this would not be the case if San Juan was in the possession of the United States, who would then hold the command over both channels.

San Juan is therefore a defensive position if in the hands of Great Britain; it is an aggressive position if in the hands of the United States. The United States may fairly be called upon to renounce aggression; but Great Britain can hardly be expected to abandon defence.

I have thus endeavoured to meet the arguments of General Cass in a spirit, I trust, of calm deliberation, such as befits two Governments who are sincerely desirous of arriving at a just solution of a question at issue between them. Her Majesty's Government recognize and appreciate the good faith and the regard for peaceful relations which have dictated the instructions to General Scott: and relying on the friendly feelings of the American people and on the earnest desire for peace which have been so often expressed by those in power in the United States, Her Majesty's Government will not permit themselves to believe that that Government will decline the conciliatory offer of the British Government which your Lordship is hereby instructed to repeat.

You will, without loss of time, read this despatch to General Cass, and leave with him a copy of it.

I am, &c.
(Signed) J. RUSSELL.

No. 15.

Lord Lyons to Lord J. Russell.—(Received December 20.)

(No. 276. Most Confidential.)

My Lord,

Washington, December 1, 1859.

GENERAL CASS told me, yesterday, that he would enable me to acquaint your Lordship, in the strictest confidence, with the substance of the language respecting the relations with Great Britain, which the President would use in his forthcoming Message to Congress.

General Cass went on to say that the President would mention only two subjects connected with those relations: San Juan, and Central America.

With regard to San Juan, the President would say, that the immediate difficulty arising from the occupation of the island by the United States' troops was on the point of being removed by General Scott, who would effect a temporary arrangement on the basis laid down, under President Pierce's administration, in Secretary Marcy's letter of the 14th of July, 1855. The President would maintain that the right of the United States to the sovereignty of the islands was incontestable; but that this right would be asserted by diplomatic negotiation, and that it was not desirable to make any further communication on the subject to Congress at present.

With regard to Central America, the President would say, that the satisfactory arrangements contemplated by Great Britain were not yet completed, but that the delay had proceeded from causes independent of the will of Her Majesty's Government.

I have, &c.
(Signed) LYONS.

No. 16.

Mr. Hammond to the Secretary to the Admiralty.

Sir,

Foreign Office, December 22, 1859.

IT appears from a despatch received from Her Majesty's Minister at Washington, that he has received from Rear-Admiral Baynes a telegram stating that General Scott has proposed to Governor Douglas, as a basis for the temporary adjustment of the present difficulty respecting the Island of San Juan, "the joint occupation of a separate portion of the island by 100 military, with their appropriate arms only."

I am consequently directed by Lord John Russell to request that you will move the Lords Commissioners of the Admiralty to instruct Rear-Admiral Baynes to furnish 100 Marines, with a captain of Marines, to occupy the island on our side. The words "appropriate arms" are understood to exclude the employment of cannon.

I am to add, that this arrangement is to be considered as provisional.

I am, &c.
(Signed) E. HAMMOND.

No. 17.

Lord J. Russell to Lord Lyons.

(No. 127.)

My Lord,

Foreign Office, December 22, 1859.

WITH reference to your Lordship's despatch No. 276 of the 1st instant, I have to instruct you to convey to General Cass the thanks of Her Majesty's Government, for having enabled you to report to me the substance of the language respecting the relations between Great Britain and the United States, which the President would hold in his Message to Congress. That language is quite satisfactory to Her Majesty's Government.

The arrangement which I learn, from your despatch No. 268 of the 28th ultimo, has been proposed by General Scott to Governor Douglas, as a basis for the temporary adjustment of the present difficulty respecting the Island of San Juan, namely, "the joint occupation of a separate portion of the island by 100 military, with their appropriate arms only," is quite fair and reasonable; and Her Majesty's Government presume that, in the spirit of Mr. Secretary Marcy's despatch, there will be no exclusive jurisdiction.

I am, &c.
(Signed) J. RUSSELL.

No. 18.

Lord J. Russell to Lord Lyons.

(No. 128.)

My Lord,

Foreign Office, December 22, 1859.

I INCLOSE, for your information, a copy of a letter which I have caused to be addressed to the Admiralty,* requesting that, in accordance with the arrangement proposed by General Scott to Governor Douglas, and reported in your despatch No. 268 of the 28th ultimo, Rear-Admiral Baynes should be instructed to furnish 100 Marines, with a captain of Marines, to occupy the Island of San Juan, on our side.

I am, &c.
(Signed) J. RUSSELL.

No. 19.

The Secretary to the Admiralty to Mr. Hammond.—(Received December 24.)

Sir,

Admiralty, December 23, 1859.

IN reply to your letter of the 22nd instant, stating that it is understood that General Scott has proposed to Governor Douglas the joint military occupation of the Island of San Juan by Great Britain and the United States, and requesting that Rear-Admiral Baynes may be instructed to furnish 100 Royal Marines, with a captain of that corps, to occupy the island on our side, but to consider this only as a provisional arrangement, I am commanded by my Lords Commissioners of the Admiralty to state, for the information of Lord John Russell, that the necessary instructions will be sent to Admiral Baynes, in conformity with his Lordship's wishes.

I am, &c.
(Signed) W. G. ROMAINE.

No. 20.

Lord Lyons to Lord J. Russell.—(Received December 26.)

(No. 282.)

My Lord,

Washington, December 12, 1859.

I HAVE the honour to inclose a copy of a despatch from Mr. Wilkins, Her Majesty's Consul at Chicago, respecting a draft map, on which the channel between Vancouver's Island and the main is said to have been so clearly laid down as to leave no room for dispute. Mr. Wilkins has heard that, during the negotiations preliminary to the Treaty of the 15th June, 1846, such a draft map was exchanged between Sir Richard Pakenham and Mr. Buchanan, but afterwards, for some reason, laid aside.

Should it appear worth while to make inquiry respecting the circumstance, it would, probably, be easy to ascertain from Sir Richard Pakenham both whether the fact be as it has been represented to Mr. Wilkins; and, if so, whether any use can be made of it in support of the British claim to the Island of San Juan.

I have, &c.
(Signed) LYONS.

Inclosure in No. 20.

Consul Wilkins to Lord Lyons.

My Lord,

Chicago, December 3, 1859.

I HAD occasion lately to call on an American citizen who for many years held a high post in the Land Department, at Washington, and, in the course of conversation, he stated that he was under the impression that during the negotiations preliminary to the making of the Treaty of the 15th June, 1846, a draft map was exchanged between Mr. Pakenham and Mr. Buchanan, on which we traced "the channel separating the Continent from Vancouver's Island" so clearly as to leave no room for dispute, and that for some reason this map was laid aside.

He further stated that he lately had been in Washington, and that he had not heard any allusion to the existence of such a draft map.

I do not know what importance your Excellency may attach to this information; but as it is possible that such a draft map did exist, and yet not have come to the knowledge of your Lordship, I have considered it my duty to inform you of this conversation.

I have, &c.
(Signed) J. EDWARD WILKINS.

No. 21.

Mr. Hammond to Sir R. Pakenham.

Sir,

Foreign Office, December 28, 1859.

I AM directed by Lord J. Russell to transmit to you a copy of a despatch from Her Majesty's Minister at Washington,* inclosing a copy of a despatch from Mr. Consul Wilkins, of Chicago, respecting a draft map of the Oregon territory supposed to have been exchanged between you and Mr. Buchanan in the course of the negotiations which resulted in the Treaty of the 15th June, 1846.

I am to request that you will have the goodness to inform Lord John Russell whether you have any recollection of such a map having been before the Plenipotentiaries in 1846.

I am, &c.
(Signed) E. HAMMOND.

* No. 20.

No. 22.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, December 28, 1859.

WITH reference to my letter of the 15th instant, I am directed by Lord J. Russell to transmit to you, to be laid before his Grace the Duke of Newcastle, an extract of a despatch addressed to Lord Lyons respecting the proposal of General Scott for the joint occupation of a separate portion of the Island of San Juan by 100 military, with their appropriate arms only.*

I also inclose copies of a letter to the Admiralty, and of the answer returned by that Department, from which his Grace will see that Rear-Admiral Baynes will be instructed to carry out this arrangement on the part of Her Majesty's Government.†

I am, &c.
(Signed) E. HAMMOND.

No. 23.

Lord Lyons to Lord J. Russell.—(Received January 1, 1860.)

(No. 287.)

My Lord,

Washington, December 15, 1859.

GENERAL SCOTT arrived at New York on the 12th instant in the steam-packet from Aspinwall, on his return from his mission to the North-Western Frontier. I received, on the morning of yesterday, a despatch brought by the same packet from General Douglas, inclosing copies of his correspondence with General Scott respecting San Juan, and of his despatch to the Duke of Newcastle of the 9th ultimo.

Later in the day I saw General Cass, who expressed, in a very friendly and good humoured manner, his disappointment that General Scott's proposal for a joint occupation of San Juan had not been at once accepted by Governor Douglas.

I observed to General Cass that it was not until a considerable time after General Scott's departure that any intimation had been given to me that he had been instructed to propose a joint occupation. I had only been informed in general terms that he was to endeavour to make an arrangement upon the basis of Secretary Marcy's letter of the 14th July, 1855. All, therefore, that I had been able to do, by the despatch which General Scott had been so good as to convey to Governor Douglas, was earnestly to recommend, in general terms, the conclusion of an arrangement upon that basis. On being informed of General Scott's mission, Her Majesty's Government had, I said, on their part, sent instructions to their officers at Vancouver's Island to endeavour to concert such an arrangement with him; and so soon as Her Majesty's Government had been made acquainted with the particulars of General Scott's instructions, they had distinctly authorized Governor Douglas to act upon any proposition which might be made to him by the General for a joint occupation of the island. Of course, time had not admitted of this authorization reaching Governor Douglas before General Scott's departure; and the Governor had not unnaturally hesitated to accept definitively the proposed arrangement upon his own responsibility. General Scott had, however, I thought, left things at San Juan in a state which seem to give no cause to apprehend that any serious difficulty could arise in the meantime. The joint occupation might, I said in conclusion, be in practice a little inconvenient, but there could be no doubt that it was in principle satisfactory to Her Majesty's Government, for they had themselves suggested it as one mode of carrying out the principle laid down by Secretary Marcy.

I have, &c.
(Signed) LYONS.

* No. 17.

† Nos. 16 and 19.

No. 24.

Lord Lyons to Lord J. Russell.—(Received January 1, 1860.)

(No. 288.)

My Lord,

Washington, December 20, 1859.

I HAD, on the morning of the 18th instant, the honour to receive the despatch marked No. 114, and dated the 29th ultimo, which your Lordship sent to me by the Canadian mail-packet to Portland, Maine. The duplicate of the same despatch, sent by the Cunard mail-packet to Boston, reached me last evening.

With a view to remove any unfavourable impression which might have been produced by the declaration respecting San Juan contained in your Lordship's despatch to me No. 42 of the 24th August last, I, this morning, in obedience to your Lordship's orders, read to General Cass the despatch No. 114 mentioned above, and placed a copy of it in his hands.

When I had done reading, General Cass observed that he could not say that the explanation was entirely satisfactory. He was quite willing to believe that Her Majesty's Government were entirely convinced of the justice of their claim to San Juan; but, on the other hand, the Government of the United States were as firmly persuaded that the American claim was just. How then was the question ever to be decided, or even discussed, if one party began by saying that it would never give up its claim? He would suppose, speaking by way of illustration, that the claim was to be submitted to arbitration—that it should be referred for instance, to a citizen of the United States and a British subject, with power to call in a foreigner as umpire, or to some foreign State or Sovereign. This would be a very natural way of settling a disputed claim; but how could it be adopted, if one of the parties declared at the outset that it was determined to have for itself the principal object in dispute.

I said to General Cass, in reply, that I thought he could not but see in the despatch I had just read, a proof of your Lordship's desire to meet the wishes of the American Government as far as possible, and especially to remove any impression that the declaration in your Lordship's previous despatch was to be regarded as an obstacle to the free and friendly discussion of the question.

General Cass said that he should be happy to view the matter in that light, and that he would, at all events, lose no time in bringing your Lordship's communication before the President.

I understood General Cass to mention arbitration merely as an illustration of his argument, and not as an indication of any present intention on the part of the Government of the United States to propose a resort to that mode of settlement.

I have, &c.
(Signed) LYONS.

No. 25.

Sir R. Pakenham to Mr. Hammond.—(Received January 2, 1860.)

Sir,

Coolun, Castle Pollard, December 30, 1859.

I HAVE this morning had the honour to receive your letter of the 28th instant, in which, with reference to a despatch from Her Majesty's Minister at Washington, inclosing the copy of one from Her Majesty's Consul at Chicago, you desire me to state, for the information of Lord John Russell, whether I have any recollection of a certain draft map of the Oregon territory, which Mr. Consul Wilkins had heard of as having been exchanged between Mr. Buchanan and myself in the course of the negotiations which resulted in the Treaty of June 16, 1846.

In answer, I have the honour to acquaint you that I have no recollection of such a map as that alluded to by Mr. Wilkins. If such a map

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had been brought forward in the course of the negotiation, I think I could hardly have forgotten the circumstance; and I would further beg leave to observe, that the Article in the Treaty defining the line of boundary which was ultimately agreed to for the settlement of the Oregon question, was not determined or suggested at Washington, but prepared in London by the Earl of Aberdeen, and sent out to me to be proposed for the acceptance of the American Government.

I have, &c.
(Signed) R. PAKENHAM.

No. 26.

The Secretary to the Admiralty to Mr. Hammond.—(Received January 3.)

Sir, *Admiralty, January 2, 1860.*

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, extracts of a letter from Rear-Admiral Baynes, dated the 11th November last, reporting the movements of General Scott, and of the Commanders of the French and United States' naval forces in the Pacific, and stating that Captain Prevost had informed him that his commission for the settlement of the Oregon Water Boundary was to remain in abeyance for the present.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure in No. 26.

Rear-Admiral Baynes to the Secretary to the Admiralty.

(Extract.) *Vancouver's Island, November 11, 1859.*

I UNDERSTAND that Lieutenant-General Scott will return to Washington by this packet.

The "Satellite" continues at anchor off San Juan, watching British interests.

Captain Prevost reports he has been informed by Her Majesty's Secretary of State for Foreign Affairs that his commission for the settlement of the Oregon Water Boundary is to remain in abeyance for the present.

Rear-Admiral Bouard, in the French frigate "Andromade," sailed from Callao on the 25th September for Valparaiso, with the intention, I hear, of waiting for his successor, Rear-Admiral Larrien, expected shortly in a screw steam-frigate.

The United States' ship "Merrimac," with Flag Officer Montgomery, is also *en route* to Valparaiso, to meet his flag-ship the "Lancaster."

No. 27.

The Secretary to the Admiralty to Mr. Hammond.—(Received January 3.)

Sir, *Admiralty, January 2, 1860.*

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, copies of two letters from Rear-Admiral Baynes, dated the 26th October and 9th November last, relative to the Island of San Juan.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure 1 in No. 27.

Rear-Admiral Baynes to the Secretary to the Admiralty.

*"Ganges," in Esquimalt Harbour, Vancouver's Island,
October 26, 1859.*

Sir,

I REQUEST you will inform the Lords Commissioners of the Admiralty that Lieutenant-General Scott, of the United States' army, arrived by this packet at Port Townsend in Puget Sound from the city of Washington on the 25th instant, and that you will lay before their Lordships the inclosed copy of a letter which Governor Douglas has just received from him by an aide-de-camp in reference to the occupation of the Island of San Juan by the Federal troops of the United States, forwarded by his Excellency for my information.

As the mail steamer arrived late this evening, and sails early to-morrow morning, I am unable to consult with or see Governor Douglas before her departure.

Considering it essential that Lord Lyons should be put in possession of General Scott's proposition, I have sent to him a telegraphic communication, in cypher, by the overland route, in order that it may reach Her Majesty's Government as early as possible through his Excellency.

I have, &c.
(Signed) R. LAMBERT BAYNES.

Inclosure 2 in No. 27.

Lieutenant-General Scott to Governor Douglas.

*Head-Quarters of the Army, Fort Townsend,
October 25, 1859.*

THE Undersigned, Lieutenant-General and Commander-in-chief the army of the United States, having been drawn to this frontier by the apprehension of some untoward collision of arms between the forces of the United States and those of Great Britain in and about the Island of San Juan, the sovereignty of which is claimed by both nations, does not hesitate, in the great interests of peace, assumed to be as important to one party as to the other, at once to submit for the consideration of his Excellency the following proposition to serve as a basis for the temporary adjustment of any present difficulty until the two Governments shall have had time to settle the question of title diplomatically.

Without prejudice to the claim of either nation to the sovereignty of the entire Island of San Juan now in dispute, it is proposed that each shall occupy a separate portion of the same by a detachment of Infantry, Riflemen, or Marines, not exceeding 100 men, with their appropriate arms only, for the equal protection of their respective countrymen in their persons and property, and to repel any descent on the part of hostile Indians.

In modification of this basis any suggestion his Excellency may think necessary, or any addition he may propose, will be respectfully considered by the Undersigned.

This communication will be handed to his Excellency by Lieutenant-Colonel Lay, an Aide-de-camp of the Undersigned, who has the honour to subscribe himself, &c.

(Signed) WINFIELD SCOTT.

Inclosure 3 in No. 27.

*Rear-Admiral Baynes to the Secretary to the Admiralty.**"Ganges," in Esquimalt Harbour, Vancouver's Island,
November 9, 1859.*

Sir,

IN continuation of my letter of the 26th ultimo, I request you will lay before my Lords Commissioners of the Admiralty the accompanying copies of a correspondence forwarded to me by James Douglas, Esq., the Governor of Vancouver's Island and British Columbia, which has taken place between himself and Lieutenant-General Scott, Commander-in-chief of the United States' army, commanding on the North-West Frontier, relative to the occupation of San Juan by the troops of the United States.

As Governor Douglas has communicated with me personally on the subject, I think it necessary to give their Lordships a statement of my views, which have perfectly coincided with those taken by the Governor.

On the receipt of General Scott's first despatch, proposing a joint military occupation of the island, I was decidedly of opinion that it should be a joint civil, and not military, occupation, placing matters exactly as they were previous to General Harney's unjustifiable act.

