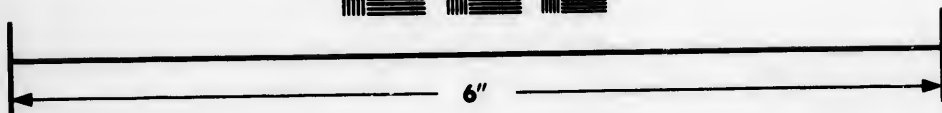
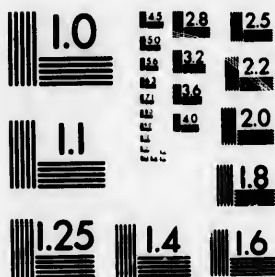


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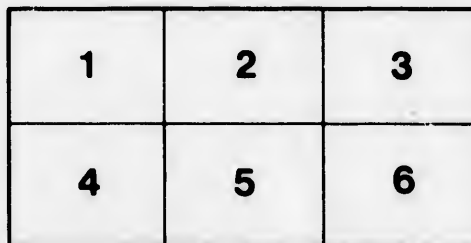
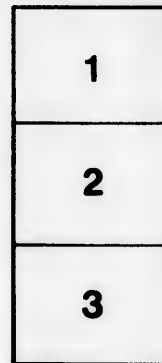
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MESSAGE
OF
THE PRESIDENT OF THE UNITED STATES,
COMMUNICATING,

In compliance with a resolution of the Senate of December 18, 1867, information in relation to the occupation of the island of San Juan, in Puget Sound.

FEBRUARY 22, 1868.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

To the Senate of the United States:

In answer to a resolution of the Senate of the 18th of December last, requesting information in regard to the island of San Juan, in Puget sound, I transmit a report from the Secretary of State and the papers which accompany it.

ANDREW JOHNSON.

WASHINGTON, February 20, 1868.

Report of the Secretary of State accompanying the President's message of February 20, 1868, in answer to Senate resolution of December 20, 1867, in relation to the island of San Juan, in Puget sound.

DEPARTMENT OF STATE,

February 20, 1868.

The Secretary of State, to whom has been referred the resolution of the Senate of the 18th of December last, requesting the President to communicate to the Senate, if not incompatible with the public interests, "any agreement between the government of the United States and that of Great Britain in relation to the occupation of San Juan Island, in Puget Sound, with copies of any correspondence on the subject of the claims of the respective governments to said island, and a statement of the reasons why the government of the United States has permitted a joint occupation of the same to Great Britain," has the honor to submit a copy of such of the papers called for by the resolution as are in the possession of this department.

These papers consist of the reports and correspondence of Archibald Campbell, the commissioner on the part of the United States to carry into effect the first article of the Treaty of the 15th of June, 1846, between the United States and Great Britain, with a copy of his correspondence with Capt. Prevost, the commissioner on the part of her Britannic Majesty's government in relation to the boundary line between the continent and Vancouver's Island, and a general discussion of the subject of the claims of the United States and Great Britain to San Juan and other islands of the Haro Archipelago; correspondence between Lewis Cass, Secretary of State, and Lord Russell, the secretary of state for foreign affairs

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of Great Britain, in regard to the disputed boundary; Senate executive document No. 10 of the thirty-sixth Congress, first session, containing a message of the President of the United States, "communicating, in compliance with a resolution of the Senate, the correspondence of Lieutenant General Scott concerning the island of San Juan, and papers relating to his mission to the territory in dispute." The papers transmitted include also recent correspondence between this department and the War Department concerning the manner in which the joint military occupation, at first declined by the governor of Vancouver's Island, pending instructions from his government, was subsequently effected; and still later correspondence between the two departments in reference to the existing condition of affairs at San Juan, all of which papers are enumerated more in detail in the subjoined list.

From the papers contained in the Senate document above mentioned, and the communication of the 16th of January, 1868, from the War Department, it appears that General Scott, under the authority of James Buchanan, President of the United States, proposed to the governor of Vancouver's Island a joint military occupation of the island of San Juan "for the temporary adjustment of any present difficulty until the two governments should have time to settle the question of title diplomatically;" but the governor did not then assent to the proposition, for the reason, as stated by himself, that he could not do so, "without the sanction and express instructions of his government;" but that in the ensuing spring of 1860, Admiral Baynes, in command of the British squadron on that station, sent a detachment of marines to the northern part of San Juan Island "for the purpose of establishing a joint military occupancy agreeably to the proposition of Lieutenant General Scott."

A recapitulation of some of the more striking facts in relation to the north-western boundary which appear in the accompanying documents, and in the earlier diplomatic correspondence preceding the treaty, may be useful and convenient.

In the various negotiations which took place between the United States and Great Britain for the settlement of the Oregon controversy, the United States made the proposition that the boundary line should run along the 49th parallel. This line was proposed as a compromise of their conflicting claims to the territory west of the Rocky mountains, between the latitudes of 42° and 54° 40'. For a long period the British government persisted in asserting a claim to the territory lying to the westward of the Columbia river. This pretension was adhered to until a short time previous to the conclusion of the treaty of 1846, when they so far receded from their position that they were willing to adopt the proposed compromise, provided that Vancouver's Island were left to the undivided jurisdiction of Great Britain. The United States finally consented to this concession, and a boundary was adopted having in view this object. This boundary is defined in the first article of the treaty of June 15, 1846, in the language following:

ARTICLE I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude, to the middle of the channel which separates the continent from Vancouver'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 the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties.

Every officer of the government, so far as the sources of information open to this department show, who had any part in the negotiation, adoption or ratification of the treaty, assented to it with the full understanding that the deflection of the boundary from the 49th parallel was consented to for the sole purpose of

giving the whole of Vancouver's Island to Great Britain, and that to effect this purpose the line was to be carried through the Canal de Haro to the Straits of Fuca, on its way to the Pacific Ocean. This line gives to the United States the Haro Archipelago, of which San Juan Island forms a part.

The treaty having been concluded, and the exciting controversy of forty years having been settled, the government of the United States remained, for a time, without any further interest in the boundary, awaiting the settlement of the country before exhibiting any anxiety to have the line definitively marked.

In November, 1846, Mr. Bancroft, then minister of the United States at London, communicated to this department his apprehensions of a design on the part of Great Britain to claim the boundary line to be through the Rosario Strait instead of the Canal de Haro, so as to throw the island of San Juan and the other islands of the Haro Archipelago within the limits of British jurisdiction. Mr. Bancroft met this pretension promptly, and for a time it was apparently abandoned. He was then under the impression that the Hudson's Bay Company were the parties who sought to possess that valuable group of islands, and that the British ministry did not favor their proceedings.

In January, 1848, Mr. Crampton, the British diplomatic representative accredited to the United States, under instructions from his government, made a proposition to the United States to appoint joint commissioners for the purpose of determining the water boundary. With this proposition was presented a draught of joint instructions to the commissioners, framed so as to leave but little for them to do except to run the line through the channel, which would give to Great Britain all the islands of the Haro Archipelago.

In 1852, the Territory of Oregon, by an act of their legislature, included the Haro Archipelago in one of its counties; and after the passage of this act, the Hudson's Bay Company established a post on San Juan Island. When the Territory of Washington was created these islands were declared by the legislature of that Territory to form a part of Whatcom County. In 1855 the property of the Hudson's Bay Company on San Juan Island was assessed in the same manner as other property within the Territory, and upon their refusal to pay the taxes, their property was advertised and sold, in the usual way, to satisfy the demand. This led to a correspondence between the governors of Vancouver's Island and Washington Territory, in which the former declared that he had the orders of her Majesty's government to regard the islands of the Haro Archipelago as a part of the British dominions. This correspondence, with a heavy claim for damages, was laid before this department by John F. Crampton, esq., the British minister here at the time, with a renewal of his proposition for the appointment of a joint commission to determine the boundary line, and in the event that the proposal could not be met by the government of the United States without difficulty or delay, he suggested "the expediency of the adoption, by both governments, of the channel marked as the only known navigable channel by Vancouver, as that designated as the treaty." In other words, the United States were requested to run the line through Rosario Strait and give up to Great Britain the Haro Archipelago.

The Executive complied with Mr. Crampton's proposal so far as to recommend to Congress the creation of a commission to determine the boundary line, and on the 11th of August, 1856, an act was passed authorizing a commission, on the part of the United States, to unite with similar officers to be appointed on the part of the British government. Instead of adopting the proposed joint instructions to the commissioners, each government instructed its own commissioner as to the duties he was to perform.

In 1857 the commissioners met at Esquimalt harbor, Vancouver's Island, and exchanged credentials, with the understanding that they were mutually invested with full powers; and the discussion of the boundary question took place with this understanding on the part of the United States commissioner.

The discussion thus entered into, in connection with the subsequent diplomatic correspondence on the subject, merits careful attention as an exposition of the views of the two governments in relation to the channel contemplated by the treaty. The United States commissioner bases his claim to the Canal de Haro on the ground that it is the *main* channel south of the forty-ninth parallel leading into the Straits of Fuca, and that it accomplishes the sole object for which the line was deflected south from the forty-ninth parallel, instead of being extended on that parallel to the ocean, namely, to give the whole of Vancouver's Island to Great Britain. His first position is based upon the charts and maps extant at the date of the treaty, and those of latest dates, which show the Canal de Haro to be by far the widest and deepest channel. The second view seems quite as strongly supported by the contemporaneous evidence of those who took part in negotiating the treaty.

The British commissioner lays claim to Rosario Straits, on the ground that it answers to what he designates as the "*very peculiar wording*" of the treaty; that is, he assumes that the Rosario Strait specially meets the requirement of the language, "separates the *continent* from Vancouver's Island;" whereas, the Canal de Haro merely separates *Vancouver's Island* from the continent. And he intimates that the name of the Canal de Haro was omitted in the wording of the treaty, and the usual mode of expression (separating the lesser object from the greater) was designedly reversed in order to carry the boundary line through the Rosario Strait. He presents no contemporaneous evidence, however, to support either his peculiar argument in relation to the language used, or his statement concerning the omission of the Canal de Haro.

The two commissioners disagreed in regard to the boundary channel. The British commissioner having failed to produce any evidence to substantiate his claim that the Rosario Strait is the channel intended by the treaty, or to produce rebutting contemporaneous evidence to that presented by the United States commissioner in favor of the Canal de Haro, offered as a compromise an intermediate narrow channel, which would throw the island of San Juan, the most valuable of the whole group, on the British side of the line. This compromise the United States commissioner refused to accept.

A perusal of the instructions of the two governments to their commissioners, respectively, will throw much light upon the discussion and its result.

The commissioner of the United States was left untrammelled by those addressed to him, and sought to carry out the intentions of the negotiators of the treaty by consulting all the evidence that could be found for his guidance, determined to carry the treaty into effect by running the line through the channel intended by them, wherever that channel was to be found.

The instructions to the British commissioner, however, were in substance the same as those proposed by Mr. Crampton for the two governments to the joint commission, to run the line through the Rosario Strait, allowing him the discretionary power to adopt an intermediate channel, provided that the United States commissioner could not be induced to accept the channel claimed by the British government. Under no circumstances, however, does he appear to have had the power to accept any channel that would not give his government the island of San Juan. This is clearly ascertained from his instructions, and the British commissioner leaves no doubt on the subject when he writes in his letter offering a compromise channel, "beyond what I now offer I can no further go."

From the correspondence which took place between Mr. Cass, Secretary of State, and Lord John Russell, the British Secretary of State for foreign affairs, after the discussion between the joint commissioners had closed, it appears that the British government renewed the proposition for compromise made by their commissioner, but it was declined. Mr. Cass, as will be seen by the accompanying copy of a note of the 25th of June, 1860, to Lord Lyons, then called upon the British government to make a proposition for the adjustment of the difference

between the two governments. This suggestion was renewed by Mr. Treacot, acting Secretary of State, on the 18th of August, 1860, in a note to Mr. Irvine, Chargé d'Affaires *ad interim* of Great Britain, and that government proposed that the question should be left to the arbitration of one of the three following European powers, namely: Belgium, Denmark, or the Swiss republic. This proposition was made in the note from Lord Lyons of the 10th of December, 1860, to General Cass, and no reply or counter proposition has been made to it.

During the late civil war it was not deemed advisable to pursue the negotiation upon the subject, and the questions between the United States and Great Britain arising out of that war have hitherto been so engrossing that it has not been convenient to bestow attention upon others. It is hoped, however, that a suitable juncture for that purpose will soon occur, and that the point at issue may be amicably adjusted to the mutual satisfaction of the parties.

The accompanying papers, maps, and cross section will, it is believed, present to Congress the merits of the question, and the grounds upon which the executive department of this government has claimed that the island of San Juan and the other islands of the Haro Archipelago are within our boundaries as defined by the treaty.

With reference to the question of joint occupation of the island of San Juan by military forces of the United States and Great Britain, it will be seen from the accompanying papers which relate to that subject that the arrangement was made during the administration of James Buchanan, with a view to avert collisions between the settlers or the military forces of the respective countries, such collisions being supposed to be imminent in 1859. The arrangement, however, is temporary in its character, and was made upon condition that no prejudice to the claim of either government should result therefrom.

Respectfully submitted :

WILLIAM H. SEWARD.

The PRESIDENT.

List of papers accompanying the report of the Secretary of State on the northwest boundary controversy relating to San Juan Island.

1. Mr. Seward to Mr. Campbell, December 21, 1867.
2. Mr. Campbell to Mr. Seward, January 22, 1868, with accompaniments, namely :
 - I. Discussion of the water boundary question, with maps.
 - II. Correspondence relating to the powers of the commissioners.
 - III. Military occupation of San Juan island.
 - IV. Geographical memoir, with map, and cross-sections of the channel.
3. Senate executive document No. 10, 36th Congress, 1st session.
4. Lord Lyons to Mr. Cass, May 12, 1859.
5. Lord Russell to Lord Lyons, August 24, 1859.
6. Lord Lyons to Mr. Cass, September 3, 1859.
7. Lord Lyons to Mr. Cass, September 7, 1859.
8. Mr. Cass to Lord Lyons, September 8, 1859.
9. Lord Lyons to Mr. Cass, September 9, 1859.
10. Mr. Cass to Mr. Dallas, (with an accompaniment,) September 22, 1859.
11. Lord Lyons to Mr. Cass, October 1, 1859.
12. Lord Lyons to Mr. Cass, October 10, 1859.
13. Lord Lyons to Mr. Cass, October 15, 1859.
14. Mr. Cass to Lord Lyons, (with an accompaniment,) October 22, 1859.
15. Mr. Cass to Mr. Dallas, October 20, 1859.
16. Lord Lyons to Mr. Cass, October 24, 1859.
17. Mr. Cass to Mr. Dallas, October 24, 1859.
18. Lord Russell to Lord Lyons, November 29, 1859.

19. Lord Russell to Lord Lyons, December 16, 1859.
20. Mr. Cass to Mr. Dallas, February 4, 1860.
21. Lord Russell to Lord Lyons, March 9, 1860.
22. Mr. Cass to Mr. Dallas, April 23, 1860.
23. Extract of a note of May 25, 1860, from Lord Lyons to Mr. Cass:
24. Lord Lyons to Mr. Cass, (with accompaniments,) June 6, 1860.
25. Mr. Cass to Lord Lyons, June 8, 1860.
26. Lord Lyons to Mr. Cass, June 9, 1860.
27. Lord Lyons to Mr. Cass, (with an accompaniment,) June 14, 1860.
28. Mr. Cass to Lord Lyons, June 25, 1860.
29. Mr. Irvine to Mr. Trescot, August 17, 1860.
30. Mr. Trescot to Mr. Irvine, August 18, 1860.
31. Lord Lyons to Mr. Cass, December 10, 1860.
32. Deputy Marshal Brown to Mr. Seward, [extract,] September 20, 1866.
33. Mr. Seward to Mr. Stanton, November 19, 1866.
34. Mr. Stanton to Mr. Seward, November 20, 1866.
35. Mr. Stanton to Mr. Seward, (with an accompaniment,) December 22, 1866.
36. Mr. Stanton to Mr. Seward, (with accompaniments,) January 16, 1868.
37. Mr. Stanton to Mr. Seward, [extract,] (with an accompaniment,) January 24, 1868.

Mr. Seward to Mr. Campbell.

DEPARTMENT OF STATE,

Washington, D. C., December 21, 1867.

SIR: I transmit a copy of a resolution adopted by the Senate on the 18th instant, calling for correspondence in relation to the respective claims of the United States and Great Britain to the island of San Juan, and other information connected with the subject.

I will thank you to cause to be selected and arranged copies or extracts from any correspondence or discussions, and any information on the file or records of the Commissioner, of the nature indicated in the resolution.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

ARCHIBALD CAMPBELL, Esq., &c., &c., &c.

Mr. Campbell to Mr. Seward.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,

Washington, D. C., January 22, 1868.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st ultimo, enclosing a copy of a resolution of the Senate "calling for correspondence in relation to the respective claims of the United States and Great Britain to the island of San Juan, and other information connected with the subject," and directing me "to cause to be selected and arranged copies or extracts from any correspondence or discussions, and any information on the files or records of the commission, of the nature indicated in the resolution."

In compliance therewith, I respectfully transmit the papers and information called for by the department, including a map and cross-sections to illustrate the water boundary question.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner of the Northwest Boundary Survey.

Hon. WILLIAM H. SEWARD,
Secretary of State.

I.—DISCUSSION OF THE WATER BOUNDARY QUESTION.

Letter of Mr. Campbell to Mr. Cass, February 10, 1858, reporting progress of the work, and enclosing correspondence between the United States and British commissioners, viz :

- Captain Prevost to Mr. Campbell, October 28, 1857.
- Mr. Campbell to Captain Prevost, November 2, 1857.
- Captain Prevost to Mr. Campbell, November 9, 1857.
- Mr. Campbell to Captain Prevost, November 18, 1857.
- Captain Prevost to Mr. Campbell, November 24, 1857.
- Mr. Campbell to Captain Prevost, November 28, 1857.
- Captain Prevost to Mr. Campbell, December 1, 1857.
- Mr. Campbell to Captain Prevost, December 2, 1857.
- Captain Prevost to Mr. Campbell, December 3, 1857.

Minutes of proceedings of joint commission.

Letter of Mr. Campbell to Mr. Cass, June 1, 1858, enclosing—

Letter of Mr. Everett to Mr. Campbell, May 29, 1858.

Pamphlet by Mr. William Sturgis, on the Oregon question.

Letter of Mr. Campbell to Mr. Cass, September 25, 1858, with extracts from reports of General Persifer F. Smith and Captains Stoneman and Whiting.

Letter of Mr. Campbell to Mr. Cass, December 1, 1858, enclosing—

Letter of Mr. Bancroft on the interpretation of the first article of the treaty.

Letter of Mr. Campbell to Mr. Cass, January 20, 1859, reviewing the subject of the water boundary, and enclosing—

Copy of proposition for partition of Oregon Territory.

Analysis of first article of the treaty of June 15, 1846.

Correspondence of Mr. Boyd and Mr. Bancroft with the department in relation to the water boundary, viz :

- Mr. Boyd to Mr. Buchanan, London, October 19, 1846.
- Mr. Bancroft to Mr. Buchanan, London, November 3, 1846.
- Mr. Buchanan to Mr. Bancroft, Washington, December 28, 1846.
- Mr. Bancroft to Mr. Buchanan, London, March 29, 1847.
- Mr. Bancroft to Mr. Buchanan, London, August 4, 1848, enclosing—
- Mr. Bancroft to Lord Palmerston, London, July 31, 1848.
- Mr. Bancroft to Mr. Buchanan, London, October 19, 1848.
- Mr. Bancroft to Lord Palmerston, London, November 3, 1848.
- Lord Palmerston to Mr. Bancroft, London, November 7, 1848.

Proceedings of meeting of Joint Commission, August 6, 1858.

Extract from report of Captain Alden, United States navy, October 31, 1858—exercise of jurisdiction by British authorities, and complaint of an American citizen.

Letter of Mr. Campbell to Mr. Cass, June 14, 1859, reporting condition of water boundary question.

Letter of Mr. Campbell to Mr. Cass, June 21, 1859, reporting condition of water-boundary question, and enclosing map with lines marked through different channels.

Mr. Campbell to Mr. Cass.

WASHINGTON CITY, D. C., February 10, 1858.

SIR: In accordance with my instructions, I have from time to time reported to the department the progress of the work under my charge, but deem it not inappropriate on the present occasion to recapitulate briefly the operations of the Northwest Boundary Commission since its organization.

On the 14th of February last I was appointed commissioner, and Lieutenant John G. Parke chief astronomer and surveyor, to carry into effect the first

article of the treaty with Great Britain of June 15, 1846, as provided for by the act of Congress of August 11, 1856. I received my instructions on the 2nd of February, and proceeded at once to collect all such information within my reach as might contribute to a proper understanding of the meaning of the language of the treaty, and aid in the execution of the work intrusted to me. Lieutenant Parke was instructed to organize a party and prepare a suitable outfit for the prosecution of the survey along the 49th parallel of north latitude, from the western termination of the boundary line on the Gulf of Georgia to the Rocky Mountains. By direction of the department I also made an arrangement with the Superintendent of the Coast Survey for the employment of the surveying steamer *Active* and brig *Fauntleroy*, and the officers and assistants attached thereto, under the authority contained in the fifth section of the act organizing the commission, to make such hydrographical surveys as might be required to aid in the demarcation of the water boundary. Having learned that the British commissioner, Captain J. C. Prevost, of her Majesty's steamer *Satellite*, had left England at the close of December, and might be expected to reach the Straits of Fuca in the month of June, I hastened preparations as much as possible, to meet him at that time.

On the 20th of April, with the party as far as organized, I left New York, and reached San Francisco *via* the Isthmus of Panama on the 16th of May. Captain Alden, of the United States navy, commanding the "*Active*," reported to me that he was preparing the steamer for sea. During the time required for that purpose the organization of the party and outfit for the survey of the land boundary were completed. The "*Active*" being ready for sea on the 17th of June, we started on that day for the Straits of Fuca, and arrived at Victoria, the seat of government of Vancouver's Island, on the 22d, and there learned that the British commissioner had arrived in the neighboring harbor of Esquimalt on the 12th of June.

On the 27th of June the joint commission held its first official meeting. We exchanged credentials and exhibited our respective instructions, by which it appeared that we were mutually invested with full powers to carry into effect the first article of the treaty of June 15, 1846, so far as it relates to the water boundary*—the powers of the British commissioner being limited thereto, and to the determination of the point where the forty-ninth parallel of north latitude intersects the eastern shore of the channel separating the continent from Vancouver's island. In accordance with the act authorizing the commission, my instructions empowered me to determine and mark the entire boundary line between the United States and the British Possessions, as described in the first article of the treaty.

Captain Prevost stated that Captain Richards, of the navy, the chief astronomer and surveyor of the British commission, in command of her Majesty's steamer *Plumper*, was on his way to Vancouver's Island, but could not be expected before September, having only left England at the close of the month of March. In the instructions which Captain Prevost exhibited to me, he is designated as first commissioner, and Captain Richards as second commissioner; but the powers of commissioner, as I understood Captain Prevost, would only devolve upon Captain Richards in case of the death of the first commissioner, and the title was only given to provide for such a contingency; his ordinary duties being those of chief astronomer and surveyor.

The steamer *Satellite* not being prepared for surveying operations, Captain Prevost informed me that he could do nothing toward the determination of the water boundary until the arrival of the "*Plumper*," and after a survey of the channels and islands between the continent and Vancouver's Island and a chart of the same could be made by the chief astronomer and surveyor. This work having in a great measure been already performed by the officers of the United States Coast Survey during the past three years, and the charts having been

* See subsequent correspondence relative to powers of commissioners.

published, I was prepared, without delay, to enter upon the settlement of the question, and so informed the British commissioner.

* * * * *

In consequence of an accident to her machinery, which detained her some time at Rio Janeiro, the steamer Plumper did not arrive at Vancouver's Island as soon as she was expected. Captain Prevost awaited her arrival until the close of October, when he concluded to enter upon the determination of the boundary line without further delay. The joint commission met on the 26th day of October, and Captain Prevost, expressing his regret at the continued absence of Captain Richards, stated that he had had opportunities of verifying the general accuracy of the Coast Survey chart of the channels and islands between the continent and Vancouver's Island, and was willing to adopt it for the purpose of determining the boundary line. We therefore proceeded to the discussion of the subject, which resulted in a correspondence, a copy of which is herewith transmitted for your information as embodying fully our respective views in regard to "the channel which separates the continent from Vancouver's Island;" through which, according to the treaty, the boundary line is to be traced.

From a perusal of the correspondence it will be perceived that for a portion of the distance between the forty-ninth parallel and the Straits of Fuca, we disagree as to "the channel" referred to in the treaty; the British commissioner claiming Rosario Straits and I maintaining the Canal de Haro to be "the channel." Between these two channels are several islands, embracing a space of about 400 square miles, the sovereignty of which is involved in a decision of the question. Captain Prevost finally proposed such a compromise as would throw within the territory of the United States all the islands but San Juan, the largest and most valuable of the group. Being fully satisfied, from my own observation, that the Canal de Haro is the main channel, and consequently "the channel" intended by the treaty, and being supported in this opinion by indisputable contemporaneous evidence of the highest official character, I declined to accede to any compromise. Captain Prevost thereupon proposed a reference of the whole matter to our respective governments, to which proposal I also declined to accede, but informed him that I should report the proceedings of the joint commission to my government, and at the same time submit all the correspondence on the subject.

Deeming this course to be the proper one under the circumstances, I have the honor to lay before you a copy of the proceedings and correspondence above referred to for your consideration and action thereon, and for such further instructions in relation to the determination of the water boundary as may be deemed advisable and necessary by the department.

The speech of Senator Benton of June 18, 1846, on the ratification of the treaty, to which frequent reference is made in the accompanying correspondence, will be found in the appendix to the Congressional Globe, volume sixteen, first session twenty-ninth Congress, 1845-'6, page 867. And I would respectfully refer you to your own speech on the same occasion, in which you confirm the correctness of my views in regard to "the channel which separates the continent from Vancouver's Island." At the time of my discussion with the British commissioner, I was not aware of the existence of this important additional contemporaneous testimony. Although differing with Mr. Benton in the construction to be placed upon many points of the treaty, and opposing its ratification as firmly as Mr. Benton advocated it, there is no disagreement between you as to the meaning of the language of the treaty defining the boundary line now in dispute. In commenting upon the first article of the treaty you thus describe the water boundary:

Vancouver's Island is separated from the continent by an arm of the sea about two hundred and fifty miles in extent; different portions of which are known by different names. One part is called the Straits of Fuca; another the *Canal de Arro*; another the Gulf of Georgia; and the fourth, Queen Charlotte's Sound.

Your speech will be found in the appendix to the Congressional Globe, volume 17, second session twentieth Congress, 1846-47, page 26.

With the highest respect, I have the honor to be your most obedient servant,
ARCHIBALD CAMPBELL,
Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

CORRESPONDENCE BETWEEN THE UNITED STATES AND BRITISH COMMISSIONERS.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Simiahmoo Bay, Gulf of Georgia, October 28, 1857.

SIR: With reference to the various consultations we have had as to the direction in which the boundary line should run through the channel separating the continent from Vancouver's Island, at and to the southward of the forty-ninth parallel of north latitude, into the Straits of Juan de Fuca, and from thence to the Pacific Ocean, I have the honor to communicate to you in writing the views I entertain of the subject.

2. As the water boundary line to be determined is described in the first article of the treaty between Great Britain and the United States of 15th June, 1846, it in my opinion clearly follows that the direction in which the said line is to be traced should alone be sought in the words of that treaty. I will here quote them so far as they relate to the particular line of water boundary:

The line of boundary between the territories of her Britannic majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver'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 the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.

3. Now, upon reference to the chart, it will be found, what indeed is the fact, that at the forty-ninth parallel of north latitude, there is only one navigable channel lying between the continent and Vancouver's Island. This channel is commonly called the Gulf of Georgia, and in its open waters will be found the initial point of the boundary line. From this point there can be but little difficulty in carrying the boundary line, according to the words of the treaty, "southerly through the middle of the said channel," to about 43° 45' of north latitude. Here the waters are studded with islands, through which it is generally admitted two navigable passages are to be found. One is now commonly designated the Rosario Strait, and is situated near to the continent; the other is called the Canal de Arro, and is to be found nearer to Vancouver's Island. Through which of these two channels the boundary line should pass may at first sight appear a matter of doubt, but the precise wording of the treaty, I think, sufficiently determines it. The line is to be carried through the middle of a navigable channel separating the continent from Vancouver's Island, and the only navigable channel separating the continent from Vancouver's Island; at this position is the channel generally called the Rosario Strait. Therefore, my entire conviction is that the boundary line should be carried through those waters known as the Gulf of Georgia into the Rosario Strait, to the Straits of Fuca, and thence to the Pacific Ocean.

4. By a careful consideration of the wording of the treaty it would seem distinctly to provide that the channel mentioned should possess three characteristics: 1st. It should separate the *continent* from Vancouver's Island. 2d. It

should admit of the boundary line being carried through the middle of it in a southerly direction. 3d. It should be a navigable channel. To these three peculiar conditions the channel known as the Rosario Strait most entirely answers.

5. It is readily admitted that the Canal de Arro is also a navigable channel, and therefore answers to one characteristic of the channel of the treaty; although I may as well here mention that from the rapidity and variability of its currents, and from its being destitute of anchorages, except at its extreme ends, it is unsuitable for sailing vessels, and would scarcely ever be used by them so long as the passage through the Rosario Strait remained available; as the currents in that strait being generally regular, and the anchorages convenient and secure, it is by far the more navigable channel of the two. But the Canal de Arro will not meet the two remaining characteristics of the channel of the treaty. It literally and geographically does not separate the continent from Vancouver's Island, that continent having already been separated by another navigable channel, the Rosario Strait; and further, it will be found in tracing the line of boundary according to the literal wording of the treaty, which appears to me peculiarly precise and clear, that the line to reach the Canal de Arro must proceed for some distance in a westerly direction, for which deviation from a southerly direction no provision is made in the treaty. I therefore am unable to admit that the Canal de Arro is the channel of the treaty.

6. Having thus frankly communicated in writing the views that I have already expressed to you verbally, I shall feel indebted to you if you will be so good as to favor me in like manner with your views on the subject, in order that I may devote to them every consideration and reflection.

With the greatest respect and esteem, I beg you will allow me to subscribe myself,

Your most obedient and humble servant,

JAMES C. PREVOST.

*Capt. H. M. Ship Satellite, and Her Britannic Majesty's Commissioner
for determining the aforesaid Line of Boundary.*

ARCHIBALD CAMPBELL, Esq.,

United States Commissioner N. W. Boundary, &c., &c., &c.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Siniahmoo, 49th Parallel, November 2, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th ultimo, embodying your views in relation to the determination of the water boundary between the United States and the British possessions, as described in the 1st article of the treaty of June 15, 1846; and in compliance with your request I herewith communicate my views on the subject for your consideration.

The following is the description of the whole boundary line, that part of it relating to the water boundary being underscored:

"From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver'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 the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties."

It was conceded on both sides in our recent discussions that there would be

no difficulty in tracing the boundary line through the Gulf of Georgia and the Straits of Fuca, (the northern and southern extremities of the line between the forty-ninth parallel and the Pacific Ocean;) but as there are several navigable channels connecting their waters, a question arose as to which of these was "the channel" intended by the treaty. These channels are caused by a cluster of islands, and are of various dimensions. Among them, however, one is found pre-eminent as to width, depth, and volume of water, and in every respect satisfying the requirements of the treaty. This channel has been known since its first discovery as the "*Canal de Haro*," and was the only one usually designated by name on the maps in use at the time the treaty was under consideration. While the other channels only separate the islands in the group from each other, the Canal de Haro, for a considerable distance north of the Straits of Fuca, and where their waters unite, washes the shore of *Vancouver's Island*, and is therefore the only one which, according to the language of the treaty, "separates the continent from *Vancouver's Island*."

The objection raised that for a short distance it would not carry the boundary line in a southerly direction, and thus fails to meet one of the requirements of the treaty, I think, will apply with equal force to the Gulf of Georgia, if the term "southerly" is to be construed in a strictly nautical or technical sense, and with still greater force to the Straits of Fuca, which, for the greater part of its course, runs northwesterly; for the language of the treaty being thence "*southerly through the middle of the said channel, and of Fuca's Straits to the Pacific Ocean*," the direction applies throughout the whole extent of the line. If objection is made on this ground, the treaty will be nullified and cannot be carried into effect. It is quite evident, however, that the term "southerly" is to be understood only in its common and general sense. It is undoubtedly used here in opposition to "northerly," and simply to show that *Vancouver's Island* is to be left on the British instead of the American side of the line, for it can hardly be supposed that the framers of the treaty would have ventured, with the general maps before them, to decide upon the whole course of the line except in the most general terms. The impracticability of applying the same test to the Straits of Fuca clearly shows in what sense the term is to be understood.

Besides the Canal de Haro, there is a prominent channel nearer to the main land, known at present upon the Coast Survey and British Admiralty charts as "*Rosario Strait*." The early Spanish navigators called it the "*Canal de Fidalgo*." Captain Wilkes named it "*Ringgold's Channel*." It is sometimes called "*Vancouver's Straits*" or "*channel*," but, except on the Spanish Admiralty maps, I cannot learn that it was ever designated by name on any of the general maps of the northwest coast likely to be used at the time the treaty was made. "*Rosario Straits*" is a navigable channel, but it does not "separate the continent from *Vancouver's Island*." In no part of its course does it touch upon the shore of either. It separates the islands of Lummi, Sinclair's, Cypress, Guemes and Fidalgo on the east, from Orcas, Blakely, Decatur and Lopez islands on the west, but in no respect does it "separate the continent from *Vancouver's Island*," and cannot, therefore, in my opinion, be claimed, in accordance with the language of the treaty, as *the channel* therein referred to.

There is also another navigable channel connecting the Gulf of Georgia with the Straits of Fuca. It passes between the islands of San Juan, Spieden and Stewart on the west, and Waldron, Orcas, Shaw and Lopez on the east; but, like Rosario Straits, fails to touch the continent or *Vancouver's Island*. There are besides other channels no doubt navigable, but none except the "*Canal de Haro*" answers the requirements of the treaty in all respects.

Although I do not regard the relative merits of the navigability for sailing vessels of the Canal de Haro and Rosario Straits as having any bearing on the determination of the question before us, both being acknowledged navigable in the sense of the treaty, yet, as you have expressed an opinion thereon unfavor-

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able to the Canal de Haro, I must beg respectfully to call your attention to the remarks of Captain Alden of the United States navy on the same subject. This gentleman was for many years in charge of the hydrographic survey of the Pacific coast, and during the working seasons of three years was engaged in examining and surveying these channels. In a report to the Superintendent of the Coast Survey in 1855, he says: "The Gulf of Georgia and Straits of Fuca are connected by two good ship channels called on the charts Haro and Rosario straits. They are of sufficient width, and navigable for vessels of the largest class. The great depth of water presents a difficulty, but anchorages may be had for the most part, as the chart shows, at convenient distances along the shores." In a previous report in 1853, in comparing the two channels, he says that "in almost every respect" the Canal de Haro is the "better" of the two channels. And again in the same report, after speaking of the various channels, he says: "It will be seen that the Canal de Haro is the widest, deepest and best channel." He expressed to me frequently the same opinion after my arrival on this coast, during the brief period in which he was attached to the boundary commission as commander of the Coast Survey steamer Active. My great deference to your knowledge of nautical affairs obliges me to avail myself of the opinions of one of the most experienced and accomplished officers of our Navy and Coast Survey upon a subject relating purely to navigation. No person, however, can travel on these inland waters, and through these channels, and fail to be impressed with the idea of their peculiar adaptation to steam navigation, and the belief is general that eventually steamboats will supersede, in a great measure, the use of sailing vessels. The Canal de Haro, being a much shorter communication between the Gulf of Georgia and the Pacific Ocean, would then have an advantage over Rosario Straits.