This proposal made by Governor Douglas was declined by General Scott, who reiterated his former offer.

I then observed that General Scott had done nothing to confirm the conciliatory and pacific intention of his mission, by showing any signs of removing even a part of a large force of troops, between 400 and 500, with eight heavy pieces of ordnance, 32-pounders, on the heights, and four or six field-pieces.

It was ridiculous to suppose they had been placed there to protect a few American squatters from the hostile attack of Northern Indians. They were evidently there as a menace to us, and until they were withdrawn I thought it impossible to treat.

On General Scott's receiving Governor Douglas' second letter, he appears to have thought his position untenable, and, with his reply, inclosed a copy of an order he had given for the withdrawal of all the troops and guns, with the exception of one company.

Their Lordships will see that it is not Governor Douglas' intention to land any force on any part of the island.

To do so would be to acknowledge that protection was needed for British subjects, which it is not, and would, in some measure, bear out General Harney's first proceedings.

We shall now await further instructions from home.

Throughout this untoward affair we have been perfectly passive, exercising a degree of forbearance which their Lordships may not, perhaps, altogether approve, but called for, in my opinion, by the almost certainty of a collision at this distant point causing a rupture between the two nations; and I felt that as long as the dignity and honour of the British flag was in no way compromised, I should be best carrying out the views of Her Majesty's Government, and the interests of these colonies, by avoiding the risk of it.

Acts of discourtesy on minor points were, on more than one occasion, shown by the authorities of the United States, though the military behaved with perfect propriety. This was all irritating matter; but the question having been referred to Her Majesty's Government, I deemed it more dignified not to notice them. Their Lordships will, I am sure, give me credit for acting to the best of my judgment, and, in doing so, I trust they will not think their confidence in me, as an officer holding so important a command, has been misplaced.

I have, &c.

(Signed) R. LAMBERT BAYNES.

No. 28.

Mr. Hammond to the Secretary to the Admiralty.

Sir,

Foreign Office, January 20, 1860.

I HAVE laid before Lord John Russell your letter of the 2nd instant, and I am to request that you will inform the Board of Admiralty that his Lordship considers that Admiral Baynes' conduct throughout the San Juan question should be approved by Her Majesty's Government.

I am, &c.
(Signed) E. HAMMOND.

No. 29.

Mr. Merivale to Mr. Hammond.—(Received January 20.)

Sir,

Downing Street, January 18, 1860.

I AM directed by the Duke of Newcastle to transmit to you, for the information of Lord John Russell, copies of two despatches from the Governor of Vancouver's Island, reporting the progress of the negotiation with General Scott for the adjustment of the difficulties arising out of the occupation of San Juan by United States' troops.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 29.

Governor Douglas to the Duke of Newcastle.

*Government House, Victoria, Vancouver's Island,
November 9, 1859.*

My Lord Duke,

I HAVE the honour of transmitting herewith, for your information, the copy of a correspondence which I have lately had with Lieutenant-General Scott, commanding the United States' army, relative to the temporary adjustment of the difficulty connected with the present occupation of the Island of San Juan by naval and military forces of Her Majesty and the United States of America.

2. You will observe that General Scott proposes in his first communication that the forces of both Governments should be withdrawn, with the exception of 100 men, to be maintained respectively by each Government on the island, while the question of title is in abeyance, for the protection of their several interests and subjects; his proposal, in fact, involving the formation of a joint military occupation of San Juan.

3. An adjustment founded on the principle of a joint military occupation was, for many obvious reasons, objectionable. I could not, for example, without inconsistency, assent to a measure against which I had entered a formal protest on behalf of Her Majesty when the first detachment of United States' troops was landed at San Juan, nor did I conceive it proper to anticipate the instructions of Her Majesty's Government by assuming a power for which I had no sanction or authority. I moreover conceived that the removal of the whole of the United States' troops might be demanded by Her Majesty's Government as an indispensable act of national courtesy, preliminary to any negotiation for the settlement of the difficulty; and I, therefore, did not think it proper to assent to any measure short of that concession.

4. Presuming, however, that Her Majesty's Government would not desire that unnecessary obstacles should be placed in the way of an immediate adjustment, I submitted to General Scott for consideration, another project of arrangement by means of a joint civil occupation, which appeared in principle unobjectionable, and not inconsistent with my general instructions.

5. General Scott in his second despatch states certain constitutional objections to my proposal, which he appears to think will render the employment of Civil Magistrates inexpedient, and expresses a doubt of their efficiency for protection, or preventing collisions; and, with some remarks touching the object of his mission to this country, renews his first proposal for a joint military occupation of the island.

6. In my second despatch, of the 3rd of November instant, I have entered more fully into the circumstances connected with the occupation of San Juan, and distinctly inform General Scott that I cannot, without express instructions from my Government, assent to his renewed proposal for a joint military occupation.

7. I also took the liberty of suggesting to him what I, from the first, conceived to be the proper and graceful course for the Government of the United States to pursue, namely, that General Scott should at once proceed to carry into effect his mission of peace by removing the large military force, with its eight heavy guns and numerous field-pieces, which wear the appearance of menace, while crowning the heights of San Juan; assuring him that the British naval force, consisting of Her Majesty's ship "Satellite," would in that case also be withdrawn, and that no attempt would be made on our part to occupy the island, or to take any proceeding to the prejudice of the position in which the question of title was placed by Her Majesty's Representative and Mr. Secretary Marcy in the year 1855.

8. General Scott, in his reply, dated the 5th of November instant, states that he has ordered the number of United States' troops on the Island of San Juan to be reduced to Captain Pickett's Company of Infantry (consisting, I believe, of fifty men), who will be left there professedly for the protection of American settlers against Indians; and a copy of the orders to the officer in command of the United States' troops at San Juan to that effect is transmitted with his letter.

9. In my reply of the 7th of November, I have simply stated that I will communicate the intention expressed in his letter to Her Majesty's Government, in the hope that it may be accepted as a proof of the desire of the United States to restore the former status of the disputed territory.

10. There is no reason to doubt that the United States' troops now occupying San Juan will be reduced, as soon as circumstances permit, to the number appointed by General Scott to remain there; and I am informed that they are now actually under orders to leave the island; but the question still remains as to the necessity of maintaining any military force at all upon the island.

11. The alleged reason (the protection of settlers) for leaving troops there, will apply with equal force to any other Settlement of white men on this coast, the settlers on San Juan not being peculiarly exposed to the incursions of savages. I, however, admit the general proposition, that protection is at times necessary; but that object may be as fully attained by the occasional appearance of a vessel of war, with a moveable force, as by forming a permanent military station; and it is, moreover, worthy of remark, that the United States' settlers on San Juan are, with one or two exceptions, persons who have recently arrived there, subsequently to its occupation by the troops of their Government.

12. I am, therefore, unable to admit the necessity alleged by General Scott, of maintaining permanently a body of troops there, which I conceive would occasion a fruitless and unnecessary expenditure to both Governments; and, moreover, there are many serious objections to that course, one of the most evident being, the encouragement it would give to a squatter population, whom it would be a very difficult matter to control, and whose presence, notwithstanding every precaution that may be used to prevent difficulties, would lead to incessant complaints and recriminations.

13. I would further take the liberty of suggesting, with the view of preventing further complications, that neither Government should promise or hold out the prospect of protection to settlers; and that it should be agreed, as a mutual advantage, to leave the whole of the disputed territory

unoccupied until the question of sovereignty has been determined, when it may be disposed of in accordance with the views of the Government to which it may be adjudged.

I have, &c.
(Signed) JAMES DOUGLAS.

Inclosure 2 in No. 29.

Lieutenant-General Scott to Governor Douglas, October 25, 1859.

[See Inclosure 2 in No. 27.]

Inclosure 3 in No. 29.

Governor Douglas to Lieutenant-General Scott.

Sir, *Victoria, Vancouver's Island, October 29, 1859.*

I HAVE had the honour of receiving, by the hands of Lieutenant-Colonel Lay, your note of the 25th instant, communicating to me the reasons which have drawn you to the frontiers of Washington territory, and, for the great interests of peace, making a proposition to serve as a basis for the temporary adjustment of the present difficulty, arising out of the occupation of the Island of San Juan by troops of the United States.

2. In the first place I beg you will permit me to offer you my warm congratulations upon your arrival in this neighbourhood, and the assurance of my earnest desire to co-operate with you in the most cordial spirit. I thank you for the frank and friendly tone which characterizes your note, and I trust you will believe me when I say that, if I am not able entirely to accede to your views, it proceeds solely from the necessity which exists, under present circumstances, that I should take no step which might in the least embarrass the Government of Her Britannic Majesty in any line of action they might think fit to adopt. You have been specially accredited by the Government of the United States, and I fully appreciate the fact; but I, on the contrary, am not in possession of the views of Her Majesty's Government on this matter, and, therefore, am not at liberty to anticipate the course they may think fit to pursue.

3. You propose, without prejudice to the claim of either nation to the sovereignty of the entire Island of San Juan, that each shall occupy a separate portion of the same, by a detachment of Infantry, Riflemen, or Marines, not exceeding 100 men, with their appropriate arms only, for the equal protection of their respective countrymen in their persons and property, and to repel any descent on the part of hostile Indians.

For the reasons above given, you can readily understand, Sir, that were I to accede to this proposition, I should at once be committing Her Majesty's Government; and I believe I should at the same time, on their behalf, be assuming an attitude which I do not think they would now be desirous of maintaining.

I admit that the protection of the citizens of both nations who are now resident on the island, is a matter which cannot be overlooked or lightly treated; but the principal protection that may be required is from dissensions amongst themselves, and not against hostile Indians, from whom I do not apprehend there is the slightest danger of molestation.

4. I again assure you that I am most cordially disposed to co-operate with you in the frankest manner, to assist in removing any and every cause which might unhappily disturb the particularly satisfactory relations at the present moment existing between Her Majesty's Government and that of the United States; and I conceive that that end can be best attained by replacing matters at San Juan as they were before the landing of United States' troops—the status established upon the moderate and conciliatory views laid down in Secretary Marcy's despatch to Governor Stevens of the 14th July, 1855.

5. An arrangement on that footing would bring the whole affair to a conclusion satisfactory to both parties, and so highly honourable to the Government of the United States that I feel sure it would at once remove any cause of complaint which Her Majesty's Government might be reasonably expected to entertain.

6. I would, therefore, submit for your consideration that for the protection of the small settled British and American population, there should be a joint civil occupation, composed of the present resident stipendiary Magistrates, with such assistants as may be necessary, and that the military and naval forces on both sides be wholly withdrawn.

7. Should, however, it hereafter appear that a military force is indispensable for protection, I can see no objection to such a force being landed upon San Juan, with such understanding as the British and American authorities may mutually determine upon.

8. It is no doubt, Sir, fresh in your recollection that the sole reason assigned to me by General Harney for the occupation of San Juan was to protect the citizens of the United States from insults and indignities offered them by the British authorities at Vancouver's Island. In my reply, I, in the most earnest and emphatic manner, repudiated the aspersion, and endeavoured to prove to General Harney that, for the cause alleged, there was no necessity for the presence of United States' troops on the Island of San Juan; and I therefore begged, for the sake of peace, that he would withdraw the troops. He, however, declined to do so, upon the plea that he had no assurance that American citizens would continue free from molestation by the British authorities. I feel confident, Sir, I need not renew to you my assurance that the British authorities in Vancouver's Island have no intention, under existing circumstances, to interfere with any of the citizens of the United States who may be resident upon San Juan, and I therefore anticipate that a consideration of these facts, together with those before mentioned, will remove any difficulty you may have apprehended touching the withdrawal of the United States' troops from San Juan, and I earnestly trust will induce you to entertain with favour the proposition I have made.

9. I hope, Sir, I may have the pleasure of meeting you personally, when minute details could be much better discussed than by letter, and it would indeed be a source of gratification to me to have the honour of welcoming to the shores of Vancouver's Island an officer so highly distinguished as he whom I now have the honour of addressing, and who I beg will allow me to subscribe myself, &c.

(Signed)

JAMES DOUGLAS.

Inclosure 4 in No. 29.

Lieutenant-General Scott to Governor Douglas.

*False Dungeness Harbour, Washington Territory,
November 2, 1859.*

Sir,

I HAVE the honour to acknowledge your communication of the 29th ultimo (the receipt of which has been much delayed by winds and fogs), in reply to mine dated four days earlier.

It is with regret I learn that the basis for the settlement of the immediate San Juan difficulty I had the honour to submit has not received your acceptance; and that sentiment is deepened at finding myself unable to accept your proposed substitute. We ought not, however, to despair of finding the means of maintaining the peace of the frontier till the good sense and good feelings of our Governments shall have had time to intervene, and directly to dispose of the whole subject of the disputed island for ever.

Your Excellency seems to regard the preliminary evacuation of that island by the American troops as a *sine qua non* to any adjustment of the immediate question before us. I am sure that, at the date of the instructions which brought me hither, and in the anxious interviews between Mr. Secretary Cass and Her Britannic Majesty's Minister, Lord Lyons,

residing near the Government of the United States, no such suggestion was made by his Lordship, or it would not only have been communicated to me, but have, in all probability, stopped this mission of peace.

You "submit for (my) consideration that, for the protection of the small British and American population settled on the island, there should be a joint Civil occupation, composed of the present resident Stipendiary Magistrates, with such assistants as may be necessary, and that the military and naval forces on both sides be wholly withdrawn."

It strikes me as a decisive objection to this basis that if a Magistrate (Judge or Justice of the Peace) could be legally (except by Treaty between Sovereign Powers) established on neutral territory, such functionary could not be subjected to the orders of any officer of the United States' army, nor even to the direct control of the President of the United States, though appointed by an American territorial Governor claiming jurisdiction over the disputed territory, and, therefore, not to be considered a fit person to be entrusted with matters affecting the peace of two great nations. Besides, I have adopted the impression of my countrymen generally on this frontier, that the few citizens settled on the San Juan Island, though, like all other American pioneers, brave and possessed of effective weapons for defence and attack, do, in reality, stand in need of troops for protection, not only against predatory bands of Indians coming from foreign parts, but from such bands residing within our own limits. A marauding descent of this kind was made but a few weeks since upon the village of Whatcom, in Bellingham Bay, when a small detachment of soldiers was actually sent from the disputed island to protect the villagers against a threatened renewal of the outrage. (I am but just returned from that village.)

Moved by the foregoing considerations and the spirit of peace which is known to animate our Governments, I will respectfully ask your Excellency to review your decision on my original proposition, which, the better to show its probable workings, if adopted, I have somewhat elaborated in the accompanying project of a temporary settlement, &c. I am persuaded that, on mature reflection, you will find nothing in it to hurt English pride, or to prejudice English interests, but much to soothe past irritations on both sides, and to prevent any local conflict. The details of the plan are, no doubt, susceptible of improved modifications; but I must candidly say I do not see how I can possibly consent to a change in the principle.

Highly appreciating the personal compliments of your Excellency, and reciprocating the kind feelings which prompted them, I have, &c.

(Signed) WINFIELD SCOTT.

Inclosure 5 in No. 29.

Project of a Temporary Settlement, &c.

WHEREAS the Island of San Juan, in dispute between the Governments of the United States and Great Britain, is now occupied by a detachment of United States' troops, protection against Indian incursions having been petitioned for by American citizens resident thereon, and against such occupation a formal protest has been entered, in behalf of Her Britannic Majesty's Government, by his Excellency James Douglas, Esq., C.B., Governor of the Colony of Vancouver's Island and its dependencies, and Vice-Admiral of the same:

It is now proposed by Lieutenant-General Scott, Commanding-in-chief the army of the United States, in behalf of his Government and in deference to the great interests of the two nations, that a joint occupancy be substituted for the present one; which proposition being accepted by his Excellency, it is hereby stipulated and agreed between the said Scott and the said Douglas, that the substitution without prejudice to the claim of either Government to the sovereignty of the entire island, and until that question be amicably settled, shall consist of two detachments of Infantry, Riflemen, or Marines of the two nations, neither detachment of more than

100 men, with their appropriate arms only, and to be posted in separate camps or quarters for the equal protection of their respective countrymen on the island in person and property, as also to repel descents of marauding Indians.

And whereas, pending such joint occupation, a strict police over the island will be necessary for the maintenance of friendly relations between the troops of the two nations, as well as good order among the settlers, it is further stipulated and agreed between the parties, signers of these presents, that the Commanding officer of each detachment composing the joint occupation shall be furnished with an authenticated copy thereof by the respective signers, to be regarded as a warrant and command, to the American Commander from the said Scott, and to the British Commander from the said Douglas, to seize and confine, or to banish from the island, any person or persons whatsoever found or known to be engaged in fomenting any quarrel or misunderstanding between the officers or men of one of the detachments, and the officers and men of the other, and further to treat in like manner all other offenders against the peace and good order of the island: it being, however, expressly understood and enjoined that such measures of correction shall only be applied to American citizens or persons claiming to be such, by the American Commander, or to British subjects or persons claiming to be such, by the British Commander.

Inclosure 6 in No. 29.

Governor Douglas to Lieutenant-General Scott.

Sir,

Victoria, Vancouver's Island, November 3, 1859.

LIEUTENANT-COLONEL LAY yesterday placed in my hands your despatch of the 2nd instant, conveying to me your sentiments upon the subject of my proposal for the temporary adjustment of affairs in connection with San Juan, and informing me that you are unable to accept that proposal.

2. I regret, Sir, for many reasons, that you did not accede to my suggestion of a joint Civil occupation, as a temporary expedient for preserving tranquillity, and especially so, because the course you propose to me of a joint military occupation is one which I cannot assent to, or carry into effect, without the sanction or express instructions of my Government.

3. I am authorized to maintain all Treaties as they exist, but not to alter the provisions, or to disregard the stipulations, of any; and, in short, I am sensible that it would not be advisable for me to anticipate, by any action on my part, the instructions I may soon receive from Her Majesty's Government, unless there was an evident and imperative necessity for the adoption of such a course, which necessity does not, in my opinion, exist in the present instance.