From the views hereinbefore expressed, you will perceive that even if we adhere to the mere letter of the treaty, I am firmly convinced that the Canal de Haro is "the channel" through which the boundary line should pass, and unless your consideration thereupon should modify your views, we are still as far from a determination of the boundary line as when we commenced the discussion of the subject. Therefore, should your opinion remain unchanged, it must be evident that, by taking the *literal* reading of the treaty alone as our guide, we are not likely to come to an agreement, nor will its "precise wording" solve the doubt which you intimate may arise at first sight of the chart, as to which of the two channels the boundary line should pass through. I therefore think it becomes necessary to look beyond the mere words of the treaty, and endeavor, if possible, to reach the actual intentions of the treaty makers in using them, for undoubtedly they must have had in their minds some particular channel, though not designated by name in the treaty.

The rule laid down by Vattel is, that, "as soon as we meet with any *obscurity* in a treaty, we should seek for *what was probably in the thoughts of those who drew it up, and interpret it accordingly.*"

Now, however clear it may be to me that the Canal de Haro is "the channel," taking the words of the treaty in the most literal sense consistent with its execution, yet the fact that you are as firmly convinced that Rosario Straits is "the channel," would imply that there was some obscurity in the language of the treaty before us.

Vattel also says :

It is a question in the interpretation of a treaty to know what the *contracting powers have agreed upon, in order to determine precisely*, on any particular occasion, what has been *promised and accepted*—that is to say, not only what one of the parties has had the *intention to promise*, but, also, what the other has *reasonably and sincerely thought to be promised*; what has been sufficiently declared to him, and upon which he must have *regulated his acceptance*. * * * The interpretation of every act, and of every treaty, ought, then, to be made according to certain rules proper to determine the sense of them, such as the parties concerned *must naturally have understood* when the act was *prepared and accepted*.

He again says :

The *reason* of the treaty, that is, the *motive* which led to the making of it, and the view there proposed, is one of the most certain means of establishing the true sense, and great attention ought to be paid to it whenever it is required to explain an obscure, equivocal and *undetermined* point.

Following the above rules for the interpretation of the treaty before us, so far as it devolves upon us to carry it into effect, I will proceed to prove, by cotemporaneous evidence of the highest authority, that the Canal de Haro was the channel proposed by the British government, and accepted by the United States government, as the one through which the boundary line was to be traced ; and that the language of the treaty, drawn up by the British government, was intended to convey that fact, and was so understood by the government of the United States.

The correspondence in relation to the treaty of June 15, 1846, published by order of the Senate of the United States, will show conclusively that the reason or motive for not carrying the forty-ninth parallel as a boundary line to the Pacific Ocean was, that the British government refused to surrender the southern cape of Vancouver's Island, which was claimed by the American government. The latter finally agreed to the proposal of the former, to make such a deflection from the forty-ninth parallel as would avoid dismembering the island. It is certainly fair to suppose that, in carrying out this intention, the nearest natural boundary would be sought by the negotiators, which the maps would show to be the Canal de Haro.

Mr. McLane, the ambassador of the United States, sent specially to Great Britain to aid in settling the Oregon boundary question, after nearly a year's negotiation, communicates (May 18, 1846) to Mr. Buchanan, then Secretary of State, and one of the signers of the treaty, the nature of the proposal made by Lord Aberdeen for a settlement of the question, as follows :

I have now to acquaint you that, after the receipt of your despatches of the 15th instant, by the "Caledonia," I had a lengthened conference with Lord Aberdeen, on which occasion the resumption of the negotiation for an 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 a partition of the territory in dispute. The proposition, most probably, will offer *substantially* as follows :

1st. To divide the territory by the extension of the line on the parallel of forty-nine to the sea—that is to say, the arm of the sea called Birch's Bay—thence, by the *Canal de Haro* and Straits of Fuca, to the ocean, and confirming to the United States—what, indeed, they would possess without special confirmation—the right freely to use and navigate the strait throughout its extent.

Mr. McLane also states, *substantially*, the other articles of the treaty, and a comparison of the treaty itself with his statements of their substance will show how accurately he described them, though he does not profess to give the exact words. He evidently *fully* understood the nature of the proposition to be made ; and his views were communicated to his government for their thorough understanding of the meaning of the language that would be used in the *projet* of the treaty. The very general description he gives of the water line shows, what we know must have been the case, that the framers of the treaty had before them only the general maps of the coast, and could not pretend to describe with accuracy the minute courses of the line.

In the same letter he says :

During the preceding administration of our government, the extension of the line on the forty-ninth parallel to the Straits of Fuca, as *now* proposed by Lord Aberdeen, was actually suggested by my immediate predecessor, as one he thought his government might accept.

He again says :

I may add that I have not the least reason to suppose it would be possible to obtain the extension of the forty-ninth parallel to the sea, so as to give the *southern cape of Vancouver's Island to the United States*.

From the foregoing extracts it will be clearly perceived that the object of the projectors of the treaty was to run the line so as to avoid cutting off the southern cape of Vancouver's Island, and that the Canal de Haro was selected as the channel adapted to that object.

President Polk, before accepting the proposal submitted by the British government, (received at the same time with Mr. McLane's letter,) laid it before the Senate (the co ordinate branch of the treaty-making power) for their advice on the subject; and, with his message transmitting it, he also submitted Mr. McLane's letter of the 18th of May, explanatory of the proposition, or *projet* of the treaty. And it is to be presumed he did so that the Senate might clearly understand the nature of the proposal upon which their advice was asked. They advised him to accept it; and, in accordance with their advice, the treaty was adopted by him, and submitted to the Senate for its ratification.

To show the Senate's understanding of the meaning to be attached to the words of the treaty, "*the channel which separates the continent from Vancouver's Island,*" I must call your attention to the language of Mr. Benton, one of the leading members of that body. In his speech on the treaty, the day of its ratification, he says :

The line established by the first article follows the parallel of forty-nine degrees to the sea, with a slight deflection, through the Straits of Fuca, to avoid cutting the south end of Vancouver's Island.

The first article of the treaty is in the very words which I myself would have used if the two governments had left it to me to draw the boundary line between them.

And, in describing the line, he says :

When the line reaches the channel which separates Vancouver's Island from the continent, (which it does within sight of the mouth of Frazer's River,) it proceeds to the middle of the channel, and thence, turning south, through the channel de Haro, (wrongly written Arro on the maps,) to the Straits of Fuca, and then west, through the middle of that strait, to the sea. This is a fair partition of these waters, and gives us everything we want, namely, all the waters of Puget Sound, Hood's Canal, Admiralty Inlet, Bellingham Bay, Birch Bay, and, with them the cluster of islands, probably of no value, between de Haro's channel and the continent.

After reviewing the other articles of the treaty, Mr. Benton concludes :

In my high and responsible character of constitutional adviser to the President, I gave my opinion in favor of accepting the propositions which constitute the treaty. The first article is in the very terms which I would have used, and that article constitutes the treaty. With me it is the treaty.

I have thus presented to you, in writing, the evidence I laid before you during our discussions—that the Canal de Haro must be the channel referred to in the treaty, through the middle of which the boundary line is to be traced. This evidence is entitled to the greatest weight, considering the official positions occupied by Mr. McLane and Mr. Benton during the negotiation and ratification of the treaty, and is conclusive with me.

I am not aware of any evidence going to show that Rosario Straits was at all in the thoughts of the negotiators of the treaty, or that it was the intention or understanding of the two governments that the boundary line was to pass through it. The only *claim* I have been able find, on the part of the British government, that such was the case, is contained in a letter of Mr. Crampton to the Secretary of State, (Mr. Buchanan,) dated January 13, 1848, in which he calls the attention of our government to the expediency of endeavoring to arrive at an early settlement of everything connected with the Oregon boundary question, and particularly of the boundary line between the continent and Vancouver's Island. Mr. Crampton's letter will be found in the executive document of the House of Representatives for 1851, accompanying the message of President Fillmore for that year. In that letter Mr. Crampton gives his opinion

as the meaning of the words "the channel which separates the continent from Vancouver's Island." He says :

In regard to that portion of the boundary line, (the water boundary,) a preliminary question arises, which turns upon the *interpretation of the treaty*, rather than upon the result of local observation and surveys.

The convention of June 15, 1846, declares that the line shall be drawn down the middle of the "channel" which separates the continent from Vancouver's Island; and upon this it may be asked what the word "channel" was intended to mean.

Generally speaking, the word "channel," when employed in treaties, means a deep and navigable channel. In the present case, it is believed only one channel, that, namely, which was laid down by Vancouver on his chart, has, in this part of the gulf, been hitherto surveyed and used; and it seems natural to suppose that the negotiators of the Oregon convention, in employing the word "channel," had that particular channel in view.

From the above extracts from Mr. Crampton's letter—written within two years after the conclusion of the treaty—it will be perceived that no *evidence* is presented to show that the channel called Rosario Straits was the one intended by the negotiators. If there had been any evidence that such was their intention, it would undoubtedly have been produced. But Mr. Crampton is mistaken even in his assumption that Vancouver's channel was the only one in that part of the gulf that had been hitherto surveyed and used; hence his inference that the negotiators of the Oregon convention, in employing the word "channel," had that particular channel in view, falls to the ground. The Canal de Haro had been both surveyed and used by the Spanish government and our own.

Mr. Crampton, at the conclusion of his letter, remarks that, as the question is "one of interpretation, rather than of local observation and survey, it ought, in the opinion of her Majesty's government, to be determined before the commissioners go out." It would thus appear that the British government regard an interpretation of the treaty as necessary to an understanding of the negotiators in employing the word "channel."

Having in this communication, as in our recent discussions, frankly laid before you my views in regard to the literal meaning of the treaty, and having, also, shown by contemporaneous evidence what was the understanding of the government of the United States as to the intention of the British government in the project of the treaty, and of the meaning of the words of the treaty itself, I can only repeat that my convictions in regard to the channel are so fixed that I cannot admit a doubt upon the subject.

With the highest respect and esteem, I have the honor to subscribe myself your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,

British Commissioner Northwest Boundary, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,

Esquimault, Vancouver's Island, November 9, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, containing a statement of your views of the interpretation to be put upon the first article of the treaty of the 15th June, 1846, between Great Britain and the United States, so far as the article relates to the water boundary to be traced between the possessions of the two countries.

2. From what has passed, I think it may now be considered as established that there is no difficulty in tracing the boundary line through the waters now

called the Gulf of Georgia, and through the waters of the Straits of Fuca to the Pacific Ocean, but that it is in the space between these waters that the question arises as to which is the channel of the treaty. I advance that the channel now called the Rosario Strait is the channel through which the boundary line should pass; you assert that your "convictions" "are fixed" that the Canal de Haro is the channel of the treaty. I have given every consideration to all the points you have advanced, and I have most carefully weighed all the arguments you have adduced in support of your views, and I regret extremely that your views and mine upon the subject should be so widely different.

3. Before commencing to reply to the arguments you have advanced in opposition to the views I have expressed, I will state that I fully acknowledge the weight to be attached to the opinions you have quoted from Vattel, that in cases of obscurity in the language of a treaty its interpretation is to be sought in the intentions of the negotiators. But while fully recognizing this, and while ever being ready to bow to the opinion of an authority so high as Vattel, I must, on the other hand, maintain that when the language of a treaty is clear and precise, and will admit to be interpreted according to its strict and literal sense, there cannot be any need to seek for aught else to its elucidation.

4. In support of my proposition that the Rosario Strait should be the channel of the treaty, I advance that it is the only channel that will admit of being considered the channel, according to the treaty, which "separates the continent from Vancouver's Island." You state, that "while the other channels only separate the islands in the group from each other, the Canal de Haro for a considerable distance north of the Straits of Fuca, and where their waters unite, washes the shores of Vancouver's Island, and is, therefore, the only one which, according to the language of the treaty, separates the continent from Vancouver's Island." Surely this would prove the converse of the proposition. It appears to me a direct proof that the Canal de Haro is the channel separating Vancouver's Island from the continent, and, therefore, so long as other channels exist more adjacent to the continent, cannot be the channel which "separates the continent from Vancouver's Island." I would ask your best attention to this most peculiar language of the treaty, in which the usual terms of expression appear to be designedly reversed, for the lesser is not separated from the greater, but the greater from the lesser—not the island from the continent, but the continent from the island; and, therefore, it would seem indisputable that where several channels exist between the two, that channel which is the most adjacent to the continent must be the channel which separates the continent from any islands lying off its shores, however remote those islands may be. You state that the Rosario Strait does not separate the continent from Vancouver's Island, because "in no part of its course does it touch upon the shores of either," but that "it separates the islands of Lummi, Sinclair, Cypress, Guemes, and Fidalgo on the east, from Orcas, Blakely, Decatur, and Lopez islands on the west." I would submit that the islands of Lummi, Sinclair, Cypress, Guemes, and Fidalgo are lying close to the shores of the continent, and that between them and the continent is no navigable channel which would answer to the channel of the treaty, and that if the Rosario Strait is the channel separating these islands from Orcas, Blakely, Decatur, and Lopez islands, it is also the navigable channel separating the continent from them; and in separating the first named islands from Orcas, Blakely, Decatur, and Lopez islands, it also separates the first named islands from San Juan, Sidney, James's islands, &c., and from Vancouver's Island; and, therefore, if separating the continent from Orcas, Blakely, Decatur, and Lopez islands, it also separates the continent from San Juan, Sidney, James's Island, &c., and from Vancouver's Island.

5. In answer to my statement that the Canal de Haro will not meet one of the conditions of the channel of the treaty, as it will not admit of the boundary

line being carried into it in a southerly direction, you state that the objection applies "with equal force to the Gulf of Georgia, if the term southerly is to be construed in a strictly nautical or technical sense, and with still greater force to the Straits of Fuca, which, for the greater part of its course, runs north-westerly, for the language of the treaty being 'thence *southerly through the middle* of the said channel *and* of Fuca's Strait to the Pacific Ocean,' the direction applies throughout the whole extent of the line;" and you further state that "if objection is made on this ground the treaty will be nullified and cannot be carried into effect." This conclusion I cannot admit. It can hardly, I think, be disputed that when the words of a treaty *can be carried out* in their strict and literal sense they should be so interpreted; when they cannot be so carried out, the intentions of the negotiators and the dictates of common sense have to be sought, and from them should the interpretation be deduced. From the Gulf of Georgia to the Straits of Fuca the boundary line *can be carried* through the Rosario Strait in a "southerly direction;" to pass through the Canal de Haro it must take a westerly course; therefore, so far as this particular is concerned, I conceive that the Rosario Strait admits of a closer adherence to the words of the treaty than does the Canal de Arro, and should, for this reason, be chosen in preference to a channel which would cause a wider departure from the words of the treaty.

6. In alluding to the necessity in cases of obscurity to seek the interpretation of a treaty in the intentions of its negotiators, you observe that you will "prove by contemporaneous evidence of the highest authority that the Canal de Haro was the channel proposed by the British government and accepted by the United States government as the one through which the boundary line was to be traced, and that the language of the treaty drawn up by the British government was intended to convey that fact, and was so understood by the government of the United States," and you proceed to quote from a letter of Mr. McLane, the ambassador of the United States, sent specially to Great Britain to aid in settling the Oregon boundary question, and from the speech of Mr. Benton, one of the leading members of the Senate of the United States. Evidence from so high a source as this is most unquestionably entitled to the greatest respect and deepest consideration. That consideration I have given it, and I assure you it has had its full weight with me. But I would respectfully observe that neither Mr. McLane nor Mr. Benton were the actual negotiators of the treaty, and however valuable their opinions may be to the elucidation of obscure points, yet that these opinions can in no way alter the *actual wording* and *terms* of the treaty. Mr. McLane, in his report to the Secretary of State for the United States, writes that the proposition of the British government *most probably* will offer substantially as follows:

First, to divide the territory by the extension of the line on 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 Haro and Straits of Fuca to the ocean.

Now this is stated to have been the *probable proposition*; it appears strange, if it was the *adopted proposition*, that the simple and unmistakable wording used by Mr. McLane should not have been retained. The fact that it was not retained would seem rather to show that discussion on the subject had taken place, and that the line of boundary had been designedly altered and the wording of the treaty as it now stands substituted to meet the alteration, the channel through which the boundary line was to pass not being designated by name, inasmuch as it had no name on the map, which was, I have not the least doubt, used by the British government at the time, viz., that of Vancouver, where the channel now called the Rosario Strait is shown, *as, in fact, it really is*, as a continuation of the waters now called the Gulf of Georgia, the whole being named by Vancouver the Gulf of Georgia. It is quite possible that in viewing the boundary line as passing through the Canal de Haro some objection might have been made to the nearness of some of the islands to Vancouver's Island,

and as the objection did not apply with equal force to the continent, and as the islands between the two were deemed, according to Mr. Benton, to be barren, rocky, and valueless, it is not at all improbable that the slight alteration in the line would be conceded without difficulty, and might be considered too trivial, considering the important interests at stake at the time for public discussion or reference. I am the more strengthened in my opinion on this subject from having been officially informed by high and competent authority that the channel commonly known in England as the "Vancouver Strait," that now called the "Rosario Strait," was the channel contemplated by the British government as the channel of the treaty, and the *mention of a particular channel* by Mr. McLane and the absence of the *name of that channel* from the treaty, together with the *very peculiar wording* of the treaty, would seem almost conclusively to prove the fact.

7. I would now respectfully call your attention to the language of Mr. Benton, in the speech which he made in the Senate upon the ratification of the treaty, and had you not yourself alluded to it I should have quoted it in further proof of what I have advanced as to the Rosario Strait being the channel "which separates the *continent* from *Vancouver's Island*." In describing the boundary line he designates the channel as being the one which separates "*Vancouver's Island* from the *continent*," and he then proceeds to trace the line through the Canal de Haro to the Straits of Fuca, clearly showing what was the impression on his mind of the wording required to meet the boundary line he described. The Canal de Haro, or Arro, is undoubtedly the navigable channel which, at its position, separates *Vancouver's Island* from the *continent*, and therefore while other channels exist more adjacent to the continent cannot be the channel which "separates the *continent* from *Vancouver's Island*."

8. To show that the Canal de Haro could not have been the only channel regarded in the United States as the channel of the treaty, both at the time and afterwards, I beg to mention that I have in my possession a map of Oregon and Upper California, published at Washington City in 1848, "drawn by Charles Preuss, *under the order of the Senate of the United States*," in which the boundary line between the British possessions and those of the United States, distinctly lithographed and colored, is carried down the Gulf of Georgia, through the channel now called the Rosario Strait, and thence through the Straits of Fuca to the Pacific Ocean. If the Canal de Haro was the only channel contemplated by the Senate of the United States as the channel of the treaty, it seems remarkable that within a short period of its conclusion a map should be drawn "*under the order of the Senate*," and published and given forth to the world with a boundary line upon it not drawn through the Canal de Haro, but through the channel which I maintain is the channel of the treaty, and is the one which was contemplated by the British government at the time of its conclusion. I have further in my possession an attested tracing of "A diagram of a portion of Oregon Territory," dated Surveyor General's Office, Oregon City, October 21, 1852, and signed John B. Preston, Surveyor General, in which the boundary line between the British possessions and those of the United States is also carried through the channel lying adjacent to the continent or through the Rosario Strait. Both these documents, being official and published by high authority, afford, I think, strong evidence that the Canal de Haro has not always been contemplated and received in the United States as the channel of the treaty.

9. In further illustration of my proposition that the Rosario Strait is the channel of the treaty, I would observe that, apart from the very peculiar wording of the treaty, in which the greater is separated from the lesser, the continent from the island, it would seem clear that in whatever channel the boundary line commences its southerly course, it should continue "*through the middle of the said channel*," until it reach the Straits of Fuca. Now it has been agreed that the initial point of the boundary line is found in the channel called the Gulf of

Georgia, and the continuance of that channel is, as was deemed by Vancouver, through the Rosario Strait. This is sufficiently proved by local observation, which shows that the principal body of water flows uninterruptedly from the Gulf of Georgia through the Rosario Strait, causing a regularity of current which is not found elsewhere; for the waters flowing through the Canal de Haro are split by the various islands contiguous to it in different directions, causing an irregularity and diversity of current which is not found in the Rosario Strait, and therefore the Canal de Haro cannot be deemed a continuance of the channel of the Gulf of Georgia, but more properly a continuance of the channel between Saturna Island and Vancouver's Island. Putting the question of current aside, I think a glance at the map as to which channel is the continuation of the Gulf of Georgia will sufficiently test the truth of what I assert.

10. Having thus replied to the principal arguments you have advanced in support of the adoption of the Canal de Haro as the channel of the treaty, and having shown you how firmly satisfied I am of the correctness of my opinion as to the Rosario Strait being a channel which in all respects answers to the channel of the treaty, which the Canal de Haro does not, I trust you may, upon reflection, be induced to modify your view that the Canal de Haro is the only channel which, according to the language of the treaty, "separates the continent from Vancouver's Island."

With the highest consideration and esteem, I have the honor to subscribe myself your most obedient and humble servant,

JAMES C. PREVOST,

*Captain H. B. M. Ship Satellite, and H. M. First Commissioner
for determining the aforesaid Boundary Line.*

ARCHIBALD CAMPBELL, Esq.,

United States Commissioner for the Northwest Boundary, &c., &c., &c.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,

Camp Simlahnoon, 49th Parallel, November 18, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant in reply to mine of the 2d instant.

In the communication of my views, made in compliance with your request, I clearly showed from contemporaneous evidence what was the intention of the framers and ratifiers of the treaty of June 15, 1846, in using the words describing the water-boundary line between the territories of the United States and the British possessions.

Although the language of the treaty alone is sufficiently explicit to my mind, the disagreement between us, in respect to a part of the distance through which the boundary line is to be traced, rendered it, in my opinion, desirable, if not necessary, in order to carry the treaty into effect, that we should arrive at a mutual understanding of the actual intention of the treaty makers, and for that purpose that we should resort to the ordinary mode of interpretation in cases of obscurity or uncertainty. I, therefore, deemed it but an act of frankness to exhibit to you the evidence I had in my possession of the *intention* of the British government in framing the language of the treaty and of the *understanding* of the United States government in adopting it. Considering the character of this evidence, and the weight to which it is entitled, it is difficult for me to comprehend how you could resist the conclusion to which it so clearly led, viz., that "the channel" referred to in the treaty was intended to apply to the Canal de Haro.

With this clear and satisfactory evidence, answering in the fullest manner to the requirements of the rules laid down for ascertaining the true meaning of the language of a treaty, it is pursuing the shadow instead of the substance to confine ourselves to its mere words; and, judging by the course of argument adopted by you in your present communication, I infer that you do not now altogether disagree with me in that opinion. As you seem, however, to attach importance to what you call the *peculiar* wording of the treaty in regard to the relative position of the words, the *continent* and *Vancouver's Island*, I have carefully considered your argument thereon, but cannot perceive its force. The words of the treaty are "the channel which separates the *continent* from *Vancouver's Island*," and, in my opinion, they are placed in their proper position. Nothing could be more natural in tracing and describing the long line of land boundary from the Rocky Mountains westward than for the authors of the treaty to place the continent before Vancouver's Island; and it would be strange if they had done otherwise. Still I do not conceive that a change in the position of the words could make any difference in the meaning of the expression.

The argument you draw from Mr. Benton's speech on this point is the one of all others I should bring forward (if I thought any necessary) to show there was no peculiarity in the wording of the treaty, or, if there were any, that it was in favor of the Canal de Haro; for Mr. Benton, after stating that the first article of the treaty is in the very words he would have used himself if the two governments had allowed him to draw it up, and with the very words of the treaty before him as he spoke, uses the expression, "the channel which separates *Vancouver's Island* from the *continent*," as conveying precisely the same meaning as the language of the treaty; for he immediately thereafter declares that this language carries the line through the Channel de Haro, and "gives us" the "cluster of islands" between that channel and the continent. Surely no fair deduction can be drawn from the remarks of Mr. Benton to show that the language of the treaty, in his opinion, required a transposition of the words to carry the boundary line through the Canal de Haro. After using the expression, reversing the order of the words of the treaty, he says, "I am in favor of the first article of the treaty *as it stands*." He certainly would not have said this if, as you assert, he must have thought it required a change in the wording of the treaty to make the language applicable to the Canal de Haro.

Your admission that the "Canal de Haro is undoubtedly the navigable channel which at its position separates Vancouver's Island from the continent," in my opinion is equivalent to the settlement of the question—the continent, according to the well known geographical fact that islands are appurtenant to the main land, embracing as natural appendages to its coast the islands between it and the Canal de Haro. Your argument that Rosario Straits must be the channel which separates the continent from Vancouver's Island would apply with equal force to Vancouver's Island if it were situated as far distant as the Sandwich Islands. For, you say: "It would seem indisputable that where several channels exist between the two (that is, between the continent and Vancouver's Island) that channel which is the most adjacent to the continent must be the channel which *separates the continent from any islands* lying off its shores, *however remote those islands may be*." This process of reasoning would elevate an island to a much higher degree of importance than a continent, by making all intermediate islands appendages to it instead of the continent, a doctrine which I am not prepared to admit, nor do I think upon further reflection you will maintain.

You decline to admit the correctness of my conclusion that if the term "southerly" be taken in a strictly technical or nautical sense, the treaty cannot be carried into effect. But I do not understand you as denying the fact that the word "southerly" applies equally to the Straits of Fuca as to the channel which separates the continent from Vancouver's Island. Still, while denying a

liberal construction of that term as far as it may be applicable to the Canal de Haro, you appear to be willing to appeal to the dictates of common sense, or to seek for the intention of the negotiators of the treaty when it applies to the Straits of Fuca. I must respectfully repeat, if the term "southerly," as used in the treaty, is to be construed as you still construe it in relation to the course of the Canal de Haro, the same meaning must be given to it in regard to the course of the Straits of Fuca, for the channel and straits are so connected in the language of the treaty as to be governed by the preceding words "southerly through the middle of." The object of my remarks on that subject was to prevent the treaty from becoming a nullity, by adopting the natural meaning of the word instead of its strictly technical or nautical sense; but it seems to me not entirely just to apply it in one sense to the Canal de Haro and in another to the Straits of Fuca. I think, therefore, you will be obliged to abandon your objection to the Canal de Haro on the ground that a line cannot be traced through it in a southerly direction. I refer to Mr. Benton's speech for his understanding of the word to confirm my own. In giving his reasons for voting in favor of the treaty he says: "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 to the Straits of Fuca, and thence *west* through the middle of that strait to the sea." Here is the true reading of the language of the treaty, and it is in perfect accordance with that contained in my letter of the 2d instant.

In your remarks upon the evidence of Mr. McLane and Mr. Benton, showing which "channel" was intended and proposed by the British government, and understood and accepted by the United States government, you observe that "it has had its full weight" with you; but add, that neither Mr. McLane nor Mr. Benton were the *actual negotiators* of the treaty, and however valuable their opinions may be to the elucidation of obscure points, yet these opinions can in no way alter the *actual wording and terms* of the treaty.

I am not aware that there is any rule in the law governing the interpretation of treaties that would require the evidence of the actual negotiators. What is required in such cases is that which was probably in the thoughts of the author or authors of the treaty. And here I beg to call your attention on that point to the quotations (in my letter of the 2d instant) from Vattel in his article on the interpretation of treaties, by which you will perceive that I have gone much further than is required. I have shown their actual *intentions* at the time the treaty was drawn up, proposed and accepted, and I propose to go a step further and show that this intention and understanding remained unchanged up to the complete ratification of the treaty by both governments.

Although Mr. McLane and Mr. Benton were not the signers of the treaty, both of them had that official connection with the negotiation that gives their evidence equal weight with that of the signers themselves, and in the absence of evidence from the latter it must be regarded as indisputable. Nothing short of positive contradictory testimony from equally reliable authority can invalidate it.

I will, however, show you clearly the understanding of Mr. Buchanan, the Secretary of State, one of the negotiators and signers of the treaty. Immediately upon the receipt of Mr. McLane's letter of the 18th of May, stating the *substance* of the *proposition* that was to be made by Lord Aberdeen, a conference was held in the State Department between Mr. Buchanan and Mr. Pakenham. The protocol of this proceeding accompanied the President's message to the Senate asking their advice as to the acceptance of the proposition. It is as follows:

A conference was held at the Department of State on the 6th of June, 1846, between the Hon. James Buchanan, Secretary of State, the American plenipotentiary, and the Right Honorable Richard Pakenham, the British plenipotentiary, when the negotiation respecting

the Oregon territory was resumed. The British plenipotentiary made a verbal explanation of the motives which had induced her Majesty's government to *instruct* him to make another *proposition* to the government of the United States for the solution of these long-existing difficulties. The Secretary of State expressed his satisfaction with the friendly motives which had animated the British government in this endeavor. Whereupon the British plenipotentiary *submitted* to the Secretary of State the draught of a convention, (marked A,) setting forth the *terms* which he had been *instructed* to propose to the government of the United States for the settlement of the Oregon question.

The draught of the convention is in the same words as the ratified treaty. The instructions of Lord Aberdeen and Mr. McLane's letter to Mr. Buchanan, stating the nature of the proposition to be submitted for the settlement of the Oregon question, were despatched to the United States by the same steamer the day after their conference, and the letter was received in Washington on the 3d of June. The conference between Mr. Buchanan and Mr. Pakenham was held on the 6th of June. On the same day Mr. Buchanan writes to Mr. McLane as follows :

I transmit to you herewith a copy of the *projet of a convention*, delivered to me by Mr. Pakenham this morning, for the adjustment of the Oregon question, together with a copy of the protocol of the proceeding. This being the regular day for the meeting of the cabinet, the subject was brought before them by the President. The result was a determination on his part to submit the projet to the Senate for their previous advice. This will be done as soon as the proper message can be prepared and the *necessary papers* copied.

The papers necessary to accompany this projet of the treaty were the protocol mentioned above and a copy of Mr. McLane's letter of the 18th of May, containing his statement of the substance of the treaty as communicated to him by Lord Aberdeen. The object of sending this letter to the Senate was to explain to senators the intentions of the British government as to the details of the treaty, that they might be able to give their advice to the President understandingly. And as the letter was copied in the Department of State by direction of Mr. Buchanan to accompany the projet of the treaty, it must be considered as expressing the understanding between himself and Mr. Pakenham; being in harmony with the *proposition* submitted to him by the latter in conformity with the instructions he received from his government. It is, therefore, quite clear that Mr. Buchanan must have understood the language describing the boundary line in the treaty as intending the "Canal de Haro" for "the channel which separates the continent from Vancouver's Island." With the letter of Mr. McLane in his possession, and deeming it necessary that it should accompany the projet of the treaty to the Senate for their information, there cannot be a doubt that Mr. Buchanan and Mr. Pakenham understood the language of the treaty alike.

You state that Mr. McLane, in his report to the Secretary of State, writes that the proposition of the government "most probably will offer substantially as follows," and quotes his language, giving the substance of the first article of the treaty; and add, "Now this is stated to have been the *probable proposition*; it appears strange, if it was the *adopted proposition*, that the simple and unmistakable wording used by Mr. McLane should not have been retained."

Mr. McLane could hardly have used a stronger expression to convey to his government the intentions of Lord Aberdeen, as communicated to him in their "full and free conversation," and "lengthened conference," than the words "most probably," without having actually seen his despatches to Mr. Pakenham. At the date of his letter he most certainly believed that the proposition would be *substantially* as he stated, for he does not pretend to give the *words* of the treaty in his statement of *any* of the articles, but confines himself to its spirit and gives its substance. Having stated this fact in my previous letter, it ought not to appear strange to you that "the simple and unmistakable wording used by Mr. McLane should not have been retained."

With the projet of the treaty and chart before them, Mr. McLane and Lord Aberdeen could not fail to see at a glance that the concise language of the

treaty clearly indicated "the channel which separates the continent from Vancouver's Island." The Gulf of Georgia washing the continent at the northern end of the line; the Canal de Haro, Vancouver's Island, at the southern end, and at its junction with the Straits of Fuca, presented to the eye a continuous channel that unmistakably separated, throughout its whole length, the continent from Vancouver's Island, and about which it might well have been supposed by them (with their full knowledge of the motive that induced this deflection from the forty-ninth parallel) there could be no question. But a glance at the chart of the United States Coast Survey, on a large scale, accurately defining the space through which the boundary line is to be traced, will show much more forcibly how well the language of the treaty was chosen to express in few words the object of the negotiators.

On the assumption that the language used by Mr. McLane to describe the boundary line had been *originally* the words of the proposition, (or projet of the treaty,) and not *retained*, you say that it "would seem rather to show that discussion on the subject had taken place, and that the line of boundary had been *designedly altered*, and the wording of the treaty as it now stands *substituted* to meet the alteration."

I am somewhat at a loss to know between whom you suppose this discussion to have taken place; whether between Mr. McLane and Lord Aberdeen or between Mr. Buchanan and Mr. Pakenham. It could not have been between the former, for it would not appear that there was any opportunity for discussion after their conference and before the departure of their despatches; or if it had been, Mr. McLane would certainly have notified his government of the fact. Nor do I see how any discussion could have taken place between Mr. Buchanan and Mr. Pakenham that could have effected any alteration in the proposition; for it would appear that Mr. Pakenham had neither power to accept nor offer modifications, as will be seen by an extract from Mr. McLane's letter and his own statement in the conference with Mr. Buchanan. Mr. McLane says:

It may be considered certain also in my opinion that the offer now to be made is not to be submitted as an ultimatum, and is not intended as such, though *I have reason to know that Mr. Pakenham will not be authorized to accept or reject any modification* that may be proposed on our part, but that he will in such case be instructed to refer the modification to his government.

From the foregoing extract it will be perceived that Mr. Pakenham had no authority to *accept* any proposed alteration to the treaty, though it is not presumed the proposition for the change you suggest could have been expected from Mr. Buchanan. On the other hand, Mr. Pakenham was not authorized to *propose* any modifications, as has been seen from his conference with Mr. Buchanan, June 6th, in which he submits "the *draught* of a *convention* setting forth the *terms* which he had been *instructed* to propose to the government of the United States for the settlement of the Oregon question," which could not have been otherwise than in conformity with the terms of the proposition communicated by Lord Aberdeen to Mr. McLane. I cannot, therefore, admit that the original proposition was "designedly altered" with the consent of either Mr. Buchanan or Mr. McLane. Nor can I agree with you that the islands you refer to, "barren, rocky and valueless" as they might then have been deemed, would have been conceded as readily as you suppose, after the positive assertions of the President (communicated to Mr. McLane by Mr. Buchanan) that he would not consent to surrender any territory claimed by the United States south of the forty-ninth parallel, with the exception of the southern end of Vancouver's Island. I cannot conceive the motive which could induce any officer of the United States government to surrender a portion of the territory which the line proposed by the British government threw on the American side, when at the same time he knew the proposition was not an *ultimatum*,

and not intended as such, as will be seen from the extract of Mr. McLane's letter heretofore quoted. In addition thereto he says :

I do not think there can be much doubt, however, that an impression has been produced here that the Senate would accept the proposition now offered, at least without *any material modification*, and that the President would not take the responsibility of rejecting it without consulting the Senate. If there be any reasonable ground to entertain such an impression, however erroneous, *an offer less objectionable in the first instance, at least, could hardly be expected.*"

And he again says :

Feeling very sure, however, that the present offer is not made or intended as an ultimatum, I think it only reasonable to infer an expectation on the part of those who are offering it, not only that modifications may be suggested, but that they may be reasonably required.

From the foregoing extracts you must perceive that the United States government was not in a position to make concessions, and from the speech of Mr. Benton, which I submitted to your perusal, you will have seen that a portion of the members of the Senate insisted upon modifications, which would have been asked of the British government, if Mr. Pakenham had been authorized to grant them, and were only prevented from doing so by the delay incident to sending to England.

I cannot therefore admit that any such alteration as you suggest could have possibly taken place. Everything connected with the settlement of the Oregon question was at that time deemed important. And no officer of the United States government would have ventured to make such a concession without its being fully understood by all who had any connection with making or ratifying the treaty. Even the reason you suggest for the concession is one which would apply with greater force against the boundary line running through Rosario Straits than through the Canal de Haro ; for Rosario Straits being narrower than the Canal de Haro, the objection to the former applies with greater force than it does to the latter. After much reflection and consideration, I am quite unable to conceive when and where this "designed alteration" could have taken place, and if it be not an entire supposition, I would respectfully ask for further information on the subject, in order that I may regulate my judgment accordingly.

Your opinion that the line of boundary was altered, you say, is strengthened by your "having been officially informed, by high and competent authority, that the channel commonly known in England as the Vancouver Strait—that now called the Rosario Strait—was the channel contemplated by the British government as the channel of the treaty ; and the *mention of a particular channel* by Mr. McLane, and the absence of the *name of that channel* from the treaty, together with the *very peculiar wording* of the treaty, would seem almost conclusively to prove the fact."

I have no means of determining the source from which the high and competent authority you refer to received his information ; but I would respectfully suggest that, after the contemporaneous documentary evidence I have produced, the mere assertion of any person at this time, no matter what his position may be, unless he was immediately concerned in the negotiation of the treaty, can be of little weight. It is quite possible that the British government may have *contemplated* Rosario Straits as the channel ; but I would respectfully submit that they *proposed* the Canal de Haro, and that the United States government *accepted* that proposition.

In your endeavor to show that the Canal de Haro could not have been the only channel regarded in the United States as the channel of the treaty, both at the time of its ratification and afterwards, you state that you have in your possession a "Map of Oregon and Upper California, published at Washington City in 1848, drawn by Charles Preuss, 'under the order of the Senate of the United States,' in which the boundary line between the British possessions and those of the United States, distinctly lithographed and colored, is carried down through the channel now called Rosario Straits," &c. You further say that, if

the "Canal de Haro was the only channel contemplated by the Senate of the United States as the channel of the treaty, it seems remarkable that within a short period of its conclusion a map should be 'drawn under the order of the Senate,' and published and given forth to the world with a boundary line upon it, not drawn through the Canal de Haro," but through Rosario Straits.

I have also in my possession a copy of the same map, and, as its title declares, it is a "Map of Oregon and Upper California, from the surveys of John Charles Frémont and other authorities," and is accompanied by a geographical memoir, which was also published by the Senate at the same time. By an examination of that memoir, it will be seen that the accurate delineation of the boundary formed no part of the object for which the map was directed. The boundary line north, as well as south, on that map was drawn merely to show the extent of the country described in the memoir.

By a comparison of the Mexican or southern boundary on the same map with the true line as defined by the commissioners and surveyors appointed under the treaty, an error quite as remarkable will be found on that line as on the northwestern boundary, and one which, upon examination, must completely dispel any impressions that may have been made upon your mind that it has any authenticity, or is of any authority whatever as a *map showing the boundary between the British possessions and the United States*. The best evidence of this is to be found in the fact that, after its publication, the Mexican boundary line was surveyed and marked by the United States government without reference to Mr. Preuss's map, and the true line was found to be *totally different* from that laid down by Mr. Preuss.

By examining carefully the lithographed line on this map, drawn from the forty-ninth parallel to the Straits of Fuca, it will be seen that, instead of running through the middle of Rosario Straits, as you suppose, it runs directly against Sinclair's Island on the north, and Cypress Island on the south; leaving a space of over five miles without any boundary line; but if this should be joined, it would bisect the two islands. It also runs tangent to Smith's Island on the eastern side—an island upon which it is the intention of the United States government to build a light-house, and for which an appropriation has been made.

I point out the inaccuracies of this map, so far as relates to the boundary line, without any intention of depreciating it in any respect, but simply in order to show you that it is not considered authority for the boundary lines drawn upon it, and that it was not intended to be so considered. I could exonerate the Senate from censure for publishing the map and giving it forth to the world with their apparent sanction, but I presume it will hardly be necessary for me to do so on this occasion.

I have never seen the diagram, alluded to by you, of a portion of Oregon Territory, "dated Surveyor General's Office, Oregon City, October 21, 1852, and signed by John B. Preston, Surveyor General," and having the boundary line drawn through Rosario Straits; but no authority can be attached to it, as it formed no part of the duties of the surveyor general's office to determine the boundary line between the United States and British possessions. I am, however, informed, by credible authority, that Mr. Preston was led into the error by seeing the map of Mr. Preuss. Had he seen the "Map of Vancouver's Island and the Adjacent Coasts, compiled from the surveys of Vancouver, Kellet, Simson, Galiano, and Valdes, &c., &c., &c., by J. Arrowsmith, 10 Soho square, London, published April 11, 1849"—more recent than that of Preuss—he no doubt would have drawn the line through the Canal de Haro; for as that purports to be a map especially of "Vancouver's Island and the coasts adjacent," no doubt could have been entertained that much care was taken to make it accurately conform to the terms of the treaty. On that map, on a large scale, all the islands east of the Canal de Haro are colored carefully

with the same tint as that given to the territory to which they geographically and conventionally pertain, viz., that of the United States.

The maps of Preuss and Preston are of no authority, as far as the boundary line is concerned. They therefore afford no evidence of the true channel of the treaty. And since its ratification, I am not aware of any authority having been given either by the United States or British government for surveying and mapping it definitively until the appointment of the present commission.

"In further illustration" of your proposition that the Rosario Strait is the channel of the treaty," you say that "it would seem to be clear that, in whatever channel the boundary line commences its southerly course, it should continue through the middle of the said channel until it reaches the Straits of Fuca," and add that "it has been agreed that the initial point of the boundary line is found in the channel called the Gulf of Georgia, and the continuance of that channel is, as was deemed by Vancouver, through the Rosario Strait."

I fear there is some misunderstanding in regard to an initial point. I certainly am not aware of having agreed to any, though I do not deem it a matter of any moment whether the starting point of the line be at the forty-ninth parallel or the Pacific Ocean. But even granting that the line starts at the forty-ninth parallel, and is traced through the middle of the Gulf of Georgia, I do not admit that it must necessarily be continued through Rosario Straits, even if Vancouver's chart be referred to. You say Vancouver considered Rosario Strait a continuation of the Gulf of Georgia, and that it was included in that name. By an examination of the chart it will be perceived that the name as lettered passes directly through and over the cluster of islands between the Canal de Haro and the straits now called Rosario Straits, and that it was intended by Vancouver to apply the name of *Gulf of Georgia* to all the waters between Vancouver's island and the continent as far south as Fuca's Straits, (if the lettering on his chart is to be considered as any guide,) and applies equally to every other channel in the vicinity. But whatever name may have been given to the waters broken up by the islands, they are all continuations of the waters proceeding from the *Straits of Fuca* or *Gulf of Georgia*, and all perfectly on an equality in that respect. The Canal de Haro having the largest volume of water passing through it, it is the *main channel* among them, and therefore more particularly entitled to be considered as the continuation or connection of the two channels with which all are directly or indirectly connected. And here I beg to say in regard to the relative merits of the two channels, I must again refer you to the extract from Captain Alden's report on that subject in my letter of the 2d instant, in which he pronounces the Canal de Haro to be the widest, deepest and best channel, and in almost every respect the better of the two.

Upon your supposition that the Canal de Haro had originally been named in the projet of the treaty, and that "the line of boundary through it had been *designedly altered*, and the wording of the treaty as it now stands *substituted* to meet the alteration," you found an argument to prove that Rosario Straits was "the channel" intended as the substitute for the Canal de Haro as follows: "The channel through which the boundary line was to pass *not being designated by name*, inasmuch as it *had no name* on the map which was, I have not the least doubt, used by the British government at the time, viz: that of Vancouver, where the channel, now called the Rosario Strait, is shown, *as in fact it really is*, as a continuation of the waters now called the Gulf of Georgia, the whole being named by Vancouver the *Gulf of Georgia*."

It has been acknowledged that the Rosario Straits, in common with the other channels, is a continuation of the Gulf of Georgia, and that the general name of the "Gulf of Georgia" was given by Vancouver to embrace all the waters between the continent and Vancouver's Island as far south as the Straits of Fuca. But I have shown from his chart that Vancouver did not particularly apply it to the channel called Rosario Straits. If, however, the British government so

understood it, and the "Canal de Haro" was dropped from the original projet of the treaty, as you suppose, for the purpose of substituting what was then considered a part of the Gulf of Georgia, it is strange that "the Gulf of Georgia" was not inserted instead of the present language, so inapplicable to Rosario Straits. In this argument, if I understand it correctly, Rosario Straits is claimed as the channel for two very different reasons—one because it had a name, the other because it had no name. If the Canal de Haro were mentioned in the original projet and afterwards expunged to give place to a channel without a name, care should have been taken so to describe it that no other channel, either with or without a name, could be found answering to the language of the treaty.

In a previous part of this communication I proposed to show that the intention and understanding of the British and United States governments in relation to the water boundary remained unchanged from the conference between Lord Aberdeen and Mr. McLane until the complete and final ratification of the treaty by the two governments. After the message was prepared and the necessary papers copied at the State Department, the President transmitted them to the Senate on the 10th of June for their advice as to his acceptance or rejection of the projet of the treaty submitted by Mr. Pakenham in his conference with Mr. Buchanan. The motive that induced the President to take the unusual course of asking the previous advice of the Senate arose from the prominent part taken by the Senate in the discussions of the Oregon question, and the importance the British government attached to the opinions and action of that body, as will have been seen by the extracts from Mr. McLane's letter heretofore quoted. As I am desirous of showing you the exact position the Senate occupied in relation to the negotiation and ratification of the treaty, I must make one more extract from Mr. McLane's letter on that subject:

It is not to be disguised, (he says,) that since the President's annual message and the public discussion that has subsequently taken place in the Senate, it will be difficult, if not impossible, to conduct the negotiation in its future stages, without reference to the opinion of senators, or free from speculation as to the degree of control they may exercise over the result. Whatever therefore might be prudent and regular in the ordinary course of things, I think it of the utmost importance upon the present occasion, if the President should think proper to propose any modification of the offer to be made by Mr. Pakenham, that the modification should be understood as possessing the concurrence of the co-ordinate branch of the treaty-making power.

After several days' debate the Senate advised the President "to accept the proposal of the British government for a convention to settle boundaries, &c., between the United States and Great Britain west of the Rocky or Stony Mountains."

In accordance with that advice the President accepted the proposal, and on the 16th of June laid before the Senate, for their "consideration and with a view to its ratification," "the convention concluded and signed by the Secretary of State on the part of the United States, and the envoy extraordinary and minister plenipotentiary of her Britannic Majesty on the part of Great Britain."

Upon its receipt a debate ensued which resulted in a resolution, "that the President be requested to communicate to the Senate a copy of all the correspondence which has taken place between this (the United States) government and that of Great Britain relative to the Oregon treaty, together with the despatches and instructions forwarded to our minister, Mr. McLane, and a full and complete copy of his despatches and communications to this government on the same subject not heretofore communicated to the Senate."

The scope of the resolution exhibits the deep interest manifested by the Senate in every step of the negotiation, and shows clearly that no detail connected therewith was deemed unworthy of their consideration.

On the 18th of June the Senate gave its "constitutional advice and consent to the treaty," and the President ratified it. On the 22d Mr. Buchanan transmitted to Mr. McLane at London the treaty ratified by the President and Senate,

with "special power" authorizing him "to exchange the ratifications with such person as may be duly empowered for that purpose on the part of the British government." The ratifications were exchanged by Mr. McLane and Lord Palmerston.

From the incipient step taken by Lord Aberdeen, in making the proposition to the United States government for a settlement of the Oregon question, and through all the subsequent stages in the progress of the treaty to its complete ratification, we look in vain for any evidence that the original proposition communicated to Mr. McLane was ever altered. I have shown that Mr. Buchanan and Mr. Pakenham must have understood it alike.

The President, from whom emanated all the instructions in relation to the negotiation, in transmitting the proposal of the British government to the Senate for their advice, accompanied it by Mr. McLane's letter furnished for their information and consideration in giving that advice. Therefore there can be no doubt of his understanding of the language of the treaty. It cannot for a moment be supposed that such grave, deliberate, and unusual action would have been taken, without the most perfect understanding on his part of the meaning of the document he laid before them. The letter of Mr. McLane accompanying his message conveyed that meaning.

The Senate upon this extraordinary occasion gave their advice to accept the proposition. And upon what did they found their advice? Upon the words of the project of the treaty, and the explanation of the same more in detail by Mr. McLane. They believed them to be in perfect harmony. A perusal of Mr. Benton's speech upon the ratification of the treaty will show how exactly he, as one of the co-ordinate branch of the treaty-making power, understood the proposal of the British government to agree with Mr. McLane's statement of it, when he advised the President to accept it. In that speech he says:

In my high and *responsible* character of constitutional adviser to the President, I gave my opinion in favor of accepting the propositions which constitute the treaty, and advised its ratification. The first article is in the very terms which I would have used, and that article constitutes the treaty. With me it is the treaty. The remaining three articles are subordinate and incidental, and only intended to facilitate the execution of the first one. The great question was that of boundary.

The first article being the treaty in Mr. Benton's opinion, he must have made himself well acquainted with its full meaning. The leading position he occupied on the Oregon question is well known. In expounding the treaty to his colleagues, he describes the boundary line, and designates the "Canal de Haro" as "the channel" through which the line is to pass. He had before him the treaty and the letter of Mr. McLane, and he gives his advice and consent to the ratification of the treaty "with a mind clear of doubt," for he says, "the great question of the boundary is settled."

The injunction of secrecy was removed from the executive proceedings, correspondence, and documents, relating to Oregon, and they became a portion of the public documents of the Senate. As a documentary history of the negotiation, published to the world, by order of the Senate, upon the conclusion of the treaty, they are entitled to all the credit which is due to undisputed contemporaneous evidence. Taken in connection with the speech of Mr. Benton, giving *fully* his views of the meaning of every article of the treaty, it forms a chain of evidence proving conclusively that the line of boundary between the United States and the British possessions, after it deflects from the forty-ninth parallel, was intended by the language of the treaty to run through the middle of the Gulf of Georgia and the Canal de Haro, and thence through the middle of Fuca's Straits to the Pacific Ocean.

From the foregoing communication you will perceive that I have given the most careful consideration and study to the additional arguments you have advanced, and the evidence you have adduced, to prove Rosario Straits to be a channel which in every respect answers to the language of the treaty; but I

must frankly, though with the most respectful deference to your opinion, acknowledge that they have failed to convince me. I have, on the other hand, endeavored to rebut your arguments against my views in regard to the channel, which I need hardly say have only been strengthened by reflection since my letter to you of the 2d instant.

With the most perfect respect and esteem I beg to subscribe myself, your most obedient and humble servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for
determining the Northwest Boundary Line.*

JAMES C. PREVOST, Esq.,

British Commissioner Northwest Boundary, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Simiahmoo Bay, Gulf of Georgia, November 24, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, in reply to mine of the 9th instant, upon the subject of the interpretation to be given to part of the first article of the treaty between Great Britain and the United States, of 15th June, 1846.

2. I have given to your said letter the most careful consideration, but it appears to me for the most part only a recapitulation at greater length of the testimony you have already adduced in support of your views of "the channel which separates the continent from Vancouver's Island," and to which I have already replied in a previous communication; nevertheless, there are one or two points you have commented upon, that I deem it but right to notice.

3. You state that my "admission that the Canal de Haro is undoubtedly the navigable channel which at its position separates Vancouver's Island from the continent," is, in your opinion, "equivalent to the settlement of the question; the continent—according to the well-known geographical fact that islands are appurtenant to the main land—embracing, as natural appendages to its coasts, the islands between it and the Canal de Haro." I would respectfully observe to you that in the first article of the treaty, the direction of the water boundary line is pointed out by reference to natural objects, which are distinctly denominated, and I must conceive, with all deference to your adverse opinion, that those objects must be viewed according to their natural signification; and that the continent means the *continent* in as strict a sense as the island means the *island*, and neither literally nor geographically can an island be deemed the continent, as you would seem to imply. When terms are unmistakable, and can be interpreted closely and literally as the words of the treaty in this case can, that seems to me to be no strong argument which requires for its support such a latitude of meaning as you would claim in your interpretation of the word continent. I maintain that the continent as well as the island must be regarded according to its natural signification, and according to its natural position; and when two or more channels exist between a continent and a particular island, the argument appears to me irresistible that the channel contiguous to the continent is the channel separating the continent from the island, while the channel contiguous to the island is the channel separating the island from the continent. It matters not what may lie between the two to form the channels, whether it be an archipelago of islands, or a group of sunken rocks. It also seems to me a fact equally irresistible, that in such case a transposition of words must convey an opposite meaning, and I must acknowledge myself at a loss to conceive how you can maintain that they do not. In the case I have put, the channels

have surely some means of being described apart from any nominal designation, and I see no more direct or positive way than that I have defined. Therefore, while the words of the treaty pointedly provide that the boundary line is to run through the channel which separates the *continent* from the *island*, I can never agree that the Canal de Haro, as the channel separating the *island* from the *continent*, can be the channel which separates the continent from the island, and consequently the channel of the treaty. "This process of reasoning" in no way affects either the "importance" of the island or the "importance" of the continent; it is but placing natural objects in their natural position, and dealing with them accordingly.

4. Your principal arguments in favor of the Canal de Arro being the channel of the treaty are based upon the correspondence of Mr. McLane, and upon the speech of Mr. Benton, and from the former you draw an inference that the Canal de Haro was the channel *proposed* by the British government. This inference I cannot adopt. I do not perceive in anything that has been produced any evidence that the Canal de Arro was proposed by the British government. The mention of the Canal de Arro by Mr. McLane in his letter of 18th May, 1846, cannot surely be cited as a proof that this channel was so proposed. He reports the result of a conversation, and mentions what would *probably* be offered. The fact that the Canal de Arro was *not* offered, is, I think, sufficiently established in the absence of the name, both from the draught of the convention presented on the 6th of June, 1846, by Mr. Pakenham, to which you allude, and from the treaty itself. I can never suppose that the British government in retaining Vancouver's Island would consent to give up the channel which was best known in England at the time the treaty was negotiated, and in place thereof adopt a channel which, at that time, was scarcely, if at all, known by them to be navigable. The channel now called the Rosario Strait was known in England as the navigable channel of the day, it was the channel through which Vancouver sailed, and it was the channel used by the vessels of the Hudson's Bay Company since 1825 in their communications with the northern parts of the continent or island, and I think you will agree with me in deeming it, under these circumstances, scarcely possible that the British government should knowingly forego the treaty right of navigating the channel thus generally used. Even in the present day, when the Canal de Arro is comparatively well known, I unhesitatingly assert that sailing vessels, proceeding from the southern ports of Vancouver's Island to the northern settlements, would scarcely ever use the Canal de Arro in preference to the Rosario Strait, and I should be surprised if Captain Alden, of the United States navy and Coast Survey, whose remarks you have quoted, did not agree with me in this opinion, for in none of his observations that you have adduced do I find any opinion that the Canal de Arro is preferable to the Rosario Strait for *sailing vessels*.

The high and official authority to whom I alluded in my letter of the 9th instant, as the source of my information that the Vancouver (or Rosario) Strait was the channel contemplated by the British government, is her Majesty's present Secretary of State for foreign affairs, the Earl of Clarendon, and I cannot presume that he would intimate to me in writing, as he has done, that such was the case unless he had substantial grounds for doing so. That the United States government may have contemplated the Canal de Arro as the channel of the treaty I do not attempt to dispute, but I firmly maintain that the British government contemplated the channel through which Vancouver passed—that now known as the Rosario Strait. I cannot, however, but deem that all this is, to a certain extent, extraneous matter. I must again respectfully submit to you that neither the correspondence of Mr. McLane nor the speech of Mr. Benton can in any way alter the actual wording and terms of the treaty. Their opinion, however valuable it may be, cannot divert the words of the treaty to an interpretation which, I conscientiously maintain, they literally will not admit. To my mind the word-

ing is peculiarly explicit, and while firmly holding this opinion it does appear to me an undoubted pursuit of the "shadow" to enter into the discussion of extrinsic documents and evidence, when we can so readily grasp the "substance" by a strict adherence to the terms of the treaty. As you have quoted the opinion of Vattel regarding the interpretation of treaties in cases of obscurity, I beg you will permit me to request your attention to his opinion in cases where no obscurity exists. He says, "the first general maxim of interpretation is that it is not allowable to interpret what has no need of interpretation. When a deed is worded in clear and precise terms; when its meaning is evident and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it is but an attempt to elude it. If this dangerous method," he says, "be once admitted, there will be no deed which it will not render useless. However luminous each clause may be, however clear and precise the terms in which the deed is couched, all this will be of no avail if it be allowed to go in quest of extraneous arguments to prove that it is not to be understood in the sense which it naturally presents."

I maintain that the treaty in the matter of the channel separating the continent from Vancouver's island is worded in "clear and precise terms," and, therefore, I cannot admit any evidence on this subject to weigh with me that would lead to an interpretation that the precise terms of the treaty will not admit.

5. You state that "with the project of the treaty and the chart before them, Mr. McLane and Lord Aberdeen could not fail to see at a glance that the concise language of the treaty clearly indicated the channel which separates the continent from Vancouver's Island. The Gulf of Georgia washing the continent at the northern end of the line, the Canal de Haro, Vancouver's Island at the southern end, and at its junction with the Straits of Fuca, presented to the eye a continuous channel that unmistakably separated throughout its whole length the continent from Vancouver's Island;" and, further, that "a glance at the chart of the United States Coast Survey on a large scale, accurately defining the space through which the boundary line is to be traced, will show much more forcibly how well the language of the treaty was chosen to express in few words the object of the negotiators." If the western shore of the island of San Juan were the shore of the continent, or if no navigable channel existed between the Canal de Haro and the continent, I could agree with you in the conclusion at which you arrive. But as the western shore of the island of San Juan is not the shore of the continent, and as there is *another navigable channel*, situated *more adjacent to the continent*, the existence of which your conclusion would ignore, I must respectfully submit that your conclusion can hardly be a correct one. I would ask, in what relation does the Rosario Strait stand with regard to the continent? The mode of reasoning you have here adopted would lead to the direct inference either that no other channel existed than the Canal de Haro, or if any other channel did exist, that it had neither an entrance to it from the Gulf of Georgia, nor an exit from it to the Straits of Fuca. I would observe that the maps in use at the time the treaty was negotiated were on a very small scale, and, with every deference to your opinion, I must maintain that a glance at *them* will show a "*continuous channel*" from the Gulf of Georgia to the Straits of Fuca to be through the channel now called the Rosario Strait, rather than through the Canal de Arro. On Vancouver's map, which is no doubt one of those used at the time, the "*continuous channel*" is very apparent, for the track of his ship is distinctly traced through the channel now called the Rosario Strait. But any map, whether on a large or a small scale, will, I conceive, clearly exhibit the Rosario Strait as an uninterrupted channel from the Gulf of Georgia to the Straits of Fuca, while to follow the course from the middle of the Gulf of Georgia to the Canal de Haro, it becomes necessary to proceed nearly at right angles; and, as I have already stated, local experience and observation of the currents

will show that the Rosario Strait is a direct continuation of the Gulf of Georgia, while the Canal de Haro is more properly a continuation of the channel between Saturna Island and Vancouver's Island.

6. You comment upon my reply to your remarks with regard to the term "southerly," and you observe that it is "not entirely just" to apply the term strictly in one case and not in another. I must therefore repeat that I conceive when the words of a treaty *can* be carried out in their strict and literal sense, there can be no question as to their interpretation; when they *cannot* be so carried out, the evident intention of the treaty should be followed. In my former communication I did not refer to Vattel upon this head, for I considered it superfluous, and only unnecessarily adding to the length of my letter; but as you again notice it, and denominate my view as "not entirely just," I must request your attention to paragraph No. 281, book 2, chap. 17, in which Vattel declares that it is not necessary to give a term the same sense everywhere in the same deed. He says:

If any one of those expressions which are susceptible of different significations occurs more than once in the same piece, we cannot make it a rule to take it everywhere in the same signification.

In the following paragraph he says:

Every interpretation that leads to an absurdity ought to be rejected; or, in other words, we should not give to any piece a meaning from which any absurd consequences would follow, but must interpret it in such a manner as to avoid absurdity.

Now the boundary line can be carried in closer adherence to a "southerly" direction through the Rosario Strait than it can if taken through the Canal de Haro, and for this reason I argued that, so far as this particular was concerned, the Rosario Strait should be adopted in preference to the Canal de Haro; but the boundary line *cannot* be carried in a "southerly" direction through the Straits of Fuca to the Pacific Ocean, and here is a trifling obscurity. It is, however, unnecessary to go beyond the treaty itself for an interpretation. Two points are named, the Pacific Ocean and the Straits of Fuca, and the former is to be reached through the latter; and as there is no doubt as to the position and limits of either, there can be no question as to what was the evident intention of the treaty makers, and I must respectfully submit that such an interpretation, so strictly in accordance with the rules laid down by Vattel, and with the dictates of common sense, can neither be styled as "not entirely just," nor such as would render the treaty "a nullity."

7. With reference to your remarks upon the map drawn by "Charles Preuss, under the order of the Senate of the United States," I must still observe that the map is an official document, published under high authority, and is indisputable evidence that the Canal de Haro could not have been the *only* channel regarded in the United States as the channel of the treaty. The trifling inaccuracies you point out with regard to the line touching Sinclair and Cypress islands, or any other trifling inaccuracies, do not weaken the fact that the line *does not pass through the Canal de Haro*. It is sufficiently clear that it was intended to trace the boundary line through the channel contiguous to the continent, and a glance at the map represents the line as a very natural boundary. I beg you to understand me, however, that I do not bring this map forward as any *authority* for the line of boundary. That authority is to be sought in the treaty alone, but I merely produce this map as a counter evidence to what you have advanced as to the Canal de Haro being the channel of the treaty. Both this map, dated in 1848, and the diagram, to which I before alluded, of a portion of Oregon Territory, drawn in 1852, are official documents, and are, therefore, entitled to some weight. The map to which you refer, drawn by J. Arrowsmith in 1849, is the publication of a private individual, and, therefore, cannot be produced against an official document, even were the boundary line upon it carried

through the Canal de Haro; but I append hereto the copy of a letter from Mr. Arrowsmith, in which he declares that there were no boundary lines upon his map until 1853, when he copied the line from Mr. Preuss's map. You remark that, had Mr. Preston seen the map of Arrowsmith of 1849, he would no doubt have drawn the line of boundary on the diagram of Oregon Territory as passing through the Canal de Haro. I can scarcely conceive that a government official, in preparing an official document, would seek his information from the publications of a private individual; although it was very natural that Mr. Arrowsmith, as a private individual, should be guided in his delineation of the boundary line by an official document, published under the order of the Senate. I have Mr. Arrowsmith's map of 1853 in my possession, and will lay it before you should you desire to see it; but, of course, I do not refer to it as any authority, nor should I have brought forward either it or his letter had you not endeavored to bring his map of 1849 as a document to be placed in opposition to the diagram of Mr. Preston.

8. Having thus endeavored to show you that all the arguments you have advanced can, to my mind, be fully rebutted, and that, therefore, they entirely fail in convincing me that the Canal de Haro can in any way be regarded as the channel of the treaty, I must again repeat my positive conviction that when two or more channels exist between a continent and an island, that channel which is *contiguous to the continent* must be the channel which separates the *continent from the island*, and that, therefore, the Rosario Strait, as being the navigable channel most adjacent to the continent, must be the channel which, at its position, "*separates the continent from Vancouver's Island*," and consequently that it must be the channel through which the boundary line should pass. While my opinion is thus firmly fixed upon the Rosario Strait as the channel of the treaty, your opinion appears no less firmly fixed upon the Canal de Haro; and, therefore, so long as we both hold to these opinions, the prospect is very remote that we shall ever attain the end for which we were both commissioned. Eleven years have passed since the treaty of the 15th June, 1846, was signed and ratified. At the time of its conclusion the interests of British subjects and of American citizens around this neighborhood were comparatively unimportant, and the settlement of the boundary line between the continent and Vancouver's Island was not urgently required; but now, with the greater interests involved, and with the fast increasing population and settlement of the country, it becomes a matter of grave importance that the boundary line should be defined. I am aware that her Majesty's government are desirous to have the line determined, and I have no doubt the government of the United States are equally interested in the matter. It, therefore, I conceive, becomes our positive as well as our conscientious duty to endeavor, in a conciliatory spirit, and by mutual concession, to settle the matter. I will at once frankly state how far I am willing to concede, but *beyond what I now offer I can no further go*. In contemplating your view that all the channels between the continent and Vancouver's Island, from the termination of the Gulf of Georgia to the eastern termination of the Straits of Fuca, are but a continuation of the channel of the Gulf of Georgia, I see a way by which I can in part meet your views without any gross violation of the terms of the treaty. I am willing to regard the space above described as *one channel*, having so many different passages through it, and I will agree to a boundary line being run *through the "middle" of it*, in so far as islands will permit. In making this concession, which is the only approach to your views that I can possibly entertain, I beg it may be distinctly understood that I am induced thereto by no change of opinion on any one point, but that I am alone influenced by the considerations I have above given, and by an earnest desire to prevent a disagreement between us and a reference of the matter to our respective governments; and I further beg it may also be distinctly understood that I make the present offer without committing either my

government or myself, or any other person, to a renewal of it at any subsequent period, should it not now be accepted; but I feel confident that the liberal and conciliatory spirit which has actuated me on the present occasion will not fail to meet with the same ready response from you that hitherto it has been my privilege and pleasure always to experience in all the intercourse we have had.

With every assurance of my high esteem and deep consideration, I have the honor to subscribe myself, sir, your very obedient and humble servant,

JAMES C. PREVOST,

*Captain of H. B. M. ship Satellite and her Majesty's
First Commissioner for the before mentioned Boundary.*

ARCHIBALD CAMPBELL, Esq.,

*Commissioner on the part of the United States
for determining the Northwest Boundary Line.*

Copy of a letter from Mr. John Arrowsmith to the Secretary of the Hudson's Bay Company, dated 10 Soho square, September 29, 1856.

SIR: In your letter of the 22d instant, having reference to the boundary line between this country and the United States boundaries in the Gulf of Georgia and De Fuca's Straits, you say that Mr. Isaac I. Stevens, governor of Washington Territory, United States, writing to the governor of Vancouver's Island in May last, states that I published a map of Vancouver's Island and the adjacent coast on the 11th April, 1849, in which the boundary line between the two states is laid down as running through the Canal d'Arro; and that the governor and committee of the Hudson's Bay Company will feel obliged by my informing them if such map was published by me, and if so, by what authority I was guided when thus marking the boundary.

My reply is, that I published the map of Vancouver's Island and the adjacent coast, which was compiled from the surveys of Vancouver, Kellett, Simpson, Galliano, Valdez, &c., &c., on the 11th April, 1849, but that the map at that time contained no boundary lines whatever, and that it continued so until the end of 1852, when I engraved the boundary line as it now exists upon the plate, and I published the map with the date 1853.

The authority which guided me in introducing the engraved boundary line, was a map emanating from the Senate of the United States, dated Washington City, 1848, the full title of which is, "Map of Oregon and Upper California, from the surveys of John Charles Frémont and other authorities, drawn by Charles Preuss, under the order of the Senate of the United States, Washington City, 1848; scale 1:300,000; lith., G. E. Weber & Co., Baltimore."

In transferring the boundary line from the above map to my own plate, the only change which I made in drawing the boundary line was, that instead of carrying it to the islands of Sinclair and Cypress, as marked in the Senate map, I traced it between them, giving the former to the United States government, and the latter to the British government, for the same reason, viz: that it is situated nearest to the shores of Vancouver's island,* conceiving it to be the common sense simplification of what might possibly, hereafter, cause misunderstanding if left undefined as regards these two islands. These were my authorities and reasons for the boundary line as represented in my map.

When the treaty of 1846 was concluded, neither the British nor the United States government contemplated the extension through the Canal de Haro is quite clear. The United States Senate maps clearly settle this point, so far as that state is concerned.

* The two islands in question are upon my map placed in the relative position according to the United States nautical survey of 1841.

I have quoted the United States Senate map of 1848, and shown what use I make of it. I will now quote another Senate map, as confirmatory of that of 1848; this latter bears date October 21, 1852. The full title of the map is, "A Diagram of a Portion of Oregon Territory; Surveyor General's Office, Oregon City, October 21, 1852; John B. Preston, Surveyor General; scale ten miles to an inch. Explanations. Townships subdivided, 1852, °. Townships proposed to be surveyed, 1853, +. Townships proposed to be surveyed, 1854, ^."

The above survey, mapped and printed, extends from 42° to 49° north latitude, and from about 120° 10' to about 124° 35' west longitude. It of course takes in the south portion of the Gulf of Georgia, Vancouver's Strait, and De Fuca's Strait. This government map confirms that of 1848, and brings the date down to 1852, 21st October. The line of boundary upon this map precisely corresponds with the former map.

From the line drawn upon both these maps, it is manifest what the United States government meant in 1846 as the continuation of the line of boundary, and it is clear that government held the same view in the latter end of 1852.

I have, &c.,

JOHN ARROWSMITH.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, 49th Parallel, November 23, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant. Although my letter of the 18th instant was, necessarily, to a considerable extent, a recapitulation of the views I had previously expressed, (being a reply to your objections to those views,) it was mainly devoted to the discussion of points and arguments contained in your letter of the 9th instant, not before advanced by you. There was one point in your letter, however, to which I did not reply, but as you reiterate it in your last letter, I will now answer.

You say, "I must again respectfully submit to you that neither the correspondence of Mr. McLane, nor the speech of Mr. Benton, can in any way alter the actual wording and terms of the treaty. Their opinion, however valuable it may be, cannot divert the words of the treaty to an interpretation which I conscientiously maintain they literally will not admit."

You thus characterize the official report of Mr. McLane, and the speech of Mr. Benton, as mere *opinions*. As well might you call the articles of the treaty itself the opinions of those who signed, ratified, exchanged, and proclaimed it, and thus cast a doubt upon its authenticity.

Mr. McLane, in his character of special ambassador to England, reports to his government the result of an official conference held with the secretary of state for foreign affairs, "at the foreign office," and gives the substance of a proposition to be submitted to the United States by the British government. This report was transmitted to the Senate side by side with the proposition of the British government, and was the guide to that body in giving their advice to the President to accept the proposition. It is a report of facts in relation to the proposition, and stands as the record of the intention of the British government, as well as of the understanding of the United States government.