4. I conceive that protection against all ordinary danger, to which either British subjects or American citizens residing on the Island of San Juan are exposed, may be fully attained without resorting to the extreme measure of a joint military occupation; and, moreover, the expediency of offering protection to individuals who may settle on territory the sovereignty of which has not been determined, may justly be questioned. Protection under such circumstances can indeed hardly be considered as a duty incumbent on Governments; and, on my part, I am not left in doubt on the subject, as my instructions direct me to announce, with reference to this Colony, that protection cannot be afforded to persons who, by wandering beyond the precincts of the Settlements, and the jurisdiction of the tribunals, voluntarily expose themselves to the violence or treachery of the native tribes.

5. You must permit me, Sir, further to add, that Her Majesty's authorities in this Colony have, with respect to the United States, committed no violation of existing Treaty stipulations, nor been guilty of any act of discourtesy whatever towards the Government of that nation; but have,

on all occasions during the late exciting events, exhibited a degree of forbearance which will, I trust, be accepted as a guarantee that by no future act will we seek to impair the pacific relations existing between Great Britain and the United States.

6. Should you, Sir, after the explanations I have herein given, in reference to my official powers and position, proceed to carry out your pacific mission, and divest the large military force now on San Juan of its menacing attitude, by removing it from the island, we will instantly withdraw the British naval force now maintained there; and so soon as I receive the instructions of my Government, I shall be glad to co-operate with you in arranging a plan for the temporary maintenance of order, and protection of life and property, upon the island.

7. In the meantime, you may rest assured that we will not disturb the status of San Juan, by taking possession of the island, or by assuming any jurisdiction there, to the prejudice of the position in which the question of title was placed by Mr. Secretary Marcy and Her Majesty's Representative, in the year 1855.

8. Again assuring you of my desire to act with you, to the utmost of my power, in the most cordial manner, and with the utmost frankness and sincerity, and renewing to you my expressions of high consideration and respect, I have, &c.

(Signed) JAMES DOUGLAS.

Inclosure 7 in No. 29.

Lieutenant-General Scott to Governor Douglas.

*False Dungeness Harbour, Washington Territory,
November 5, 1859.*

Sir,

I HAVE the honour to acknowledge a second communication from your Excellency, dated the 3rd instant.

Being assured therein that there is no intention on your part to attempt to dislodge, by force, the United States' troops now in the temporary occupation of the Island of San Juan, without instructions to that effect from your Government, and being perfectly persuaded that the very cordial relations which now happily subsist between the United States and Great Britain, render the receipt of such instructions extremely improbable, I do not hesitate at once to order the number of United States' troops on that island to be reduced to the small detachment (Captain Pickett's company of Infantry), originally sent thither, in July last, for the protection of the American settlers (such protection being petitioned for by them), against neighbouring and Northern Indians.

A copy of my orders in the case I inclose herewith for the information of your Excellency. They will be fully executed as soon as practicable, by the employment of the United States' propeller "Massachusetts," the only craft suited to the purpose, in these waters, at my disposition.

I have, &c.

(Signed) WINFIELD SCOTT.

Inclosure 8 in No. 29.

Special Orders.

*Head-Quarters of the Army, United States' propeller
"Massachusetts," Washington Territory,
November 5, 1859.*

AS soon as practicable, Lieutenant-Colonel Casey, or other commanding officer on the Island of San Juan, will proceed to send therefrom all the companies under his orders, except Captain Hunt's, to the posts to which they had previously belonged, viz., Company I, of the 4th Infantry, to Fort Townsend; Companies A of the 4th, and H of the 9th Infantry,

to Fort Bellingham; and last, the companies of the 3rd Artillery, to Fort Vancouver.

Captain Hunt and company, and Assistant-Surgeon Craig, will remain on the island till further orders, for the protection of the American settlers.

Lieutenant-Colonel Casey will cause the heavy guns on the island to be replaced aboard of the propeller, and will send the light Battery to Forts Townshend, Bellingham, and Steilacoom.

By command of Lieutenant-General Scott,
(Signed) L. THOMAS, *Assistant Adjutant-General.*

Inclosure 9 in No. 29.

Governor Douglas to Lieutenant-General Scott.

Sir, *Victoria, Vancouver's Island, November 7, 1859.*

I HAVE the honour to acknowledge your communication of the 5th of November, announcing your intention to order the withdrawal of certain companies of United States' troops now in temporary occupation of the Island of San Juan, and your intention to leave Captain Pickett's company of Infantry, for the protection of American settlers against neighbouring and Northern Indians; and transmitting a copy of your orders in that case to the commanding officer on the Island of San Juan.

2. I shall have much pleasure in communicating your intention to Her Majesty's Government, who will, no doubt, accept it as a proof of the desire of the United States to restore the former status of the disputed territory.

3. I trust, Sir, that instructions will be issued to the officers of the United States, directing them to abstain from all acts on the disputed territory which are calculated to provoke conflicts, and in no case to attempt to exclude British subjects by force, or to interfere with them in any manner, or to exercise sovereign or exclusive rights within the disputed limits; and, on our part, Her Majesty's authorities will be enjoined to abstain from any acts of interference or of exclusive jurisdiction, until the question of title is settled.

4. In that way, I sincerely hope that all collision may be avoided.

With every assurance of esteem, I have, &c.

(Signed) JAMES DOUGLAS.

Inclosure 10 in No. 29.

Governor Douglas to the Duke of Newcastle.

My Lord Duke, *Victoria, Vancouver's Island, November 11, 1859.*

THE accompanying communication from General Scott has come to hand just as the mail is being closed.

It is in reply to my last letter of the 7th November, and evinces a spirit of conciliation highly honourable to General Scott, and which cannot fail to be satisfactory to Her Majesty's Government.

General Scott alludes to the complaint of William Moore, a British subject, which I presented to him for arrangement; but I will not trouble your Grace with the merits of that case, unless I fail in procuring satisfaction from the authorities of Washington territory.

I have, &c.

(Signed) JAMES DOUGLAS.

Inclosure 11 in No. 29.

*Lieutenant-General Scott to Governor Douglas.**“Massachusetts,” Washington Territory,
November 9, 1859.*

Sir,

I HAVE to acknowledge the receipt at the same time of your two notes of the same date, the 7th instant.

I am pleased to learn that “Her Majesty’s authorities (on San Juan Island) will be enjoined to abstain from any acts of interference, or of exclusive jurisdiction (in respect to American citizens), until the question of title is settled.”

In the same spirit, I had earlier determined to instruct our commanding officer on the island to allow no person claiming to be a functionary of Washington territory to interfere with any British subject residing, or happening to be, on the same island while it shall remain in dispute between our respective Governments; and I shall add this further instruction, that if any British subject should become a disturber of the peace of the island, or a seller of strong liquors to American soldiers without permission from their commander, the latter shall represent the case to the nearest British authority, and respectfully ask for the instant removal of the offender; and, afterwards, if he shall return to the island without permission, the American Commander may expel him therefrom without further ceremony.

I touch the complaint of William Moore, supported by his deposition, presented to me by your Excellency, with great reluctance; first, because the wrong done him, if any, was mainly at the hands of a Judge, I presume, of Washington territory, and, consequently, beyond my control; and secondly, because I do not doubt that Moore has grossly misstated or exaggerated his case. I am at a distance from the island, and from every officer who may have known anything of the transaction in question, and am, moreover, in the act of taking my departure for Washington, but shall refer the matter specially to Lieutenant-Colonel Casey, the present commander on the island, who will investigate the complaint carefully, and who, I am sure, will take pleasure in redressing, as far as may be in his power, any wrong Moore may have sustained.

And your Excellency will not fail to perceive that I have, in my instructions to Captain Hunt, as shadowed above, taken measures to guard against future interferences with British subjects.

I have, &c.

(Signed) WINFIELD SCOTT.

Inclosure 12 in No. 29.

*Extracts of Instructions addressed from the Head-Quarters of the United States’
Army to different Commanders.*

1. “THE General-in-chief wishes it to be remembered that the sovereignty of the Island (San Juan), is still in dispute between the two Governments, and until definitively settled by them, that British subjects have equal rights with American citizens on the Island.

(Signed) “L. THOMAS, *Assistant Adjutant-General.*”

2. (To Captain Hunt, commanding Company C, 4th Infantry, San Juan Island.)—“For your information and guidance, I put under cover, with this, copies of the General’s communications to the Governor of Vancouver’s Island, dated the 5th and 9th instants respectively, as also a copy of his special orders on the same subject. These papers will show you the spirit in which it is expected you will execute the delicate and important trust confided to you, the General having full confidence in

your intelligence, discretion, and in (what is of equal importance in this case) your courtesies.

(Signed)

“L. THOMAS, *Assistant Adjutant-General.*”

No. 30.

Lord Lyons to Lord J. Russell.—(Received January 24.)

(No. 14.)

My Lord,

Washington, January 9, 1860.

ON the 6th instant I read to General Cass your Lordship's despatch No. 123 of the 16th ultimo, commenting upon the despatch to Mr. Dallas of the 20th October, which contains the answer of the United States' Government on the subject of the compromise proposed by your Lordship with regard to the water boundary between Her Majesty's Possessions and those of the United States upon the Pacific.

I read on to the end of the third paragraph, in which your Lordship points out that the despatch to me of the 24th August last, by which the compromise was offered, left England many days before the intelligence of General Harney's seizure of San Juan reached Her Majesty's Government. Here General Cass stopped me, and said that he had fully understood this from the beginning; that he was perfectly well aware when he wrote his despatch to Mr. Dallas, that your Lordship's proposal for a compromise had been made in entire ignorance of the occupation of San Juan by United States' troops.

I answered that I could not have any doubt whatever that such was the case, for that when I read to him your Lordship's despatch of the 24th August, conveying the proposal, I laid particular stress upon the fact that that despatch had already been more than a week at sea, on its way to the United States, when the first rumour, even, of the occurrence at San Juan reached England. I was, of course, I said, myself aware of General Harney's proceedings when I received your Lordship's despatch, and had on that account hesitated to communicate it to the United States' Government.

I had, however, been induced to make the communication without referring to your Lordship for fresh instructions, by reflecting that circumstances afforded me at the moment an opportunity which might not occur again, of giving effect to the conciliatory views of my Government, without compromising its dignity. I thought that this could hardly be accomplished in any other way than by laying your Lordship's despatch before the Government of the United States at such a time as would of itself prove, beyond a doubt, to that Government and to the world, that the offer of a compromise had been made by your Lordship before it was possible that the intelligence of General Harney's aggression could have reached you.

General Cass replied that he had not a sufficiently accurate recollection of the wording of his despatch to Mr. Dallas, to be sure that it was free from ambiguity, but that certainly nothing could be further from his intention than to convey the impression that he supposed that the proposal of Her Majesty's Government had been made in view of the occupation of San Juan. Having said this, General Cass begged me to go on reading.

When I had finished, the General said that he did not feel sure that your Lordship's communication contained a sufficient withdrawal or explanation of the declaration that no settlement would be accepted by Her Majesty's Government which did not provide for the Island of San Juan being reserved to the British Crown. Without such a withdrawal or explanation, it would be impossible for the United States to continue the negotiation. How, he said, can we discuss the question, when you begin by saying that you have made up your minds upon the principal point, and will not talk to us about it?

I answered that a formal explanation regarding the declaration of which General Cass complained, had been made by your Lordship's despatch of the 29th of November last (No. 114), of which I had placed a

copy in his hands on the 20th ultimo. I added that I thought it impossible for any one to examine the despatch which I had just had the honour to read to him, without being convinced by its tone, and by the whole tenour of it, that Her Majesty's Government had every possible disposition to discuss the question with the Government of the United States, on perfectly fair and equal terms, in a spirit of calm deliberation, and with an earnest desire to arrive at a just solution.

General Cass said that he might, perhaps, find, upon carefully perusing the despatch, that the Government of the United States would be justified in considering it a virtual withdrawal of the objectionable sense of the declaration, and in replacing the discussion upon a proper footing by stating this in their reply. He observed that he did not hesitate, in conversing familiarly with me, to say anything which struck him at the moment; but that of course he could not speak officially until your Lordship's despatch had been laid before the President, and carefully and deliberately considered.

In obedience to your Lordship's orders, I left with General Cass a copy of the despatch.

I have, &c.
(Signed) LYONS.

No. 31.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, January 30, 1860.

I HAVE laid before Lord John Russell your letter of the 18th instant, inclosing copies of Governor Douglas' correspondence with General Scott respecting the temporary adjustment of the question respecting the Island of San Juan.

I am to state to you, in reply, for the information of his Grace the Duke of Newcastle, that Lord John Russell considers that Governor Douglas has acted in conformity with his instructions, which did not authorize his consenting to a joint occupation of the Island of San Juan. Her Majesty's Government, however, being anxious to maintain the most amicable relations with the President of the United States, and feeling the difficulty in which the President was placed by the acts of General Harney, consented, as the Duke of Newcastle is aware, some time ago, to the principle of joint occupation.

Lord John Russell has in consequence given to Lord Lyons and the Board of Admiralty instructions of which copies have already been sent to the Colonial Office: the question of civil and criminal jurisdiction does not appear to have been satisfactorily treated by General Scott, and the settlement of this question in conformity with the principle laid down by Secretary Marcy will no doubt engage the attention of the Duke of Newcastle.

I am, &c.
(Signed) E. HAMMOND.

No. 32.

Captain Prevost to Lord J. Russell.—(Received February 17, 1860.)

(No. 17.)
My Lord,

*"Satellite," Esquimalt, Vancouver's Island,
December 21, 1859.*

IT will be found in the correspondence which passed between the United States' Commissioner and myself upon the subject of "the channel" of the Treaty, that Mr. Campbell quoted opinions to show that the Canal de Haro was a better navigable strait than the Rosario Channel. Those opinions I dissented from at the time, and I unhesitatingly asserted, on my own professional experience, that for sailing-vessels, and, consequently, for the general purposes of navigation, the

Canal de Haro was a "dangerous" channel, and inferior to the Rosario Strait.

2. I yesterday met with a work, which is, I believe, only just published, called "The Directory for the Pacific Coast of the United States," emanating from the Superintendent of the United States' Coast Survey, and, therefore, the highest hydrographical authority in the United States, wherein a very decided opinion is expressed as to the danger and inferiority of the Canal de Haro as a navigable channel.

3. Although in my own opinion the relative advantages of the two channels can have no bearing in determining the boundary channel according to the words of the Treaty, yet the United States' Commissioner having claimed a superiority for the "Canal de Haro," so as to entitle it to be called *the channel* among many channels, I am glad to find in an American authority so perfect a refutation of all he advanced upon this head; and I forward herewith to your Lordship an extract from the aforesaid work, containing the opinion I have alluded to, and from which extract your Lordship will perceive how unjust must be the claim of the United States' Commissioner, when he would seek to confine Great Britain to only a joint navigation of so dangerous a channel as the Canal de Haro, and would monopolize for the United States, notwithstanding the insignificant portion of territory to which they require to attain access through the medium of these channels, the exclusive navigation of the preferable channel for sailing-vessels.

I have, &c.
(Signed) JAMES C. PREVOST.

Inclosure in No. 32.

*Extract from "Directory of the Pacific Coast of the United States," page 141.—
(From the Report of the Superintendent of the United States' Coast Survey.)*

ARCHIPELAGO DE HARO. THE TWO STRAITS.—The experience of three seasons' surveying in this immediate locality has not increased our relish for navigating these channels in sailing vessels. With plenty of wind no navigation could be better, but in a calm, vessels will frequently be jammed close to rocks, with only a few fathoms inside of their positions, but forty or fifty outside, and a swirling current that renders towing with boats utterly impossible. Frequently, too, boats have been nearly swamped by the tide rips that exist through them. Off East Point, as an instance, a five-oared whale-boat entirely failed in trying to hold her own against the current, which we judged to be "rushing" (the only term applicable) at the rate of seven miles an hour. Throughout the Canal de Haro the roar of the conflicting currents can be heard for miles, and the main current runs frequently six miles per hour. No anchorages exist in this channel except at Cardoon Bay, but it is free of known hidden dangers, except "Unit Rock," off Darcy Island. It is ten miles longer than the Rosario Strait, and makes a right angle in its course, but is a mile wider. Rosario Strait is less curved, has several anchorages and known dangerous rocks, and a current of about one mile and a-half less per hour. For steamers, either channel, or even some of the narrow intermediate channels, may be used; but for a sailing-vessel, the Rosario passage is preferable, although the total distance from the middle of the Strait of Juan de Fuca to the middle of the Gulf of Georgia is five miles longer. The winds are apt to fail in both channels, and, during summer, frequent calms prevail.

No. 33.

General Cass to Mr. Dallas.—(Communicated to Lord J. Russell by Mr. Dallas, March 2.)

Sir,

Washington, February 4, 1860.

YOU have already received a copy of Lord John Russell's note to Lord Lyons, dated December 16th, in reference to the San Juan controversy, and I now inclose a copy of a previous note to Lord Lyons, dated November 29th, which I think has not been transmitted to you.

From this latter note, and especially from the conversation of Lord Lyons at the time it was left with me, I had little doubt that the reply of Lord John Russell to my despatch of the 20th of October would contain such a withdrawal or explanation, in reference to that part of his previous note to which I had felt myself obliged to take exception, as would relieve the discussion from any other embarrassment than that which necessarily belongs to a controverted claim. This expectation, however, has been wholly disappointed, and the last note of Lord John Russell, that of December 16th, instead of containing any withdrawal of the objectionable declaration referred to, distinctly reaffirms it; while the only explanation offered is that inasmuch as the island is important to Great Britain, therefore Great Britain means never to concede it. Since the abandonment by Her Majesty's Government of the Rosario Channel as the channel intended by the Treaty, and the intimation now made by Lord John Russell that the Douglas Channel is "the line most in accordance with the Treaty, as well as with general policy and convenience," the Island of San Juan may fairly be regarded as the only subject now in controversy under the terms of that Convention. To declare, therefore, that in no event will this island be conceded to the United States, is in effect to close the discussion; because, as I stated in my note of October 20th, this Government cannot permit itself to negotiate with Great Britain or any other Government, except upon terms of perfect equality, and there is surely no equality in a discussion where the claim of the one party is excluded in advance, and the only adjustment possible is that claimed by the opposite party. If, therefore, I decline under existing circumstances to pursue the discussion of the subject in question, and to present those considerations in reply to Lord John Russell's note, with which otherwise I should be glad to meet some of his Lordship's suggestions, this is not from any reluctance to deal fairly with the issues presented, and still less from any want of friendly disposition towards Great Britain; but only because no other course would be consistent, in the opinion of the President, with that just respect which this Government owes to its own dignity and character. Her Majesty's Government, I think, will fully appreciate this avowal, if it will consider what would be the course of Great Britain were the positions of the two Governments reversed, and were the United States to assert, in the very threshold of a discussion, that whatever might be the course of the argument, or the consequences of the determination, it would never yield to Great Britain the subject in dispute. Surely Her Majesty's Government would never think of entering into an agreement which it was thus told in advance could produce no possible effect upon the practical adjustment of the controversy.