Mr. Benton's speech is an incontrovertible record of his understanding and intention, as one of the treaty-making power, in advising the acceptance of the proposition and consenting to the ratification of the treaty. He does not describe the boundary line as a matter of opinion. He states what he *knows*, not simply what he believes, to be the meaning of the language in regard to it. He had full and free access to those who could enlighten him as to the *inten-*

tion of the two governments, and there is no doubt that he availed himself of his privilege.

As you still maintain that the wording of the treaty is very peculiar, I beg, respectfully, to call your attention to the language of your own government in 1848, in the draught of instructions prepared for the commissioners, who it was then supposed might be appointed to determine the boundary line. A copy of the said draught will be found accompanying Mr. Crampton's letter of January 13, 1848, to which I called your attention in my first letter. Mr. Crampton says:

In bringing this matter under the consideration of the government of the United States, I am directed to present to you a copy of the proposed draught of instructions to the commissioners to be so appointed, which I have the honor herewith to enclose.

After quoting the first article of the treaty, and describing the first operation deemed necessary to be performed by the commissioners, the proposed instructions proceed as follows:

From that point you will carry on the line of boundary along the forty-ninth parallel of latitude to the middle of the channel between Vancouver's Island and the continent.

Although, as I have already stated, I attach no special importance to the arrangement of the words, and in this view am supported by high authority, I deem it proper to enforce my opinion by also exhibiting that of the British government in 1848, within two years after the conclusion of the treaty.

I have heretofore quoted from Mr. Crampton's letter several detached passages, to show that the British government, in January, 1848, did not pretend to assert a positive claim to Rosario Straits as the boundary channel, and did not present any evidence of the intention of the treaty-makers in relation to it; and also that they deemed an interpretation of the meaning of the language of the treaty to be necessary. As there are other points in that letter bearing upon the question now before us, as a matter of convenience I herewith annex a copy of so much of it as has special reference to the water boundary line. By a comparison of the views of the British government, as therein expressed, with those advanced at the present time by your government and yourself, it will be seen that there is a striking difference between them.

In 1848, Rosario Straits was not claimed on the ground that there was anything peculiar in the wording of the treaty; nor was there any claim founded upon the supposition of a "designed alteration" of the original project of the treaty, by omitting the "Canal de Haro" and substituting its present language.

All that the British government then advanced in behalf of Vancouver or Rosario Strait was their belief that it was intended as "the channel" of the treaty, because it was thought to be the only one in that part of the gulf which had been "hitherto surveyed and used," and that therefore it seemed "natural to suppose that the negotiators of the Oregon convention, in employing the word 'channel,' had that particular channel in view." In my letter of the 2d instant, I showed the error of Mr. Crampton's assumption that it was the only channel that had been hitherto "surveyed and used." Besides the Spanish navigators in early times, Captain Wilkes, in 1841, while in command of the Exploring Expedition, surveyed the Canal de Haro, Rosario Straits, and the intermediate islands and channels.

But even while making the effort to induce the United States government to adopt that channel, the British government frankly acknowledged the necessity of an interpretation of the treaty. Mr. Crampton refers to the principal secretary of state for foreign affairs as the official authority from whom he received his instructions. Whether the person then holding the position of principal secretary of state had any connection with the negotiation of the treaty I am unable to say, but, as it was shortly after the conclusion of the treaty, it is presumed that he must have been, at least, as fully informed upon the subject as any who have succeeded him. And the absence of any evidence then that

the Rosario or Vancouver Straits was intended or proposed, proves clearly that none was in existence. Under these circumstances, it can hardly be expected of me to attach much importance to the intimation of the Earl of Clarendon, unaccompanied by any evidence of the fact, that Rosario Straits was "the channel" contemplated by the British government, or to change my views on your presumption that his intimation was based on substantial grounds.

In opposition to your opinion that the words of the treaty are so peculiarly precise and clear as to point out unmistakably Rosario Straits as "the channel," Mr. Crampton, speaking on the part of his government, says :

But, between the Gulf of Georgia and the Straits of Fuca the line is *less distinctly and accurately defined by the verbal description of the treaty by which it is established, &c.*

And here allow me to quote a general maxim from Vattel, which is peculiarly applicable to the position of the British government in relation to their present claim that Rosario Straits was meant as "the channel" of the treaty :

If he who can and ought to have explained himself clearly and plainly has not done it, it is the worse for him; he cannot be allowed to introduce subsequent restrictions which he has not expressed.

He adds :

The equity of this rule is extremely visible, and its necessity is not less evident. There can be no secure conventions, no firm and solid concession, if these might be rendered vain by subsequent limitations that ought to have been mentioned in the piece if they were included in the intentions of the contracting powers.

The proposition or projet of the treaty having been drawn up and submitted by the British government to the United States, the rule excludes, therefore, all claim to Rosario Straits, without the most indisputable proof, of which I have yet to see the first evidence.

Notwithstanding your objection to my argument in favor of the Canal de Haro, as the channel of the treaty, on the ground that the continent embraces the islands adjacent to it as far as the Canal de Haro, I maintain that my view is correct and according to well established principles of international law; for, in order to define a channel, we must know the coasts which bound it. The Canal de Haro on one side is bounded by the coast of Vancouver's Island, on the other by the coast of the nearest islands, which are natural appendages to the continent. For the correctness of this position I would respectfully refer you to Wheaton's Elements of International Law, pp. 233-4, my copy of which is at your disposal.

Your objection to the Canal de Haro, on the ground that there is *another navigable channel situated more adjacent to the continent*, the existence of which, you say, my conclusion in favor of the Canal de Haro would ignore, will apply equally to Rosario Straits. For there are, undoubtedly, channels nearer to the continent than Rosario Straits, viz: Bellingham Channel and the channel between Lummi Island and the main land; the former being the very one through which Mr. Arrowsmith drew the boundary line. I am aware that the other channel is narrow; still, it is navigable, and cannot be objected to on the ground that it is not, and it certainly, as well as Bellingham Channel, is closer to the main land than Rosario Straits; and these two channels combined would possess more completely the characteristics required by you for "the channel" of the treaty than Rosario Straits. In answer, therefore, to your inquiry, "In what relation does the Rosario Strait stand with regard to the continent?" I would respectfully state that, in my opinion, it stands in the same relation to it as the San Juan Channel, or any other channel, between the two just alluded to and the Canal de Haro.

Your quotation from Vattel, that it is not necessary to give a term the same sense everywhere in the same deed, is quite inapplicable to the use of the word "southerly" in the treaty; for that word only occurs *once*, whereas the rule referred to is where expressions which are susceptible of different signification occur "*more than once* in the same piece."

Your further quotation, "that every interpretation that leads to an absurdity ought to be rejected," must, therefore, necessarily apply to the strictly technical meaning you attach to the words.

The "trifling inaccuracies" in the map of Charles Preuss, to which you allude, were not pointed out by me at all with the view of strengthening my position as regards the Canal de Haro, but simply to show that, in drawing *boundary lines*, he did so on his own authority, and was neither guided by the treaty nor the treaty makers. You say you do not bring forward this map "as any authority for the line of boundary," but merely "as a *counter evidence* to what you [I] have advanced as to the Canal de Haro being the channel of the treaty."

You add, both this map, dated in 1848, and the diagram of Surveyor General Preston, drawn in 1852, "are official documents, and are therefore entitled to some weight."

Considering the summary manner in which you have disposed of the evidence of Mr. McLane and Mr. Benton, I am somewhat surprised that you should attach any weight to these maps, particularly after the proof I have given you of their inaccuracy and want of authority in regard to boundary lines. Since, however, you regard them as entitled to some weight, I would respectfully call your attention to the map of the Surveyor General of Washington Territory for 1856, published during the present year by the same authority as the map of Mr. Preston. Upon this map the boundary line is drawn from the forty-ninth parallel through the Gulf of Georgia, the Canal de Haro, and the Straits of Fuca, to the Pacific Ocean. Doubtless the present able surveyor general, Mr. Tilton, has carefully studied the language and terms of the treaty, and has interpreted its meaning therefrom, without any special knowledge of the actual intentions of its authors.

I have read Mr. Arrowsmith's letter to the secretary of the Hudson's Bay Company, appended to your letter, and am struck with his ingenuity in avoiding the direct question put to him as to the authority by which he was guided in marking the boundary line. Mr. Arrowsmith gives carefully the date of the publication of the map, but adds that, at that time, it contained no boundary line whatever, and that it continued without one until 1852, when he engraved the boundary line as it now stands upon the plate, and published it in 1853. He gives, as his authority for introducing the engraved boundary line, the map of Preuss, published in Washington City in 1848. He then states the reasons why he deviated from the line as laid down by Preuss, giving the larger island to Great Britain and the smaller to the United States, for reasons satisfactory to himself. The diagram of Mr. Preston was considered by Mr. Arrowsmith as confirmatory of that of Mr. Preuss, and as showing the views of the United States government down to October, 1852.

I was well aware of the estimation in which Mr. Arrowsmith was held, in England and elsewhere, as an accurate collector, compiler, and publisher of maps; and the inquiry of the Hudson's Bay Company, and the production of his reply at this time, confirms my opinion.

I would now respectfully call your attention to the fact that, in the map of 1849, the boundary line of the forty-ninth parallel is drawn and colored, and, although no boundary *line* is laid down between Vancouver's Island and the territories of the United States, the whole *boundary channel*, from the forty-ninth parallel to the Pacific Ocean, is so distinctly portrayed, by coloring differently the coast of Vancouver's Island and the adjacent coasts of the United States, that it is a mere quibble on his part to say that the map contains "no boundary line whatever." While he carefully avoids giving the authority for marking thus distinctly the boundary channel, he is critically minute in giving his authority for engraving the line in 1852, and his reasons for dividing the islands of Cypress and Sinclair between the two territories. He does not, how-

ever, attempt to explain why he postponed the introduction of the engraved boundary line until 1852, and its publication until 1853. Mr. Preuss's map was published and given forth to the world in June, 1848. Certainly, so eminent a collector of maps as Mr. Arrowsmith could not have failed, before the close of 1852, to obtain possession of a map published in the city of Washington, by order of the United States Senate. If he had it, as it is to be presumed, he evidently regarded it as of no authority until about that period.

It is to be presumed that, when Mr. Arrowsmith receives the map of Surveyor General Tilton for 1856, his original impression as to the channel of the treaty will be confirmed, and that he will restore the boundary channel to his map, as in 1849, with the addition of the line from the forty-ninth parallel to the Pacific Ocean.

If I have not failed entirely in my object, I think you must be satisfied, from the correspondence which has resulted from your letter of the 28th ultimo, that the views I have maintained in regard to the channel are too firmly fixed to admit of my agreeing to any arrangement for defining the boundary line which would divert it from the Canal de Haro. It has been my earnest endeavor to satisfy you of the force and justice of my convictions, by an unreserved exhibition of the evidence upon which I relied to sustain my reading of the treaty. If I have failed in my expectations, the effort has at least given me additional confirmation of the correctness of my views. The evidence I have produced remains uncontroverted and incontrovertible. On the other hand, no argument has been advanced or evidence adduced in favor of Rosario Straits that has not, to my mind, been satisfactorily refuted or invalidated.

I agree with you in the importance of an early determination and settlement of the boundary line, but much as I should regret any delay in consequence of a disagreement between us, I must frankly, but respectfully, decline accepting any proposition which would require me to sacrifice any portion of the territory which I believe the treaty gives to the United States; and in doing so allow me to say that there is not the slightest probability that your government, yourself, or any other person, will ever be called upon for a renewal of the proposition contained in your letter of the 24th instant.

Fully appreciating the liberal and conciliatory spirit which actuates you on the present occasion, I can reciprocate cheerfully your kind expressions in relation to our past intercourse, both personal and official.

With the highest regard and most perfect esteem I have the honor to be, most respectfully and sincerely, your obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States
for determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST,

First British Commissioner Northwest Boundary Survey, &c.

Extract from letter of Mr. Crampton to Mr. Buchanan.

WASHINGTON, January 13, 1848.

SIR: Mr. Pakenham, in the early part of last year, suggested to Her Majesty's government the expediency of endeavoring to arrive at an early settlement of such matters of detail as are still wanting to a complete and final adjustment of everything connected with the Oregon boundary.

In the propriety of this suggestion Her Majesty's government concur, so far at least as certain portions of the boundary in question are involved; but finding, from the Admiralty and from the Hudson's Bay Company, that some important parts of the space through which the boundary line is to run—namely,

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the Gulf of Georgia and Fuca's Straits—are still very imperfectly known, and that further information respecting them was to be shortly expected by means of the reports of the commander of her Majesty's surveying vessels Herald and Pandora, which were engaged during the previous summer in surveying those waters, Her Majesty's government were of opinion that it would be better to postpone any further proceedings respecting the boundary until those reports shall be received.

Her Majesty's government have, however, learned, by further inquiries at the Admiralty, that the survey which was carried on last year in the Straits of Fuca and the Gulf of Georgia by her Majesty's ships Herald and Pandora did not extend beyond the entrance to Hood's Canal on the south and Canal de Haro on the north, and that thus the greater part of the space in the Gulf of Georgia, through which the line of boundary, as provided by the convention of the 15th of June, 1846, is to be carried, remains unexplored.

This being the case, and there being no probability that Her Majesty's government will require, within any reasonable time, that detailed knowledge of those parts which they had been led to expect, there seems to Her Majesty's government to be no reason for any further delay in communicating with the United States government, with a view to the adoption of early measures for laying down such parts of the boundary line as the two governments, on mutual consultation, deem it advisable to determine.

I have accordingly been furnished, by Her Majesty's principal secretary of state for foreign affairs, with such instructions as may be necessary for this purpose. But Her Majesty's government believe that it may be useful that I should first briefly recapitulate what has been done in regard to determining the whole of the boundary which separates the North American territory of Great Britain from that of the United States.

* * * * *

From the Lake of the Woods to the Gulf of Georgia the line is described by the treaty of the 15th of June, 1846, as running along the forty-ninth parallel of latitude, and the ascertainment of that parallel on the surface of the ground being an operation of astronomical observation, can be accomplished with as much precision at a future time as at present.

But between the Gulf of Georgia and the Straits of Fuca the line is less distinctly and accurately defined by the verbal description of the treaty by which it is established, and local circumstances render it probable that if this part of the line were not to be precisely determined, the uncertainty as to its course might give rise to disputes between British subjects and citizens of the United States. It appears, therefore, to Her Majesty's government that it would be wise to proceed forthwith to take measures for marking out that portion of the line of boundary.

For this purpose Her Majesty's government are of opinion that it might probably be sufficient that each government should appoint a naval officer of scientific attainments and of conciliatory character, and that those officers should be directed to meet at a specified time and place, and should proceed in concert to lay down the above mentioned portion of the boundary line.

The first operation of these officers would be to determine with accuracy the point at which the forty-ninth parallel of latitude strikes the eastern shore of the Gulf of Georgia, and to mark that point by a substantial monument.

From that point they would have to carry on the line along the forty-ninth parallel of latitude to the centre of the channel between Vancouver's Island and the continent, and this point, as it probably cannot be marked out by any object to be permanently fixed on the spot, should be ascertained by the intersection of the cross-bearings of natural or artificial landmarks.

The two officers would then have to carry on the line down the centre of that channel, and down the centre of the Straits of Fuca to the ocean. And

this water-line must, as it would seem, be determined also by a series of points to be ascertained by the intersection of cross-bearings.

But in regard to this portion of the boundary line a preliminary question arises, which turns upon the interpretation of the treaty, rather than upon the result of local observation and survey.

The convention of the 15th June, 1846, declares that the line shall be drawn through the middle of the "channel" which separates the continent from Vancouver's Island. And upon this it may be asked what the word "channel" was intended to mean.

Generally speaking, the word "channel," when employed in treaties, means a deep and navigable channel. In the present case it is believed that only one channel—that, namely, which was laid down by Vancouver in his chart—has in this part of the gulf been hitherto surveyed and used; and it seems natural to suppose that the negotiators of the Oregon convention, in employing the word "channel," had that particular channel in view.

If this construction be mutually adopted, no preliminary difficulty will exist, and the commissioners will only have to ascertain the course of the line along the middle of that channel, and along the middle of the Straits of Fuca down to the sea.

It is, indeed, on all accounts, to be wished that this arrangement should be agreed upon by the two governments, because otherwise much time might be wasted in surveying the various intricate channels formed by the numerous islets which lie between Vancouver's Island and the mainland, and some difficulty might arise in deciding which of those channels ought to be adopted for the dividing boundary.

The main channel marked in Vancouver's chart is, indeed, somewhat nearer to the continent than to Vancouver's Island, and its adoption would leave on the British side of the line rather more of those small islets with which that part of the gulf is studded than would remain on the American side. But these islets are of little or no value, and the only large and valuable island belonging to the group—namely, that called Whidbey's—would, of course, belong to the United States.

This question being, as I have already said, one of interpretation rather than of local observation, it ought, in the opinion of her Majesty's government, to be determined before the commissioners go out, which cannot be earlier than the spring of next year.

In bringing this matter under the consideration of the government of the United States, I am directed to present to you a copy of the proposed draught of instructions to the commissioners to be so appointed, which I have the honor herewith to enclose.

I avail myself of this opportunity to renew to you, sir, the assurance of my highest consideration.

JOHN F. CRAMPTON.

Hon. JAMES BUCHANAN.

— DRAUGHT OF INSTRUCTIONS.

Her Majesty's government and the government of the United States having determined to appoint commissioners for the purpose of marking out that part of the line of boundary between the British and United States possessions in North America which passes through the Gulf of Georgia and Fuca's Straits to the Pacific Ocean, I have to acquaint you, &c., &c., &c.

The first article of the treaty of the 15th of June, 1846, between Great Britain and the United States, provides as follows :

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of her Britannic Majesty and those of the

United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver'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 strait south of the forty-ninth parallel of north latitude remain free and open to both parties.

The first operation which, in conjunction with the United States commissioner, you will have to undertake in tracing the above-mentioned boundary line, will be to determine with accuracy the point at which the forty-ninth parallel of north latitude strikes the eastern shore of the Gulf of Georgia, and to mark that point by a substantial monument.

From that point you will carry on the line of boundary, along the forty-ninth parallel of north latitude to the middle of the channel between Vancouver's Island and the continent. The whole breadth of the Gulf of Georgia in this part being, as far as is known, navigable, the term "middle of the channel," used in the treaty, may here be assumed to mean the middle of the gulf. But as it is probable that the point which constitutes the middle of the gulf cannot well be marked out by any object to be fixed permanently on the spot, it must be ascertained and fixed by the intersection of the cross-bearings of natural or artificial landmarks. This matter the commissioners will have to settle by mutual agreement; but it will be essential that the point in question should be marked out as accurately as the nature of things will admit.

You will then proceed to carry on the line of boundary from this point down the middle of the Straits of Fuca to the ocean. In tracing and marking out this continuation of the boundary, the water line must probably still be determined by a series of points to be ascertained by the intersection of cross-bearings. In performing this operation it will, of course, be desirable to observe as much accuracy as may be attainable. But, independently of the impossibility of arriving at mathematical precision in such a matter, such precision is the less important because the treaty stipulates that the navigation of the whole of the channel of the Gulf of Georgia and of the Straits of Fuca shall remain free and open to both parties.

That part of the channel of the Gulf of Georgia which lies nearly midway between the forty-eighth and forty-ninth parallels of north latitude appears by Vancouver's chart to be obstructed by numerous islands, which seem to be separated from each other by small and intricate channels, as yet unexplored; it has, therefore, been mutually determined between the governments of Great Britain and the United States, in order to avoid the difficulties which would probably attend the explorations of all those channels, that the line of boundary shall be drawn along the middle of the wide channel to the east of those islands, which is laid down by Vancouver, and marked with soundings as the channel which had been explored and used by the officers under his command. You will find the line thus described traced in red in the copy from Vancouver's chart, hereto annexed.

It must necessarily be left to the discretion of the commissioners to connect this part of the line through Vancouver's channel with the other parts of the line, which, being drawn through portions of the gulf free from islands, must pass exactly half-way between Vancouver's Island and the main; but the slight deviations of the boundary from the accurate midway which may for some short distance be required for this purpose cannot be of any material importance to either party.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Simiahmoo Bay, Gulf of Georgia, December 1, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th ultimo, in which you decline to agree to the proposal I made in my letter of the 24th ultimo with a view to our being able ourselves to determine the water boundary line between the possessions of her Britannic Majesty and those of the United States, as settled in the first article of the treaty of 15th June, 1846.

2. Could I regard the correspondence of Mr. McLane and the speech of Mr. Benton as of greater weight than the treaty itself, I should probably, in the absence of direct contradictory evidence of equal value, respond to your view that the boundary line should pass through the Canal de Haro; but *taking the treaty alone as my authority*, and with its words plainly and unmistakably before me, I could never conscientiously admit that the Canal de Haro is a channel which intrinsically answers to the channel described in that treaty. In that treaty I find two fixed points named, the continent on one hand and Vancouver's Island on the other, and it is agreed that the boundary line is to run through the middle of the channel separating the former from the latter. In this case, in my opinion, the continent is *de facto the continent*, as much as the island is *de facto the island*; and holding this view I conceive that no interpretation of the treaty *per se* can admit of the Canal de Haro being regarded as the channel through which the boundary line should pass. It appears to me that the claim to this channel *rests entirely* on the correspondence of Mr. McLane and the speech of Mr. Benton. If upon this ground the Canal de Haro be admitted as the channel of the treaty, with equal justness it might be argued that the line along the forty-ninth parallel should not strike the water at the *forty-ninth parallel*, but that it should *deflect to Birch's Bay*, which is a few miles to the southward; for Mr. McLane, in his letter of the 18th May, 1846, states that the offer will probably be "to divide the territory by the extension of the line on the parallel of forty-nine to the sea; *that is to say, to the arm of the sea called Birch's Bay*—thence by the Canal de Haro and Straits of Fuca to the ocean;" but I find no mention of *Birch's Bay* in the treaty, any more than I do of the *Canal de Haro*; and as the words of the treaty are as distinct upon the one head as they are upon the other, I cannot admit that they should be departed from, either to carry the boundary line through the Canal de Haro, or to deflect it from the forty-ninth parallel to Birch's Bay. I conceive that the correspondence of Mr. McLane and the speech of Mr. Benton, and the concurrent proceedings in the Senate of the United States, must be viewed in connection with the *whole Oregon question* as agitated at the time, and not merely with reference to the small portion of that question which is comprised in the determination of the line of boundary between the continent and Vancouver's Island. I have received the whole of this evidence with the greatest respect, and I have given to it the most careful and anxious study and reflection, but I cannot admit it as otherwise than *secondary* to the treaty. While upon this point, I would respectfully submit to you that if the treaty was intended by the United States government to accord with the correspondence of Mr. McLane and the speech of Mr. Benton, I conceive that the general maxim you have quoted from Vattel would be more applicable to the United States than to the British government, for if the former intended that the Canal de Haro should be the channel through which the boundary line was to pass, they should have taken care that it was so expressed "clearly and plainly" in the treaty. That it was never either the proposition or in the contemplation of the British government, every further reflection I give to the subject only the more firmly convinces me.

3. Notwithstanding the construction you are pleased to put upon the quotation I used from Vattel to show that it was not necessary to give a term every-

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where the same signification in the same deed, I must, with the utmost deference, still maintain that it is strictly to the point for which I quoted it; and I think further reflection on your part will show you that the objection because the term occurs *only "once,"* whereas the rule applies to words which "occur *more than once,*" is but a mere play upon words; the whole spirit of the paragraph in Vattel being so evident. The word "southerly," in reference to which the quotation was made, although *only once printed,* is *applied twice,* and, therefore, is in the same category as if it were used twice; for although the actual words of the treaty are "and thence southerly, through the middle of the said channel and of Fuca's Straits to the Pacific Ocean," yet you would apply the words as if they were written, and thence southerly through the middle of the said channel, *and thence southerly through the middle of Fuca's Straits to the Pacific Ocean.* Although I do not for one moment suppose that the word southerly was intended by the treaty-makers to apply to Fuca's Straits at all, yet you have thought fit to so interpret it, and I do not dispute that, viewing the construction of the passage in which it occurs in a strictly grammatical sense, such an interpretation may be given to it. The further quotation I used from Vattel is also, I conceive, strictly applicable; for no "absurdity" follows the strict use of the term "southerly" in connection with Rosario Strait, although it does if the term be similarly used in reference to the boundary line reaching the Pacific Ocean through the Straits of Fuca.

4. In your letter of the 18th ultimo, in alluding to a continuous channel from the Gulf of Georgia to the Straits of Fuca, you state, "but whatever name may have been given to the waters broken up by the islands" (between the continent and Vancouver's Island,) "*they are all continuations of the waters proceeding from the Straits of Fuca or Gulf of Georgia, and are all perfectly on an equality in that respect;*" and again, "it has been acknowledged that Rosario Strait, in common with the other channels, is a continuation of the Gulf of Georgia." After stating this as your conviction and opinion it is difficult for me to conceive how you can reconcile the claim to trace the boundary line *through the middle of the Canal de Haro with a strict adherence to the terms of the treaty,* "taking the words in the most literal sense." Surely, if all the channels between the continent and Vancouver's Island, from the southern termination of the Gulf of Georgia to the eastern termination of the Straits of Fuca, are a continuation of the channel called the Gulf of Georgia, it must necessarily follow that they are collectively *part of that channel,* and consequently the "*said channel*" of the treaty, through the "*middle*" of which the line of boundary should be carried to accord with the terms of the treaty. Although I do not admit the correctness of your view with regard to *all the channels* in the position before described forming a continuation of the channel of the Gulf of Georgia, yet it was this statement of your view that induced me to make the proposition I did, with the sincere hope that we might ourselves come to an arrangement of the matter; and when I reflected upon this statement of yours, and when I voluntarily offered to recede from what I firmly and honestly believed was not only the intention of the British government in employing the words used in the first article of the treaty, but also the true and literal interpretation of the words themselves; and when I offered to abandon what I most conscientiously and candidly conceived was the better claim of the two, solely in order that the matter might be settled at once and by ourselves, I think it was no unreasonable hope to indulge and no over-confident expectation to entertain that I should meet with the *most ready response* from you. That it has not been so, I can now only regret; and it is but for me now to propose that a conference be held whenever it may be convenient to you, in order that it may be formally recorded that we are unable to agree as to the direction of the boundary line, and that

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you decline to accede to my proposition for an amicable compromise, and that we therefore decide upon a reference of the whole matter to our respective governments.

With the utmost consideration and esteem, I beg to subscribe myself, sir, your most obedient, humble servant,

JAMES C. PREVOST,

*Captain H. B. M. ship Satellite and Her Majesty's
First Commissioner for determining the aforesaid Boundary.*

ARCHIBALD CAMPBELL, Esq.,

U. S. Commissioner Northwest Boundary, &c., &c., &c.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Smiahmoo, 49th Parallel, December 2, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the first instant. In my previous letters I have distinctly stated that the Canal de Haro, in my opinion, is the channel intended by the treaty, taking it "in the most literal sense consistent with its execution," and I have given my reasons therefor. In like manner you have asserted that Rosario Straits is "the channel" of the treaty, and given the grounds upon which your opinion is based.

Finding, however, that we could not agree by confining ourselves to the mere words of the treaty, I laid before you contemporaneous evidence of the highest authority and most undoubted authenticity, in hopes that it would aid in settling the disputed question and enable us to execute our instructions by carrying the treaty into effect. You did not decline to consider this evidence, but attempted to degrade its character by designating it as mere opinions and to destroy its force by the production of what you were pleased to call "*counter evidence.*" But when you find its facts to be incontrovertible and the counter evidence entitled to no credit, you again intrench yourself behind the mere words of the treaty, and refuse to "admit any evidence whatever on the subject to weigh with" you "that would lead to an interpretation that the *precise terms* of the treaty will not admit."

I also called your attention to the views of your own government in 1848, within two years after the conclusion of the treaty, to prove that there was no evidence in existence that Rosario Straits was ever intended as "the channel" of the treaty. With such evidence in favor of the Canal de Haro, and against the Rosario Strait, I think I had good reason to expect an acknowledgment on your part that you were mistaken in the views you first entertained.

You now say it appears to you that the claim that the Canal de Haro is "the channel," "*rests entirely* on the correspondence of Mr. McLane and the speech of Mr. Benton." If this be a fair construction of my position in regard to that channel, then the claim for Rosario Straits rests on no foundation whatever, for *your opinion*, equally with my own, is set aside by such a view of the case. Having shown, heretofore, that the evidence of Mr. McLane and Mr. Benton proves that the Canal de Haro was originally intended by the British government, and that the intention remained unchanged, I am not unwilling to let the question rest *entirely* upon their evidence for the present. When any substantial contemporaneous counter evidence is produced, it will then be time enough to bring forward more if necessary.

I do not deem it necessary to enter into any argument to show the fallacy of your inference, that if the Canal de Haro be admitted as "the channel," with equal justness it might be argued that "the line along the forty-ninth parallel" would not strike the water at the *forty-ninth parallel*, but that it should *deflect*

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to *Birch's Bay*." A glance at Vancouver's chart, or at Wilkes's map of the Oregon Territory, will show why that "arm of the sea" was named by Mr. McLane in giving the substance of the proposition of the British government, and also why it was not introduced into the treaty.

Your remark as to the applicability of the general maxim of Vattel (quoted by me) to the United States, rather than to the British government, might have some force if the proposition had not emanated from the latter. The language chosen to convey their intention could not be objected to by the former, unless it failed to express that intention clearly. That it was fully understood I have heretofore shown.

In recognizing and admitting the fact that the various channels between the continent and Vancouver's Island are directly or indirectly connected with the Straits of Fuca or Gulf of Georgia, I do not see any conflict with the claim I have made, that the boundary line should be traced *through the middle* of the *Canal de Haro* in strict adherence to the terms of the treaty; for, even if according to your proposition all the space referred to should be considered *one channel*, it would be impossible to run a line "through the middle of the said channel" in strict accordance with the terms of the treaty, without coming in contact with islands. But following the precedents in like cases where there are several channels, it would make no difference in the result, for the *main channel* would have to be adopted, and, consequently, the Canal de Haro would still be the channel of the treaty.

From the conclusion of your letter it might appear as if I had disappointed a reasonable expectation on your part that I would respond to your proposition for a mutual concession. Considering the powerful evidence I have brought forward to sustain my opinion that the Canal de Haro is "the channel," against your opinion alone, unaccompanied by a particle of evidence to sustain it, I am at a loss to understand upon what ground you could have expected me to yield one inch of the line I have claimed, and proved to be the true boundary intended by the treaty. I must candidly confess that I think any proposition with a view to concession on the part of the United States was hardly justifiable under the circumstances.

With the highest regard and esteem, I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,
*Commissioner on the part of the United States
for determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,
H. B. M. First Commissioner N. W. Boundary.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP *SATELLITE*,
Simiahmoo Bay, Gulf of Georgia, December 3, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday's date.

With every assurance of my respect and esteem, I have the honor to remain your most obedient, humble servant,

JAMES C. PREVOST,
*Captain H. B. M. ship Satellite, and her Majesty's
First Commissioner for determining the Line of Boundary
between the Continent and Vancouver's Island.*

ARCHIBALD CAMPBELL, Esq.,
U. S. Commissioner N. W. Boundary, &c., &c., &c.

MINUTES OF PROCEEDINGS OF JOINT COMMISSION.

First Meeting.

On Saturday, the 27th day of June, 1857, met on board her Britannic Majesty's ship *Satellite*, in the harbor of Esquimalt, Vancouver's Island.

Archibald Campbell, esq., appointed Commissioner on the part of the United States of America to carry into effect the first article of the treaty between the United States and Her Britannic Majesty of the 15th June, 1846.

Lieutenant John G. Parke, Topographical Engineers, appointed Chief Astronomer and Surveyor on the part of the United States of America to carry into effect the first article of the treaty as aforesaid.

James Charles Prevost, esq., Captain Royal Navy, commanding Her Britannic Majesty's ship *Satellite*, appointed her Britannic Majesty's first Commissioner for determining so much of the boundary line according to the first article of the treaty aforesaid as is to be traced from the point where the forty-ninth parallel of north latitude strikes the eastern shore of the Gulf of Georgia.

Respective commissions exhibited and read and found to be in due form.

Commissions of Mr. Campbell and Lieutenant Parke, dated 14th February, 1857. Commission of Captain J. C. Prevost, dated 18th December, 1856.

Commissioners discussed generally their future plan of operations and agreed to proceed, so soon as may be convenient to both parties, to the locality of Point Roberts, in the neighborhood of which the initial point of the boundary line is expected to be found.

Second Meeting.

Circumstances having occurred which brought about a meeting of the Commissioners on board Her Majesty's ship *Satellite* in Nanaimo harbor, Vancouver's Island, on Friday, the 17th July, 1857, Mr. Campbell and Captain Prevost met together, and having discussed matters and finding that the surveying vessel, the *Plumper*, had not yet arrived, and no actual progress could be made without her assistance, they therefore agreed to adjourn until the course of events should render a further meeting desirable.

Third Meeting.

Third meeting of the Commission for determining the Boundary line under the first article of the treaty between the United States of America and Great Britain of 15th June, 1846, took place on board Her Majesty's ship *Satellite* in Simiahmoo Bay, near to Point Roberts, on Monday, 26th October, 1857, at 11 a. m.

Present: Archibald Campbell, esq., United States Commissioner; Lieutenant J. G. Parke, United States Army, Chief Astronomer and Surveyor United States Commission; James C. Prevost, esq., British Commissioner; William A. G. Young, Secretary British Commission.

Commissioners proceeded to discuss the subject of the water boundary. Captain Prevost stated his regret that Her Majesty's surveying vessel *Plumper* was still absent, but as he had opportunities of verifying the general accuracy of the United States Coast Survey chart of 1854, he was willing to take that chart as the chart upon which the general character of the boundary line could be determined, leaving the correct tracing of that line as an afterwork to be carried out by the surveyors.

First article of the treaty of 15th June, 1846, read: Subject, as to which channel should be received as the channel of the treaty discussed by the commissioners, Mr. Campbell maintaining that, according to his views, the line

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should pass through the Canal de Haro, and Captain Prevost stating that it appeared that the channel called the Rosario Strait was the only one that would answer to the channel laid down in the treaty.

Commissioners adjourned at 1.30 p. m. to consider over the different points advanced in favor of the respective views entertained.

Fourth Meeting.

Fourth meeting of the Northwest Boundary Commission at Simiahmoo Bay, Gulf of Georgia, on board Her Majesty's ship *Satellite*, at noon of Tuesday, 27th October, 1857.

Present: Same as preceding day.

Discussion as to which of the two channels, the Rosario Strait or the Canal de Haro, was the better navigable channel, Captain Prevost stating that for sailing vessels the Rosario Strait was preferred to the Canal de Haro.

Discussion as to the channel of the treaty, Mr. Campbell advancing that the Canal de Haro was the channel intended, and Captain Prevost contending that the Canal de Haro would not meet the conditions of the channel of the treaty.

Commission adjourned at 2 p. m.

Fifth Meeting.

Fifth meeting of the Joint commission for determining the Boundary line under the first article of the treaty of June 15, 1846, between the United States and Great Britain took place at the office of the United States Northwest Boundary Commission, Camp Simiahmoo, near the forty-ninth parallel, Friday, November 20, 1857, at 2½ o'clock p. m.

Present: Archibald Campbell, esq., United States Commissioner; Lieutenant John G. Parke, United States Army, Chief Astronomer and Surveyor United States Commission; William J. Warren, Secretary United States Commission; James C. Prevost, esq., Captain Royal Navy, first British Commissioner; George Henry Richards, esq., Captain Royal Navy, second British Commissioner; William A. G. Young Secretary British Commission.

Captain Prevost stated that he had received the letter from Mr. Campbell of the 18th instant, but he was not yet prepared to enter into any discussion upon it; and that the object of the present meeting was to introduce Captain Richards.

The meeting adjourned at 3 o'clock p. m., Mr. Campbell leaving it to Captain Prevost to name the time of the next meeting.

Sixth Meeting.

Present: Same as last meeting. A meeting was held on the 3d day of December, 1867, at the camp of the United States Northwestern Boundary Commission, Simiahmoo Bay, Gulf of Georgia, of the Joint Commission for determining the line of water boundary described in the first article of the treaty between the United States and Great Britain of the 15th of June, 1846.

Captain Prevost, Her Majesty's first Commissioner, stated that he had duly received and attentively considered all Mr. Campbell's correspondence upon the subject of "the channel" through which the boundary line was to pass according to the treaty, and that he was unable to admit that the Canal de Haro, as claimed by Mr. Campbell, was a channel which would meet the requirements of the treaty, but on the contrary that he considered the channel now called the Rosario Strait was the only one which would in all points answer to the channel described in the treaty. Such being the case, and Mr. Campbell remaining firm in his opinion as to the Canal de Haro being the channel through which the boundary line should pass, Captain Prevost had proposed that the disagree-

ment should be settled by mutual compromise, which proposition Mr. Campbell declining to entertain, he begged now to submit that the whole matter and correspondence connected with the same should be referred by each to his government.

Mr. Campbell, United States Commissioner, in reply stated that he did not concur in the proposal as to the *reference* of the matter to the respective governments, but that so far as he was concerned he should *report* proceedings to his government, submitting at the same time all the correspondence upon the subject.

Commissioners agreed to adjourn until circumstances should render their meeting again necessary.

Commission adjourned.

ARCHIBALD CAMPBELL.
JAMES C. PREVOST.

Mr. Campbell to Mr. Cass.

WASHINGTON, June 1, 1858.

SIR: I transmit herewith a copy of a letter from Mr. Everett, and a pamphlet by William Sturgis, which I respectfully request may be filed with the documents already submitted by me in relation to the determination of the boundary channel between the continent and Vancouver's Island.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
Com'r N. W. Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Mr. Edward Everett to Mr. Campbell.

BOSTON, May 26, 1858.

DEAR SIR: Your favor of the 27th reached me yesterday. I lost no time in placing it in the hands of Mr. Sturgis, who is my near neighbor, and requesting of him a copy of his pamphlet for you. He has kindly placed three copies in my hands, which I forward by this day's mail.

With respect to your inquiry how it became known that this pamphlet was placed in possession of the framers of the treaty of 1846, Mr. Sturgis informs me that pending the negotiation he was in confidential correspondence with his relative, Mr. Baucroft, at that time a member of Mr. Polk's cabinet, and for obvious reasons the member most likely to have influence in reference to a question of an historical character; and also with Mr. Joshua Bates, of London, the well-known member of the house of Baring Brothers & Co. Mr. Sturgis's pamphlet and letters were communicated regularly by Mr. Bates to Lord Aberdeen, then minister of foreign affairs. Mr. Sturgis has read me, within an hour, portions of this correspondence; and in one of Mr. Bates's letters it is stated that, at a recent dinner at his son-in-law's, Mr. Van de Weyer, the Belgian minister, when Lord Aberdeen and Mr. Bates were present, Lord Aberdeen informed Mr. Bates that he considered Mr. Sturgis's pamphlet a fair, practicable, and sensible view of the subject, and that it had been read by all the ministers.

I will only add the suggestion that as the radical principle of the boundary is the 49th degree of latitude, and the only reason for departing from it was to give the whole of Vancouver's Island to the party acquiring the largest part of it; the deflection from the 49th degree southward should be limited to that object, and the nearest channel adopted which fulfils the above conditions.

I remain, dear sir, sincerely yours,

EDWARD EVERETT.

ARCHIBALD CAMPBELL, Esq.

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*Extract from Pamphlet, by Mr. William Sturgis.**

I deem it very desirable that the question of boundary should be speedily adjusted, and that the limits and the rights of each party be so clearly established and defined as to prevent all danger of collision hereafter. In this opinion I doubt not that the distinguished statesmen, Messrs. Pakenham and Calhoun, who now have charge of the negotiation, will cordially concur; and it seems to me that each party will attain their object and justice be done to both, by adopting as the boundary a continuation of the parallel of 49° across the Rocky Mountains to tidewater, *say to the middle of the "Gulf of Georgia;" thence by the northernmost navigable passage (not north of 49°) to the Straits of Juan de Fuca,* and down the middle of these straits to the Pacific Ocean; the navigation of the Gulf of Georgia and the Straits of Juan de Fuca to be forever free to both parties, *all the islands and other territory lying south and east of this line to belong to the United States,* and all north and west to Great Britain. By this arrangement we should yield to Great Britain the portion of Quadra and Vancouver's Island that lies south of latitude 49°, which, in a territorial point of view, is of too little importance to deserve a moment's consideration; and both parties would secure for a considerable extent a well-defined natural boundary, about which there could hereafter be no doubt or dispute. Will Great Britain accede to this? I think she will.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, 49th Parallel, September 25, 1858.

SIR: In compliance with my instructions to keep the department from time to time advised of the progress of the work intrusted to my charge, I have the honor to report, &c. * * * * *

The determination of the forty-ninth parallel being a purely scientific operation, it is not probable, in the survey of the land boundary, that any question can arise between the commissioners that will cause serious interruption or delay in the demarcation of the line.

In reference to the water boundary, however, which depends mainly upon the interpretation of the language of the treaty defining it, I had the honor on the 10th of February last to inform you that a question had arisen between Captain Prevost and myself as to "the channel" through which the boundary line is to be traced; and to lay before you a copy of a correspondence and proceedings, setting forth our respective views on the subject, and the result of our disagreement. Since that time no further progress has been made in the settlement of this question. Meantime the minute survey of the channels and islands between the continent and Vancouver's Island is progressing. On the part of the United States Commission, the hydrographic work is carried on by Commander Alden, United States navy, in charge of the Coast Survey steamer *Active*, and the triangulation and survey of the shore line by Mr. Lawson, assistant of the Coast Survey, in charge of the brig *Fauntleroy*. On the part of the British Commission, the work is prosecuted by Captain Richards, second Commissioner and Surveyor, in command of Her Majesty's surveying steamer *Plumper*.

The settlement of the question of "the channel" involves the sovereignty of the group of islands called the Haro Archipelago, between the Canal de Haro and Rosario Straits, embraced in a space of about 400 square miles. The recent emigration to this region has attracted considerable attention to this beautiful and picturesque group of islands, and much greater interest than heretofore is now manifested in the settlement of the boundary question. The uncertainty

* *The Oregon Question.*—Substance of a lecture before the Mercantile Library Association, delivered January 22, 1845, by William Sturgis, Boston: Jordan, Swift & Wiley, 1845.

in regard to their sovereignty prevents them from being occupied by American settlers. The largest and most valuable of these islands are San Juan, Orcas, and Lopez; and upon each of them there is a large portion of land suitable for agricultural and grazing purposes. It is in a military and naval point of view, however, that their importance is to be mainly regarded. The late General Persifer F. Smith, who visited this section of country while in command of the Department of the Pacific, fully estimated their importance to the national defence, and, in December, 1857, presented his views on the subject to the President, in a letter now on file in the State Department, in which he says:

When I had the pleasure of meeting you in Washington, I intended to speak to you on a subject of great importance connected with the boundary between the United States and the British possessions north of them on the Pacific coast. The line, after having followed the forty-ninth parallel to the sound dividing the island of Vancouver from the continent, is to run south, taking the main channel to its intersection with the Straits of Juan de Fuca, and then west through those straits to the ocean. At this intersection lies a group of islands, just north of the end of the straits, commanding the entrance into the sound and opposite to the entrance of Admiralty Inlet and Puget's Sound in our own territory. These islands form a naval harbor that may be defended against any force if they are fortified as they may be, and the nation that disposes of them thus will absolutely command not only Queen Charlotte's Sound, but all those splendid harbors in our territory on the waters of Admiralty Inlet and Puget's Sound, as well as those on the Straits of Juan de Fuca and the navigation of that inlet. These harbors are the best on the Pacific coast, for, with the timber that covers the hills bordering on them, and the coal in the adjacent territory as far south as Gray's Harbor, they possess the great advantage of a rise and fall of tide of twenty-one feet, rendering the construction and use of docks easy and cheap.

I visited all these waters in 1849-'50, and on my return represented to the President the immense importance of the islands referred to; and afterwards, at his request, gave Governor Stevens, then about to start for Washington Territory, a written memorandum in relation to the subject.

In 1855 Captain George Stoneman, of the Dragoons, and Lieutenant W. H. C. Whiting, of the Corps of Engineers, by order of General Wool, then commanding the Department of the Pacific, made a military examination of this part of the northwest coast, and in their report they express their opinion in relation to the value of these islands, as a means of defending the approaches to our territories and the inland waters, as follows:

Between the Gulf of Georgia and the Straits of Fuca are two great channels, the Straits of Haro on the west and of Rosario on the east, separated by the Archipelago, a group of small islands, forming a very important feature of the sound. The title to these is in dispute between the English and American governments. There can, however, be no reasonable doubt as to the validity of our claim. The natural and direct ship channel, the treaty boundary, is the Straits of Haro. No vessel bound for the Gulf of Georgia would take the longer, narrower and more intricate passage of Rosario Straits. In considering the subject of the defence of the sound, these islands are important, and we shall again briefly recur to them.

It is easily seen from the maps of our western coast that the sound and the straits are the only available point which can afford an enemy the *point d'appui* for an attack on San Francisco, or refuge, wood, water, coal, provisions, timber and spars, for a blockade of our coast. Possessing this, an enemy has every advantage, either for prompt attack or for continued action. The strong northwest winds which prevail with the regularity of the trades for the greater part of the year make the passage of sailing ships from six to ten days, while steamers may do it in four. Vancouver's Island is naturally the key to this position, and it is greatly to be regretted that it does not belong to us. *There are, however, other points which may be improved to be nearly as effective.* Of these may be mentioned Port Discovery and Sequim Bay, opposite to the southern end of Vancouver; and also the Archipelago. This group consists of the islands of San Juan, Lopez, Orcas and Waldron the largest, besides several others not yet named. They are so situated that they form an admirable land-locked harbor of ample size, accessible by six narrow entrances in any wind and weather, and capable of being defended almost by small arms. As a naval station, secured by batteries, this position commands all the interior waters and the approach to the territories.

A further evidence of the importance to be attached to the sovereignty of these islands will be found in the steadiness of purpose with which the British government, from the ratification of the treaty to the present time, have endeavored to secure and retain possession of them. It is true that in their communications to our government, when endeavoring to procure the adoption of Rosario Straits as

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the boundary channel, they have designated them as "islets of little or no value," yet, at the same time, Governor Douglas had "received the orders of Her Majesty's ministers to treat these islands as part of the British dominions."

By a reference to my report of the 10th of February last, it will be seen that after a full discussion upon the relative claims of the Canal de Haro and Rosario Straits to be considered as "the channel which separates the continent from Vancouver's Island," Captain Prevost finally proposed, by way of compromise, to run the boundary line through one of the channels between the Canal de Haro and Rosario Straits, dividing the islands so as to give San Juan to Great Britain and the other islands of the group to the United States. Being fully satisfied that the Canal de Haro was "the channel" intended by the treaty, I declined to entertain the proposal. Captain Prevost then proposed a reference of the whole matter to our respective governments. As I did not consider the circumstances such as to justify him in making such a proposal, I did not concur in it. I therefore reported the proceedings of the joint commission to the department, and Captain Prevost, upon his own responsibility referred the question to his government, and has not yet received any further instructions for his guidance on the subject.

When the British government consider the evidence brought to light showing the intentions of the two governments in relation to the meaning of the language of the treaty defining the boundary line between the continent and Vancouver's Island, it is but fair to presume they will direct their commissioner to adopt the Canal de Haro as the boundary channel; and in consideration of the importance of a speedy settlement of the question, it is to be hoped that they will take early action on the subject. There is no part of the boundary between the two countries, from the Pacific Ocean to the Rocky Mountains, where a demarcation of the line is more to be desired.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,

Camp Simialmoo, December 1, 1858.

SIR: I have the honor to transmit herewith the copy of a letter from the Hon. George Bancroft, in reply to inquiries from me as to the interpretation which was placed upon the first article of the treaty of 1846, in relation to the water boundary, by the British government, at the time he was minister to London.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,

Secretary of State.

Mr. George Bancroft to Mr. Campbell.

NEW YORK, June 15, 1858.

SIR: Your letter of May 27 has but just reached me, in consequence of my absence from home on a long journey.

I was in the administration of Mr. Polk at the time when Mr. Buchanan perfected the treaty for settling the boundary of Oregon. The basis of the settlement was the parallel of 49°, with the concession to Britain of that part of Vancouver's Island which lies south of 49°. The United States held that both parties had a right to the free navigation of the waters round Vancouver's Island, and

therefore consented that the British boundary should extend to the centre of the Channel of Haro. Such was the understanding of everybody at the time of consummating the treaty in England and at Washington. The Hudson's Bay Company may naturally enough covet the group of islands east of that channel, but the desire, which never can amount to a claim, should not be listened to for a moment.

While I was in England no minister was preposterous enough to lend the authority of the British government to the cupidity of the Hudson's Bay Company in this particular. I think you must find in the Department of State a copy of a very short letter of mine to Lord Palmerston, enclosing him a chart of those waters as drawn by our own Coast Survey.* I think in that letter I mentioned the centre of the Straits of Haro as the boundary. That chart would show by the depths of the soundings that the Straits of Haro are the channel intended in the treaty, even if there had not been a distinct understanding on the part of the British government as well as the American at the time of the signing of the treaty. Lord Palmerston, in his reply acknowledging the receipt of the chart, made no pretence of adopting the wishes of the Hudson's Bay Company, and he never did so, even in conversation. I never had occasion in England to make any peremptory statement on the subject, because nothing was ever said or hinted there which required it; but always, whenever conversation turned upon the subject, whether with Lord Palmerston or with the under-secretary of the colonial office, I always spoke of the Strait of Haro as undeniably the channel of the treaty, and no member of the British government ever took issue with me. In running the line through the centre of the Straits of Haro there may be one or two small islands about which a question might be raised, but as to the important group that the Hudson's Bay Company covet, the demand, if made, should be met at the outset as one too preposterous to be entertained as a question.

Yours, sincerely,

GEORGE BANCROFT.

ARCHIBALD CAMPBELL, Esq., *Commissioner, &c.*

Correspondence referred to by Mr. Bancroft will be found accompanying Mr. Campbell's letter, January 20, 1859.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, January 20, 1859.

SIR: I have the honor to request that the accompanying copy of a correspondence of Mr. Boyd, *Chargé d'affaires ad interim*, and Mr. Bancroft, minister to London, with the Department of State, be filed with the papers I have already transmitted to the department in relation to the water boundary.

In connection with the various documents I have heretofore laid before you on the same subject, they expose the cautious and steady policy with which the British government have been advancing, step by step, in their pretensions to the group of islands east of the Canal de Haro, in violation of the letter and spirit of the treaty of 1846, from its ratification to the present time.

Mr. Bancroft's connection with Mr. Polk's administration, during the negotiation and ratification of the treaty, gave him the best means of knowing with certainty the views of the contracting powers, and particularly those of his own government, in regard to the boundary line agreed upon between the United States and British possessions. And from his position as head of the Navy Department he took particular interest in the water boundary, as is shown by his causing to be prepared, in advance of its publication, a tracing of Cap-

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tain Wilkes's chart of the space between the continent and Vancouver's Island, with soundings, showing the Canal de Haro to be the nearest channel to Vancouver's Island, as well as the main channel. His position at London as United States minister, almost immediately after the ratification of the treaty, gave him good opportunity of ascertaining the views of the British government in regard to the boundary channel at that early day. Until October, 1848, he appears to have been under the impression that the Hudson's Bay Company alone coveted the possession of the valuable group of islands east of the Canal de Haro, and that the British ministry did not favor their pretensions. His intercourse and correspondence with Lord Palmerston on the subject naturally led him to that conclusion. He openly declared, both verbally and by letter, the Canal de Haro to be the treaty "channel," without any objection or denial on the part of Lord Palmerston, who, on the contrary, although studiously avoiding the mention of the Canal de Haro by name, virtually admits it when he says the soundings will be of *great service* to the commissioners in *determining where the boundary line ought to run*.

By instructions from Lord Palmerston, Mr. Crampton, in his letter to Mr. Buchanan of January 13, 1848, proposed to the United States to appoint a joint commission for the purpose of marking out the water boundary; the commissioners to be sent out with joint instructions to carry the line down the channel through which Vancouver sailed, (now called Rosario Straits,) on the pretence that it was the only channel that hitherto had been surveyed and used, and that it was therefore natural to suppose that the negotiators of the Oregon treaty in employing the word "channel" had that particular channel in view. To this communication no answer from Mr. Buchanan is found on the records of the department. But Mr. Crampton's letter to Mr. Marcy dated February 9, 1856, purports to give the reply of Mr. Buchanan to this proposition, without indicating, however, whether it was written or verbal. Mr. Buchanan is represented as "entirely concurring in the expediency of losing no time in determining that portion of the boundary line; [he,] nevertheless felt some objection to adopting the channel marked by Vancouver as the 'channel' designated by the treaty, in the absence of more accurate geographical information; and he suggested that the joint commissioners, when appointed, should be in the first place instructed to survey the region in question for the purpose of ascertaining whether the channel marked by Vancouver, or some other channel, as yet unexplored, between the numerous islands of the Gulf of Georgia, should be adopted as the channel designated by the treaty, or, in other words, should be found to be the *main channel*, through the middle of which, according to the *generally admitted principle*, the boundary line should be run."

"To this suggestion," Mr. Crampton adds, "Her Majesty's government, in the hope that immediate measures would be taken by the government of the United States to name commissioners to proceed to the spot with those already designated by the British government, made no objection." And this statement seems to be confirmed by the note of Lord Palmerston to Mr. Bancroft acknowledging the receipt of Captain Wilkes's charts, in which he says: "The information as to soundings contained in these charts will, no doubt, be of great service to the commissioners who are to be appointed under the treaty of the 15th of June, 1846, by assisting them in determining *where* the line of boundary described in the first article of that treaty *ought to be run*." This note was written after Lord Palmerston had learned from Mr. Crampton that Mr. Buchanan would not consent to adopt Vancouver's Channel, but had suggested that further surveys be made and the *main channel* adopted.

During my discussion with Captain Prevost I had no special knowledge of Mr. Buchanan's views in regard to the water boundary any further than was to be gathered from his correspondence with Mr. McLane, published with the executive proceedings of the Senate after the injunction of secrecy was

removed. From that I took the ground that Mr. Buchanan intended the Canal de Haro as "the channel" through which the boundary line was to run, and that Mr. Pakenham must have had the same meaning when they concluded and signed the treaty. It was not until after I had reached Washington last winter that I obtained a copy of the Senate document containing Mr. Crampton's letter, from which the foregoing extracts are made. I transmitted a copy of it to the department with my report of the 10th February, and called attention to Mr. Crampton's letter.

Lord Napier subsequently showed me a despatch from Mr. Crampton to Lord Palmerston, informing him that, in accordance with instructions, he had read to Mr. Buchanan, or communicated to him, the substance of the despatch he had received from his lordship, and minutely relating the conversation which ensued. It is substantially the same as that recorded in the letter to Mr. Marcy, though in regard to the main channel it is rather more emphatic. Mr. Buchanan is here represented as saying he thought the main channel, no matter where it should be found, was the one intended by the treaty. And, I think, it is also added that he said he had not given the subject much reflection, but was in favor of leaving the determination of the main channel to commissioners. He also requested Mr. Crampton to embody in a letter to him the views of the secretary of state for foreign affairs. Mr. Crampton informs Lord Palmerston that he has embodied his instructions in a communication to Mr. Buchanan, and hopes his lordship will not disapprove of what he has done.

After I had submitted my report of the proceedings of the joint commission to the department, I was furnished with a copy of Mr. Buchanan's letter to Mr. Bancroft, dated December 28, 1846, in reply to one from Mr. Bancroft stating that it had been intimated to him that a question might arise in regard to the islands east of the Canal de Haro, and requesting authority to meet any such claim at the threshold, by the assertion of the Canal de Haro as the channel intended by the treaty. Mr. Buchanan here distinctly claims the Canal de Haro as the treaty channel, and quotes Mr. McLane's letter of the 18th of May to show that such also was the intention of Lord Aberdeen in making the proposition to the United States for a settlement of the Oregon question. He, at the same time, in compliance with Mr. Bancroft's request, transmits the traced copy of Wilkes's chart of the Canal de Haro, which Mr. Bancroft left in the Navy Department. In doing so, he says: "This will enable you to act understandingly upon any question which may hereafter arise between the two governments in respect to the sovereignty of the islands situate between the continent and Vancouver's Island. It is not probable, however, that any claim of this character will be seriously preferred on the part of her Britannic Majesty's government, to any island lying to the eastward of the Canal de Haro, as marked on Captain Wilkes's 'Map of the Oregon Territory.' This, I have no doubt, is the channel which Lord Aberdeen had in view, when, in a conversation with Mr. McLane, about the middle of May last, on the subject of the resumption of the negotiation for an amicable settlement of the Oregon question, his lordship explained the character of the proposition he intended to submit through Mr. Pakenham."

It would appear from the tenor of Mr. Buchanan's reference to the tracing of Captain Wilkes's chart of the Canal de Haro, that he was aware that it was the *main channel* in that particular part of the space between the continent and Vancouver's Island south of the 49th parallel, where several channels are represented on the maps, as well as the particular channel understood between Mr. McLane and Lord Aberdeen, as carrying out the object of both governments in deflecting from the 49th parallel, viz: to give the whole of Vancouver's Island to Great Britain. In conversing with Mr. Crampton on the subject, a year subsequently, without reference to maps or documents, and without giving the subject particular consideration, Mr. Buchanan may simply have remembered

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the fact that the Canal de Haro was the main channel, without recalling its name. Practically it can make no difference whether the main channel be adopted as "the channel" intended by the treaty upon the "generally admitted principle" recognized by Mr. Crampton, and assented to by Her Majesty's government in 1848; or whether the Canal de Haro be adopted on the proof of cotemporaneous evidence that it was proposed by the British government, and in good faith accepted by the United States as the boundary channel. In either case the Canal de Haro would be the boundary channel. In advocating it with Captain Prevost, I did not confine myself singly to either of these sufficient grounds, but maintained both, with others equally forcible and tenable.

Under the mere letter of the treaty, without any knowledge of, or reference to, the motives which induced the adoption of the water boundary, "the channel which separates the continent from Vancouver's Island" may fairly be construed as follows:

1. As "the channel;" that is, the *main channel*, if there be more than one. And this is the view taken by nautical men generally, including officers of our navy whom I have consulted in reference to the language of the treaty.

2. The channel nearest to *Vancouver's Island*, without regard to its size, so that it is navigable; the proviso to the first article requiring that the *naviga-tion* of said channel shall be free and open to both parties. If it had been intended to mean any other channel than that nearest Vancouver's Island, that island need not to have been mentioned at all, or, if referred to, "the channel which separates the continent from the archipelago east of Vancouver's Island," or "the channel nearest the continent," would have been the proper description of the channel now claimed by the British commissioner under "the peculiarly precise and clear" language of the treaty.

3. Upon the international ground that islands are natural appendages to the continent, and that, unless otherwise agreed, *all* the islands between the continent and Vancouver's Island east of the nearest navigable channel to Vancouver's Island pertain to the continent.

The Canal de Haro would be the channel under either of the above legitimate readings of the treaty.

But leaving the mere letter of the treaty, and referring to the history of the negotiation to ascertain the cause which prevented the United States and the British government from agreeing upon the prolongation of the forty-ninth parallel to the ocean, it will be found that the southern end of Vancouver's Island was alone the stumbling-block. The British government refused to concede it to the United States, four-fifths of the island being north of the forty-ninth parallel; and the southern end, with its harbors, being the most valuable portion. The United States, considering the disadvantages of a divided jurisdiction of the island, and the probabilities of difficulties arising therefrom, reluctantly yielded it. This was the sole object in deviating from the forty-ninth parallel, and reduces the water boundary to a very simple question. It was a second compromise line. Divested of all quibbles, the meaning of the treaty is that the forty-ninth parallel shall be the dividing line between the territories of the United States and the British possessions until it reaches "the middle" of the nearest natural boundary to *Vancouver's Island*; and thence the line shall be run to the ocean by the nearest natural boundary, in such a direction as will give the whole of Vancouver's Island to that power upon whose side the greatest portion would fall by the prolongation of the parallel to the ocean.

During my recent visit to Washington Lord Napier expressed a desire to converse with me in regard to the points of difference between the British commissioner and myself upon the question of the water boundary. In compliance with his wishes several interviews took place between us, in which the facts and arguments on both sides of the question were fully discussed. Lord Napier conceded that he could not attach any importance to Captain Prevost's agree-

ment in favor of Rosario Straits, based upon his interpretation of the word "southerly," and upon what he designates "the very peculiar wording" of the treaty; "though," he added, "the Earl of Clarendon does seem to attach some importance to it." He also acknowledged that there was much force in the argument in favor of the Canal de Haro; that the sole object of the deviation from the forty-ninth parallel was to avoid dividing the sovereignty of Vancouver's Island, and to give the whole of it to Great Britain; and agreed that if the forty-ninth parallel had intersected Vancouver's Island so as to throw the greater portion of it on the American side, the line would in all probability have been turned "northerly" instead of "southerly" to the Pacific Ocean; but nevertheless was unwilling to admit that Mr. McLane's report of his conference with Lord Aberdeen was definitive proof that the Canal de Haro is the boundary channel which was actually intended by his government in the proposition they submitted to the United States. The language of the treaty in regard to the particular "channel" through which the boundary line is to run, he argued, might be considered as at least indefinite. Captain Prevost, on the contrary, maintains the language of the treaty in regard to "the channel" to be so free from obscurity, and "worded" in such "clear and precise terms," that he cannot conscientiously admit any evidence to weigh with him that would lead to an interpretation differing from the one chosen by him.

As it seems to have been no part of the business of the British commissioner to ascertain by cotemporaneous evidence the actual intentions of his own government in regard to the water boundary, nor of his own government to furnish him with such evidence, I suggested to Lord Napier that an examination of the instructions of Lord Aberdeen to Mr. Pakenham containing the "proposition" referred to by Mr. McLane ought to throw some light upon the subject. He subsequently produced the original despatch from the archives of the legation, and submitted it to my perusal.

It is a long document, (dated May 18, 1846,) and is mainly devoted to a review of the state of feeling between the United States and Great Britain upon the Oregon question, contrasting favorably the conduct of Great Britain with that of the United States throughout the excitement. In resuming the negotiation for an amicable settlement of the question, Mr. Pakenham is authorized to propose as a boundary line "the forty-ninth parallel to the sea-coast, thence in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the ocean, thus giving to Great Britain the whole of Vancouver's Island and its harbors."

I regret that Lord Napier did not feel at liberty to furnish me with a copy of the document, as I requested; but, as he declined, I was obliged to content myself with a careful perusal of it. I wrote down the foregoing description of the boundary line from memory shortly afterwards, and believe it is substantially, if not verbally, correct. For greater certainty, however, it would be well for the department to obtain a copy, as there may be other points touching the subject of the boundary which escaped my notice in the attention I had to bestow on the above extract.

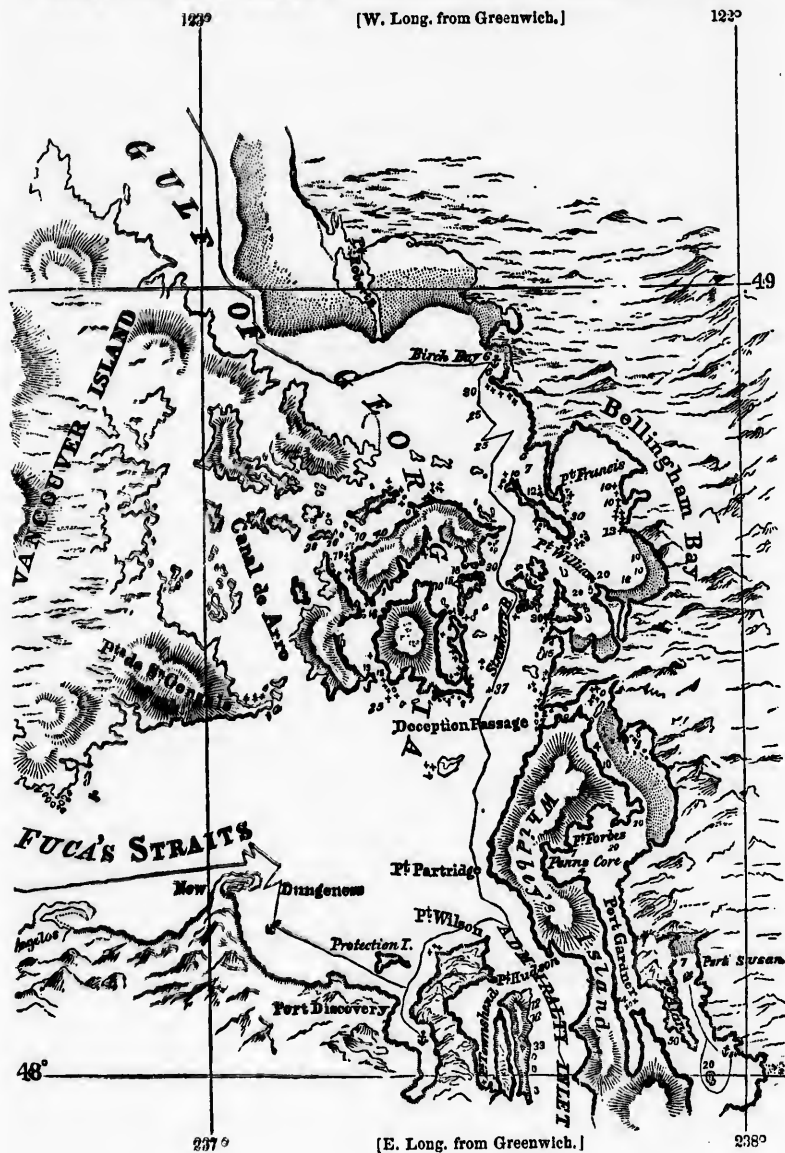
Mr. McLane, in his despatch to Mr. Buchanan, of the same date, (May 18, 1846,) refers to the proposition to be submitted to the United States through Mr. Pakenham, as follows:

I have now to acquaint you that after the receipt of your despatches, on the 15th instant, by the Caledonia, I had a lengthened conference with Lord Aberdeen, on which occasion the resumption of the negotiation for an 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 a partition of the territory in dispute. The proposition, most probably, will offer, substantially, first, to divide the territory by the extension of the line on the parallel of forty-nine to the sea; that is to say, to the arm of the sea called Birch's Bay; thence by the Canal de Haro and Straits of Fuca to the ocean; and confirming to the United States,



SKETCH No. 1.

[Copied from Vancouver's chart, with line denoting vessel's track northward.]



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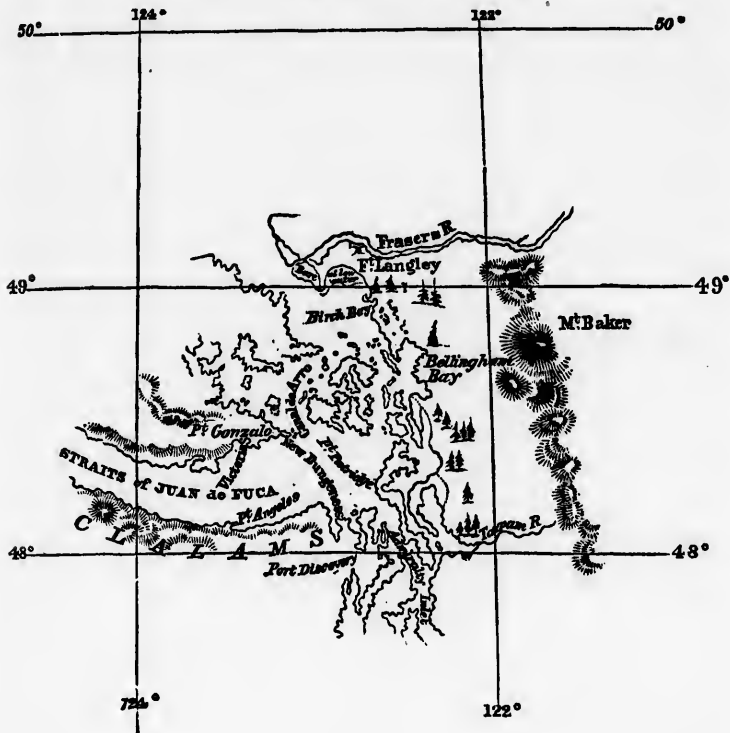
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SKETCH No. 2.

[Copied from Wilkes' Map of the Oregon Territory.]



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what indeed they would possess without any special confirmation, the right freely to use and navigate the strait throughout its extent.

Both despatches having been written almost immediately after the "nature of the proposition" to be submitted to the United States had been fully and freely discussed, it may seem strange that the description of the boundary line contained in them is not identical. But an examination of the maps which were most probably before Mr. McLane and Lord Aberdeen in describing the line will show the difference between them to be only apparent.

I enclose a traced copy of Vancouver's chart, which, Captain Prevost officially informed me, he had "not the least doubt" was the map used by his government when the boundary line was under consideration. (See sketch No. 1, p. 59.) I also send a traced copy of so much of Captain Wilkes's "Map of Oregon Territory" as is necessary to show the boundary channel between the continent and Vancouver's Island, which, I have every reason to believe, is the map which was principally relied on by Mr. McLane at the same time. (See sketch No. 2, p. 61.) There can be little doubt that both Lord Aberdeen and himself had also in their possession, the Spanish Admiralty chart of Vancouver's Island, Greenhow's, De Mofras' and other maps of the northwest coast.

None of the maps extant at that day present a perfectly correct idea of the space between the continent and Vancouver's Island at, and immediately south of, the forty-ninth parallel. The Straits of Fuca and the archipelago east of the Canal de Haro are fairly enough represented; but between the Haro Archipelago and the forty-ninth parallel the space is inaccurately represented as free from islands, and, consequently, with but a single channel between the continent and Vancouver's Island. The surveys made subsequently to the conclusion of the treaty show that what was laid down by the early Spanish navigators, by Vancouver and by Wilkes, as the eastern coast of Vancouver's Island is in fact the coast of an extensive archipelago skirting the shore of the main island between latitude $48^{\circ} 47'$ and $49^{\circ} 10'$. The actual space between the coasts of the continent and Vancouver's Island is nearly twice as great as it appears on the enclosed sketches from Vancouver's chart and Wilkes's map. A glance at the Coast Survey chart which I deposited in the department with my report of last February will give some idea of the true position of the coast of Vancouver's Island; but as that part of the chart is only copied from a sketch furnished Captain Alden by the Hudson's Bay Company, it is by no means reliable. I send herewith a tracing from the last admiralty chart of "Vancouver Island and the Gulf of Georgia," showing the same change in the coast of Vancouver's Island on a smaller scale. The British surveying steamer *Plumper* has recently completed the survey and chart of the greater portion of this space hitherto so little known except to the Hudson's Bay Company. As soon as I obtain a tracing of it from Captain Richards I will have a copy of the Coast Survey chart corrected by it and forwarded to the department.