I am aware that Lord John Russell endeavours to justify the declaration referred to, by urging the great value of the island to Great Britain, and its inferior importance to the United States; but, even if his Lordship's views in respect to this comparative value of the island were correct, I do not see how they can have any proper influence upon the decision of the question. That question is a question of title under the Treaty of 1846. If the island belongs to Great Britain, she is entitled to hold it whether it is valuable or not; and if it belongs to the United States, this Government is entitled to its possession, even although it should be conceded to be of superior value to Great Britain.

I am far from admitting, however, the justice of his Lordship's views concerning the great importance of the island to Great Britain, either for "aggressive" or "defensive" purposes. If I felt myself at liberty to pursue the discussion, it would be easy to show that Lord John Russell

has greatly overrated its military value. From the best information which I can obtain, it does not, as his Lordship intimates, command the Canal de Haro. The surveys of that region show that the narrowest part of this water-communication is about seven miles wide, while the general width is still greater. The shores on each side are bold, and the water deep, in some places more than 100 fathoms, so that vessels may sail within a short distance of the land, along its whole extent. No fortifications erected upon the coast of this canal can ever control its navigation, and, therefore, the great reason upon which Lord John Russell relies to justify the preliminary declaration to which I have adverted, seems to be grounded wholly upon a misconception of fact.

There are other misconceptions in the note of his Lordship, of which, under other circumstances, I should be glad to suggest the necessary corrections.

His Lordship, for example, attaches "the greatest importance" to the Order of the Senate in 1848, for printing 20,000 copies of Fremont's Map of Oregon and California, on which there appears to be a line of demarkation running down the Straits of Rosario, which his Lordship appears to think shows conclusively the judgment of the Senate at that time, as to the true water boundary.

This error of his Lordship arises from an entire misapprehension of the practice of the Congress of the United States in ordering the printing of public documents. These documents are printed, for the most part, not only without any indorsement of their contents by either the House or the Senate, but generally also without any detailed examination of them, and when they come from a public officer, or are prepared in pursuance a previous resolve, almost as a matter of course. Nothing can be more incorrect, therefore, than to suppose that the Order of the Senate to print the map referred to implies any opinion whatever of that body in favour of its accuracy.

But I am prevented from pursuing these considerations, because, as I have already stated, the discussion has been practically foreclosed by the declaration of Lord John Russell that it can, under no circumstances, affect the British claim. The President readily concedes the sincerity with which Her Majesty's Government maintains this claim; but the convictions of the Government of the United States in favour of its own title to the Island of San Juan are entitled surely to equal respect, and he cannot permit this difference of opinion between the two Governments to be determined by one of them, or consent that what he regards as the just rights of the United States shall be yielded to any assertion of title by another Power, no matter how peremptorily made, or earnestly persisted in. Since, therefore, Lord John Russell repeats with great frankness his original declaration that "no settlement of the question will be accepted by Her Majesty's Government which does not provide for the Island of San Juan being reserved to the British Crown," I am directed by the President to state with equal frankness, that the United States will, under all circumstances, maintain their right to the island in controversy, until the question of title to it shall be determined by some amicable arrangement between the parties.

You will read this despatch to Lord John Russell, and leave with him a copy of it.

I am, &c.
(Signed) LEW. CASS.

No. 34.

Mr. Merivale to Mr. Hammond.—(Received March 2.)

(Confidential.)

Sir,

Downing Street, March 2, 1860.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 30th of January, in which, by direction of Lord John

Russell, you call his Grace's attention to the question of civil and criminal jurisdiction in San Juan, which does not appear to have been satisfactorily treated by General Scott.

I am to request you will inform Lord John Russell that the Duke of Newcastle has taken this subject into consideration, and that he cannot but view with apprehension the danger of collision, in consequence of the mixed nature of the authorities now on the island. There is, on the one hand, the British Magistrate; and on the other, an American Magistrate and a Collector of Customs, both of whom must, it is presumed, be officers of the territory of Washington, and therefore not under the control of Federal authority. In support of the view taken by his Grace on this point, I am to inclose the copy of a recent despatch from Governor Douglas, and to suggest whether such collision would not be most effectually avoided, by withdrawing all civil officers on both sides, and placing the island, by consent, under martial law, thus making the occupation, as proposed by General Scott in his correspondence with Governor Douglas, strictly and exclusively military.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 34.

Governor Douglas to the Duke of Newcastle.

My Lord Duke, *Victoria, Vancouver's Island, December 15, 1859.*

1. I HAVE the honour to acknowledge the receipt of your Grace's despatch of the 29th of September last, marked Confidential, and also of copies of the correspondence between Her Majesty's Government and Lord Lyons, touching the occupation of the Island of San Juan by troops of the United States.

2. I shall not fail to attend to the instructions conveyed to me in your Grace's despatch, to the effect that it is the desire of Her Majesty's Government that a Civil Magistrate should continue to reside on the Island of San Juan, and that he should be directed to forbear from all acts which may lead to hostile manifestations by the United States' officers; and that, without instructions from your Grace or from Lord Lyons, no troops are to be landed on the island; unless, indeed, such a step should be required for the support of the Resident Magistrate, or for the protection of the lives and property of British subjects.

3. In my despatch of the 9th of November last, transmitting copies of my correspondence with Lieutenant-General Scott, I reported my proceedings with respect to the Island of San Juan up to that date, and I am glad to observe that they are in all respects in accordance with your Grace's instructions.

4. The Federal troops of the United States have all been withdrawn from the Island of San Juan, with the exception of a company of fifty men under the command of Captain Hunt, who still remain there, professedly for the protection of American citizens.

5. Besides these troops there is a Civil Staff, consisting of a Magistrate and an officer of the Customs.

6. On the other hand, Her Majesty's Government is represented in San Juan by a single stipendiary Magistrate, without any military or naval force whatever; the "Pylades," lately stationed there, having been recalled to this place by the Naval Commander-in-chief.

7. I do not apprehend the occurrence of any national difficulty with the captain in command of the Federal troops stationed on San Juan; but the presence of such a force on the disputed territory, without an equal force of British troops, implies a concession on our part, and will have the worst possible moral effect throughout the country; and if that state of things continues long the island will unavoidably slip from our grasp, as the ignorant squatter population of the adjoining American territory, deceived by appearances, and considering the question of title as settled in favour of their own country, will occupy the whole of the land, and so

form a *de facto* American occupation, the effect of which may be fatal to British rights. And here I might mention that the pre-emption system of the United States holds out every inducement to American citizens to settle on the island, and in this respect they have a great advantage over British subjects; for should the island eventually become American territory, the American squatter is confident that he will be confirmed in his occupation, whilst the British subject has no such satisfactory assurance of his claim being recognized should the island become part of Her Majesty's dominions.

8. Should there be no prospect of an immediate settlement of the question of sovereignty, I have no hesitation in submitting to Her Majesty's Government, in the event of the United States continuing to maintain troops on San Juan, that the military occupation should be at least a joint one, and that an equal number of British troops should be stationed there.

9. Either that course, or the withdrawal of all authorities on both sides, should be adopted; but for the reasons before mentioned I conceive that the withdrawal of all authorities would be by far the more desirable measure, if the question of title is to remain for any time in discussion.

I apprehend that now the question of sovereignty is avowedly in dispute, no civil authority can legally exercise any jurisdiction on the island, for the laws of neither country can be claimed as extending to it.

10. In conclusion, I cannot refrain from expressing to your Grace the satisfaction it has afforded me to find that the course we have pursued has met the approbation of Her Majesty's Government; for although well assured how much the Government would deprecate any hasty or inconsiderate action which might imperil the amicable relations subsisting between Great Britain and any other nation, yet in this case, under all the circumstances of the occupation of San Juan, confident that the offensive movement was the act of an individual and not of a Government, I must confess I had some doubts in my own mind as to whether the passive and non-resistant policy we had followed would be altogether acceptable to Her Majesty's Government, considering the large and magnificent force we fortunately had at our disposal, and that if any collision had unhappily occurred, it would not have resulted from any aggressive deed on our part, but simply from the responsibility forced upon us in defence of national honour and integrity.

I have, &c.

(Signed) JAMES DOUGLAS.

No. 35.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, March 2, 1860.

I AM directed by Lord John Russell to transmit to you, to be laid before his Grace the Duke of Newcastle, a copy of a note from General Cass to Mr. Dallas, dated the 4th ultimo,* in reply to the despatch from Lord John Russell to Lord Lyons, respecting the question of San Juan, of which a copy was transmitted to you in my letter of the 30th of December last.

I am, &c.

(Signed) E. HAMMOND.

No. 36.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, March 8, 1860.

I HAVE laid before Lord J. Russell your letter of the 2nd instant, suggesting, with reference to the observations contained in the despatch.

* No. 33.

from Governor Douglas, of which a copy is inclosed, whether it would not be advisable that the Civil officers on both sides should be withdrawn from the Island of San Juan, which should be placed under martial law.

I am to state to you in reply, for the information of his Grace the Duke of Newcastle, that Lord J. Russell questions the expediency of disturbing the present arrangement: 100 Marines will soon be established on the island, and the British Magistrate will be protected.

I am, &c.
(Signed) E. HAMMOND.

No. 37.

Lord J. Russell to Lord Lyons.

(No. 62.)

My Lord,

Foreign Office, March 9, 1860.

I INCLOSE a copy of a note from General Cass, respecting the question of San Juan, communicated to me by Mr. Dallas on the 2nd instant.*

It seems that the Government of the United States continues to take exception to the declaration contained in my despatch No. 42 of the 24th of August, and brings forward that declaration as the ground for declining to continue the discussion.

Your Lordship has already, under the instructions contained in my despatches Nos. 114 and 123 of the 29th of November and 16th of December, endeavoured by frank and conciliatory explanation to remove from the minds of the President and his Ministers the misconception to which that declaration appears to have given rise.

That explanation was offered by Her Majesty's Government in all sincerity and candour, and your Lordship will, I doubt not, share the disappointment of Her Majesty's Government that it has not been accepted as satisfactory.

I can only now repeat, and your Lordship will earnestly impress this upon General Cass, that the United States' Government has entirely misconceived the purport of my declaration.

Her Majesty's Government readily subscribe to the dictum of General Cass, that "if the island belongs to Great Britain, she is entitled to hold it, whether it is valuable or not; and if it belongs to the United States, the United States' Government is entitled to its possession, even although it should be conceded to be of superior value to Great Britain:" but Her Majesty's Government maintain that the Island of San Juan does not belong to the United States.

Your Lordship will recollect that our proposal to make a compromise was declared to be without prejudice to our claim to the Rosario channel, if that compromise were rejected.

Her Majesty's Government maintain that either the Canal de Rosario or the Douglas Channel might be held to be the boundary contemplated by the Treaty, but that the Canal de Haro neither fulfils the intentions of the British negotiators of the Treaty, nor is consistent with the words of the Treaty itself.

Having given this further explanation, Her Majesty's Government trust that my despatch No. 123 of the 16th of December will be answered, or its conclusions admitted by the Government of the United States.

You will read this despatch to General Cass, and leave with him a copy of it.

I am, &c.
(Signed) J. RUSSELL.

No. 38.

Mr. Merivale to Mr. Hammond.—(Received March 12.)

Sir,

Downing Street, March 12, 1860.

I AM directed to acknowledge your letter of the 2nd of this month, inclosing copy of a note from General Cass to Lord John Russell, in reply to his Lordship's despatch of December 16th, on the subject of San Juan.

I am to express his Grace's regret that the Government of the United States have taken a view of Lord John Russell's former declaration respecting San Juan which appears to the Duke quite unwarranted. The Duke understood his Lordship as implying no more than this: that although both Governments must, of necessity, abide by whatever might be the ultimate decision as to the naked question of right, yet if, instead of adhering to the letter of right, the two Governments agreed to arrange the question by amicable compromise, then the cession of San Juan to the United States ought to form no part of such compromise; and to his Lordship's declaration, so understood, his Grace is of opinion that Her Majesty's Government should adhere.

I am, &c.

(Signed) HERMAN MERIVALE.

No. 39.

Lord Lyons to Lord J. Russell.—(Received March 13.)

(No. 74.)

My Lord,

Washington, February 28, 1860.

I HAVE the honour to inclose two copies of papers relative to the occupation of the Island of San Juan, by order of General Harney, which have been laid before the Senate, in compliance with a Resolution passed by that body.

I sincerely trust that all questions arising out of this occupation may be considered as satisfactorily settled between the two Governments. I therefore forbear from making any observations upon the extraordinary character of some of the despatches written by General Harney and his subordinates. Indeed, I dare not trust myself to comment upon the tone in which Her Majesty's officers are spoken of in some of these papers, and especially in the letter of the 29th October, from General Harney to General Scott, which appears at page 57.

The despatches of General Scott offer a marked contrast in all respects to those of General Harney.

In a letter from Mr. Commissioner Campbell to General Harney dated the 14th August, which is printed at page 53, views are expressed very similar to those which appear to have been acted upon by the Government here.

The order asserting the exclusive jurisdiction over San Juan, which was issued on the 27th July last by the officer in command of the United States' detachment, does not appear among the printed papers. I think, indeed, that it is doubtful whether a copy of this order was transmitted by the United States' officers to their superiors in this capital.

In order to complete the papers concerning the occupation, I inclose copies of Resolutions recently passed by the Legislature of Washington territory, which have appeared in the Washington "Constitution," which is the organ of the Administration, as well as in several other newspapers.

It is, perhaps, right that I should say that the papers respecting San Juan, printed for the use of the Senate, have not been communicated to me officially, nor, indeed, sent to me from the State Department, or any of the other Departments of the Government. I obtained them, in the usual

way, under an arrangement by which all the Senate papers are regularly sent to the Legation.

I have, &c.
(Signed) LYONS.

No. 40.

The Secretary to the Admiralty to Lord Wodehouse.—(Received March 19.)

My Lord,

Admiralty, March 17, 1860.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, extracts from a letter of Rear-Admiral Baynes, dated at Vancouver Island, the 26th January, relative to the state of affairs at the Island of San Juan.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure in No. 40.

Rear-Admiral Baynes to the Secretary to the Admiralty.

(Extract.)

"Ganges," Vancouver's Island, January 26, 1860.

THE "Satellite" left Esquimalt for San Juan on the 19th, and remained there till the 24th instant. Everything continues perfectly quiet, and the most friendly feeling exists between our Civil and the United States' Military authorities in occupation of the island.

Captain Hunt's company consists of two Subalterns, an Assistant Surgeon, and 84 non-commissioned officers and men.

The earthworks remain in the same unfinished state as when Lieutenant-General Scott withdrew the main body of the troops, and the buildings, consisting of fourteen or fifteen shanties forming two sides of a street, are almost deserted. The pre-emption claims on different parts of the island still remain occupied by American settlers, and the Hudson Bay town by Mr. Griffin, one of the Company's servants.

No. 41.

The Secretary to the Admiralty to Mr. Hammond.—(Received March 20.)

Sir,

Admiralty, March 19, 1860.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, a copy of a letter, dated the 9th January last, from Rear-Admiral Baynes, reporting the receipt of his instructions to act in concert with General Scott as to the occupation of the Island of San Juan, and that everything continued quiet there.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure in No. 41.

Rear-Admiral Baynes to the Secretary to the Admiralty.

*"Ganges," Esquimalt Harbour, Vancouver's Island,
January 9, 1860.*

Sir,

ON the 24th December last, I had the honour to received your letter of the 21st October, 1859, with its inclosure from the Under-Secretary of State for Foreign Affairs, instructing me to endeavour to

concert with General Scott as to a temporary arrangement which shall keep uncompromised the British right to the Island of San Juan, and at the same time prevent any collision between Great Britain and the United States; and I beg to state, for the information of the Lords Commissioners of the Admiralty, that General Scott, having arrived in these waters on the 25th of October, left, on his return to the city of Washington, on the 11th November.

Their Lordships will be aware, from the correspondence which took place between Governor Douglas and General Scott, copies of which were forwarded in my letters of the 26th October and 9th and 14th November last, of the measures adopted in reference to the Island of San Juan; and it is satisfactory to add that everything continues quiet.

I have, &c.
(Signed) R. LAMBERT BAYNES.

No. 42.

Mr. Hammond to the Secretary to the Admiralty.

Sir,

Foreign Office, March 22, 1860.

I HAVE laid before Lord J. Russell your letter of the 17th instant, inclosing an extract of a letter from Rear-Admiral Baynes, dated the 26th January, from which it appears that at that date Captain Hunt's Company of United States' soldiers was the only force upon the Island of San Juan; and I am to request that you will state to the Lords Commissioners of the Admiralty, in reply, that Lord J. Russell presumes that, as soon as Rear-Admiral Baynes shall have received the instructions addressed to him to that effect, he will have landed 100 Marines, under an officer, upon the island, without reference to the fact of General Scott having returned to Washington.

I am, &c.
(Signed) E. HAMMOND.

No. 43.

Lord Lyons to Lord J. Russell.—(Received April 16.)

(No. 126.)

My Lord,

Washington, April 2, 1860.

ON the 28th ultimo, in obedience to your Lordship's orders, I read to General Cass your Lordship's despatch to me No. 62 of the 9th ultimo, relative to the question of the sea-boundary between Her Majesty's possessions and those of the United States west of the Rocky Mountains. I also left with him a copy of it.

General Cass has told me, this morning, that he had carefully considered the despatch, and that he was happy to say that it had completely removed the difficulty which had arisen from the declaration made in your Lordship's despatch No. 42 of the 24th August last, that no settlement of the question would be accepted by Her Majesty's Government which did not provide for the Island of San Juan being reserved to the British Crown.

The General added, that he could not inform me at that moment of the exact nature of the answer he should make to your Lordship, but that he could state at once that the objection which the American Government had entertained to continuing the discussion no longer existed.