The claim of the British government, made by their commissioner, that the "channel which separates the continent from Vancouver's Island" is the channel nearest the continent, or that through which the track of Vancouver's vessel is traced, makes it important to examine Vancouver's chart in connection with the line described by Lord Aberdeen, and at the same time to trace on Wilkes's chart the line described by Mr. McLane.

Mr. McLane, in tracing on the map the forty-ninth parallel "to the sea, that is to say the *arm of the sea* called Birch's Bay," evidently supposed that the space between the continent and Vancouver's Island at the forty-ninth parallel was designated as Birch Bay. And from the conspicuous position given to the name of Birch Bay on Wilkes's map, and even on Vancouver's chart, such an error might very naturally occur. In reality, however, Birch Bay is only the small indentation on the mainland at the extreme right of the name, and is a few miles south of the forty-ninth parallel. The name of the *Gulf of Georgia* is intended by Wilkes to extend from the parallel of 50° as far south as the

northern extremity of the Canal de Haro, including the space supposed by Mr. McLane to be Birch Bay. The line described by him "thence by the Canal de Haro and Straits of Fuca to the ocean" gives the whole of Vancouver's Island to Great Britain, in accordance with Lord Aberdeen's instructions to Mr. Pakenham and with the understanding between Mr. McLane and Lord Aberdeen, as detailed by the former in his letter of May 18, 1846. The English government have endeavored to create an impression that the Canal de Haro was unknown as a navigable channel when the treaty was negotiated, and that the channel through which Vancouver sailed was well known. The Canal de Haro, on the contrary, has always been well known as a navigable channel, and its name generally put down on maps even of a small scale, which is not the case with the channel through which Vancouver sailed. It is sufficient for the United States that Captain Wilkes surveyed the Canal de Haro in person, and that the fact is officially reported in his Exploring Expedition, which was reprinted and republished in England, in 1845, with the atlas containing the "Map of the Oregon Territory." His survey and soundings proved it to be the main channel, and a tracing of his chart was in the hands of Mr. Bancroft while a member of Mr. Polk's cabinet. The channel through which Vancouver sailed has had various names. It is called the "Canal de Fidalgo" on the early Spanish maps. Vancouver gave it no name. De Mofras, in 1841, has no name for it. Wilkes called it [in 1841] "Ringgold's Channel." The English admiralty map, of 1849, has it "Rosario Strait." Arrowsmith, in 1849, called it "Vancouver's Strait," and it is now universally called Rosario Straits. On all of these maps the channel nearest Vancouver's Island at its southern end is designated as the Canal de Haro, having received its name from its discoverer as early as 1789. De Mofras, [in 1841,] in describing the space between the continent and Vancouver's Island, says: "Here is found a multitude of little islands, which, notwithstanding the safe shelter they offer to vessels, present great impediments to navigation. The easiest passage is by the *Canal de Haro* between the island of Quadra and Vancouver and that of San Juan." And this opinion he must have derived from the general report of those engaged in the navigation of these waters, as his own explorations are considered very superficial.

Lord Aberdeen in tracing the boundary line follows the 49th parallel to the seacoast, and deflects "thence in a southerly direction through the centre of *King George's Sound* and the Straits of Fuca to the ocean." On either of the accompanying tracings, and, indeed, upon any map of the northwest coast, we may look in vain for "King George's Sound" between the continent and Vancouver's Island. This mistake is not so readily accounted for as Mr. McLane's in regard to Birch Bay, as the name is nowhere to be found on Vancouver's chart which is said to have been used by the British government in reference to the water boundary. "King George's Sound" is the name that was given in 1778, by Captain Cook, to Nootka Sound, on the western coast of Vancouver's Island, between latitude 49° and 50°. The name was never much in vogue, except to distinguish a mercantile association formed soon after the discovery of Nootka, called the "King George's Sound Company." There is, however, no need of conjecture as to Lord Aberdeen's actual meaning. He simply miscalled the Gulf of Georgia. I should hardly have noticed this discrepancy, nor that of Mr. McLane, if the British commissioner had not seized upon the latter with a view to weaken Mr. McLane's evidence in favor of the Canal de Haro, maintaining that if the Canal de Haro should be adopted upon Mr. McLane's statement, "with equal justness it might be argued that the line along the 49th parallel should not strike the water at the 49th parallel, but that it should deflect to *Birch's bay*, which is a few miles to the southward."

On Vancouver's chart the "Gulf of Georgia" extends as far south as the eastern extremity of the Straits of Fuca, and the name as printed appears intended to embrace generally the whole space between the continent and Van-

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vancouver's Island, including the Canal de Haro and Rosario Straits. From the 49th parallel "in a southerly direction," as far as latitude $48^{\circ} 47'$, there is but one channel represented by Vancouver, and there is no practical difficulty in drawing a line through the "centre" of it. From there, southerly to the Straits of Fuca, a line drawn "through the centre of King George's Sound," [or Gulf of Georgia,] that is, midway between the shores of the continent and Vancouver's Island would cut these islands into parts and divide their jurisdiction between the United States and Great Britain; to avoid which, even in regard to the large island of Vancouver, the United States yielded their rights to the portion south of the 49th parallel, and agreed as a compromise, upon the nearest natural boundary. Of course a line dividing the smaller islands into parts could never have been contemplated by the British government, nor has it ever been claimed. But such would be the practical effect of Lord Aberdeen's proposition if literally carried out. Giving the proposition, however, the advantage of the most liberal as well as the most literal interpretation, the centre of the space between the continent and Vancouver's Island cannot, by any possibility, be transferred to the centre of Rosario Straits. The utmost liberality or literality could only force the line through the channel east of the island of San Juan. A line drawn through that channel would more nearly pass through the centre of the whole space between the continent and Vancouver's Island than if drawn through any other channel. But it has never been pretended that San Juan Channel was intended by the British government as the boundary channel, and therefore can never be claimed as "the channel" intended by the treaty. The two channels respectively claimed are the Canal de Haro and Rosario Straits, through one of which, according to the views of each government, must the boundary line be run to "carry the treaty into effect." Mr. McLane's despatch of May 18, 1846, to his government, is the most important contemporaneous evidence (on the American side of the question) of the intentions of the British government in relation to the boundary channel, and Lord Aberdeen's instructions to Mr. Pakenham of the same date the highest evidence the British government could produce on the British side. Mr. McLane's evidence in favor of the Canal de Haro is explicit, and requires no explanation. I have shown that the line described in Lord Aberdeen's proposition cannot be tortured into a line through the middle of Rosario Straits. As he mentions neither channel, the same might be said of the Canal de Haro; and if there was nothing further to guide us as to the line really intended by Lord Aberdeen, we might have to fall back on the motive which induced the deflection from the 49th parallel to the ocean by the water boundary, viz: to give Great Britain the whole of Vancouver Island, or, according to "the generally admitted principle" in such cases, adopt the main channel. In either case the Canal de Haro would answer to "the channel" of the treaty.

But fortunately Lord Aberdeen does not leave the meaning of his proposition in any doubt; for he concludes his description with an explicit declaration of the object of the boundary, "thus [or, in this manner] giving to Great Britain the whole of Vancouver's Island and its harbors." This conclusion confirms the correctness of Mr. McLane's statement of Lord Aberdeen's explanation of "the nature of the proposition" he contemplated submitting to the United States through Mr. Pakenham in regard to the boundary line. This boundary was, without the slightest doubt, adopted and proposed by the British government in consequence of an assurance on the part of Mr. McLane that such a line would probably be accepted by the United States. Mr. McLane had the authority of his government so to inform Lord Aberdeen, as will be seen by reference to Mr. Buchanan's letter to Mr. McLane, dated February 26, 1846, in Senate document No. 489, containing the "Executive proceedings, correspondence and documents relating to Oregon, from which the injunction of secrecy has been removed," a copy of which accompanies my report of February 10, 1853.

After I had finished reading Lord Aberdeen's instructions to Mr. Pakenham, Lord Napier asked my opinion of the proposition. I told him that it completely confirmed my views in regard to the Canal de Haro. He reiterated the acknowledgment that he had previously made as to the general object of the water boundary, but still would not admit the correctness of my conclusion that the Canal de Haro was "the channel" actually proposed by his government as part of the boundary channel, and remarked that if the United States intended the Canal de Haro as "the channel," they should have introduced it in the treaty. I replied that the United States government were perfectly satisfied with the language of the projet, which conveyed to their understanding but one meaning so far as the boundary line is concerned; they had adopted it in good faith, and therefore could have no motive for proposing an alteration; but that even if the language had been susceptible of more than one meaning, and they had wished to modify it, Mr. Pakenham had not the authority to agree to any modification. Lord Napier replied that Mr. Pakenham could have agreed to any such slight modification as the one referred to. Mr. McLane says: "It may be considered certain, also, in my opinion, that the offer now to be made is not to be submitted as an ultimatum, and is not intended as such, though *I have reason to know that Mr. Pakenham will not be authorized to accept or reject any modification that may be proposed on our part*, but that he will in such case be instructed to refer the modification to his government."

In your speech upon the ratification of the treaty, you say: "The treaty comes to us as it came from England, without the crossing of a *t* or the dotting of an *i*, untouched and unchanged, and the vote we have already taken announces but too clearly that we shall return it as received, by making its terms our own." And Mr. Benton says, the first article "is in the very words which I myself would have used, if the two governments had left it to me to draw the boundary line between them, * * * and that article constitutes the treaty. With me it is the treaty. * * * The great question was that of boundary. On that point hung the issue of peace or war. *That being settled*, statesmen do not permit subordinate accessorial matter to balk the great conclusion. In this spirit the British ministers have acted. They have not made their proposition an ultimatum; they leave it open to our objections, and of course to modifications. I have no doubt the three minor articles might be modified to my entire satisfaction, but the question with me is whether the difference is *worth the delay*. * * * Forty-five days is the shortest time in which we could expect an *answer from London in reply to proposed modifications*."

Mr. McLane, from the positive manner in which he writes, could hardly have derived his knowledge of Mr. Pakenham's powers from any source less authoritative than Lord Aberdeen, who probably communicated it as an incentive to the United States to accept the *projet of the treaty* without modification, and Mr. Benton's argument against delay unquestionably had much weight with the Senate in accepting the projet with objectionable conditions in the minor articles.

The absence of any allusion by Lord Aberdeen to the projet of the treaty, which I had always supposed was drawn up in London, and the informal description of the boundary in the proposition which he authorized Mr. Pakenham to make to the United States, induced me to inquire of Lord Napier if I was not correct in that supposition, and whether Lord Aberdeen had not transmitted the projet to Mr. Pakenham; and I thus learned that *another despatch* enclosed the projet of the treaty. This despatch his lordship did not offer to submit to my perusal.

There are arguments and intimations in Captain Prevost's correspondence based upon the probability that the Canal de Haro was originally mentioned in the projet of the treaty as the channel through which the boundary line was to run, but that subsequently the proposition was "designedly altered," the Canal de Haro expunged, "and the wording of the treaty as it now stands

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substituted to meet the alteration." After stating his reasons for believing this alteration was made, Captain Prevost says :

I am the more strengthened in my opinion on this subject from having been officially informed by high and competent authority that the channel commonly known in England as the Vancouver Strait—that now called the Rosario Strait—was the channel contemplated by the British government as the channel of the treaty; and the mention of a particular channel by Mr. McLane, and the absence of the name of that channel from the treaty, together with the very peculiar wording of the treaty, would seem almost conclusively to prove the fact.

Presuming Captain Prevost seriously entertained the opinion that the projet was "designedly altered," I labored, and I think not without success, to satisfy him that it could not have been altered with the knowledge or consent of Mr. McLane or of Mr. Buchanan, and that in good faith it could not have been altered by the British government without their knowledge and consent. I was at a loss to conceive when and where this designed alteration could have taken place, whether at London or Washington, and called upon Captain Prevost for further information on the subject. The only reply I received was that "the high and official authority to whom I [he] alluded in my [his] letter of the 9th instant, as the source of my [his] information that the Vancouver [or Rosario] Strait was the channel contemplated by the British government, is Her Majesty's present secretary of state for foreign affairs, the Earl of Clarendon, and I cannot presume that he would intimate to me in writing, as he has done, that such was the case, unless he had substantial grounds for doing so."

The "very peculiar wording of the treaty," referred to by Captain Prevost as tending "almost conclusively to prove the fact" that the projet of the treaty was "designedly altered," is explained by him as follows :

In support of my proposition that the Rosario Strait should be the channel of the treaty, I advance that it is the only channel that will admit of being considered the channel according to the treaty which "separates the continent from Vancouver's Island." You state that "while the other channels only separate the islands in the group from each other, the Canal de Haro for a considerable distance north of the Straits of Fuea, and where their waters unite, washes the shore of Vancouver's Island," and is therefore the only one which, according to the language of the treaty, "separates the continent from Vancouver's Island." Surely this would prove the converse of the proposition. It appears to me a direct proof that the Canal de Haro is the channel separating Vancouver's Island from the continent, and therefore, so long as other channels exist more adjacent to the continent, cannot be the channel which separates the continent from Vancouver's Island. I would ask your best attention to this most peculiar language of the treaty, in which the usual terms of expression appear to be designedly reversed, for the lesser is not separated from the greater, but the greater from the lesser—not the island from the continent, but the continent from the island, and therefore it would seem indisputable that where several channels exist between the two, that channel which is the most adjacent to the continent must be the channel which separates the continent from any islands lying off its shores, however remote those islands may be.

From this extract it will be seen that Captain Prevost bases his claim to Rosario Straits as the boundary channel solely on the ground that the words "the continent" and "Vancouver's Island" "appear to be designedly reversed" in the language of the treaty. Whilst it is scarcely credible that such a transposition of words could have been made with a view to alter the sense of the treaty, still the confidence with which Captain Prevost maintains this ground in the face of the most positive evidence to the contrary, in connection with the fact that the Earl of Clarendon also attaches some importance to it, is not without its influence in creating an impression upon the mind that such a construction of the language may (however unsuccessfully) have been designed for the purpose suggested, or at least with the view of eventually throwing an air of doubt over the real meaning of the treaty. That no one connected with the negotiation of the treaty on the part of the United States was ever informed of such a design, or ever discovered of themselves this "very peculiar wording" of the treaty, is conclusively proved by the cotemporaneous evidence already referred to. On the contrary, Mr. Benton, who was scrupulously nice in the use of language, emphatically declares the language of the first article to be couched in the very words he himself would have used, if he had been called upon to draw it up, for the purpose of carrying the line through the Canal de Haro.

The general object of the treaty, as declared in the preamble, is that "the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory. The "amicable compromise," so far as it relates to a division of the territory in dispute, was an agreement to continue the boundary line along the 49th parallel on the continent, and then a water boundary so as to give the whole of Vancouver's Island to Great Britain. The correspondence of Mr. McLane and Mr. Buchanan shows that the southern end of Vancouver's Island was all that Great Britain refused to yield south of the 49th parallel, and all that the United States were willing to concede. Mr. Benton, the leading senator in favor of the treaty, advocates its ratification with that understanding of its meaning. In his speech on that occasion he says:

The line established by that article [the 1st] the prolongation of the boundary on the east side of the Rocky Mountains, follows the parallel of forty-nine degrees to the sea, with a slight deflection through the Straits of Fuca to avoid cutting the south end of Vancouver's Island. * * * When the line reaches the channel which separates Vancouver's Island from the continent, (which it does within sight of the mouth of Fraser river,) it proceeds to the middle of the channel, and thence turning south through the Channel de Haro (wrongly written Arro on the maps) to the Straits of Fuca; and then west through the middle of that strait to the sea. This is a fair partition of these waters, and gives us everything that we want, namely, all the waters of Puget Sound, Hood's Canal, Admiralty Inlet, Bellingham Bay, Birch Bay, and with them the cluster of islands, probably of no value, between De Haro's Channel and the continent.

In your speech against the ratification, on the same day, and apparently in reply to Mr. Benton, you say:

We have ceded to England the southern cape of Vancouver's Island, an important position which has been heretofore a subject of discussion between the two governments. * * * Judging from the imperfect map I have examined, it cannot be much less than one hundred miles. Upon what principle of right or compromise this cession is to be made I have not heard explained. For myself I know of none but the old rule of might. England demands it, and we yield, and that tells the whole story.

In commenting upon the first article of the treaty, you thus describe the water boundary:

Vancouver's Island is separated from the continent by an arm of the sea, and about two hundred and fifty miles in extent, different portions of which are known by different names. One part is called the Straits of Fuca; another the *Canal de Haro*; another the Gulf of Georgia, and the fourth Queen Charlotte's Sound.

Although differing with Mr. Benton upon the construction that may be placed by Great Britain upon the second, third and fourth articles, and the *proviso* to the first article of the treaty, (to which in your opinion the vagueness of their terms will render them liable when they come to be carried into effect,) there is no disagreement between you as to the meaning of the language of the important article defining the boundary line. Nor does it seem ever to have been considered susceptible of more than one meaning by any person connected with the negotiation and ratification of the treaty on the part of the United States.

The wording of the treaty is the work of the British government. It was in their power to frame the language defining the boundary line so as to have precluded the "state of doubt and uncertainty" in which they have ever since its ratification so zealously labored to involve it; and if Captain Prevost has any foundation for the strong conviction he expresses that the Canal de Haro was originally in the projet of the treaty, and that by a designed alteration it was subsequently left out and the present language substituted to change its meaning, and that the words "the continent" and "Vancouver's Island" were "designedly reversed," with a view to make Rosario Straits "the channel which separates the continent from Vancouver's Island," he places his government in no enviable position.

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Considering that Captain Prevost was "officially informed" by the Earl of Clarendon (the secretary of state for foreign affairs, from whom he received his instructions) that Rosario Straits was the channel contemplated by the British government as the channel of the treaty, I thought it not improbable that the instructions of Lord Aberdeen to Mr. Pakenham might have furnished some foundation for the assertion. Captain Prevost designates the Earl of Clarendon as "high and competent authority" in regard to the treaty channel. The highest authority in Great Britain on the treaty of 1846 must be the head of the department for foreign affairs who conducted the negotiation of the treaty and who authorized the proposition which brought it to a conclusion. Before the treaty was accepted and ratified by the United States and returned to London for the exchange of ratifications, a change of ministry had taken place, and Lord Palmerston, who succeeded Lord Aberdeen as secretary of state for foreign affairs, exchanged the ratifications with Mr. McLane July 17, 1846, within two months from the date of Lord Aberdeen's instructions to Mr. Pakenham. Lord Palmerston must therefore also be regarded as high and competent authority as to the intentions of his government in regard to the boundary channel. His views on that subject have already been fully set forth, and certainly do not sustain the intimations of the Earl of Clarendon to Captain Prevost any more than does the proposition of Lord Aberdeen in his instructions to Mr. Pakenham. I have not at hand the means of ascertaining the official position held by the Earl of Clarendon in the British ministry during the negotiation and conclusion of the treaty of 1846, or whether, indeed, he occupied any position under the British government during that period. But it can hardly be supposed that, under any circumstances, he had better means of information than Lord Aberdeen or Lord Palmerston in regard to the details of the treaty. And their views, as hereinbefore set forth, certainly do not sustain Captain Prevost's presumption that the Earl of Clarendon "had substantial grounds" for intimating to him in writing, as he had done, that Vancouver (or Rosario) Straits was the channel contemplated by his government.

Although the instructions of Lord Aberdeen to Mr. Pakenham could not possibly be construed into evidence in favor of Rosario Straits, the "peculiar wording" of his description of the water boundary line might very naturally suggest to the Earl of Clarendon the idea of the San Juan Channel as a compromise in case of failure to obtain Rosario Straits, which might be agreed upon if it should be found the United States had no cotemporaneous evidence to show the real intentions of the two governments. And here I conceive is the secret of the claim for Rosario Straits. The British government never could have seriously expected the United States to agree to that channel as a boundary, but made it a pretence, in the hope of being thus able to obtain a compromise line, by which they would secure the valuable and much coveted island of San Juan.

The motive which induced the first proposition of Lord Palmerston to the United States, to appoint commissioners to mark out the water boundary, is embodied in Mr. Crampton's letter to Mr. Buchanan, of January 13, 1848. Extracts from that letter will best exhibit Lord Palmerston's motive and object in making the proposal. (See extract accompanying correspondence with Captain Prevost, page 40.)

If the foregoing extracts be a sincere expression of the views of the British government in regard to the water boundary at the date of Mr. Crampton's letter, (and there certainly could have been no motive for throwing doubt upon the wording of the treaty if it clearly meant Rosario Straits as the channel,) at that early day they considered the boundary line between the Gulf of Georgia and the Straits of Fuca as less distinctly and accurately defined by the verbal description of the treaty than any part of the boundary line between the Atlantic and Pacific oceans, not hitherto determined and marked. And in this opinion

it would appear that Mr. Pakenham agrees with Lord Palmerston, so far at least as regards the supposition that Rosario Straits is the particular channel the negotiators of the Oregon convention had in view in employing the word "channel." As this is the only official document in my possession wherein Mr. Pakenham's views in regard to the boundary are expressed or alluded to, I consider it important as establishing the fact that in his "suggestion" to his government he did not claim Rosario Straits to be the boundary channel intended by Mr. Buchanan and himself, the signers of the treaty. The very important part he had in the negotiation and conclusion of the treaty ought to constitute him high authority with the British government in all matters pertaining to the boundary. If Mr. Pakenham had received no other instructions from Lord Aberdeen in regard to the proposition he was authorized to submit to the United States for the settlement of the Oregon question than those Lord Napier exhibited to me, it is not easy to conceive how he could foresee any "serious doubt or difference of opinion" between the two governments in regard to that portion of the boundary now in dispute. But the views of Mr. Pakenham are not sufficiently disclosed in Mr. Crampton's letter to justify an opinion as to the exact nature and extent of his "suggestion" to her Majesty's government in regard to the water boundary. I think it not improbable, however, that the instructions of Lord Palmerston to Mr. Crampton were based upon that "suggestion." If the British government should persist in refusing to adopt the Canal de Haro as the treaty channel, the production of Mr. Pakenham's despatch containing the suggestion referred to may become important to the United States, further to reveal the origin of the British claim to the Haro Archipelago.

After Lord Aberdeen's conference with Mr. McLane, in which he designated the Canal de Haro as the boundary channel he intended to propose to the United States through Mr. Pakenham, he could not, in good faith, have made such a change in the proposition or projet of the treaty as would throw these "numerous islets" on the British side of the line without informing Mr. McLane, so that he might notify his government of the fact, or without instructing Mr. Pakenham to inform Mr. Buchanan of the modification. And unless the despatch of Lord Aberdeen to Mr. Pakenham enclosing the projet of the treaty (which I have not seen) contains instructions which authorized Mr. Pakenham to make such changes in the projet as would throw the Haro Archipelago on the British side of the line; and unless Mr. Pakenham made such changes, and informed Mr. Buchanan that he had done so, the proposition of the British government, as explained by Lord Aberdeen to Mr. McLane, must (in good faith) have remained unaltered in its meaning, and the projet of the treaty must have been submitted to Mr. Buchanan as it was received from Lord Aberdeen. That Lord Aberdeen never informed Mr. McLane of any such designed alteration, and that Mr. Pakenham never communicated to Mr. Buchanan that any such alteration was made in the projet of the treaty, either by Lord Aberdeen or himself, is evident from the fact that Mr. McLane's letter of May 18, explanatory of the intended proposition, was transmitted to the Senate with the projet of the treaty, when the President asked the previous advice of that body in regard to its acceptance, and also from Mr. Buchanan's letter to Mr. Bancroft of December 28, 1846, hereinbefore quoted. As Rosario Straits, therefore, cannot be claimed as "the channel," either upon the literal wording of the treaty, or upon the intentions of the "actual negotiators," from the cotemporaneous evidence of Lord Aberdeen, Lord Palmerston, or Mr. Pakenham, the highest British authority upon the subject of the treaty, I am at a loss as to the source from which the Earl of Clarendon could have obtained the information he "officially" communicated to Captain Prevost that the British government contemplated Rosario Straits as the treaty channel.

In preparing the draught of joint instructions which accompanies Mr. Crampton's letter, the British government, with an apparent air of frankness, and even

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generosity, did not neglect the opportunity of so wording it as to secure to themselves every possible advantage that could be derived from a one-sided construction of the first article of the treaty, including the *proviso*, in the event of the United States being found ignorant of or indifferent to their territorial rights in respect to the Haro Archipelago. The instructions in regard to matters of detail, respecting the mode of marking the line, (which should more appropriately left to the commissioners,) are so burdensomely minute and verbose as almost to hide from view the objects to be gained. The following paragraph embodies the gist of the whole document, so far as relates to the boundary line:*

That part of the channel of the Gulf of Georgia which lies nearly midway between the forty-eighth and forty-ninth parallels of north latitude, appears by Vancouver's chart to be obstructed by numerous islands, which seem to be separated from each other by small and intricate channels, as yet unexplored; it has therefore been mutually determined between the governments of Great Britain and the United States, in order to avoid the difficulties which would probably attend the exploration of all these channels, that the line of boundary shall be drawn along the middle of the wide channel to the east of those islands, which is laid down by Vancouver, and marked with soundings as the channel which had been explored and used by the officers under his command. You will find the line thus described traced in red, in the copy from Vancouver's chart hereto annexed.

Upon an examination of the Admiralty chart of "Vancouver Island and the Gulf of Georgia," published February 28, 1849, and compiled from the surveys of Galiano and Valdes in 1792, Vancouver in 1793, and Captain Kellet, royal navy, in 1847—although some parts of the space between the continent and Vancouver's Island do not appear to have been minutely surveyed—it will be found that the Canal de Haro, as far as it is laid down with soundings, is unmistakably represented as the channel which would give "the whole of Vancouver's Island and its harbors to Great Britain," while its great width and deep soundings show it to be by far the largest channel connecting the Straits of Fuca with the Gulf of Georgia. Although the chart was not published until a year after the date of Mr. Crampton's letter, the results of the survey were no doubt in possession of the admiralty as soon after the completion of the survey as the work could be plotted. If I may judge by the survey connected with this commission, it is customary for the surveyors of the British government to forward to the admiralty from time to time the plotting and sketches of their work as it progresses; and it is reasonable to suppose that such was the case at the time Captain Kellet was engaged in the survey of these waters. The survey does not appear to have been carried on beyond the working season of 1847, which generally closes about the 1st of October on account of the constant rains after that period. Why the survey was discontinued, or why the time was consumed in pushing it into American waters, as far south as Hood's Canal, which might have completed the Canal de Haro, can only be explained by the supposition that any further "detailed knowledge of those parts" did not promise to be such as the British "government had been led to expect"—probably by the Hudson's Bay Company. I send herewith a tracing of the chart above referred to.

Her Majesty's government seemed also to be of opinion that a naval officer of scientific attainments and *conciliatory character*, appointed on the part of each government, would be sufficient for the purpose of marking out that part of the boundary which they considered as the least distinctly and accurately defined by the verbal description of the treaty of any part of the line dividing the United States and the British possessions. Before sending out these officers as commissioners, her Majesty's government were of the opinion that they should be instructed as to the particular channel through which the water-boundary line is to run, considering it to be a question turning upon the *interpretation of the treaty*, rather than upon local observation and survey. The

* Copy of the draught will be found on page 42.

argument presented in favor of Vancouver (or Rosario) Straits, it has already been shown, was without any foundation in fact, and had no weight with Mr. Buchanan when presented. I mention it now as evincing at that time an apparent disposition on the part of the British government to carry the treaty into effect according to the *intentions of the negotiators of the treaty*, and not according to an inversion of the meaning of the language of the treaty. And here I beg to call attention to the simple manner in which her Majesty's government destroys the argument founded upon the "peculiar wording" of the treaty. The "channel" is spoken of in Mr. Crampton's letter three different times as "the channel *between* Vancouver's Island and the continent." I would also call attention to the construction of the word "southerly" by the British government in Mr. Crampton's letter. Captain Prevost insists that it must be interpreted in a strictly nautical sense; upon which he raises an objection against the Canal de Haro, because, for a part of its course, it runs in a westerly direction. Mr. Crampton says the treaty "declares that the line shall run *down* the channel which separates the continent from Vancouver's Island." This natural construction of the word "southerly" shows that in introducing it in the projet of the treaty, it was simply to indicate on the map that the Pacific Ocean was to be reached by drawing the line *down* instead of *up*, so as to give the whole of Vancouver's Island to Great Britain instead of to the United States. It is the common sense reading of the treaty. Mr. Crampton urges, with much zeal, the adoption of Vancouver's or Rosario Straits as the channel, before the commissioners go out, as otherwise much time might be wasted in surveying the various intricate channels formed by the numerous islets between Vancouver's Island and the main land, and apprehends that some difficulty might arise in deciding which of those channels ought to be adopted; and in doing so, he speaks of it as the main channel marked on Vancouver's chart, although the Canal de Haro is far wider on that chart. He acknowledges that some objection might reasonably be made to its adoption by the United States, as being *somewhat nearer* to the continent than to Vancouver's Island. Captain Prevost, on the contrary, claims it especially on the ground that it is the *nearest* channel to the continent; that the language of the treaty was peculiarly worded to designate it as the boundary channel, and even that the projet of the treaty was "*designedly altered*" for the purpose of transferring the proposed boundary line from the channel nearest Vancouver's Island to the channel nearest the continent.

I have already adverted to the strong impression made upon the mind of Captain Prevost that the projet of the treaty was designedly altered by omitting the Canal de Haro for the purpose above specified, and quoted the argument and evidence he advanced to support the correctness of his conclusions. The supposed reasons for altering the boundary channel are stated by Captain Prevost as follows :

It is quite possible that in viewing the boundary as passing through the Canal de Haro some objections might have been made to the nearness of some of the islands to the Vancouver's Island, and as the objections did not apply with equal force to the continent, and as the islands between the two were deemed, according to Mr. Benton, to be barren, rocky, and valueless, it is not at all improbable that the slight deviation in the line would be conceded without difficulty, and might be considered too trivial, considering the important interests at stake at the time, for public discussion or reference.

Considering that the average width of the Canal de Haro is nearly two miles greater than Rosario Straits, the argument upon which the supposed alteration of the boundary channel is based is not very forcible.

The proposal made by Lord Palmerston to Mr. Buchanan for the appointment of commissioners was subsequently renewed at various times by the British government through Mr. Crampton, until Congress, in 1856, authorized the organization of the commission.

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Mr. Crampton, in his letter to Mr. Marcy, of February 9, 1856, (the Earl of Clarendon then being secretary of state for foreign affairs,) says :

It has been a subject of regret to her Majesty's government that, for causes upon which it is unnecessary to dwell, no appointment of commissioner has up to the present time been made by the government of the United States, and I am now instructed again to press the matter on their earnest attention. Should it appear probable, however, that this proposal cannot be met by the government of the United States without further difficulty or delay, I would again suggest the expediency of the adoption by both governments of the channel marked as the only known navigable channel by Vancouver as that designated by the treaty. It is true that the island of San Juan, and perhaps some others of the group of small islands by which the bay of Georgia is studded, would thus be included within the British territory ; on the other hand, it is to be considered that the islands in question are of very small value, and that the existence of another navigable channel broader and deeper than that laid down by Vancouver, by the adoption of which some of these islands might possibly fall within the jurisdiction of the United States, is, according to the reports of the most recent navigators in that region, extremely improbable ; while, on the other hand, the continued existence of a question of doubtful jurisdiction in countries so situated as Washington Territory and Vancouver's Island is likely to give rise to a recurrence of acts of a similar nature to those to which I have had the honor of calling your attention, and which I have no doubt would not be less deplored by the government of the United States than by that of Great Britain.

From January 13, 1848, to February 9, 1856, at different times, Mr. Crampton, by direction of Lord Palmerston and the Earl of Clarendon, urged the adoption of Vancouver or Rosario Straits, upon the ground that it was the only known navigable channel at the time the treaty was adopted—the British government taking it for granted apparently that the United States were perfectly ignorant of the existence and value of the group of islands between that channel and the Canal de Haro—and utterly ignoring the existence of the latter, the main channel bounding Vancouver's Island. The small islands are studiously depreciated as of "little or no value ;" and, by way of apology for proposing to take them on the British side of the boundary line, the United States are gravely informed that the only large and valuable island in the group, called "Whidbey's," would, of course, belong to them. A glance at the map will show the liberality of the British government in leaving to the United States the island of Whidbey, and their motive for proposing naval officers of conciliatory character as commissioners to mark the boundary.

In my correspondence with Captain Prevost I repeatedly called his attention to the views of his government, as expressed in Mr. Crampton's letter of January 13, 1848, in opposition to those which he brought forward at this late day, but I failed to draw any response from him on the subject, or even the slightest reference to the letter. Although Captain Prevost remained perfectly silent in regard to it, I had reason to believe that the spirit which dictated that letter still actuated the British government, and, if I mistake not, the instructions which Captain Prevost received for his guidance embodied many of the details therein contained. It was not, however, until after our discussion had closed, and I had reached Washington, that I first saw Mr. Crampton's letter of February 9, 1856, to Mr. Marcy, written under the instructions of Her Majesty's government, again pressing the matter of the water boundary upon the earnest attention of the United States government, and again urging the adoption of Vancouver or Rosario Straits on the same grounds as those suggested in 1848, with the additional consideration, "that the existence of another navigable channel broader and deeper than that laid down by Vancouver is, according to the reports of the most recent navigators in that region, extremely improbable." Independent of the old surveys of the Spanish navigators and Vancouver, and of the modern surveys of Wilkes and Kellet, proof to the contrary is furnished by the still more recent labors of the United States Coast Survey. In the years 1853 and 1854 the Canal de Haro and Rosario Straits and their approaches were resurveyed, and a chart of the same on a large scale was published with the annual report of the Superintendent of the United States Coast Survey for the year 1854.

It seems strange that the British admiralty in 1856 should have been ignorant of this survey and chart, considering the watchfulness of the Hudson's Bay Company authorities on Vancouver's Island, the vigilance of Mr. Crampton at Washington, and the general dissemination of the Coast Survey reports. But whether the British government were or were not in possession of the information the chart furnishes in relation to the two channels, the additional reason urged by Mr. Crampton for the prompt adoption of Vancouver's Channel is none the less an acknowledgment that the proof of the existence of a *broader and deeper* channel should definitively settle the question of the boundary.

The survey referred to was made by direction of President Pierce, as will be seen by the accompanying copy of a letter from Mr. Marcy to the Secretary of the Treasury, dated June 2, 1853. I am not aware of the immediate cause of this survey, but as the British government had, on the occasion of each new administration after Mr. Polk's, renewed the effort to have the water boundary settled by the adoption of Vancouver's Channel, I presume that Mr. Marcy's attention was also called to the subject by the British government. There may be a letter from Mr. Crampton on file in the department written at that period, and, perhaps, other documents not hitherto published explaining the action of the department at that time in relation to the boundary. Senate document No. 251, Report Com., thirty-fourth Congress, first session, contains an estimate for a survey of the water boundary transmitted by Mr. Marcy to Mr. Hunter, chairman of the Finance Committee of the Senate, dated July 15, 1854; and also a communication to Mr. Mason, chairman Committee on Foreign Relations, dated February 18, 1856; by which it appears that the President's annual message of 1855 recommended an appropriation for the survey of the northwest boundary.

The present commission was authorized by act of Congress August 11, 1856, and in the summer of 1857 met the British Water Boundary Commission at Vancouver's Island. In October of that year the joint commission convened at this place for the purpose of determining the boundary line between the continent and Vancouver's Island. The discussion ended in a disagreement as to "the channel" through which the boundary line should run from the Gulf of Georgia to the Straits of Fuca. The principal arguments and evidence on both sides of the question are referred to in the preceding pages. The correspondence embodying the whole discussion will show that the disagreement did not result from any inherent difficulty in the question, but from the assumption on the part of the British commissioner of an infallible interpretation of the treaty, by refusing to admit cotemporaneous evidence of the intentions either of his own government or that of the United States to have any weight with him.

The cotemporaneous evidence which I produced and exhibited to him to show the fallacy of his interpretation of the treaty and the correctness of mine, to say the least, proved his interpretation to be a studied misconstruction of the word "southerly," (so as to exclude the Canal de Haro from the terms of the treaty,) and a disingenuous inversion of the real meaning of "the channel which separates the continent from Vancouver's Island," to secure the group of islands between the Canal de Haro and Rosario Straits to the British government.

Up to the period of the meeting of the joint commission, the Canal de Haro and Rosario Straits were the only channels that had ever been mentioned in connection with the question of the boundary; but before I left Washington for this coast, in the spring of 1857, in an interview I had with Lord Napier, I saw an indication that another channel, in the shape of "an amicable compromise," was likely to be proposed before the matter was settled. I was, therefore, not altogether unprepared, however much reason I might have had to be surprised, when Captain Prevost, having failed to convince me of the infallibility of his interpretation of the treaty and the utter worthlessness of my own, (wishing it at the same time to be "distinctly understood" that he was "induced thereto by

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no change of opinion on any one point,") announced that he conceived it had become "our positive, as well as our conscientious duty, to endeavor, in a conciliatory spirit and by mutual concession, to settle the matter." Having seen "a way by which" he could, "in part, meet my views without any gross violation of the terms of the treaty," he proposed that we should consider the whole space between the continent and Vancouver's Island "as one channel," and run the line "through the 'middle' of it, in so far as islands will permit." In submitting the proposition he says: "I make the present offer without committing either my government or myself, or any other person, to a renewal of it at any subsequent period, should it not now be accepted." It is unnecessary to say that I declined entertaining such a proposition. I have reason to believe that the offer, in some form or other, will be renewed by the British government, notwithstanding the threatened penalty in the event of a non-compliance on my part. It is not at all improbable that a new reading of the treaty will be resorted to, by which the whole space between the continent and Vancouver's Island will be interpreted to be "the channel which separates the continent from Vancouver's Island."

If the British government should propose to the United States such a reading of the treaty, it would be with the view of securing possession of the island of San Juan, and of destroying the unity of the group of islands so important to the United States in a military point of view. If, however, the "generally-admitted principle" in regard to the *main* channel be adhered to, the line would still run, as heretofore claimed by the United States, through the Gulf of Georgia and Canal de Haro, the two channels which, in connection, constitute the main channel between the forty-ninth parallel and the Straits of Fuca, and on such a condition there might appear to be no objection to adopting the whole space between the continent and Vancouver's Island as "the channel" of the treaty.

But there is another view of the question to be taken into consideration before adopting this reading of the treaty. Even though the line may be carried through the middle of the Gulf of Georgia and Canal de Haro, whether the whole space or a particular channel be considered "the channel" of the treaty, there may be some difference in the effect of the *proviso* to the first article, according to the interpretation to be placed upon "the channel." The proviso declares "that the navigation of the *whole of the said channel* and straits south of the forty-ninth parallel of north latitude remain free and open to both parties."

Had Rosario Straits been agreed to by the United States and adopted as "the channel" of the treaty, there can be no doubt that the British government would have so construed the proviso as to confine the navigation of American vessels to that particular channel; and a similar construction of the proviso I presume will be applied by the United States to British vessels, if the Canal de Haro be adopted as "the channel."

If, however, the whole space between the continent and Vancouver's Island be considered "the channel which separates the continent from Vancouver's Island," under the proviso the navigation of the whole of its waters will be "free and open to both parties." And, according to the views of the British government, as recently indicated by the British commissioner at a meeting of the joint commission, every harbor, cove, and inlet on the continental side of "the channel" and straits may be claimed as part of "the channel," and consequently "free and open to both parties."

I transmit herewith a copy of the record of the proceedings of the meeting referred to, which was convened for the purpose of definitively fixing and marking, by suitable monuments, certain important points, therein specified, at and near the western terminus of the boundary line on the continent, viz:

1st. The point where the forty-ninth parallel strikes the western coast of the

continent or the eastern shore of the Gulf of Georgia, on the small peninsula of Point Roberts, a few miles south of Fraser's river.

2d. The point where the forty-ninth parallel strikes the eastern shore of Point Roberts or western shore of Simlahmoo Bay, about three miles east of the first point.

3d. The point where the forty-ninth parallel strikes the eastern shore of Simlahmoo Bay, fifteen miles east of the first point.

Captain Prevost expressed his readiness to adopt the points as determined by the astronomers of the joint commission; but when I proposed to mark the *first point* as the *initial point* of the land and water boundary, it being the common point where the forty-ninth parallel intersects the western coast of the continent and the eastern shore of the *channel* which separates the continent from Vancouver's Island, Captain Prevost "declined entering into any discussion as to which was or was not the initial point," on the ground, as he stated verbally, that the whole question of the *channel* was now in the hands of his government. Notwithstanding the reserve of Captain Prevost, enough transpired at the meeting to disclose the pretence of the British government that the eastern shore of Simlahmoo Bay, on the *forty-ninth parallel*—entirely within the continent, and fifteen miles from its western coast—is the eastern shore of "the channel which separates the continent from Vancouver's Island." While Captain Prevost's refusal to agree to an initial point hinged upon the question of "the channel," I could not agree to any joint determination of the points in question.

The principal motive of the British government in attempting to push the initial point of the water boundary fifteen miles to the eastward of its true position is, I presume, to bring "the middle of the channel" (the western termination of the boundary line on the forty-ninth parallel, and its deflection, "thence southerly" down the channel) as far from Vancouver's Island as possible, in the event of their being successful in obtaining the consent of the United States to consider the whole space between it and the continent as the channel of the treaty. The *middle* of the channel in such case would be brought at the forty-ninth parallel, some miles nearer the continent. It is more than probable, however, that they are not uninfluenced by the increased privileges which they would acquire under the proviso by this wide construction of "the channel" at the forty-ninth parallel.

Although there is no special reference in my instructions to the *proviso* of the first article, nor has it any *apparent* connection with the true determination of the boundary line, yet, as under the act of Congress authorizing the organization of the present commission, I am commissioned "to carry into effect the *first article* of the treaty of June, 1846," I deem it my duty to keep its terms in view in consideration of its intimate connection with the subject of "the channel" in all its bearings, and of its susceptibility to a latitudinous construction by the British government, always on the alert to take advantage of the vagueness or generality of the terms of a treaty.

If the views of the British government in relation to the extent of "the channel," as developed in regard to it at this parallel, should be considered as tenable and be adopted by the United States, as far as I can judge all the inland waters between the continent and Vancouver's Island, south of the forty-ninth parallel, including all their arms and branches as far south as Puget Sound, would be free and open to the navigation of British vessels. Of course the harbors on Vancouver's Island (few in number) would be equally open to the navigation of American vessels.

Whether such is the object the British government have in view in the point they are disposed to make in regard to Simlahmoo bay, I am unable to say; but from the caution manifested by the United States in the correspondence between Mr. Buchanan and Mr. McLane, on the subject of "free and open ports," I do not think such a liberal interchange of ports would be in accordance with

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their views and policy. The debate between yourself and Mr. Benton on this very proviso indicates your apprehensions that Great Britain would construe it so as to exclude American vessels from the free and open navigation of the waters north of the parallel, so as to prevent free egress and ingress to and from the ocean in that direction. I have not a copy of your remarks at present with me, and do not recollect how far they touched upon any other question than that great right of navigating throughout its whole extent a public channel like that between the continent and Vancouver's Island.

The "offer" made to me by Captain Prevost to consider the whole space between the continent and Vancouver's Island *as one channel*, and to run the line *through the middle of it*, in so far as islands will permit, when brought to plain terms, is a proposition to divide the group of islands east of the Canal de Haro, between the United States and Great Britain, so as to secure to the latter the island of San Juan. In accomplishing such a division of the rightful territory of the United States, the boundary line would run from the forty-ninth parallel through the Gulf of Georgia, through a part of the Canal de Haro, and through the channel east of San Juan Island. The red line on one of the accompanying sketches of the admiralty chart indicates the proposed compromise channel the British government have so much at heart, and which will probably be again proposed to the United States. Independent of the preposterousness of such a proposition in other respects, it is not a suitable channel for a boundary between the United States and Great Britain, with such channels as the Canal de Haro and Rosario Straits in its vicinity. The relative widths of the channels are as follows:

The maximum width of the Canal de Haro, about.....	6 $\frac{1}{2}$ miles.
The maximum width of Rosario Straits, about	4 "
The maximum width of San Juan Channel, about.....	2 "
The minimum width of Canal de Haro, about.....	2 $\frac{1}{4}$ "
The minimum width of Rosario Straits, about.....	1 $\frac{1}{2}$ "
The minimum width of San Juan Channel, about.....	$\frac{3}{8}$ "

All of these channels are deep; the Canal de Haro being much the deepest. Rosario Straits has at its northern entrance, directly in the way of a boundary line, a large shoal, the least water about three fathoms. It has been the great object of the British government and Hudson's Bay Company to secure the island of San Juan, perhaps as much to keep the United States at a distance from Vancouver's Island, as for the intrinsic worth of the island itself; though it is valuable, and by far the finest in the group. It has an area of about 55 square miles; and it has an excellent harbor at its southeast corner. The great value of the group of islands, however, consists in its strong military position. It is the key to the Gulf of Georgia, north, and Straits of Fuca south of it. But a division of the sovereignty of the islands would destroy their military importance. Without San Juan the remainder of the group would be comparatively unimportant to the United States. The possession of it by Great Britain would answer all their purposes, and they would willingly give up the rest of the group for that single island.

Mr. Bancroft, in his letter of August 4, 1848, mentions a conversation with Lord Palmerston, in which the latter "spoke of the propriety of settling definitively the ownership of the several islands, [between the continent and Vancouver's island,] in order that settlements might not be begun by one party on what properly belonged to the other."

In Senate Document No. 251, (hereinbefore referred to) will be found a letter from Governor Stevens to Governor Douglas, dated May 12, 1855, acknowledging the receipt of a communication from the latter, in which is found the following paragraph:

You say the "island of San Juan has been in the possession of British subjects for many years, and it is, with the other islands in the Archipelago de Haro, declared to be within the

jurisdiction of the colony and under the protection of British laws. I have also the order of her Majesty's ministers, to treat those islands as parts of the British dominions."

I do not know at what period Governor Douglas received these orders, nor whether they were communicated to the United States by the British government. As nearly as I have been able to learn, the island of San Juan was first occupied in 1852, by the Hudson's Bay Company, as a sheep pasture, with an agent and a few shepherds to take charge of the property. Previously there was an Indian fishery on the island, probably under the control of the Hudson's Bay Company.

The laws of Oregon and Washington Territories include these islands within their jurisdiction, and some Americans settled upon San Juan in 1853; but feeling insecure from Indian attacks they soon withdrew. A deputy collector of the United States has resided on the island during a part of the time, and is there now. By reference to Senate Doc. No. 251, it will be seen that in 1855 a collision of jurisdiction took place. The sheriff of Whatcom county levied taxes upon the Hudson's Bay Company's property, which the agent refused to pay, on the ground of his being a British subject, acknowledging no authority except that emanating from his own government. The property was seized and sold for the payment of the taxes; and a claim for damages is now before the department, amounting to near three thousand pounds. I append herewith an extract from a report of Captain Alden, United States navy, to the Superintendent of the Coast Survey, in 1853, by which it will be seen that as early as July, 1853, Governor Douglas assumed authority over Lopez Island, one of the Haro group.* Until the line is definitively settled there is a constant liability to collisions of jurisdiction.

The first step in the encroachments of the British government upon this part of the territory of the United States, if Mr. Bancroft be correct in his supposition, originated in the desire of the Hudson's Bay Company to possess these islands. The decided position taken by him in regard to the Canal de Haro for a time checked any attempt on the part of the British government positively to claim Rosairo Straits as the boundary. With much caution, and by careful approaches, this was at length attempted in 1848, but failed. The government then, it seems, gave orders to Governor Douglas to consider the group of islands as part of the British dominions.

In a previous part of this communication, I referred to the fact that the maps of the northwest coast, extant at the date of the treaty, represented that part of the space between the continent and Vancouver's Island, immediately north and south of the 49th parallel, as free from islands, and, consequently, with but *one channel*; and called attention to the maps of a later date, on which the coast of Vancouver's Island is thrown further to the west, and an extensive archipelago substituted.

The chart of the Coast Survey published in 1854 is intended to represent the whole space between the continent and Vancouver's Island, in the vicinity of and south of the 49th parallel, but principally the Canal de Haro and Rosairo Straits, and the neighboring archipelago. In executing this survey for the State Department, it does not seem to have occurred to the officers of the Coast Survey to make an exploration of the archipelago along the coast of Vancouver's Island, immediately south of the 49th parallel. Its existence was, however, then becoming known, and since the discovery of coal at Nanaimo, on Vancouver's Island, a short distance north of the 49th parallel, the Hudson's Bay Company's vessels generally take one of the inner channels in going from and returning to Victoria, thereby saving a great distance, and avoiding rough seas. Captain Alden, in the *Active*, on one occasion passed through one of the inner channels from Nanaimo, connecting with the Canal de Haro, as they

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all do, at about latitude $48^{\circ} 40'$. The sketch of the archipelago he obtained from the Hudson's Bay Company (to which I have already referred) was probably made by the captains of the two small steamers, and other small vessels belonging to the company, which for many years have navigated these waters. You will observe on the Coast Survey chart that the inner channel is designated a "channel for small steamers," probably from the fact that none but small steamers had then sailed through it, or from the indisposition of the Hudson's Bay Company to encourage the exploration of the archipelago. It has been the general impression hitherto that the interior navigation was not well adapted to vessels of a large size, and such was the impression when I first arrived here. Indeed, little or nothing appeared to be known about the islands, or channels between them. There are probably difficulties in the way of large vessels getting out of the inner channel into the open gulf at the northern extremity, or at points between it and the Canal de Haro; the openings between the islands nearest the Gulf of Georgia being narrow and the currents very rapid. Nevertheless, upon the discovery of gold on Fraser River, steamers of good size found passages through those islands, in going from Victoria to the mouth of the river by the Canal de Haro, that saved considerable distance, and were convenient in avoiding rough weather in the open gulf. There is a passage, (about two or three miles in length,) almost due south from the "middle of the channel" at the 49th parallel, which would carry a line into the Canal de Haro, so as to obviate Captain Prevost's objection to the westerly bend in the course of the Canal de Haro at its northern extremity. But as the passage is narrow, less than half a mile wide, though perfectly safe and convenient, I did not think it a proper channel to propose for a boundary between the United States and Great Britain, although its average width is very little less than the San Juan Channel at its entrance into the Straits of Fuca. With the exception of this passage, I had not, at that time, been within the archipelago, and had no further idea of the true character of its channels. The passage alluded to runs through what appears on the map as Saturna Island. I made a hurried exploration of the archipelago in the steamer Active in September last, and was surprised to find such wide and deep channels. The opening through which we emerged from the inner channel into the Gulf of Georgia, in the vicinity of the 49th parallel, is not wide, (about half a mile,) and some years since, in passing through it, Her Majesty's steamer Virago, commanded by Captain Prevost, struck a rock. I saw enough, however, to satisfy me that the inner channels are sufficiently capacious for vessels of the largest size. I do not think there are any islands as large as some of those in the Haro Archipelago, but I may be mistaken. They are generally small, rocky and barren, though highly picturesque in appearance. In the division of labor between the United States and British commissions, the survey of this archipelago devolved on the latter, and we found Captain Richards, with Her Majesty's surveying steamer Plumper, actively engaged upon it. He continued the work until the rainy season set in and closed his operations for the year. This survey will give a new aspect to the map of this part of the space between the continent and Vancouver's Island, though probably it will not cover a greater number of square miles than the Archipelago as laid down on the Coast Survey chart. The large islands as there represented will be broken up into smaller ones, and greatly increased in number. The island of Saturna will be divided into three or more islands, embracing a splendid harbor large enough to accommodate the navy of Great Britain. The passage connecting the Gulf of Georgia and the inner channel, through which we passed in the Active, (which we named the "Active Passage,") is between the small islands into which Saturna Island is disintegrated.

Although a channel navigable for the largest vessels will undoubtedly be developed by the survey, it is not likely that it will, in all respects, be so situated as to answer the purposes of a boundary channel, as well as the broad

channel of the Gulf of Georgia, which averages twelve miles in width, at and south of the 49th parallel. And yet if the letter of the treaty, and the motive which induced the departure of the boundary line from the 49th parallel, be alone looked at, there can be no doubt that the inner channel may be claimed as the channel which separates the continent from Vancouver's Island, on the same ground with the Canal de Haro, viz: that it is the nearest channel to Vancouver's Island, and that the object of the line in the treaty was simply to avoid cutting off the southern end of Vancouver's Island, and to give the whole of it and its harbors, and nothing more, to Great Britain.

But the Canal de Haro is not claimed alone on the ground of its being the nearest channel to the island; although a legitimate construction of the treaty, the evidence of Mr. McLane is added to support it. It is also the main channel, and, in connection with the Gulf of Georgia, constitutes the main channel from the 49th parallel to the Straits of Fuca. This channel is the true and natural boundary between the continent and Vancouver's Island, and undoubtedly is the channel understood between Mr. McLane and Lord Aberdeen, and intended in their general description of the line. Had the maps of that day represented the space between the continent and Vancouver's Island as it is now known, the Gulf of Georgia and Canal de Haro would have been designated by name in the treaty as the boundary channel, on the "generally admitted principle" that they constitute the "main channel," although it would be conceding to Great Britain, in addition to "Vancouver's Island and its harbors," an extensive group of islands south of the 49th parallel.

At the time they agreed upon the line they were ignorant of, or at least our government was ignorant of the existence of the archipelago in the vicinity of the 49th parallel and immediately south of it. It, therefore, would be questionable policy to claim the channel west of the Gulf of Georgia. It would weaken the position already taken in regard to the main channel, though it may be brought with much force as an argument against the British government, who, without the slightest show of right, have claimed the channel nearest the continent, and all the islands west of it, in the very face of the letter and spirit of the treaty; while the United States, in their attempts to carry the treaty into effect, have waived the rigid construction of the letter of the treaty, and even its plain and obvious meaning by a liberal interpretation of it, as well as the intentions of the negotiators, so as to make the *main channel* the boundary between the territories of the United States and Great Britain. In this respect the contrast between the course of the two governments is most striking.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner N. W. Boundary Survey.

Hon. LEWIS CASS, *Secretary of State.*

[Enclosures.]

Copy of Proposition for Partition of the Oregon Territory, &c.

The following is a copy of the proposition for a partition of the Oregon territory, in so far as regards the boundary line, which Lord Aberdeen authorized Mr. Pakenham to submit to the United States in his instructions of May 18, 1846, as written down from memory shortly after a careful perusal of the original in the archives of the British legation:

The 49th parallel to the sea coast, thence in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the ocean—thus giving to Great Britain the whole of Vancouver's Island and its harbors.

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In a despatch of the same date (May 18, 1846) from Mr. McLane to Mr. Buchanan, the foregoing proposition is referred to, and communicated as follows:

The proposition most probably will offer substantially—

First. To divide the territory by the extension of the line on the parallel of forty-nine to the sea—that is to say, the arm of the sea called Birch's Bay; thence by the Canal de Haro 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.

ANALYSIS OF THE FIRST ARTICLE OF THE TREATY.

Analysis of the First Article of the Treaty by a comparison of its terms with the terms of the Proposition contained in the Instructions of Lord Aberdeen to Mr. Pakenham, and the terms of the same Proposition, as stated in Mr. McLane's Despatch to Mr. Buchanan of the same date, (May 18, 1846.)

Boundary Line as laid down in the First Article of the Treaty of June 15, 1846.

FORTY-NINTH PARALLEL 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 REMAIN FREE AND OPEN TO BOTH PARTIES.

Boundary Line as described by Lord Aberdeen's Proposition, May 18, 1846.

FORTY-NINTH PARALLEL TO THE sea coast,

THENCE IN A SOUTHERLY DIRECTION THROUGH THE CENTRE OF King George's Sound AND THE STRAITS OF FUCA TO THE OCEAN—thus giving to Great Britain the whole of Vancouver's Island and its harbors.

Proposition of Lord Aberdeen in regard to Boundary Line, as described by Mr. McLane, May 18, 1846.

PARALLEL OF FORTY-NINE TO THE sea—that is to say, the arm of the sea called Birch's Bay; THENCE BY the Canal de Haro 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.

NOTE.—The words of the treaty describing the boundary line, and those of Lord Aberdeen and Mr. McLane, are in SMALL CAPITALS when they are identical or nearly so, and in italics when they differ but have the same meaning, viz: the channel nearest Vancouver's Island. The language of the proviso and of the statement of its conditions by Mr. McLane is in SMALL CAPITALS so far as it may be considered identical in meaning. Where they appear to differ in that respect, it is in italics. It will be observed that Mr. McLane uses the comprehensive word "strait," covering the entire length of the navigable space between Vancouver's Island and the continent from ocean to ocean, and such undoubtedly was the understanding between himself and Lord Aberdeen of the conditions that were to be introduced into the proviso.

A. C.

CORRESPONDENCE SHOWING THE EARLY PRETENSIONS OF THE BRITISH GOVERNMENT TO THE ISLANDS EAST OF THE CANAL DE HARO.

Mr. Boyd to Mr. Buchanan.

LONDON, October 19, 1846.

SIR: Through channels not strictly official, yet I conceive entitled to implicit reliance, it has recently come to my knowledge that an idea is entertained of certain British subjects of founding a settlement upon Whitby's Island, one of the islands situated within the Straits of Fuca, south of the forty-ninth parallel,

Ex. Doc. 29—5

Whether formal application has yet been made to government for its sanction. I am not informed, but there can be little doubt that government has been led to expect such an application, and in this expectation has been thrown into some doubt whether, according to the boundary described in the late Oregon treaty, viz., the mid channel through the Straits of Fuca, Whitby's island would fall within British or American jurisdiction.

Being unauthorized to pursue this subject officially, and obliged, even unofficially, to approach it in a very distant and cautious manner, I am unable to ascertain who are the parties proposing the settlement in question, what would be its nature and objects, or whether the position of Whitby's Island would render its possession a matter of military or political importance.

I deem it proper, however, to mention the supposed possibility that the ascertainment of the main channel through the Straits of Fuca may be a matter of some doubt, in order that if the department be not already in possession of evidence clearly defining this line, it may take the occasion through our cruisers in those seas or otherwise, at once to collect, if desirable, such information as to meet the question whenever it may be formally presented.

It may not be improper, moreover, to report certain inferences from the conversations in which this subject was brought to my notice which it was probably intended I should draw, and expected that I should communicate. The conviction was left upon my mind that the proposed settlement of Whitby's Island is a scheme altogether of private origin, and one which Her Majesty's ministers rather unwillingly find forced upon their attention; that they would deeply regret the occurrence of any difficulty in tracing the channel of the Strait of Fuca, would gladly adopt *any* suitable mode for its ascertainment, and would care much less about the distribution of the small islands in that sea than for the prompt establishment of the treaty line.

I was also led to believe that a ready disposition on the part of our government, now that a point presents itself which is one of mere fact and science, to submit its solution to a proper professional tribunal, might very much serve to correct the unfair interpretation recently put upon the President's refusal to submit to arbitration in a question not suitable for that mode of decision.

I remain, sir, very respectfully, your obedient servant,

J. McHENRY BOYD.

Hon. JAMES BUCHANAN,
Secretary of State.

Mr. Bancroft to Mr. Buchanan.

LONDON, November 3, 1846.

SIR:

* * * * *

While in the Navy Department I caused a traced copy of Wilkes's chart of the Straits of Haro to be made. If not needed in the Navy Department I request that the President will direct it to be sent to this Legation. It is intimated to me that questions may arise with regard to the islands east of that strait. I ask your authority to meet any such claim at the threshold by the assertion of the central channel of the Straits of Haro as the main channel intended by the recent treaty of Washington. Some of the islands, I am well informed, are of value.

Very respectfully, your obedient servant,

GEORGE BANCROFT.

Hon. JAMES BUCHANAN,
Secretary of State.

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Mr. Buchanan to Mr. Bancroft.

DEPARTMENT OF STATE,

Washington, December 28, 1846.

SIR: I have obtained from the Navy Department, and now transmit to you, in accordance with the request contained in your despatch No. 1, [November 3,] the traced copy of Wilkes's chart of the Straits of Haro. This will enable you to act understandingly upon any question which may hereafter arise between the two governments in respect to the sovereignty of the islands situate between the continent and Vancouver's Island. It is not probable, however, that any claim of this character will be seriously preferred on the part of Her Britannic Majesty's government to any island lying to the eastward of the Canal of Arro, as marked in Captain Wilkes's "Map of the Oregon Territory." This, I have no doubt, is the channel which Lord Aberdeen had in view, when, in a conversation with Mr. McLane, about the middle of May last, on the subject of the resumption of the negotiation for an amicable settlement of the Oregon question, his lordship explained the character of the proposition he intended to submit through Mr. Pakenham. As understood by Mr. McLane, and by him communicated to this department in his despatch of the 18th of the same month, it was, "First, to divide the territory by the extension of the line on 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 Haro* and Straits of Fuca to the ocean," &c.

I am, sir, respectfully, your obedient servant,

JAMES BUCHANAN.

GEORGE BANCROFT, Esq., &c., &c., &c.

[Enclosure: Chart of the Straits of Juan de Fuca, Puget Sound, &c. By the U. S. Ex. Ex., 1841.]

Mr. Bancroft to Mr. Buchanan.

LEGATION OF THE UNITED STATES,

London, March 29, 1847.

SIR:

While on this point I ought to add that my attention has again been called to the probable wishes of the Hudson's Bay Company to get some of the islands on our side of the line in the Straits of Fuca. I speak only from my own judgment and inductions from what I observe and hear; but it would not surprise me if a formal proposition should soon be made on the part of the British government to run the line between the two countries at the west from the point where it first meets the water through the straits to the Pacific Ocean.

Such a proposition is in itself very proper, if there be no ulterior motive to raise unnecessary doubts and to claim islands that are properly ours. The ministry, I believe, has no such design. Some of its members would be the first to frown on it. But I am not so well assured that the Hudson's Bay Company is equally reasonable, or that on the British side a boundary commissioner might not be appointed favoring the encroaching propensities of that company.

I am, &c.,

GEORGE BANCROFT.

JAMES BUCHANAN, Esq., &c., &c., &c.,

Washington City.

Mr. Bancroft to Mr. Buchanan.

UNITED STATES LEGATION,
London, August 4, 1848.

SIR :

The Hudson's Bay Company have been trying to get a grant of Vancouver's Island. I inquired, from mere curiosity, about it. Lord Palmerston replied that it was an affair that belonged exclusively to the Colonial Office, and he did not know the intentions of Lord Grey. He then told me what I had not known before, that he had made a proposition at Washington for marking the boundaries in the northwest by setting up a landmark on the point of land where the forty-ninth parallel touches the sea, and for ascertaining the division line in the channel by noting the bearings of certain objects. I observed that on the mainland a few simple astronomical observations were all that were requisite; that the water in the channel of Haro did not require to be divided, since the navigation was free to both parties; though, of course, the islands east of the centre of the channel of Haro were ours. He had no good chart of the Oregon waters, and asked me to let him see the traced copy of Wilkes' chart. He spoke of the propriety of settling definitively the ownership of the several islands, in order that settlements might not be begun by one party on what properly belongs to the other. On returning home I sent him my traced copy of Wilkes' chart, with the note of which I enclose a copy.

I am, &c.,

GEORGE BANCROFT.

JAMES BUCHANAN, Esq.,
Secretary of State, Washington, D. C.

Mr. Bancroft to Lord Palmerston.

90 EATON SQUARE, July 31, 1848.

MY DEAR LORD: As your lordship desired, I send for your inspection the traced copy made for me at the Navy Department of Wilkes' chart of the Straits of Juan de Fuca, Puget's Sound, &c., &c. Unluckily this copy does not extend quite so far north as the parallel of 49°, though it contains the wide entrance into the Straits of Haro, the channel through the middle of which the boundary is to be continued. The upper part of the Straits of Haro is laid down, though not on a large scale, in Wilkes' map of the Oregon Territory, of which, I am sorry to say, I have not a copy, but which may be found in the atlas to the narrative of the United States Exploring Expedition.

I remain, my dear lord, very faithfully yours,

GEORGE BANCROFT.

Viscount PALMERSTON, &c., &c.

Mr. Bancroft to Mr. Buchanan.

UNITED STATES LEGATION,
London, October 19, 1848.

SIR: I send you a map of Vancouver's Island, recently published by James Wyld, geographer to the Queen. It purports to mark by a dotted line the boundary between the United States and Great Britain. You will see that this map suggests an encroachment on our rights by adopting a line far to the east of the Straits of Haro. You may remember that Mr. Boyd, more than two years ago, suggested to you that a design of preferring some such claims existed.* I inferred, from what I could learn at that time, that this design grew

* See letter of Mr. Boyd to Mr. Buchanan, 19th October, 1846, p. 81.

up with the Hudson's Bay Company, and I had no reason to suppose it favored by the colonial secretary.

I am, &c.,

GEORGE BANCROFT.

JAMES BUCHANAN, Esq.,
Secretary of State, Washington, D. C.

Mr. Bancroft to Lord Palmerston.

108 EATON SQUARE, November 3, 1848.

MY LORD: I did not forget your lordship's desire to see the United States surveys of the waters of Puget's Sound and those dividing Vancouver's Island from our territory.

These surveys have been reduced, and have just been published in three parts, and I transmit for your lordship's acceptance the first copy which I have received.

The surveys extend to the line of 49°, and by combining two of the charts your lordship will readily trace the whole course of the channel of Haro, through the middle of which our boundary line passes. I think you will esteem the work done in a manner very creditable to the young navy officers concerned in it.

I have the honor, &c.,

GEORGE BANCROFT.

Viscount PALMERSTON, &c., &c.

Lord Palmerston to Mr. Bancroft.

FOREIGN OFFICE, November 7, 1848.

SIR: I beg leave to return you my best thanks for the surveys of Puget's Sound and of the Gulf of Georgia which accompanied your letter of the 3d instant.

The information as to soundings contained in these charts will no doubt be of great service to the commissioners who are to be appointed under the treaty of the 15th of June, 1846, by assisting them in determining where the line of boundary described in the first article of that treaty ought to run.

I have the honor to be, with high consideration, sir, &c., &c.,

PALMERSTON.

GEORGE BANCROFT, Esq., &c., &c., &c.

PROCEEDINGS OF MEETING OF JOINT COMMISSION, AUGUST 16, 1858.

CAMP SIMIAHNOO, SIMIAHMOO BAY.

Meeting of the Joint Commission for determining the Boundary Line between the United States and British Possessions from the point where the 49th parallel strikes the channel which separates the continent from Vancouver's Island to the Pacific Ocean, at the office of the United States Boundary Commission, August 16, 1858.

Present, Archibald Campbell, esq., Commissioner on the part of the United States, &c.; Lieutenant John G. Parke, Topographical Engineers, Chief Astronomer and Surveyor on the part of the United States; William J. Warren, Sec-

retary United States Commission; Captain James C. Prevost, Royal Navy, Her Majesty's first Commissioner, &c.; Captain George Henry Richards, Royal Navy, Her Majesty's second Commissioner, &c.; William A. G. Young, Secretary British Commission.

Mr. Campbell stated to Captain Prevost that his object in calling the present meeting was conveyed in his letter of the 14th instant, and the enclosed report of Mr. Parke, as follows :

UNITED STATES BOUNDARY COMMISSION,
Camp Simiahmoo, August 14, 1858.

SIR: I have the honor to enclose herewith the copy of a communication from Lieutenant Parke, the Chief Astronomer and Surveyor of the United States Boundary Commission, and for the purpose of carrying out the objects therein specified by him, I propose that a full meeting of the Joint Commission be held at this place to fix definitely the points of the boundary line therein referred to, and to make the necessary arrangements for erecting suitable monuments to mark their position.

With high esteem, I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
United States Commissioner.

Captain JAMES C. PREVOST,
British Commissioner H. M. S. Satellite, Simiahmoo Bay.

UNITED STATES BOUNDARY COMMISSION,
Camp Simiahmoo, August 14, 1858.

SIR: I have the honor respectfully to report that I have determined, by astronomical observations and survey, so much of the 49th parallel of north latitude as is embraced between the eastern shore of the Gulf of Georgia, on Point Roberts, and the eastern shore line of Simiahmoo Bay. These points of the parallel have been marked by stakes or posts, and I would respectfully recommend that a meeting of the Joint Commission be had for the purpose of ratifying and confirming their determination, and taking the necessary steps towards the erection of proper monuments for permanently marking and defining the line. The points marked are as follows :

1. Where the parallel crosses the western face of Point Roberts.
2. Where it crosses the eastern face of Point Roberts; and,
- 3d. Where it enters the timber on the eastern shore of Simiahmoo Bay.

It may be well to add that these marks are all temporary in their character, and should therefore be speedily replaced by permanent solid structures.

I have the honor to be, very respectfully, your obedient servant,
JNO. G. PARKE,

Lieut. Corps Topographical Engineers, Chief Astronomer and Surveyor.
ARCHIBALD CAMPBELL, Esq.,
United States Commissioner, &c., &c.

Captain Richards having signified his acceptance of the points as determined by Mr. Parke, Captain Prevost expressed his readiness to adopt them, and erect monuments thereat.

Mr. Campbell thereupon proposed that the first of these points referred to by Mr. Parke be suitably marked by the most conspicuous monument, it being the initial point of the 49th parallel on the continent, and being the point where the 49th parallel strikes the eastern shore of "the channel which separates the continent from Vancouver's Island."

Captain Prevost stated in reply, that he declined entering into any discussion as to which was or was not the initial point, but he was prepared simply to agree to the points already determined by the astronomers, as points on the line of boundary.

Mr. Campbell objected to any determination of the points in question, without the one on the western face of Point Roberts being established as the initial point of the 49th parallel on the continent.

Commissioners then agreed to adjourn.

ARCHIBALD CAMPBELL.
JAMES C. PREVOST.

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EXTRACT FROM REPORT OF CAPTAIN ALDEN, UNITED STATES NAVY.—COMPLAINT OF AN AMERICAN CITIZEN.

UNITED STATES SURVEYING STEAMER ACTIVE,
San Francisco, October 31, 1853.

* * * * *
 SIR: It seems, from all I could learn, that the English government has decided that the boundary between us and them should pass down Rosario Strait, and claim, therefore, all the islands west of that line, overlooking the fact that there is a channel much nearer home, better in almost every respect, and, to them, far more convenient. I mean the Canal de Haro.