I have, &c.
(Signed) LYONS.

No. 44.

Mr. Elliot to Mr. Hammond.—(Received April 19.)

Sir,

Downing Street, April 19, 1860.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of Lord John Russell, the copy of a despatch from the Governor of Vancouver's Island, dated the 27th of January, 1860 (Confidential), and to state that his Grace proposes to approve of the Governor's delay in carrying out the instructions (copy of which was communicated to you on the 24th November last) to place on San Juan a military force equivalent to that retained there by the United States.

I have, &c.

(Signed) T. FREDK. ELLIOT.

Inclosure in No. 44.

Governor Douglas to the Duke of Newcastle.

My Lord Duke,

Victoria, Vancouver's Island, January 26, 1860.

I HAVE the honour to acknowledge the receipt of your Grace's Confidential despatch of the 16th November last, informing me that the Government of the United States had declined to accept the compromise of the question of title to the Island of San Juan proposed by Lord John Russell's despatch of the 24th August; and, in forwarding me a copy of the instructions issued to General Scott by the Government of the United States, directing me to place upon the island a force equivalent to that retained by the United States.

Immediately on receipt, I communicated with Rear-Admiral Baynes, the Naval Commander-in-chief, and on the following day he called upon me. I laid before him your Grace's despatch, and, after consultation, we mutually agreed that, as all was quiet at San Juan, and as the next mail, which is expected in the course of a few days, would bring intimation of General Scott's arrival at Washington, and probably some communication from Lord Lyons which might affect the proceeding, it would be advisable to defer carrying out the instructions of Her Majesty's Government until after the mail had been received; which arrangement I trust may meet with your Grace's approval.

I have, &c.

(Signed) JAMES DOUGLAS.

No. 45.

Mr. Hammond to Mr. Elliot.

Sir,

Foreign Office, April 21, 1860.

I HAVE laid before Lord J. Russell your letter of the 19th instant, inclosing a despatch from Governor Douglas, stating the reasons which had induced him to delay acting upon the instructions addressed to him by the Duke of Newcastle on the 16th of November last, directing him to place upon the Island of San Juan a force equivalent to that retained by General Scott.

I am to request that you will state to the Duke of Newcastle, in reply, that it appears to Lord J. Russell that it would be as well to wait for further accounts before Governor Douglas' conduct in this matter is approved by his Grace.

Lord J. Russell cannot but feel that Governor Douglas has incurred a serious responsibility in delaying to act upon the Duke of Newcastle's

instructions of the 16th of November last, and that serious consequences may ensue if the execution of those instructions is further delayed.

I am, &c.
(Signed) E. HAMMOND.

No. 46.

General Cass to Mr. Dallas.—(Communicated to Lord J. Russell by Mr. Dallas, May 10, 1860.)

Sir, *Department of State, Washington, April 23, 1860.*

I INCLOSE a copy of a note from Lord John Russell to Lord Lyons,* on the subject of the San Juan question, which was left with me by Lord Lyons on the 28th ultimo.

In this note the United States are assured that the declaration of Lord John Russell, in his despatch of the 24th of August last, to which the President felt obliged to take exception, was not intended to convey the meaning which this Government had attached to it; but that Great Britain entirely concurs with the United States that the question of title to the Island of San Juan is to be determined by the provisions of the Treaty, and not by the supposed value of the island, either to one party or the other; or, in other words, that "if the island belongs to Great Britain, she is entitled to hold it, whether valuable or not; and if it belongs to the United States, the United States' Government is entitled to its possession, even although it should be conceded to be of superior value to Great Britain." The obstacle growing out of the declaration referred to having thus been removed by the frank explanation of Her Majesty's Government, the subject is now free from any other embarrassment than that which necessarily belongs to a controverted claim. It is only to be determined whether the Island of San Juan, under the Treaty of 1846, belongs to the United States or Great Britain.

In the correspondence which has already taken place on this question between the Commissioners of the two Governments and the Governments themselves, the argument on both sides has been so fully presented as to leave very little to be added now. I regret, however, that what this Government regards as the controlling consideration which ought to govern the construction of the boundary clauses of the Treaty, does not appear to have engaged that serious attention from Her Majesty's Government which its importance is believed to deserve.

When it was shown that the parallel of 49° was the agreed boundary between the two countries, and that the deflection from it in the channel adjoining Vancouver's Island was for the sole purpose of leaving that island undivided to Great Britain, it was confidently hoped that the claim of Her Majesty's Government to still other islands in the channel would be at once and for ever abandoned.

If the distinct object of a Convention is clearly understood, and there is no repugnance in the language, it is surely reasonable to expect that it will not be construed by either party so as to accomplish an object entirely different. In this case, there can be no reasonable doubt as to the intention of the parties upon the point referred to. It is not a case where one view was entertained by the American Government and an opposite one by the British Government, but the whole history of the negotiation, and all the evidence on both sides, lead inevitably to the same conclusion. If any doubt could still exist on this point, after the evidence which has already been presented, I might quote, in further support of it, the explicit testimony of Sir Robert Peel.

On the 29th of June, 1846, after the Treaty had been approved by both Governments, and while he was engaged in explaining its provisions to the House of Commons, this distinguished Statesman said: "Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca: that that boundary should not be continued as a boundary across Vancouver's Island, thus depriving us of

a part of Vancouver's Island; but that the middle of the channel should be the future boundary, thus leaving us in possession of the whole of Vancouver's Island, with equal right to the navigation of the Straits."

It is quite clear from this language that Sir Robert Peel neither believed nor claimed that the deflection from the parallel of 49° had left Great Britain in possession of any other island or territory than the Island of Vancouver; nor from anything which was publicly known at the time of the Treaty, can it be inferred that such a belief was entertained in any other quarter. It is equally true, that from that time to the present day, the construction thus given to Article I of the Treaty by Sir Robert Peel, has been steadily maintained by the United States.

The conversation of Mr. Buchanan with Mr. Crampton, of January 1848, to which Lord John Russell refers, constitutes no exception to this statement. If Mr. Buchanan understood the word "channel" in the Convention to mean "the main navigable channel," as he is reported to have done by Mr. Crampton, he equally well understood that this "main navigable channel" was the Canal de Haro, which he had distinctly mentioned as the Treaty channel in his private letter to Mr. Mc Lane, to which I referred in my despatch of October 20. And if, in the same conversation, he "suggested that the point should be left for decision by the Commissioners," this only indicated his entire confidence in the result of their examination, while it anticipated the actual course of this Government when the Commissioners were appointed. In the instructions under which Mr. Campbell entered on his duties, no restraint whatever was placed upon his judgment on this point: but he was left entirely free to determine the boundary line according to the language of the Treaty. I have already had occasion to express my regret that Her Majesty's Government did not feel itself at liberty to invest the British Commissioner with the same discretion.

I may be pardoned for suggesting that the course of the British Government has not been marked by the same consistency of claim. In the beginning of the discussion it was stated by Lord John Russell, in his despatch of August 24, 1859, that "the British Commissioner was clearly of opinion that both the boundary intended by the Plenipotentiaries who negotiated the Treaty of 1846, and also the channel spoken of in the Treaty, are the channel known as Rosario Straits, and Her Majesty's Government fully share that opinion."

This opinion, however, was controverted by the statement of Lord Aberdeen, which was quoted in the same despatch, who "is certain that it was the intention of the Treaty to adopt the mid-channel of the Straits as the line of demarkation, without any reference to islands;" and by the Memorandum, also, of Sir Richard Pakenham, who expressly declares that neither the Canal de Haro nor the Rosario Strait could, in his judgment, "exactly fulfil the conditions of the Treaty, which, according to their literal tenour, would require the line to be traced along the middle of the channel (meaning, I presume, the whole intervening space), which separates the continent from Vancouver's Island."

The boundary, therefore, claimed by Lord John Russell, and that described by the British negotiators of the Treaty, were two entirely different lines, the one being the Straits of Rosario, and the other a line of demarkation drawn midway between Vancouver's Island and the continent, without reference to any intervening islands.

In his despatch to Lord Lyons of the 16th December, Lord John Russell appears substantially to abandon the former of these lines, and to adopt the line suggested by Lord Aberdeen and Sir Richard Pakenham; while in his last despatch on this subject, that of the 9th ultimo, he maintains that "either the Canal de Rosario or the Douglas Channel might be held to be the boundary contemplated by the Treaty."

Thus we have presented the extraordinary case of three widely-different boundaries, either of which, it is claimed, may be fairly regarded as the Treaty boundary, while the only boundary excluded is that very boundary which was mentioned in distinct terms by Mr. Mc Lane, Mr. Benton, and Mr. Buchanan, at the time the Treaty was negotiated, and which is the only one (as this Government conceives) that is quite

consistent with the known intention of the Treaty. These three boundaries have, indeed, the single point of agreement that they all leave to Great Britain the Island of San Juan, but this can hardly relieve the inconsistency of the British claim. Two of them, the Rosario Channel and the Douglas Channel, are excluded by the concurrent testimony, both of the American and British negotiators; and it is difficult to understand how they can be further insisted on by the British Government.

The only choice remaining, therefore, is between the Canal de Haro, and the arbitrary line of demarkation described by Mr. Pakenham. The considerations which seem to this Government quite decisive in favour of the Canal de Haro were sufficiently stated in my despatch of last October, and need not be repeated here.

In reference, however, to the line suggested by Mr. Pakenham, it is sufficient, perhaps, to observe that, since the British Government appears to have concurred with Mr. Buchanan in 1848, that the line to be chosen was the "main navigable channel" between the point of deflection and the Straits of Fuca, it can hardly contend now that this requirement is answered by adopting a boundary which passes alike over land and water, and furnishes, of course, no channel at all.

In thus alluding to the several boundaries which have been suggested by Great Britain as Treaty boundaries, I do not forget that the Douglas Channel has been proposed from the beginning as a convenient compromise which might terminate the present controversy. It can only be regarded as a compromise, however, upon the assumption that the Straits of Rosario are still claimed by Great Britain as the channel intended by the Convention; and as this claim, for reasons which I have already referred to, can hardly now be maintained, I do not think the British offer should any longer be considered as an offer of compromise.

The whole subject in question is the Island of San Juan, which is claimed on the one side by the United States, and on the other side by Great Britain; and the proposal which gives the island to Great Britain is a proposal to surrender the whole American claim, and not, in any sense of the term, a proposition for compromise.

The argument from convenience, moreover, which is so earnestly pressed by Lord John Russell, seems to me, I confess, to have very little foundation. I cannot understand why the access by Great Britain to her American Possessions would be any the less easy or safe because the Island of San Juan had been conceded to the United States. All the channels and the straits are equally open to both nations; and, in a military point of view, I have already shown that, from the great width of the Canal de Haro, its navigation would never be interrupted by the establishment of works on the Island of San Juan.

While, therefore, the President feels himself obliged to decline the proposition to adopt the Douglas Channel as the boundary of the two countries between Vancouver's Island and the continent, and to maintain the Canal de Haro as the true boundary in that quarter which was intended by the Treaty, he is glad to believe that no serious injury can be inflicted upon British interests by the adoption of the American line. It is deeply to be regretted, certainly, that the views of the two Government upon this subject are so directly opposed; but he confidently hopes that by some early arrangement, alike acceptable to both nations, this difference of opinion may yet be amicably adjusted.

You will read this despatch to Lord John Russell, and leave with him a copy of it.

I have, &c.
(Signed) LEW. CASS.

No. 47.

Lord J. Russell to Lord Lyons.

(No. 116.)

My Lord,

Foreign Office, May 12, 1860.

MR. DALLAS has placed in my hands a despatch, of which a copy is sent herewith, on the subject of the Island of San Juan; which, while it maintains the position hitherto held by the Government of the United States, is dictated in most friendly terms.

But, before I answer it, I must have in my hands a satisfactory settlement of the claims of the Hudson's Bay Company. We cannot permit the Treaty of 1846 to be matter of discussion between the two Governments without calling attention to the violation of its provisions and the injury done to British subjects by Agents of the United States in the matter of the Hudson's Bay Company.

I am, &c.
(Signed) J. RUSSELL.

No. 48.

The Secretary to the Admiralty to Mr. Hammond.—(Received May 16.)

Sir,

Admiralty, May 15, 1860.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, a copy of a letter, dated the 28th March last, from Rear-Admiral Baynes, and of its inclosures, reporting the strength of the detachment of Royal Marines dispatched to occupy jointly with the troops of the United States the Island of San Juan, and the instructions given to the officer in charge of the detachment of Royal Marines, for his guidance.

I have, &c.
(Signed) W. G. ROMAINE.

P.S.—A plan of the site to be occupied by the detachment of Royal Marines is inclosed.

W. G. R.

Inclosure 1 in No. 48.

Rear-Admiral Baynes to the Secretary to the Admiralty.

*"Ganges," in Esquimalt Harbour, Vancouver's Island,
March 28, 1860.*

Sir,

I REQUEST you will inform the Lords Commissioners of the Admiralty that having arranged with the Governor of Vancouver's Island for the joint military occupation of San Juan with a party of Royal Marines equivalent in number to the United States' troops; and having decided with him, after the examination of various sites by Captain Prevost, of the "Satellite," on the one combining the advantages marked in the accompanying plan, I embarked the detachment as per margin,* on board the "Satellite," which ship proceeded with them on the 21st instant, calling on the way at the United States' camp, for the purpose of delivering to Captain Hunt, the officer commanding, a letter from me, a copy of which I inclose.

A copy of the instructions I have given to Captain Bazalgette, of the Royal Marines, for his guidance, I beg you will lay before their Lordships.

I have, &c.
(Signed) R. LAMBERT BAYNES.

* Captain Bazalgette, Lieutenant Sparshott, Lieutenant Cooper, 1 colour serjeant, 4 serjeants, 4 corporals, 1 bugler, 73 privates, and Mr. T. F. Mitchell, Assistant Surgeon.

Inclosure 2 in No. 48.

Rear-Admiral Baynes to Captain Hunt, U.S.A.

Sir,

"Ganges," Esquimalt Harbour, March 20, 1860.

I HAVE the honour to inform you that a detachment of Royal Marines, with their appropriate arms, equivalent in number to the troops of the United States under your command, will be disembarked on the north point of the Island of San Juan, for the purpose of establishing a joint military occupation, agreeably to the proposition of Lieutenant-General Scott.

The annexed extract from the orders I have given to Captain Bazalgette, the officer commanding, I beg to furnish for your information.

I have, &c.

(Signed) R. LAMBERT BAYNES.

Inclosure 3 in No. 48.

Orders addressed by Rear-Admiral Baynes to Captain Bazalgette, R.M.

Memo.

"Ganges," Esquimalt Harbour, March 20, 1860.

ON being disembarked from Her Majesty's ship "Satellite" on the north part of the Island of San Juan, with the detachment of Royal Marines placed under your command, you are to take up such a position for encamping the men as Captain Prevost may think best suited for the purpose.

The object of placing you there is for the protection of British interests, and to form a joint military occupation with the troops of the United States.

As the sovereignty of the island is still in dispute between the two Governments, you will on no account whatever interfere with the citizens of the United States: but should any offence be committed by such citizens which you may think it advisable to notice, you will send a report of it immediately to Captain Hunt, or officer commanding the United States' troops.

American citizens have equal rights with British subjects on the island.

Should the officer commanding the United States' troops bring to your notice offences committed by any of Her Majesty's subjects, you will use your best judgment in dealing with the case; and I authorize you, if you deem it necessary, to send them off the island by the first opportunity.

If any doubts arise as to the nationality of an offender, you will not act in the case before you have consulted with the United States' commanding officer, and not even then unless your opinions coincide.

You will place yourself in frank and free communication with the commanding officer of the United States' troops, bearing in mind how essential it is for the public service that the most perfect and cordial understanding should exist between you, which I have every reason to feel assured you will at all times find Captain Hunt ready and anxious to maintain.

Any of Her Majesty's subjects being found guilty of offences which, in your opinion, interfere with the discipline of the detachment, you are at liberty, after warning them without effect, to send them off the island.

You are to take every precaution to prevent any of the detachment from straggling, and to guard against the introduction of spirituous liquors into the camp.

You will keep me acquainted with your proceedings, and of any intelligence proper for my knowledge.

(Signed)

R. LAMBERT BAYNES,
Rear-Admiral and Commander-in-chief.

No. 49.

Mr. Hammond to the Secretary to the Admiralty.

Sir,

Foreign Office, May 17, 1860.

I HAVE laid before Lord J. Russell your letter of the 15th instant, inclosing copies of papers received from Rear-Admiral Baynes, reporting the manner in which he had carried out the instructions he had received to place a detachment of Marines upon the Island of San Juan; and I am, in reply, to request that you will state to the Lords Commissioners of the Admiralty that, in Lord J. Russell's opinion, the judicious conduct of Rear-Admiral Baynes should be entirely approved.

I am, &c.
(Signed) E. HAMMOND.

No. 50.

The Secretary to the Admiralty to Mr. Hammond.—(Received May 29.)

Sir,

Admiralty, May 28, 1860.

WITH reference to my letter of the 15th instant, I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, copies of a letter from Rear-Admiral Sir R. Baynes, dated the 7th April last, and of its inclosure, relative to the joint military occupation of the Island of San Juan with the troops of the United States, by a party of Royal Marines.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure 1 in No. 50.

Rear-Admiral Sir R. Baynes to the Secretary to the Admiralty.

*"Ganges," in Esquimalt Harbour, Vancouver's Island,
April 7, 1860.*

Sir,

IN continuation of my letter of the 28th ultimo, reporting that a party of Marines had been landed on San Juan for the purpose of establishing a joint military occupation of the island, I beg to forward a copy of the reply to the communication I addressed to the commanding officer of the United States' troops which reached me too late for transmission by the last packet.

I have, &c.
(Signed) R. LAMBERT BAYNES.

Inclosure 2 in No. 50.

Captain Hunt, U.S.A., to Rear-Admiral Baynes.

Sir,

Camp Pickett, San Juan Island, March 23, 1860.

I HAVE the honour to acknowledge the receipt of your communication of the 20th ultimo, accompanied by an extract from the orders furnished Captain Bazalgette, commanding the detachment of Royal Marines now landing on this island agreeably to the proposition of Lieutenant-General Scott.

The instructions to Captain Bazalgette seem to cover every case likely to arise in connection with the joint occupation of the island. Fully reciprocating their spirit of friendliness and conciliation, I have every

confidence that mutual harmony and good understanding will continue during the whole term of the joint occupation.

I have, &c.
(Signed) L. C. HUNT.

No. 51.

Mr. Hammond to the Secretary to the Admiralty.

Sir,

Foreign Office, May 31, 1860.

I HAVE laid before Lord J. Russell your letter of the 28th instant, inclosing copies of further papers from Rear-Admiral Baynes, respecting the joint occupation of the Island of St. Juan, and I am to state to you in reply, for the information of the Lords Commissioners of the Admiralty, that Lord J. Russell considers those papers satisfactory.

I am, &c.
(Signed) E. HAMMOND.

No. 52.

Mr. Elliot to Mr. Hammond.—(Received June 2.)

Sir,

Downing Street, May 31, 1860.

WITH reference to my letter of the 19th of April last, I am directed by the Duke of Newcastle to transmit, for the information of Lord John Russell, a copy of a despatch from Governor Douglas, reporting that Her Majesty's ship "Satellite" left Vancouver Island on the 21st of March, with a detachment of Royal Marines destined for the joint occupation of the Island of St. Juan, and inclosing copies of a correspondence on the subject with Rear-Admiral Baynes.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 52.

Governor Douglas to the Duke of Newcastle.

My Lord Duke,

Victoria, Vancouver's Island, March 27, 1860.

I HAVE the honour to report to your Grace that Her Majesty's ship "Satellite" left this place on the 21st instant, with a detachment of Royal Marines destined to form a joint occupation of the Island of San Juan.

2. The number was as per margin,* being equivalent to that maintained on the island by the United States.

3. I forward herewith, for your Grace's information, copy of correspondence with Admiral Baynes in reference to this proceeding, which contains the instructions issued to the officer commanding the detachment of Royal Marines on the Island of San Juan.

I have, &c.
(Signed) JAMES DOUGLAS.

* 1 captain, 2 subalterns, 1 assistant surgeon, 83 non-commissioned officers and men.

Inclosure 2 in No. 52.

Governor Douglas to Rear-Admiral Baynes

Sir,

Victoria, Vancouver's Island, March 17, 1860.

I HAVE duly received your letter of this date, in acknowledgment of mine of the 15th instant, respecting the joint military occupation of the Island of San Juan, and I am glad to find that you propose to undertake the necessary measures for landing the men without further delay.

2. I have already furnished you with copies of the correspondence between General Scott and myself, and it is therefore unnecessary for me again to trouble you with that portion relating to the conduct of the United States' officer commanding at San Juan; but I have to request that you will be good enough to embody in your instructions to the officer you may place in military command such cautions as may prevent him from interfering in any way with American citizens, and advise him in any intercourse he may have with the United States' officers to adopt such bearing as may promote a good understanding and preserve harmony.

3. Should the officer commanding have any just cause of complaint against any American citizen, it will be advisable for him to communicate directly with Captain Hunt, the officer commanding the United States' troops on the island, who, I doubt not, will afford every satisfaction in his power: or should the offence be one of so serious a nature as to render it necessary to arrest the offender, then it will be desirable that the offender should, without any delay, be given up to the officer commanding the United States' troops, and all the circumstances of the case communicated to him.

4. A similar course will be adopted by the officer commanding the United States' troops with regard to British subjects; and the officer commanding Her Majesty's troops will have to exercise his best judgment in dealing with such cases, should any occur.

Specific instructions upon this point might only serve to embarrass; but as I believe the American officer will not hesitate to banish any offender from the island, so, also, should Her Majesty's officer exercise this power without hesitation, should he deem it requisite.

5. I have further to request that a copy of the instructions you issue to the officer you may place in command, or the substance thereof, may be furnished to Captain Hunt, who, from my personal knowledge, will, I believe, be found most frank in all his dealings, and inclined to do everything to establish and maintain cordial relations.

6. I perfectly concur in the opinion you express to me in your letter of the 10th ultimo, as to be open and undisguised in our movements; and I would suggest that the officer commanding the ship-of-war conveying the troops should, previously to landing them, enter into communication with Captain Hunt to the effect you propose.

I have, &c.

(Signed) JAMES DOUGLAS

Inclosure 3 in No. 52.

Rear-Admiral Baynes to Governor Douglas.

Sir,

"Ganges," in Esquimalt Harbour, March 21, 1860.

ADVERTING to your letter of the 16th instant, I have the honour to inform your Excellency I have embarked on board Her Majesty's ship "Satellite" a detachment of Royal Marines, as per margin,* equivalent in number to the United States' troops at San Juan; and I have directed

* 1 captain, 2 subalterns, 1 assistant surgeon, 83 non-commissioned officers and men.

Captain Prevost to land them on the north part of that island, agreeably to the decision we came to when I had the honour of conferring with your Excellency on the subject of establishing a joint military occupation with the United States.

I inclose herewith, for your Excellency's information, a copy of the orders I have given to Captain Bazalgette, the officer commanding the detachment of Royal Marines, and a copy of a letter I have addressed to the officer commanding the United States' troops on the island.

I have, &c.
(Signed) R. LAMBERT BAYNES.

Inclosure 4 in No. 52.

Rear-Admiral Baynes to Captain Hunt, U.S.A., March 20, 1860.

[See Inclosure 2 in No. 48.]

Inclosure 5 in No. 52.

*Orders addressed by Rear-Admiral Baynes to Captain Bazalgette, R.M.,
March 20, 1860.*

[See Inclosure 3 in No. 48.]

No. 53.

Mr. Hammond to Mr. Elliot.

Sir,

Foreign Office, June 4, 1860.

I AM directed by Lord John Russell to acknowledge the receipt of your letter of the 31st ultimo, and its inclosures, respecting the joint military occupation of the Island of San Juan, and I am to request that you will state to the Duke of Newcastle that Lord John Russell approves of Governor Douglas' communication to Rear-Admiral Baynes upon this subject.

I am, &c.
(Signed) E. HAMMOND.

No. 54.

Lord Lyons to Lord J. Russell.—(Received June 11.)

(No. 191.)

My Lord,

Washington, May 26, 1860.

I SPOKE to General Cass this morning in the sense of your Lordship's despatch No. 116 of the 12th instant.

I said that your Lordship had observed with satisfaction that the General's despatch of the 23rd April last, respecting San Juan, which had been put into your hands by Mr. Dallas, was dictated in very friendly terms. I added, however, that your Lordship would not be able to answer it until you had in your hands a satisfactory settlement of the claims of the Hudson's Bay Company. It was impossible, I said, to let the Treaty of 1846 be matter of discussion between the two Governments, without calling attention to the violation of its provisions, and the injury done to British subjects, by agents of the United States in the matter of the Hudson's Bay Company.

General Cass replied that he had lost no time in sending my note of yesterday, on the subject of the claims of the Company, to the President, and that he himself was extremely desirous that a settlement should be effected as soon as possible.

I observed that if this were done, we might hope that the desire so honourable to the President, and so earnestly entertained by him, of satisfactorily settling every question with England before he quitted office, might be fully accomplished.

I have, &c.
(Signed) LYONS.

No. 55.

Mr. Elliot to Mr. Hammond.—(Received June 19.)

Sir,

Downing Street, June 18, 1860.

I AM directed by the Duke of Newcastle to transmit to you, for the information of Lord John Russell, copies of a correspondence between the Governor of British Columbia and Colonel Moody, commanding the detachment of Royal Engineers in that Colony, relative to the joint military occupation of San Juan.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 55.

Colonel Moody, R.E., to Governor Douglas.

Sir,

New Westminster, March 13, 1860.

I HAVE the honour to acknowledge the receipt from your Excellency of a Naval Report on the selection of a site for a military post on the Island of San Juan, and requesting an opinion from me.

It will occur to your Excellency that the selection of a position demands an inspection of the ground by a military officer having before him information on sundry particulars as to the object required, and I send Captain Parsons, R.E., a properly qualified officer, to report to me, when I will lay his Report before you with my own observations.

Captain Parsons is instructed to attach extreme weight to such naval opinion as may be expressed, and I venture to suggest that the practice pursued always, elsewhere, in cases of a similar nature (viz., the selection of a military position on a coast, such post to be held in connection with naval operations), a joint naval and military Report to you would be, and still is, desirable; the Report being conjointly framed by officers of the two services after having visited the locality together.

Your Excellency's communication does not inform me on sundry particulars, so I presume they embrace the considerations alluded to in your conversation with me when I was at Victoria, namely, a joint military occupation by a company of Marines, and merely to camp or house them without the construction of any offensive or defensive works, but, if possible, on a position offering advantages for quickly improvising either, and possessing the advantage of easy support from naval forces.

Your Excellency's letter was not received until too late to reply by the last opportunity; but I will take care that no delay takes place in submitting to your Excellency the Report Captain Parsons is instructed to make.

It would be premature in me to express an opinion as to the site until I receive this Report; but I trust you will excuse my urging you not to adopt any measures that may practically have the effect of dividing, even in men's minds, the Island of San Juan between the military forces in occupation.

On this subject I have addressed an accompanying letter to you, and, as the question is one of grave consideration, I shall feel obliged by your forwarding, for the information of the Secretary of State, copies of all my correspondence relating to this matter.

I have, &c.
(Signed) R. C. MOODY.

Inclosure 2 in No. 55.

Colonel Moody, R.E., to Governor Douglas.

Sir,

New Westminster, March 13, 1860.

I HAVE already had the honour, in conversation, to submit to your Excellency the view I am induced to entertain respecting the mode of carrying out the measure of joint military occupation which has arisen out of the action of General Harney in respect to the Island of San Juan. I have thought over the matter very fully, and am so entirely convinced of the grave danger to British diplomatic action by a joint military occupation of San Juan in particular, that I venture to repeat the opinion already adduced by me verbally, and to request your Excellency to forward it for the consideration of the Secretary of State.

I submit that the attention of the public is becoming daily more rivetted on the question of the disputed possession of the Island of San Juan, and that that of the whole group of territory lying in the Gulf of Georgia between Vancouver Island and the mainland is being lost sight of. A joint military occupation of San Juan will act still further in this direction, and I cannot eject from my mind the impression that one of the non-apparent instigations for its first occupation by American authorities (General Harney, with the cognizance of Mr. Commissioner Campbell) may very possibly have had in contemplation the gradual formation of an idea tending so materially to accustom the public mind to a deviation from the view which it is so desirable they should keep before them.

Already in the daily papers of both nations, it is no longer the disputed group of islands, or the disputed water boundary of disputed territory, but it has come to be always the disputed Island of San Juan, as if that was the territory the right to which had to be determined.

If the mode of joint military occupation of the territory in dispute be carried out in the spirit which we have to consider animates the Governments of both nations and dictated the terms offered by the United States to the Government at home, and also to you (through General Scott), accepted by our Government and conveyed to you (a joint occupation without prejudice to the claims of either nation, not merely *scripta verba*, but as practically carried out), it would be either by the occupation overlapping the occupation of the other, or each occupying an island in nearest proximity to its own territory, and not by both nations occupying the one island nearest to the territory of the one nation; that is to say, if the United States' troops occupied Orcas and we occupied San Juan, or allow them to remain where they are, and we occupy Orcas. As matters stand at present, I would suggest our proceeding to carry out the spirit of the instructions by your Excellency ordering me to proceed to Orcas with a military detachment, and establish a post there. The explanation of such a proceeding would be simple and easy. It is, as a matter of course, to be assumed that the United States' Government recognize, with the Government of Her Majesty, that the question is not a dispute respecting the right of possession of San Juan, but of the whole group, and that the meaning and signification of the joint military occupation refers to all that is in dispute, and not to a part thereof; and that, in order to maintain peace, and avoid all chance of hostile differences and military inconveniences or misunderstanding likely to arise among the troops themselves, it is well that we proceed to a different island to that on which the American troops are quartered.

Doubtless the impression created will be profound, but it will be wholesome. It will tend more than anything to prove the earnestness of

purpose of the British Government, while it will reciprocate the peaceful overture made by the United States as to joint military occupation. Your Excellency's sagacity will also readily perceive in how strong a position it would place the Secretary of State for Foreign Affairs in any overtures he may be pleased to make at any time for a division of the territory in dispute. It would be simply an exchange. I may just observe that in case of hostilities, such occupation of Orcas places us in the advantageous position of "investing" our opponents.

Under the above recommendation, I strongly urge your Excellency to send the military force which you contemplate detaching on this service of joint military occupation to Orcas instead of San Juan.

I have, &c.
(Signed) R. C. MOODY.

Inclosure 3 in No. 55.

Governor Douglas to Colonel Moody.

Sir, *Victoria, Vancouver's Island, March 5, 1860.*

I FORWARD to you herewith a despatch, and tracing which I have received from Rear-Admiral Baynes, the Naval Commander-in-chief, upon the subject of the position to be chosen for the military post about to be established upon the Island of San Juan by Her Majesty's forces.

2. I shall be much obliged if you will favour me with your opinion thereon.

3. My own opinion, at the present moment, strongly inclines to the position No. 6, as being the best both politically and strategically, it appearing to me that some objections exist to all the other sites exhibited.

4. I request you will return the despatch and tracing, with your opinion, by the "Otter."

I have, &c.
(Signed) JAMES DOUGLAS.

Inclosure 4 in No. 55.

Rear-Admiral Baynes to Governor Douglas.

Sir, *"Ganges," Esquimalt Harbour, March 2, 1860.*

HAVING sent Captain Prevost, in the "Satellite," to the Island of San Juan, to report on the various points where a military post might be established, I beg to forward, for your Excellency's information, the result of his proceedings, with a tracing of the island, and the different sites he examined, marked from 1 to 7.

Numbers 2, 3 and 7, appear to me the most eligible positions; the proximity of No. 4 to the United States' camp is, I think, an objection: perhaps another supply of water might be found.

No. 2 would be the most desirable spot, but it is pre-empted by an American who lives on it.

The only drawback to No. 7 is the distance from Griffin Bay and the Hudson Bay Company's establishment at that place.

However, your Excellency is much better acquainted with the different localities than I can be, and I cannot apprehend any serious difficulties attending our occupying whichever we may decide on as being the best calculated to meet our views.

I have, &c.
(Signed) R. LAMBERT BAYNES.

Inclosure 5 in No. 55.

Captain Prevost to Rear-Admiral Baynes.

(Extract.)

“*Satellite*,” February 23, 1860.

No. 1. SOUTHERN extremity of the island, much rock and trees, but little cleared ground; no fresh water; accessible by boats.

No. 2. About 100 acres of beautiful prairie, easy of access, well sheltered, with water and every convenience for a camp; but it is pre-empted and occupied by Mr. Hubbs, United States' revenue officer.

No. 3. Prairie slope, formerly occupied by the United States' troops, but is much exposed to south-east and south-west winds, and, I believe, pre-empted.

No. 4. An inclosed field of, perhaps, ten acres, cleared and cultivated by the Hudson Bay Company, within 400 yards of the United States' camp; fresh water limited and common to both camps.

No. 5. Well-sheltered and commanding position, with a good supply of water; at present occupied by the Hudson Bay Company as a sheep-station. It would be a work of labour and difficulty to convey stores, &c., to this site, and no safe anchorage near it.

No. 6. There are several spots on the shores of this beautiful harbour which might be made available for a camp of any size, but I could find no fresh water, and a further examination would be required to fix on any particular spot.

No. 7. A convenient slope of prairie land, with a running stream of fresh water within 400 yards of it; convenient of access by boats; also a safe harbour for ships, of any size, at all seasons of the year. I am of opinion this will be found the most eligible site for the camp. In the autumn it is used by the Hudson Bay Company as a sheep-station; at present it is unoccupied, about seven miles distant from the town, and no settlers near it.

Inclosure 6 in No. 55.

Colonel Moody, R.E., to Captain Parsons, R.E.

Sir,

New Westminster, British Columbia, March 13, 1860.

IT is contemplated to land a detachment of British troops on the Island of San Juan in joint military occupation with troops of the United States' army. The Admiral Commanding-in-chief has addressed a letter to his Excellency the Governor, submitting for consideration the choice of military positions. His Excellency has asked my opinion, but as the choice of a military position is one necessitating an examination of the ground, as well as information on the object desired, I have selected you as an officer qualified to consider on the spot, and to select, as far as military points are concerned, the one best adapted among those recommended or to suggest others (vide inclosed abstract and trace). You will bear in mind, however, that as military are not the only considerations to rule, you will most frankly submit your views to such naval authorities as you may be referred to, or who may possibly be named to act in concert with you, in order that a united opinion may be arrived at if possible.

I wish to read your report and attach any opinion I may be induced to make, before it is finally adopted by his Excellency; but as the case appears to be urgent, should his Excellency desire to act at once, you are at liberty to submit your report, direct to him, forwarding a copy to me.

The question appears to be a pacific joint military occupation, and that a convenient location for a camp be selected, but at the same time, if possible, having such advantage of position for offence and defence, and support from vessels of war either to be reinforced from or to retire upon, as may enable such detachments as may be left on the island, at any moment either to force the opposite party to retire from their position, which appears to have been selected under precisely the same contingencies as the above, or to hold our own until reinforced, and to improvise a quick adaptation of handy means of defence.

I am extremely desirous of abstaining from fettering you by any suggestions of my own. You will not misunderstand my object in drawing your careful attention to the advantages offered for a hasty skirmish between posts by the fences and buildings of the Hudson Bay Company's farm, which would appear to be almost, if not quite, within rifle-shot of the United States' troops. The prestige to be gained by a prompt successful offensive movement is also a consideration which will be well weighed by you.

You will report yourself to his Excellency the Governor before proceeding to San Juan.

I have, &c.
(Signed) R. C. MOODY.

No. 56.

Lord Lyons to Lord J. Russell.—(Received June 23.)

(No. 204.)

My Lord,

Washington, June 7, 1860.

I HAVE the honour to inclose copies of a letter and its inclosure, which have been received by the Commanding Officer of the Royal Marines on the Island of San Juan, from Captain Pickett, who has been ordered by General Harney to relieve Captain Hunt, the officer placed in command of the United States' detachment on that island by General Scott.

Your Lordship will perceive that the orders given by General Harney to Captain Pickett, and communicated, by the General's direction, to the officer in command of the British detachment, are in many points inconsistent with the arrangement made by General Scott, and accepted by Her Majesty's Government. Your Lordship will not fail to observe, in particular, that General Harney directs Captain Pickett to recognize the civil jurisdiction of Washington Territory over San Juan, and that the General goes on to state that "he is satisfied that any attempt of the British Commander to ignore the rights of the territory will be followed by deplorable results out of his power to control."

The copy of these orders reached me yesterday in a private letter from Rear-Admiral Baynes. I immediately transmitted a copy to the United States' Secretary of State, with a note begging that the United States' Government would not lose a moment in taking measures to avert the deplorable consequences which would indeed be only too likely to follow any disturbance of the settlement so wisely effected by General Scott. Of that note I do myself the honour to inclose a copy.

I have been in personal communication with General Cass on the subject to-day. He says that he shall send me, as soon as it can be prepared, a written answer, which will be completely satisfactory to Her Majesty's Government. In the meantime he authorizes me to inform your Lordship that the United States' Government regret and disavow General Harney's order.

In his private letter to me, Rear-Admiral Baynes observes, with great justice, that the forbearance of the English has been severely tested, and that, beyond a certain point, resistance becomes an imperative duty.

I have urged the Government of the United States to send instantly, and in the most expeditious manner, the orders necessary to avert the evils which General Harney's reckless conduct has again rendered imminent.

I shall, on my part, make every effort to ensure the Admiral's receiving, as soon as possible, the intelligence of the disavowal by this Government of General Harney's proceedings.

I forward by the same packet which will convey this despatch to your Lordship, a letter from Rear-Admiral Baynes to the Duke of Somerset, which I received yesterday with the Admiral's letter to me.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 56.

Captain Pickett, U.S.A., to Captain Bazalgette.

Sir,

San Juan, April 30, 1860.

I HAVE the honour to inform you that, in obedience to orders received from the Head-Quarters Department of Oregon, I have to-day relieved Captain Hunt, and assumed command of this post.

In accordance with orders emanating from the same source, I herewith inclose an extract from my letter of instructions.

With every desire that the cordial understanding existing between you and Captain Hunt shall continue to be maintained between ourselves, I am, &c.

I have, &c.
(Signed) G. E. PICKETT.

Inclosure 2 in No. 56.

Assistant Adjutant-General Pleasonton to Captain Pickett, U.S.A.

(Extract.) *Head-Quarters, Department of Oregon, Fort Vancouver,
Washington Territory, April 10, 1860.*

. A COPY of which you will furnish Captain Bazalgette, for the information of Rear-Admiral Baynes.

First, Lieutenant-General Scott has left no orders or instructions with the General commanding to grant a joint military occupation of San Juan Island with British troops, neither has any authority been delegated by the Government of the United States to the General to offer or accept such occupation of that island. The offer made by General Scott when in command here, was not accepted by Governor Douglas at the time, and consequently concluded that transaction. No arrangement has been made since to renew it within the knowledge of the General commanding.

Secondly, the British authorities, having submitted the assurance to General Scott that no attempt would be made by them to dislodge, by force, the United States' troops on San Juan Island, they were permitted to land troops for a similar purpose to which your command was designed in the original orders conveyed to you in July last, viz., the protection of our citizens from Indians, both native and foreign.

In connection with this service, the General commanding takes occasion to present you to Admiral Baynes and the officers with whom you will be brought in contact, as an officer possessing his highest confidence, that nothing will be omitted in maintaining a frank and generous intercourse in all matters coming within your powers, to establish a practical solution of the present misunderstandings, which shall prove honourable and satisfactory to all parties, until a final settlement is attained by the two Governments.

Thirdly, under the Organic Act of the Congress of the United States for the establishment of the territorial Government of Washington, the first Legislative Assembly in 1854 passed an Act including the Island of San Juan as a part of Whatcom County. This Act was duly submitted to Congress, and has not been disapproved. It is therefore the law of the land. You will be obliged, consequently, to acknowledge and respect the civil jurisdiction of Washington territory in the discharge of your duties on San Juan; and the General commanding is satisfied that any attempt of the British Commander to ignore this right of the territory will be followed by deplorable results out of his power to control.

The General Commanding will inform the Governor of Washington territory that you are directed to communicate with the civil officer on the island in the investigation of all cases requiring his attention. In the event of any British interest being involved, you will notify the officer placed there by Admiral Baynes, to enable him to propose some arrangement satisfactory

to his instructions as well as those of the civil officer. Let it be understood, in case of disagreement of these parties, that no action is to be taken until the case has been referred to Admiral Baynes and the Governor of Washington territory respectively.

These suggestions will be acceptable to the conditions which govern the territorial authorities of Washington, while satisfying the obligations of the military service to their own as well as the civil laws of the country, and it is fair to presume they will be adopted by Admiral Baynes, since the tenour of his instructions to Captain Bazalgette is sufficiently liberal to justify the conclusion.

Inclosure 3 in No. 56.

Lord Lyons to General Cass.

Sir,

Washington, June 6, 1860.

I HAVE just received from Rear-Admiral Baynes, Commander-in-chief of Her Majesty's naval forces in the Pacific, a copy of the orders issued to the commanding officer of the United States' troops in San Juan by General Harney, and communicated by the General's direction to the officer in command of Her Majesty's troops in the same island.

I do myself the honour to inclose a copy of the orders in question, and I earnestly beg that the United States' Government will take them into consideration.

It would be superfluous to remark upon the inconsistency of the whole tenour and spirit of these orders with the satisfactory arrangement made by General Scott in November last. But there is one point to which I cannot but call the particular attention of the Government of the United States:—

General Harney directs the officer in command of the United States' detachment to acknowledge and respect the civil jurisdiction of Washington territory over the Island of San Juan, and he goes on to say that "he is satisfied that any attempt of the British Commander to ignore this right of the territory will be followed by deplorable results, out of his power to control."

I will contrast with this order the following passage, taken from a letter addressed by General Scott to Governor Douglas on the 9th November last:—

"In the same spirit I had earlier determined to instruct our commanding officer on the island to allow no person claiming to be a functionary of Washington territory to interfere with any British subject residing or happening to be on the same island, whilst it shall remain in dispute between our respective Governments."

To this passage I will add an extract from the orders given by General Scott to the United States' officer commanding on San Juan, and communicated in the same letter by General Scott to Governor Douglas:—

"The General-in-chief wishes it to be remembered that the sovereignty of the island (San Juan) is still in dispute between the two Governments, and until definitively settled by them, that British subjects have equal rights with American citizens on the island."

It will no doubt be in your recollection that a copy of the letter to Governor Douglas which I have quoted was appended to the instructions given by General Scott to the United States' officer on San Juan; that a copy of it was transmitted to General Harney, "for his information and guidance," by General Scott in a letter bearing the same date; and that General Scott, at the same time, stated to General Harney that he "wished it to be remembered that the sovereignty of the island was still in dispute between the two Governments, and, until definitively settled by them, that British subjects had equal rights with American citizens on the island."

It is unnecessary for me to say anything more to show that the recent orders of General Harney are inconsistent with the arrangement made by

General Scott, approved by the President, and accepted by Her Majesty's Government. Under that arrangement tranquillity had been maintained at San Juan for six months, and cordial relations had subsisted between the British and American authorities in the neighbourhood.

I am confident that the Government of the United States will lose not a moment in taking measures to avert the deplorable consequences which would indeed be only too likely to follow any disturbance of the settlement so justly and wisely effected by General Scott.

I have, &c.
(Signed) LYONS.

No. 57.

Lord Lyons to Lord J. Russell.—(Received June 23.)

(No. 205.)

My Lord,

Washington, June 8, 1860.

I HAVE received, just in time to send a copy of it herewith to the post, for the chance of its reaching New York before the departure of the American packet to-morrow, General Cass's answer to my note of the day before yesterday, respecting the orders recently issued by General Harney to the officer commanding the United States' troops on San Juan.

I have, &c.
(Signed) LYONS.

Inclosure in No. 57.

General Cass to Lord Lyons.

My Lord,

Department of State, Washington, June 8, 1860.

I HAVE received your Lordship's communication of the 6th instant, inclosing copies of orders issued by General Harney to the commanding officer of the United States' troops on the Island of San Juan, dated on the 10th of April last, and communicated by the General's direction to the officer in command of Her Majesty's troops on the same island, and have lost no time in bringing the subject to the attention of the President.

I am now instructed to inform you that the arrangement entered into by General Scott in the month of October 1859, in order to prevent any collision upon the Island of San Juan between the American and British authorities pending the negotiations between the two Governments, was strictly in pursuance of a previous arrangement which was made with Mr. Crampton by the Secretary of State of the United States, in July 1855, and met the full approval of this Government.

The orders of General Harney, to which his attention has been called for the first time by the note of your Lordship, and which appear to be in violation of the arrangement of General Scott, have been read, therefore, by the President both with surprise and regret.

It is earnestly hoped that, upon a full explanation of all the circumstances attending them, it may be found that they were not intended to bear the construction which seems naturally to belong to them; and that in any event they will lead to no collision between the American and British authorities on the island. To prevent this, as far as possible, instructions will be immediately sent to the Commanders of the United States' troops in that region, revoking the orders of General Harney, and giving full effect to the arrangement of General Scott. A strict inquiry will also be instituted into the conduct of General Harney, with a view to such measures on the subject as may be found necessary; and for this purpose he has been recalled from his command, and ordered to report at Washington.

I have, &c.
(Signed) LEW. CASS.

No. 58.

Lord Lyons to Lord J. Russell.—(Received June 24.)

(No. 206.)

My Lord,

Washington, June 9, 1860.

I HAVE the honour to inclose a copy of a note, by which I have acknowledged the receipt of General Cass' note of yesterday, informing me that instructions would be sent immediately to revoke General Harney's recent orders concerning San Juan, and to give full effect to the arrangement made by General Scott.

General Cass informed me verbally, this morning, that the instructions in question would be dispatched forthwith by the Pony Express, and that directions would be sent, at the same time, that an officer of approved discretion should be placed in command of the United States' troops on San Juan.

The Pony Express from St. Joseph, Missouri, to San Francisco, affords by far the most rapid mode of communicating with the Pacific coast.

I dispatched, yesterday, to St. Joseph a telegram in cypher, conveying to Rear Admiral Baynes the substance of General Cass' note of that date. This telegram will probably reach San Francisco a week before the instructions from the United States' Government; for that Government is, in many cases, hindered from sending its orders by telegraph, in consequence of not having provided the means of communicating with its officers in cypher.

I have, &c.
(Signed) LYONS.

Inclosure in No. 58.

Lord Lyons to General Cass.

Sir,

Washington, June 9, 1860.

I HAD, yesterday, the honour to receive your note of that date, in which, in reply to my communication of the day before, you were so good as to inform me that instructions would be immediately sent off, revoking General Harney's order of the 10th April last relative to the Island of San Juan, and giving full effect to the arrangement made by General Scott.

I immediately transmitted a copy of this satisfactory note to Her Majesty's Government, and dispatched a telegram communicating the substance of it to Rear-Admiral Baynes, to be forwarded by the Pony Express, which will, I believe, set out from St. Joseph, Missouri, to-day.

I have, &c.
(Signed) LYONS.

No. 59.

The Secretary to the Admiralty to Lord Wodehouse.—(Received June 27.)

My Lord,

Admiralty, June 27, 1860.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for Foreign Affairs, a copy of a letter from Rear-Admiral Sir Robert L. Baynes, dated the 5th May, relating to the joint military occupation of the Island of San Juan by this country and the United States.

I also inclose a copy of the extract forwarded by the Rear-Admiral of the instructions issued by General Harney to the officer in command of the American troops on the island.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure 1 in No. 59.

*Rear-Admiral Sir R. Baynes to the Secretary to the Admiralty.**“Ganges,” Esquimalt Harbour, Vancouver’s Island,
May 5, 1860.*

Sir,

ADVERTING to former correspondence, but especially to my letter of the 14th November last, inclosing a copy of a letter from General Scott to the Governor of Vancouver’s Island, dated the 9th of that month, covering instructions issued to the commanding officer of the United States’ troops landed on San Juan, I request you will inform the Lords Commissioners of the Admiralty that Captain Bazalgette, commanding the Marines I placed on the island for the purpose of establishing a joint military occupation with the United States’ troops, agreeably to the directions contained in your letter of the 23rd December, came over here yesterday with a letter he had received from Captain Pickett, the United States’ officer who had arrived to supersede Captain Hunt in command of the American troops, inclosing a copy of the instructions given him by General Harney, which I beg you will lay before their Lordships.

2. After the conciliatory tone of General Scott’s letters to Governor Douglas, I was rather surprised at the instructions given by General Harney to the officer sent to supersede the one placed by General Scott on San Juan. They appear to me to set aside all the arrangements made by General Scott, and re-open the question by assuming the sovereignty of the United States on the island, and the jurisdiction of the civil power of the Washington territory.

3. I shall make no alteration in the orders given to Captain Bazalgette, commanding the party of Marines on the island, but be guided entirely by what may arise.

4. After consulting with Governor Douglas, I have not thought it necessary to enter into any correspondence with General Harney.

5. There has existed on San Juan, since November last, so good an understanding amongst all parties, that I had intended shortly to leave Vancouver’s Island to visit other parts of the Station; but, under existing circumstances, I deem it more prudent to remain in the neighbourhood until matters wear a more promising aspect.

I have, &c.

(Signed) R. LAMBERT BAYNES.

Inclosure 2 in No. 59.

Assistant Adjutant-General Pleasonton to Captain Pickett, U.S.A., April 10, 1860.

[See Inclosure 2 in No. 56.]

No. 60.

Lord J. Russell to Lord Lyons.

(No. 158.)

My Lord,

Foreign Office, June 29, 1860.

HER Majesty’s Government entirely approve the note of which a copy is inclosed in your Lordship’s despatch No. 204 of the 7th instant, and which you addressed to General Cass on learning that General Harney had disturbed the arrangement effected by General Scott, with regard to the Island of San Juan.

General Harney appears to be bent upon producing hostilities between the two countries, and the sooner he can be removed from his command, the better it will be.

I am, &c.

(Signed) J. RUSSELL.

No. 61.

Lord J. Russell to Lord Lyons.

(No. 159.)

My Lord,

Foreign Office, June 29, 1860.

I HAVE received your Lordship's despatch No. 205 of the 8th instant, inclosing a copy of General Cass' answer to your note respecting the recent orders issued by General Harney, with regard to San Juan.

That answer is quite satisfactory, and is just what Her Majesty's Government expected.

I am, &c.
(Signed) J. RUSSELL.

No. 62.

Lord Lyons to Lord J. Russell.—(Received July 2.)

(No. 213.)

My Lord,

Washington, June 18, 1860.

I HAVE the honour to transmit to your Lordship a copy of a letter, which I received on the 14th instant, from Mr. A. G. Dallas, President of Council of the Hudson's Bay Company in North America. With reference to that part of the letter which relates to the visit made by Mr. Dallas to San Juan in July last, I have the honour to inclose a copy of a letter addressed by Mr. Dallas to General Harney.

The object of Mr. Dallas in this letter to General Harney, is to defend himself against the imputations contained in some of the papers relative to the occupation of San Juan by United States' troops, which were printed by order of the United States' Senate.

Your Lordship will perceive that Mr. Dallas has expressed to me a strong desire that the letter may be brought to the notice of the President, and of General Scott. I should be unwilling at this moment to reopen a discussion with the Government of the United States on the subject, but I have nevertheless thought that I could not, in justice to Mr. Dallas, withhold the letter. I have thought too that it might be desirable to place upon record one more proof of the utter groundlessness of the pretext put forward by General Harney, in justification of his sending troops to San Juan. I have accordingly transmitted to General Cass a copy of the letter, with a note explaining my reasons for doing so.

I have the honour to inclose a copy of the note, and also a copy of a letter on the subject which I have written to Mr. Dallas.

I will address to your Lordship a despatch immediately following this, concerning that part of Mr. Dallas' letter to me which relates to the affairs of the Hudson's Bay Company.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 62.

Mr. A. G. Dallas to Lord Lyons.

Sir,

Fort Vancouver, May 10, 1860.

I TAKE the liberty of addressing your Lordship on the subject of the recent occupation of San Juan Island by American troops, in connection with my name, in order to guard against the possibility of your being misled by the reiterated assertions of American writers, that any act of mine, directly or indirectly, warranted such an infringement of the Law of Nations.

I cannot do better than refer your Lordship to the inclosed copy of a letter which I have this day addressed to General Harney, which fully explains itself, and my share in the affairs of San Juan. The correspondence alluded to between General Harney, Governor Douglas, and

others, will be found in a pamphlet on the affairs of San Juan Island, published by the American Senate, and of which your Lordship is no doubt already in possession of a copy.

If not contrary to etiquette, or to your Lordship's views of what it is right and proper to do in the matter, may I request that a copy of my letter to General Harney be laid before the President and General Scott, both on public and private grounds? I conceive that the free use made of my name, in the President's last Message to the Senate, as well as his acceptance and publication of a letter from a private individual, containing, so far as it is intelligible, unwarranted imputations on me and the Company which I represent, justify me in making this request.

I also inclose, for your Lordship's information and guidance, copy of another letter which I have this day addressed to General Harney, upon the subject of the possessory rights of the Hudson's Bay Company at this place, together with copies of previous correspondence between our Agents and General Harney, and other documents bearing upon the same subject.

I am aware that a correspondence is now going on between the Hudson's Bay Company in London and the Foreign Office, upon the above subject; and I consider it important that your Lordship should be in possession of the latest intelligence from this side. In this view, I may again trespass on your notice should anything of importance occur, and in the meantime I should be glad to know if such communications will be acceptable.

Trusting, &c.
(Signed) A. G. DALLAS.

Being here at present merely on my way to Fort Colville and the interior of British Columbia, my permanent address is, "Victoria, Vancouver's Island."

A. G. D.

Inclosure 2 in No. 62.

Mr. A. G. Dallas to Brigadier-General Harney.

Sir,

Fort Vancouver, May 10, 1860.

I BEG leave to address you on the subject of the recent occupation of San Juan Island by American troops, in which my name has been so freely and unwarrantably made use of, and to give the most unqualified contradiction to the part attributed by you and others to me, as having given occasion to that act.

I can come to no other conclusion but that you were imposed upon in making and acting upon the statement contained in your letters of August 7, 8, 25, and 29, to the Adjutant-General to Governor Douglas on August 6, to Captain Pickett on July 18, and to General Scott on July 19.

1. Though the son-in-law of Governor Douglas, I have no connection with, or influence whatever in the affairs of, Government, nor has he any interest, directly or indirectly, in the affairs of the Hudson's Bay Company. On the contrary, the respective interests under our care are rather conflicting and antagonistic.

2. It has been frequently stated that I am a member of Council of Victoria. This is not the case; I hold no office, honorary or otherwise, under the Crown or the Colonial Government.

3. I am not a chief factor in the service of the Hudson's Bay Company, as has been stated, but a Director of the Company, and President of Council in North America.

4. I never visited the Island of San Juan in any man-of-war. My arrival there on the afternoon of the day upon which Cutler committed the trespass, was purely accidental. I landed from the Company's steamer "Beaver," used solely for purposes of trade, accompanied by two friends. Next day, accompanied in addition by Chief-trader Griffin, our agent upon the island, we took the opportunity, in passing Cutler's hut or tent, to call

upon him; I remonstrated with him in regard to his offence, which he admitted, offering to pay the value of the animal killed, which was not accepted. No demand of 100 dollars, or any sum of money, was made upon him, nor did I threaten to apprehend him or take him to Victoria. On the contrary, I stated distinctly that I was a private individual, and could not interfere with him. I have, fortunately, three unimpeachable witnesses to prove this. Cutler was, perhaps, alarmed at seeing four of us approach him on horseback; and, conscious of being in the wrong, not unnaturally took it for granted that we had come to seek reparation. After some further general talk, in the course of which Cutler threatened to shoot any more of our animals that might interfere with him, we rode away; and the only further notice taken of the affair by me was in a conversation held with Governor Douglas, when I suggested to him to appeal to the authorities of Washington territory, requesting them to restrain their citizens on San Juan Island from committing further trespasses. He declined to adopt my suggestion, and the matter dropped.

5. Cutler did not use any threat to me, and I gave him no cause to do so. What has been dignified by the name of his farm consisted of a very small patch of potatoes, partially fenced on three sides, and entirely open on the fourth. The boar was shot in the adjoining forest. With a stock of 5,000 sheep, and a number of horses, cattle, pigs, &c., it will be apparent to you that it would have been impossible for us to restrain any of these animals from committing depredations on such "farms" as Cutler's. The loss and annoyance occasioned to us by squatters in the midst of our sheep-runs must be also equally apparent. Under circumstances of great provocation, the utmost forbearance has been invariably exercised by the Hudson's Bay Company towards American squatters and others.

6. The Hudson's Bay Company has never threatened to stir up the Northern Indians against American citizens on San Juan Island or elsewhere. On the contrary, we have always cautioned them to treat American citizens as friends and brothers. The policy of the Hudson's Bay Company has been always a peaceful one.

7. I cannot, as you state, use a British ship-of-war, without the authority of Governor Douglas or the British Admiral, nor have I done so, or ever attempted anything of the kind. No British ship-of-war has to my knowledge taken the slightest supervision of the affairs of the Hudson's Bay Company.

8. In your letter of 29th August to the Adjutant-General, you say, "A British man-of-war lands Mr. Dallas, the Chief Factor of the Hudson's Bay Company, who abuses one of our citizens in the harshest manner, and threatens to take him by force to Victoria for trial and imprisonment. Finding the citizen resolute in the defence of his rights, the Americans were informed the British Indians would be sent down upon them to drive them from the island. I shall substantiate these facts by the affidavits of American citizens of such position and character as cannot leave a doubt of their truth, and showing the attempted denial of Governor Douglas in his communication of the 13th instant is only a quibble." On reference to the affidavits of Paul K. Hubbs, jun., and Lyman A. Cutler, I find it certified that I landed from the Hudson's Bay Company's steamer "Beaver;" I also find, in a memorial to yourself from the American citizens resident on San Juan on the 10th July, the memorialists state that but for the timely aid of the Hudson's Bay Company, the United States' Inspector would have fallen a victim to the savage designs of the Indians. Such is the manner in which the accusations brought against me are substantiated.

9. I cannot conclude without taking notice of a letter from Paul K. Hubbs, of Port Townsend, under date September 3, addressed to the President of the United States, in which he states that Governor Douglas is the Chief Director of the Hudson's Bay Company. This is, as I have already stated, utterly untrue. Another portion of Mr. Hubbs' unintelligible letter, in so far as I understand it, states that the Hudson's Bay Company, with half-a-dozen armed steamers, did land and go to the man that shot the boar, and that five of them (the steamers, I presume), could

not take him, but threatened to send the "Plumper," a British frigate, for him. The "Plumper" is a small and well-known surveying barque, and this whole statement is too absurd to require refutation. It is only the fact of the letter of a private individual containing some statements as false as others are unintelligible, having been addressed to the President of the United States, and circulated by him, which induces me to notice it at all.

As the Representative of a large public Company, I feel compelled to come forward thus emphatically to contradict the misstatements and accusations which have been repeatedly and extensively circulated regarding the Company and myself. I have endeavoured to do so as courteously as emphatic denial would admit, and with the view also of removing from your mind any misapprehension which might still exist under a complication of circumstances, in regard to which you have evidently been misinformed.

I have, &c.
(Signed) A. G. DALLAS.

Inclosure 3 in No. 62.

Lord Lyons to General Cass.

Sir,

Washington, June 14, 1860.

IT is not with any view of entering into a discussion upon the subject to which it relates, that I do myself the honour to transmit to you the inclosed copy of a letter addressed to General Harney by Mr. Dallas, a Director of the Hudson's Bay Company, and the Company's President of Council in North America.

The object of Mr. Dallas in writing the letter has been to place upon record a true account of the visit made by him in July last to San Juan, which was alleged as one of the causes which induced General Harney to place a detachment of United States' troops upon that island.

Mr. Dallas has felt it to be due to himself, and to the Company which he represents, to clear himself from the imputations upon his conduct contained in some of the papers printed among the correspondence laid before the United States' Senate with the President's Message of the 30th January last. Being particularly desirous that his proceedings should be represented in their true light to the President and to General Scott, he has requested me to take measures to bring his letter to General Harney to the notice of those illustrious persons.

It is in order to comply with this request, and, as I have already said, not with any view of entering into a discussion on the subject, that I have done myself the honour to communicate the letter to you.

I have, &c.
(Signed) LYONS.

Inclosure 4 in No. 62.

Lord Lyons to Mr. A. G. Dallas.

Sir,

Washington, June 16, 1860.

I HAD, on the 14th instant, the honour to receive a letter from you dated the 10th ultimo.

With reference to that part of it which relates to the account given in certain American documents of your visit to the Island of San Juan in July last, I beg to transmit to you a copy of a note, with which, in compliance with your request, I have transmitted to the United States' Secretary of State a copy of the letter which you wrote on the subject to General Harney on the 10th ultimo.

I may mention that, last year, while the subject was in discussion between the United States' Government and me, I lost no opportunity of

pointing out to that Government, both verbally and in writing, the inaccuracy of the statements respecting your proceedings made by General Harney and other American authorities.

I have, &c.
(Signed) LYONS.

No. 63.

Mr. Elliot to Mr. Hammond.—(Received July 12.)

Sir,

Downing Street, July 11, 1860.

WITH reference to Mr. Murray's letter of the 27th ultimo, I am directed by the Duke of Newcastle to transmit to you, for the consideration of Lord John Russell, a copy of a despatch from the Governor of Vancouver's Island, containing the intelligence, already known to the Foreign Office, of the appointment of Captain Pickett in the place of Captain Hunt to command the United States' troops on the Island of San Juan.

I am to forward, at the same time, a packet addressed to Lord Lyons, which accompanied Governor Douglas' despatch, and which is presumed to be the communication to which the Governor refers in the sixth paragraph of his despatch.

I am to request that this packet may be forwarded to Lord Lyons by an early opportunity.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure in No. 63.

Governor Douglas to the Duke of Newcastle.

My Lord Duke,

Victoria, Vancouver's Island, May 7, 1860.

I HAVE the honour to forward, for the information of your Grace, copy of a letter, with its inclosures, which I have received from Rear-Admiral Baynes, informing me that Captain Hunt had been superseded in command of the United States' troops on the Island of San Juan by Captain Pickett, and transmitting a copy of that officer's instructions from General Harney, the General commanding the Department of Oregon.

2. Your Grace's attention will naturally be attracted by the extraordinary character of those instructions, and you will be surprised to observe that the General Commanding declares he is not cognizant of any arrangement having been made by the Government of the United States and Great Britain for the joint military occupation of the Island of San Juan; and it is also worthy of remark that he alludes to the civil jurisdiction of the territory of Washington as being in force within the Island of San Juan, and all the other islands in the Canal de Haro; which is, in other words, asserting the sovereignty of the United States over the disputed territory.

3. In taking up that position, the General Commanding apparently overlooks the fact that the legislative action of any mere dependency of the United States can have no force or effect for or against international questions which were agitated before that dependency had an existence as integral portion of the United States.

4. The mischievous tendency of these assumptions must be apparent to your Grace, as cases involving the security of British rights and interests may at any time be brought under the notice of the military officer in command of the British detachment on San Juan, and just protection must be accorded to British subjects, even though that act of duty should be followed by the deplorable results anticipated by the General Commanding, but over which (though in this I am expressing a view the opposite of his own) he clearly possesses the most perfect power of control.

Y

If the General Commanding really does anticipate disastrous consequences from the measures he is now taking, he may perhaps be able to explain why the established status as heretofore existing on the Island of San Juan in consequence of the understanding with Lieutenant-General Scott, and which is agreeable to both Governments, is now, by his act, and without any apparent necessity, disturbed.

5. Your Grace will observe that the General Commanding declares, in his instructions, that no orders were left with him by Lieutenant-General Scott to accede to a joint military occupation of San Juan, and that the Government of the United States have not delegated to him any authority to offer or accept such occupation.

6. In that case, though practically wrong, he is, nevertheless, technically right in saying that no Convention for the joint occupation of San Juan has been agreed to by the Government of the United States. I have, therefore, by this mail forwarded the whole correspondence to Lord Lyons, and have submitted to his Lordship that no time should be lost in placing General Harney in possession of the real views and intentions of his own Government, whose action, by his proceeding, he virtually ignores.

7. It has occurred to me that possibly no definite arrangement has really been made and no Convention entered into by the two Governments for a joint occupation of San Juan. I have, consequently, taken the liberty of also submitting to Lord Lyons that measures should be at once instituted for arranging the basis upon which the disputed territory is to be held until the question of title is finally settled.

8. Probably the easiest solution of the difficulty is to continue the joint military occupation of the island as heretofore established, that basis being acceptable to both Governments; and, next to the entire removal of the troops of both Powers, the best arrangement for preventing complications.

9. In carrying out that measure I would suggest that the Civil Magistrates, on both sides, should be wholly withdrawn, for their presence would only serve to embarrass the Military Commanders; they can render them no real assistance in the discharge of their duties, as no civil jurisdiction can properly exist within the territory so long as it remains in dispute.

10. When some such measure is arranged, it will not be discretionary with the local officers of either Government to disturb the established status of the disputed territory, and to defeat the evident desire of both Governments to maintain amicable relations.

11. I will only further remark, in reference to this subject, that, impressed as we are with the conviction that General Harney is acting in this matter without authority from his Government, we do not deem it necessary to make any change in the instructions issued to Captain Bazalgette, commanding the detachment of Royal Marines now occupying the Island of San Juan. He will continue to act in good faith and in the most friendly spirit; but your Grace will readily perceive that, notwithstanding the best intentions on our part, the most serious complications may suddenly arise out of the present state of affairs.

I have, &c.

(Signed) JAMES DOUGLAS.

No. 64.

Lord Lyons to Lord J. Russell.—(Received July 16.)

(No. 221.)

My Lord,

Washington, July 2, 1860.

I HAVE the honour to inclose a copy of a note from General Cass, suggesting that Her Majesty's Government should make to the Government of the United States a proposal for a mutually acceptable adjustment of the questions at issue under the Treaty signed at Washington on the 15th June, 1846.

These questions, as your Lordship is well aware, are two in number ; the one relating to the sea boundary between Her Majesty's possessions and those of the United States west of the Rocky Mountains ; the other, to the possessory rights of the Hudson's Bay and Puget's Sound Companies in the territory assigned by the Treaty to the United States.

The two questions stand at this moment in different positions.

With regard to the sea boundary, a compromise was proposed by your Lordship's despatch to me No. 42 of the 24th August last. By the arrangement suggested in that despatch the greater number of the islands in dispute would have been given to the United States, but the Island of San Juan would have fallen to Great Britain. The arrangement was, however, rejected by the United States' Government, and a correspondence ensued, the last paper of which is a despatch from General Cass to Mr. Dallas dated the 23rd April last, reiterating the refusal of the United States' Government to accede to your Lordship's proposal.

With a view to settling the question of the possessory rights of the Companies, General Cass stated to Lord Napier, in the month of July 1858, that he was disposed to negotiate a Treaty under which a Commission might be appointed to value these rights, with a view to their purchase by the United States. Her Majesty's Government declared their readiness to conclude such a Treaty, and have frequently pressed the Government of the United States to enter upon the negotiation, but have never received any definite answer. During the whole time, however, encroachments upon the property of the Companies have been made not only by private citizens, but by the civil and military officers of the United States, and have been the subjects of continual remonstrance on the part of this Legation. At last, General Harney, Commander of the United States' forces in Oregon, by a letter written by his order on the 3rd March last, declared that the Hudson's Bay Company were not recognised as having any possessory rights. In answer to a note dated the 25th of May last, in which, by command of Her Majesty's Government, I brought this declaration to the notice of the Government of the United States, General Cass informed me that orders had been sent to General Harney, which would effectually prevent any interference with the Hudson's Bay Company, and that every facility would be afforded by the State Department for a prompt, just, and amicable solution of the general question.

Upon this (as your Lordship is aware) I pressed with renewed earnestness upon General Cass, in oral communications, the importance of taking means, without further delay, to effect such a solution. The result has been the note inclosed in the present despatch. In that note General Cass expresses the concurrence of the President in the declaration made by your Lordship's order in my note of the 25th May already mentioned, that it would serve no good purpose to settle the question of San Juan, unless the question of the Hudson's Bay Company were settled at the same time. And General Cass founds upon this declaration a suggestion that Her Majesty's Government should now make a proposal for the adjustment of both questions.

I have, &c.
(Signed) LYONS.

Inclosure in No. 64.

General Cass to Lord Lyons.

My Lord,

Washington, June 25, 1860.

I COMMUNICATED to the President the conversation I had with your Lordship a few days since concerning the existing differences between our respective Governments arising out of the Treaty of Washington of the 15th June, 1846, and I have been instructed to assure your Lordship that the President is equally solicitous with the Government of Her Britannic Majesty for the amicable and satisfactory adjustment of the questions now at issue, and he concurs in the opinion entertained by your Government as stated in your note of the 25th May, 1860,

that a partial settlement of this controversy would serve no good purpose, but that the whole subject in dispute under the Treaty should be settled at the same time. And I have it further in charge to assure your Lordship that this Government is ready to receive and fairly to consider any proposition which the British Government may be disposed to make for a mutually acceptable adjustment, with an earnest hope that a satisfactory arrangement may speedily put an end to all danger of the recurrence of those grave questions which have more than once threatened to interrupt that good understanding which both countries have so many powerful motives to maintain.

I have, &c.
(Signed) LEW. CASS.

No. 65.

Lord Lyons to Lord J. Russell.—(Received July 16.)

(No. 222.)

My Lord,

Washington, July 2, 1860.

WITH reference to my despatch No. 213 of the 18th ultimo, I have the honour to transmit to your Lordship a copy of a note in which General Cass informs me that he has communicated to the President and to General Scott the letter addressed to General Harney by Mr. A. G. Dallas, President of Council of the Hudson's Bay Company, relative to the occurrences which were alleged as grounds for the occupation of the Island of San Juan by United States' troops.

I have sent to Mr. Dallas a copy of General Cass' note.

I have, &c.
(Signed) LYONS.

Inclosure in No. 65.

General Cass to Lord Lyons.

My Lord,

Washington, June 25, 1860.

I HAVE the honour to acknowledge the receipt of your Lordship's note of the 14th instant, inclosing the copy of a letter of the 10th ultimo, addressed to General Harney by A. G. Dallas, Esq., a Director of the Hudson's Bay Company, and the Company's President of Council in North America.

In reply, I have the honour to state that I have submitted Mr. Dallas' letter to the President, and also communicated a copy of it to General Scott.

I have, &c.
(Signed) LEW. CASS.

No. 66.

Lord J. Russell to Lord Lyons.

(No. 171.)

My Lord,

Foreign Office, July 20, 1860.

HER Majesty's Government are reminded, by what has recently occurred at San Juan, of the unsettled state of the question of jurisdiction upon that island.

It appears to Her Majesty's Government that an attempt to establish a concurrent civil jurisdiction is likely to fail. A separate jurisdiction over separate portions of the island, in the hands of British and American magistrates, might possibly succeed: but perhaps the best course would be that the magistrates on both sides should be withdrawn, and that, as long

as the right of sovereignty over the island remains undetermined, the jurisdiction should be exclusively of a military character.

The friendly relations which have continued, without interruption, between the British and United States' forces, afford a guarantee for their harmonious action in this matter: but Her Majesty's Government think it would be better, in order to prevent the risk of future misunderstanding, that the point should be definitively arranged by means of a Convention, or by an exchange of notes between yourself and General Cass.

Your Lordship is accordingly instructed to propose to the United States' Government the withdrawal, on both sides, of the civil magistracy from the Island of San Juan, and the establishment of a military jurisdiction on the basis of the arrangement effected by General Scott; or if it shall seem better to the United States' Government to have a separate jurisdiction in different parts of the island, Her Majesty's Government will not object to such an arrangement.

The details of any arrangement, which of course must be regarded as a temporary and provisional measure pending the settlement of the question of sovereignty, may be settled between yourself and the United States' Government.

I am, &c.
(Signed) J. RUSSELL.