Their action seems already to have interfered with the peace and comfort of one individual who claims to be an American citizen. He came to me with a long complaint, and the facts, as near as I could get at them, are as follows: His name is R. W. Cussans. He located a tract of land on Lopez Island, and made improvements to the cost of about \$1,500, but owing to the action of the governor of Vancouver's Island, was obliged to abandon everything. He was compelled to take a license to cut timber, (a copy of which I herewith enclose,) and after he had cut and squared some 30,000 feet, was informed that it would be necessary for the vessel, when she took it away, to go to Victoria and clear at the custom-house. He asked me what he should do under the circumstances—go to Victoria or not. I told him if the governor brought force enough to divert his vessel from the course he thought proper to steer, he must submit. I was exceedingly anxious at a subsequent interview with Governor Douglas, to lay this matter before him and obtain his views on the subject, but I was deterred from doing so by the nature of my instructions, and from the fact that I considered the license granted to Cussans as showing conclusively the position assumed by the English government in regard to those islands.

* * * * *
 With great respect, I am, your obedient servant,

JAMES ALDEN,

*Lieutenant Commanding, United States Navy,
 Assistant United States Coast Survey.*

Prof. A. D. BACHE,

Superintendent United States Coast Survey, Washington, D. C.

—
Copy of License.

The bearer, Richard W. Cussans, having given security for the payment of the duty of ten pence sterling for each load of fifty cubic feet of timber, I hereby license you to cut and remove timber on and from any public lands within the district of Lopez Island for six months from this date.

JAMES DOUGLAS, *Governor.*

GOVERNMENT HOUSE, *Victoria, July 25, 1853.*

This license must be produced whenever demanded by me or any other person acting under the authority of the government.

UNITED STATES SURVEYING STEAMER ACTIVE,
Rosario Straits, September 11, 1853.

I hereby certify that the above is a true copy of the original now in my possession, and also that I am an American citizen; have located a tract of land on the island above referred to, believing it to be the property of the United States; and that I have never given any security for the payment of any dues whatever to the British government.

R. W. CUSSANS.

Witness:

ISRAEL C. WATT,
Lieutenant United States Navy.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, June 14, 1859.

SIR: I regret to be obliged to inform the department that no further progress in the determination of the water boundary has been made since the proceedings of the 3d of December, 1857, when, after a full discussion of the question, Captain Prevost, upon a fictitious issue of disagreement between us as to the meaning of the words of the treaty defining the boundary between the continent and Vancouver's Island, proposed a reference of the whole matter to our respective governments. As I did not concur in this proposal, for reasons which are obvious, whatever reference Captain Prevost may have made to his government was made upon his own responsibility. And it seems to me that, after the lapse of eighteen months, he should be instructed by his government either to adopt the boundary channel according to my interpretation of the treaty, sustained by coteremporaneous evidence showing it to be in accordance with the intention of the negotiators, or be provided with counter evidence of equal weight to sustain the correctness of his remarkable construction of the language of the treaty.

Captain Prevost's studious avoidance of the production of *any* evidence showing the understanding of his government as to the boundary channel intended by the treaty, his repudiation of that which I laid before him, proving the absurdity of his interpretation, and his blind adherence to the mere letter of the treaty, as he chooses to construe it, taken in connection with his proposal to split the difference between us by a division of the group of islands, (artfully involved in dispute,) is the very best evidence that his government have not the shadow of foundation for claiming the boundary channel he professes to derive from the "very peculiar wording" of the treaty.

I have recently learned from Captain Prevost that he has not received any instructions from his government upon the subject of the reference made by him "on account of the contrary views entertained by us," nor is he aware when it is probable that he may receive instructions.

Several citizens of the United States have recently settled on San Juan Island, one of the disputed islands, and the nearest to Vancouver's Island. As the Hudson's Bay Company also occupy it, difficulties may be anticipated if the question of the boundary channel be not speedily settled. I would therefore respectfully urge upon the department the importance of calling the attention of the British government to the subject.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

HON. LEWIS CASS,
Secretary of State.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, June 21, 1859.

SIR: In my letter to the department of the 20th of January I referred to the fact that the channels and islands composing the archipelago skirting Vancouver's Island at and immediately south of the 49th parallel had never been accurately laid down on the maps representing the space between the continent and Vancouver's Island, and stated that Captain Richards, Royal Navy, surveyor of the British water boundary commission, had recently been engaged in making a survey of this archipelago, and that as soon as I was furnished by him with a copy of his map I would forward to the department a tracing of the Coast

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Survey chart corrected in that particular, and I now have the honor herewith to transmit it accordingly.

I also stated that a general impression had been created that the channels of the archipelago were only navigable for small steamers. It will be seen by the soundings laid down in the accompanying chart that this is an erroneous idea, and that they are navigable for vessels of the largest class. In respect to navigability merely, they are therefore on an equality with the channels claimed or proposed as "the channel" through which the boundary line should be run; while in other respects, with the exception of the *main channel*, the channel of the archipelago nearest to *Vancouver's Island* has the first claim to be considered "the channel which separates the continent from *Vancouver's Island*."

At the time the treaty was concluded the archipelago at the 49th parallel was represented on the maps of that day as a part of *Vancouver's Island*, and consequently, at and immediately south of the 49th parallel to about latitude 48° 47' there appeared to be but a single channel between the continent and *Vancouver's Island*. The line contemplated by the negotiators of the treaty must therefore necessarily have been through the middle of that channel (the Gulf of Georgia) until it reached the Archipelago de Haro, not, as asserted by Captain Prevost in his letter of October 28, 1857, to be "the fact that at the 49th parallel there is only *one* navigable channel lying between the channel and *Vancouver's Island*," but because only one was known to exist at and prior to the date of the treaty. This assertion of Captain Prevost is the more remarkable, considering that in 1853 he, to some extent, explored the channels of the archipelago west of the Gulf of Georgia; and the name of the steamer *Virago*, which he commanded at the time, is indelibly connected with a passage from the Gulf of Georgia to the inner channels near *Vancouver's Island*. In passing through what the early Spanish navigators named "Portier's Inlet," a little north of the 49th parallel, the steamer encountered a rock, which created some apprehensions for her safety. On the Coast Survey chart the inlet is designated by "Virago Rock," and is generally spoken of as Virago Passage.

The maps in use by the negotiators of the treaty represented the Archipelago de Haro with sufficient accuracy to show that there were several channels connecting the Gulf of Georgia and Straits of Fuca. The literal meaning of the treaty would indicate the boundary channel to be the nearest channel to *Vancouver's Island*, and it has been satisfactorily proven that such was the intention of the negotiators by the production of cotemporaneous evidence, showing the object of the deflection of the boundary line from the 49th parallel to be merely to give the whole of *Vancouver's Island* to Great Britain, with the undeniable understanding of both governments that, to accomplish this object, the boundary line was to reach the Straits of Fuca through the Canal de Haro. The despatches of Mr. McLane and Lord Aberdeen of May 18, 1846, alone, are sufficient confirmation of this fact; but they are amply sustained by other cotemporaneous evidence. Mr. McLane mentions the name of the channel nearest *Vancouver's Island*, (the Canal de Haro,) where more than one was known to exist, without specially stating the object of its selection. Lord Aberdeen specifies distinctly the object, viz., "to give to Great Britain the whole of *Vancouver's Island* and its harbors," without naming the channel which would accomplish it.

Before I entered into the discussion of the boundary question with the British commissioner, the language of the treaty seemed to me susceptible of two distinct interpretations, either that "the channel which separates the continent from *Vancouver's Island*" meant the the nearest navigable channel to *Vancouver's Island*, without regard to its relative size, or that it might mean the *main channel* between the continent and *Vancouver's Island*.

A careful investigation of the subject, with all the light thrown upon it by the cotemporaneous evidence I then possessed, led me to the conclusion that a

combination of these two interpretations would best enable me to carry the treaty into effect, in accordance both with its letter and spirit.

My conclusion was that the Gulf of Georgia and the Canal de Haro constituted the boundary channel understood and intended by the framers and signers of the treaty. If the true interpretation of the treaty be that "the channel" through which the boundary line is to be run is the main channel, the line I have claimed is then the line intended by the treaty. If, however, "the channel which separates the continent from Vancouver's Island" is to be construed as the nearest channel to Vancouver's Island, the line should be run so as to throw the Archipelago, west of the Gulf of Georgia, on the American side of the line.

In admitting the Gulf of Georgia to be "the channel" intended by the treaty, between latitude 49° and $48^{\circ} 47'$, I did so with some reluctance, as I considered the principle upon which the water boundary was established to be merely to avoid cutting off the southern end of Vancouver's Island, so as to give the whole of the island to Great Britain, and no more. But as the channel within the Archipelago, at the forty-ninth parallel nearest Vancouver's Island, was not considered well adapted to a boundary channel, and indeed was little known, I took the broad view, as the Gulf of Georgia was the main channel, and as at the time of the treaty but one channel was known to be in existence, that I should be carrying the treaty into effect in good faith towards my own government, and most liberally towards Great Britain, by ignoring the Archipelago, so as to place myself in the position of the negotiators of the treaty when they had the maps of the day before them.

The refusal of the British commissioner to adopt the Gulf of Georgia and the Canal de Haro as the boundary channel, together with the additional contemporaneous evidence I have gathered since my discussion with him in 1857, has caused me carefully to review the conclusion at which I had arrived at that time. I still am of the opinion that if the boundary line had been drawn upon the maps of the day, immediately after the conclusion of the treaty, that it would have been drawn through the Gulf of Georgia and Canal de Haro. But the extraordinary pretensions of the British government that the channel nearest the continent was contemplated by them as the boundary channel of the treaty, and the refusal of the British commissioner to be in the slightest degree influenced by contemporaneous evidence proving the contrary, it seems to me would justify the United States in claiming the boundary line through the channel nearest Vancouver's Island from the forty-ninth parallel to the Straits of Fuca.

The Gulf of Georgia and Canal de Haro, constituting the main channel, is the natural boundary between the continent and Vancouver's Island, and by far the most convenient in every respect to both governments. This boundary line carries British vessels from the Pacific Ocean to Fraser River, the nearest point of the British possessions on the continent with which they will have any communication, by a route seventeen miles shorter than by Rosario Straits, the channel they claim as the boundary; while between Simiahmoo Bay, Bellingham Bay and Puget Sound, Rosario Straits will be most convenient to American vessels. But between the Pacific Ocean and Point Roberts, [American territory,] the Canal de Haro is equally convenient for American vessels as it is for British vessels bound for Fraser River, a few miles north of it. In no point of view, however, is Rosario Straits necessary for British vessels, unless the Archipelago de Haro become British territory.

The Canal de Haro being the only link in the boundary channel between the forty-ninth parallel and the Straits of Fuca, which has been proven by contemporaneous evidence, the question is upon what principle was the Canal de Haro understood to be "the channel which separates the continent from Vancouver's Island?" It must have been either because it was the channel nearest to Vancouver's Island, or because it was the main channel. If the former, the Archipelago skirting Vancouver's Island to the forty-ninth parallel belongs to the United States; if the latter, the Gulf of Georgia is the boundary channel, and

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this Archipelago belongs to Great Britain. This group of islands is the only one about which any dispute could be got up with plausible show of fairness; and the liberality of the United States in proposing to adopt such a line as would give it to Great Britain, has hitherto prevented such a dispute and transferred it to the Haro group.

Upon the accompanying map will be found the following lines traced through different channels, viz :

1st. The boundary line contemplated by the treaty, as shown by cotemporaneous evidence, through the middle of the Gulf of Georgia and Canal de Haro, the *main channel* between the continent and Vancouver's Island.

2d. The boundary line claimed by the British commissioner, through the Gulf of Georgia and Rosario Straits, on the pretence that "the channel which separates the continent from Vancouver's Island" means the channel nearest to the continent.

3d. The boundary line proposed by the British commissioner as a compromise, through the Gulf of Georgia, a part of the Canal de Haro, and the channel east of San Juan Island.

4th. The boundary line which might be claimed by the United States in accordance with the letter of the treaty, or by adopting an interpretation of it, so as to carry out the sole object of the deviation of the boundary line from the forty-ninth parallel to the ocean through the Straits of Fuca, viz., to give the whole of Vancouver's Island to Great Britain.

5th. Track of steamers plying between Victoria and Fraser River since the discovery of gold.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS, *Secretary of State.*

II.—POWERS OF THE COMMISSIONERS.

Letter of Mr. Campbell to Mr. Cass, December 1, 1858, enclosing correspondence with British Commissioner, viz :

Mr. Campbell to Captain Prevost, December 4, 1857.

Captain Prevost to Mr. Campbell, December 8, 1857.

Mr. Campbell to Captain Prevost, December 12, 1857.

Mr. Campbell to Captain Prevost, December 15, 1857.

Enclosing Commission and Instructions.

Captain Prevost to Mr. Campbell, December 22, 1857.

Enclosing Commission and original Instructions.

Mr. Campbell to Captain Prevost, April 14, 1858.

Captain Prevost to Mr. Campbell, June 4, 1858.

Letter of Mr. Cass to Mr. Campbell, June 8, 1859, enclosing copies and extracts of letters, viz :

Mr. Cass to Mr. Dallas, January 17, 1859.

Mr. Dallas to Mr. Cass, February 25, 1859.

Mr. Dallas to Lord Malmesbury, February 5, 1859.

Lord Malmesbury to Mr. Dallas, February 22, 1859.

Extract from additional instructions to Captain Prevost.

Letter of Mr. Campbell to Mr. Cass, August 4, 1859, enclosing correspondence with Captain Prevost, viz :

Mr. Campbell to Captain Prevost, May 18, 1859.

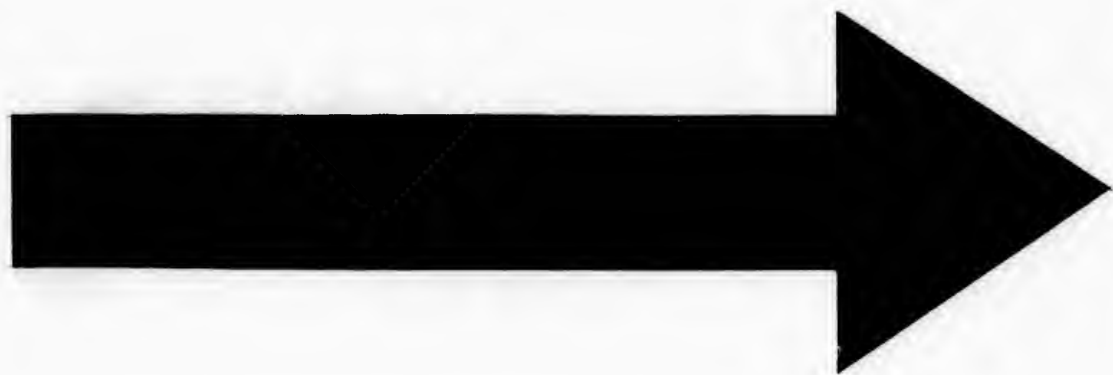
Captain Prevost to Mr. Campbell, May 27, 1859.

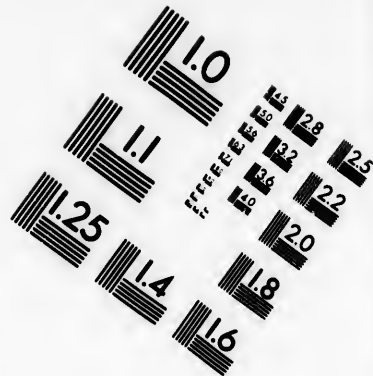
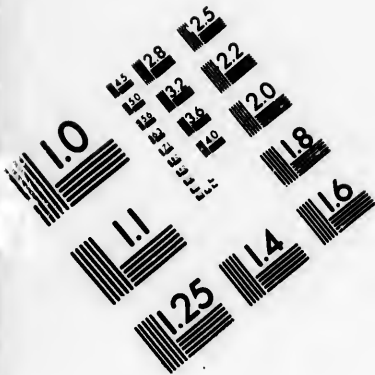
Mr. Campbell to Captain Prevost, June 7, 1859.

Captain Prevost to Mr. Campbell, June 23, 1859.

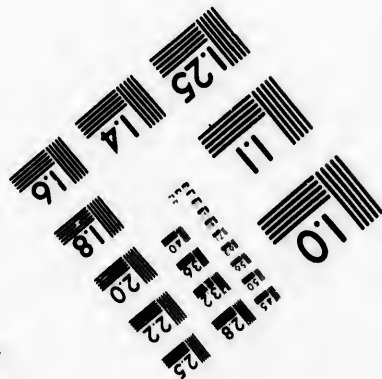
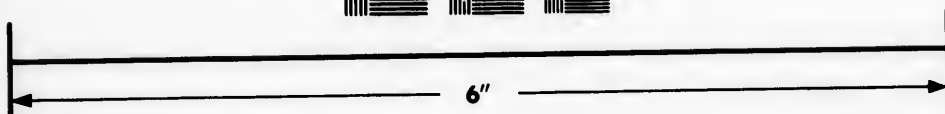
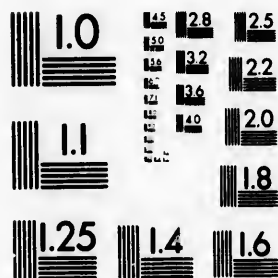
Mr. Campbell to Captain Prevost, July 9, 1859.

Captain Prevost to Mr. Campbell, July 19, 1859.





**IMAGE EVALUATION
TEST TARGET (MT-3)**



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Mr. Campbell to Mr. Cass.

UNITED STATES N. W. BOUNDARY COMMISSION,
Camp Simiahmoo, December 1, 1858.

SIR: I have the honor to request that the accompanying correspondence between Captain Prevost and myself, in relation to our respective powers and instructions, may be filed with the papers transmitted to the department with my report of the 10th of February last.

After the close of my discussion with Captain Prevost, in relation to the boundary channel, I felt I had good reason to believe that our proceedings had been altogether one-sided. While my instructions were so broad as to authorize me to adopt as the boundary any channel which I should be satisfied corresponded with the terms of the treaty, or the intentions of the negotiators of the treaty, it appeared to me, from the course pursued by Captain Prevost, either that his instructions so restricted his powers as to prevent him from adopting the Canal de Haro, or that, in disregard of the rules of international law for the interpretation of treaties, he voluntarily refused to give any weight to the contemporaneous evidence of the intentions of the negotiators of the treaty.

Under these circumstances I deemed it important to know the character of Captain Prevost's instructions, and therefore requested him to furnish me with copies of them. You will perceive, by the enclosed correspondence, that Captain Prevost so far complied with my request as to send me a copy of his commission and original instructions, but withheld the "detailed instructions for his guidance" which his government promises to furnish him "in a subsequent despatch."

I should not have felt that I had a right to call upon Captain Prevost for copies of his instructions, had I not previously been informed by him that he had been provided by his government with a copy of my instructions. From the result of my application, I think it not unfair to infer that the "detailed instructions" contain directions or suggestions which are not entirely consistent with the execution of the first article of the treaty, according to its true intent and meaning.

The boundary line which Captain Prevost, by way of compromise, proposed to run through an intermediate channel, between the two channels respectively claimed as "the channel" of the treaty, certainly could never have been contemplated by either the United States or Great Britain in making the treaty. The adoption, therefore, of such a boundary, instead of "carrying the treaty into effect," would, according to Captain Prevost's views, as well as my own, be a gross violation both of its letter and spirit.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, December 4, 1867.

SIR: At our first official meeting on the 27th day of June last, after examining each other's instructions, it was mutually understood that we were equally invested with *full powers* for determining the boundary line between the United States and British possessions, from its intersection with the eastern shore of the

Gulf of Georgia to the Pacific Ocean. It was upon that understanding that I have since acted in our conferences and correspondence. In our meeting of yesterday, however, it was stated by yourself or secretary that your instructions required you in case of disagreement to propose to refer the matter to our respective governments. This statement, taken in connection with the whole tenor of your correspondence, and the paper submitted by you at our last meeting, has led me, upon further reflection, to apprehend that you were governed by instructions which virtually, if not positively, prohibited you from adopting the Canal de Haro as the boundary channel, without reference to your own judgment thereupon. I will, therefore, be obliged to you to inform me whether or not I am correct in this inference. Not having been furnished with a copy of your instructions, I am unable to come to a satisfactory conclusion upon the subject without calling upon you for the desired information.

I need hardly say that my instructions left me entirely free to adopt that channel which should be found to correspond with the terms of the treaty and the intention of the treaty makers. Having been furnished by your own government with a copy of my instructions, you could not fail to perceive that I was not restricted or confined to any particular channel or channels.

With the highest respect and consideration, I have the honor to subscribe myself your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,

British Commissioner Northwest Boundary, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,

Equimault, Vancouver's Island, December 8, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, which came to hand at 2 p. m. of this day.

2. In reply to your request for certain information as to the extent of my powers as her Britannic Majesty's commissioner for determining the water boundary line under the first article of the treaty between Great Britain and the United States of June 15, 1846, I beg to furnish you with an extract from her Majesty's commission, dated the 18th December, 1856, by which you will perceive that my powers as her Majesty's first commissioner for determining the aforesaid line of boundary are full and entire. This commission was exhibited to you at our first official meeting, when our respective powers were exchanged and found to be in due form.

3. My commission constitutes me her Majesty's "first commissioner for the purpose of surveying, ascertaining and marking out, in conjunction with the commissioner or commissioners appointed or to be appointed by the President of the United States in that behalf, so much of the line of boundary hereinbefore described (referring to a quotation of the first article of the treaty) as is to be traced from the point where the 49th parallel of north latitude strikes the eastern shore of the Gulf of Georgia;" and it declares, "we do hereby give to our said commissioner full power and authority to do and perform all acts, matters, and things which may be necessary and proper for duly carrying into effect the object of this our commission."

4. You state that the whole tenor of my correspondence and the paper submitted by me at our last meeting has led you upon further reflection to apprehend that

I was governed by instructions which virtually, if not positively, prohibited me from adopting the Canal de Haro as the boundary channel without reference to my own judgment thereupon. The foregoing extract from her Majesty's commission will show you how erroneous such a supposition is. I mentioned at our last meeting that my instructions did point out a course I was to adopt in the event of disagreement. That instructions should be complete and should provide for all contingencies is no more than should be expected. I am directed, in the event of not being able to decide upon a channel upon which we (my colleague and I) may mutually agree, as the one through which the boundary line should run, to propose a reference of the matter to our respective governments.

5. I here beg again most emphatically to repeat what I respectfully conceive is sufficiently evidenced by my previous correspondence, that, with the full and unfettered exercise of my own judgment, I cannot admit that the Canal de Haro can be received as a channel which intrinsically answers to the channel of the treaty, but, that on the contrary, it is my firm and most conscientious conviction, with the same unfettered exercise of judgment, that the channel called the Rosario Strait is the only one that does intrinsically answer to the channel described in the treaty, and that, therefore, the boundary line should be carried through that channel, if the words of the treaty be strictly and literally adhered to.

6. This being my firm conviction, it is not likely that I could accede to your views that the boundary line should be carried through the Canal de Haro, and as you remained firm in your conviction that it should be carried through that channel, it was very evident that we were never likely to fulfil the duties for which we were commissioned so long as each adhered to his own opinion. Following out what appeared to me the only course left, and what seemed the clear path of duty if I wished to execute the trust reposed in me, I voluntarily offered to recede somewhat from my position if you would do the same, and suggested that a line of boundary should be run about midway between the two disputed channels. This proposition you refused to entertain. I therefore had no alternative left me but to propose a reference of the whole matter to our respective governments, which proposition I brought forward at our last meeting.

7. Having thus, I trust, satisfactorily shown you that I have been hampered by no instructions which *deprived me in the slightest* of the full and entire exercise of my own judgment, I beg you will allow me to subscribe myself, with the highest esteem and consideration, your most obedient and humble servant,

JAMES C. PREVOST,

*Her Britannic Majesty's First Commissioner for determining
the before-mentioned Boundary Line*

ARCHIBALD CAMPBELL, Esq.,

United States Commissioner Northwest Boundary, &c, &c.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Fort Townshend, December 12, 1857.

SIR: I have the honor to acknowledge the receipt this day of your letter of the 8th instant, in reply to mine of the 4th instant.

I regret that instead of an extract from your commission, you did not furnish me with a full copy of that instrument, as well as of other instructions by which you were governed in the performance of your duty as joint commissioner for carrying into effect that part of the first article of the treaty which relates to the water boundary line between the United States and the British possessions. As I am desirous of being placed upon an equal footing with yourself as regards a full knowledge of the instructions severally given to us by our respective gov-

ernments, I would respectfully request that you transmit to me copies of all instructions which have had any bearing upon the course adopted by you in our official intercourse as commissioner on the part of the British government for the determination of the boundary line.

If you desire it I will cheerfully furnish you with a copy of my commission. You already have a copy of all the instructions I have received from my government for the performance of my duty as commissioner on the part of the United States.

With the highest respect and consideration, I have the honor to be, very respectfully, your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,

British Commissioner Northwest Boundary, &c., &c., &c.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Fort Townshend, December 15, 1857.

SIR: In order that you may be fully informed as to the powers and instructions which have governed me in my action as commissioner on the part of the United States to carry into effect the first article of the treaty of June 15, 1846, I have concluded, without further delay, to furnish you with a copy of my commission, and have the honor to transmit the same herewith.

With the highest respect and consideration, I have the honor to be your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,

British Commissioner Northwest Boundary Survey, &c., &c., &c.

Mr. Campbell's Commission.

FRANKLIN PIERCE, President of the United States of America, to all who shall see these presents, greeting:

Know ye, that reposing special trust and confidence in the integrity and ability of Archibald Campbell, I have nominated, and, by and with the advice and consent of the Senate, do appoint him to be Commissioner of the United States, under the act of Congress August 11, 1856, and do authorize and empower him to execute and fulfil the duties of that office, according to law, and to have and to hold the said office, with all the powers, privileges, and emoluments, thereunto of right appertaining unto him, the said Archibald Campbell, Commissioner, to carry into effect the 1st article of the Treaty between the United States and Her Britannic Majesty of the 15th June, 1846.

In testimony whereof I have caused these letters to be made patent and the seal of the United States to be hereunto affixed.

Given under my hand at the City of Washington, the 14th day of
[L. S.] February, in the year of our Lord 1857, and of the Independence
of the United States of America the eighty-first.

FRANKLIN PIERCE.

By the President:

W. L. MARCY, *Secretary of State.*

Mr. Campbell's Instructions so far as they relate to the Determination of the Boundary Line.

DEPARTMENT OF STATE,
Washington, February 25, 1857.

SIR: The President of the United States, by and with the advice and consent of the Senate, has appointed you the Commissioner on the part of the United States to determine and mark the boundary line between the United States and the British Possessions, as described in the "first article of the treaty between the United States and Her Majesty the Queen of Great Britain and Ireland, of the 15th day of June, 1846."

Enclosed is your Commission and a printed copy of the above-mentioned treaty, as published by this department.

The first article of the treaty describes the boundary line in the words following, *viz*:

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

Section four of the act passed by Congress August 11, 1856, for carrying the foregoing article of the treaty into effect, directs "that until otherwise provided for by law, the proceedings of the said commission shall be limited to the demarcation of that part of the said line of boundary which forms the boundary line between Washington Territory and the British Possessions."

The same act provides for a chief astronomer and surveyor, and an assistant astronomer and surveyor; a secretary to be appointed by the commissioner, and a clerk to be appointed by the chief astronomer. The employment of such other persons as may be necessary is left to your discretion."

Lieutenant John G. Parke, of the Topographical Engineers, has been appointed Chief Astronomer and Surveyor, and has been directed to report to you. It is not contemplated in the appointment of a chief astronomer and surveyor at all to divide the responsibility which these instructions devolve upon the commissioner. It is not presumed that any difference of opinion will arise, but should that be the case your views are to govern until a decision can be obtained from this department.

Mr. George Clinton Gardner has been appointed Assistant Astronomer and Surveyor, and has been directed to report to you.

You will, with as little delay as possible, organize the commission and prepare a suitable outfit to enable you to perform the duties intrusted to you.

The act above referred to authorizes the President, for the purpose of aiding in the demarcation of the boundary line, "to direct the employment of such officers, assistants, and vessels attached to the Coast Survey of the United States, as he may deem necessary or useful;" and the President has, accordingly, requested the Secretary of the Treasury to give such instructions to the Superintendent of the Coast Survey as will secure his co-operation in the arrangement necessary for the hydrographical portion of the work.

Having completed the organization and outfit, and made the other preparations indicated, you will repair to Fuca Straits via San Francisco, to meet the commissioner on the part of the British government, and proceed with him to determine such portion of the line described in the first article of the treaty as is provided for by the act above cited.

You are required to keep a journal, showing your operations, and will, from time to time, keep this department advised of your progress; and after your arrival on the Pacific coast and the completion of your organization, you will trans-

mit a statement of all persons employed by you, the nature of their occupation, and their compensation.

Upon the completion of your field-work you will return to Washington City and prepare the maps and plans exhibiting your operations, and the report of the result of your labors.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

ARCHIBALD CAMPBELL, Esq.,
Washington City, D. C.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Esquimalt, Vancouver's Island, December 22, 1857.

SIR: I have the honor to acknowledge the receipt of your two letters dated Fort Townsend, December 12th and December 15th.

2. In reply to that of the former date, wherein you express your regret that I did not furnish you with a full copy of her Majesty's commission, as well as of all other instructions by which I was governed in the performance of my duty as joint commissioner for carrying into effect that part of the first article of the treaty of 15th June, 1846, which relates to the water boundary between the United States and the British possessions, I must be permitted to express my regret—if not my surprise—that the very full and direct reply I made on the 8th instant to the inquiries contained in your letter of the 4th instant did not convey to you the meaning which I candidly, though most respectfully, conceive it ought to have done. Considering that at our first meeting our powers were mutually examined and found to be in due form and sufficient; considering that Her Majesty's commission was again placed in your hands, and again examined by you, when Captain Richards was introduced to you as Her Majesty's second commissioner; and considering the stage at which we had arrived in the duties assigned to us, I must say that when I received your letter of the 4th instant, it did appear to me to be somewhat out of order that you should, at this period, make a written application to me as to the nature of my powers, and should attempt to cast a doubt upon their scope being equal to your own, so far as the water boundary may be concerned. I, however, refrained from making any comment upon the act, but I readily and directly gave you the full information you asked for. In affording you that information I asserted, in the most straightforward and unmistakable manner, that I was governed by no instructions which would interfere with the full and entire exercise of my own judgment in the determination of the water boundary line, as established by the treaty. I repeated what is to be found constantly affirmed in all my previous correspondence, that I could never *conscientiously* agree to your views as to the Canal de Arro being the boundary channel, nor *conscientiously* admit that it was a channel which answered to the channel determined by the treaty. I know not in what more positive and satisfactory manner I could answer the question you put to me, and could show you that I have not been governed by any prohibitory instructions in my proceedings, and that I have been acting entirely on my own *conscientious convictions* and on my own *free judgment*. In your letter of the 4th instant you asked me a simple question as to whether you were correct in your inference that I had been governed by instructions which prevented me from adopting the Canal de Arro as the boundary channel. In reply, I not only informed you that the inference was erroneous, but, being most anxious to satisfy you of the freedom of my action, I went beyond what you requested, for I furnished you with an extract from Her Majesty's commission which was sufficient to show

that, so long as I was acting as commissioner under that commission, I could not be governed by any instructions which would restrict the exercise of my judgment in the course of my proceedings. Such being the case, you must pardon me for feeling somewhat more than surprise, when I received your letter of the 12th instant, for it appears to me that notwithstanding all this evidence, and notwithstanding these assurances, you would still endeavor to insinuate that I have not been acting, to say the least, independently, in my official intercourse with you. Under such circumstances, I respectfully conceive that, having a due regard to my own position, I should be adopting no more than a natural course, and I should be committing no discourteous act, were I to decline to enter further into the subject; but as I am really desirous to disabuse your mind of any doubts you may have conceived as to my powers being equal to your own, and as I am unwilling to take any step, however much it might be warranted, which would in the least appear as if I wished to avoid furnishing you with any documents or information that you can in reason desire, I am, for the once, content to waive the foregoing considerations, and I therefore enclose to you herewith a full copy of Her Majesty's commission constituting me her first commissioner for ascertaining the line of boundary as before described; and also a copy of the instructions which immediately relate to my duties as commissioner, and which are similar in their character to those furnished me as being the instructions issued to you by your government. I have other instructions, it is true, all more or less connected with the special duties upon which I am employed, both as Her Majesty's commissioner and as captain of one of Her Majesty's ships; but as these instructions neither affect Her Majesty's commission nor have any bearing upon the course I have pursued with regard to the boundary channel, you can hardly with reason require or expect that I should place them in your hands as United States commissioner.

3. After the positive assurances I have already given you, and have again conveyed to you in this letter, that I have been perfectly free and unfettered in my course of action, I think you cannot fail to be satisfied that I have not been governed by prohibitory instructions as to the adoption of the Canal de Arro as the boundary channel; but that, by Her Majesty's commission, I am fully empowered to adopt the channel which shall carry the boundary line, as described in the first article of the treaty, without even the restriction which you mention as governing you, viz: that the said channel shall also correspond to the "*intention of the treaty makers.*" It would therefore seem that I am less confined in the adoption of a boundary channel than you are, for I am at liberty to determine a channel *from the treaty itself*, without encumbering it with a consideration of any additional matter as to the intentions of either party. My commission refers to the *treaty alone*; and so, I think, does yours. I rest my claim to the boundary channel entirely upon the evidence furnished by the first article of the treaty; you, at the outset, grounded your claim upon evidence of which no mention is to be found in the treaty, and which, therefore, cannot be considered as forming part of the treaty; and you have since asserted that you are willing to let the question "*rest entirely*" upon such evidence; therefore, if your claim is to rest "*entirely*" upon evidence, *apart from the treaty*, it evidently cannot in any way rest *upon the treaty*. Under such circumstances there can be but little doubt as to which is the sounder claim of the two, if the treaty itself, and the commissions under which we profess to act, be of any value.

4. In reply to your letter of the 15th instant I regret you should have taken the trouble to furnish me with a copy of your commission as United States commissioner, for I had not attempted to cast any doubt upon your capability of joining with me in the demarcation of the water boundary line under the aforesaid treaty. I was satisfied, at the commencement of our proceedings, that, under your commission, you were sufficiently empowered to act, and therefore I had no desire, at the present time, to receive any renewal of the proof thereof.

Taking this opportunity of assuring you of my consideration and respect, I beg you will allow me to subscribe myself

Your most obedient and humble servant,

JAMES C. PREVOST,

*Captain H. B. M. Ship Satellite and H. M. First Commissioner
for determining the Line of Boundary, as before described.*

ARCHIBALD CAMPBELL, Esq.,

United States Commissioner for the Northwest Boundary, &c.

Captain Prevost's Commission.

[L. S.]

VICTORIA R.

Victoria, by the Grace of God Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, &c., &c., &c. To all and singular to whom these presents shall come, greeting!

Whereas, by the first article of the treaty concluded and signed at Washington on the fifteenth day of June, one thousand eight hundred and forty-six, between us and our good friends, the United States of America, it was stipulated and agreed that from the point on the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between our territories and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver'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 the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties. And whereas the line of boundary described in the said article has never yet been ascertained and marked out, and it appears to us and to our said good friends, the United States of America, expedient to appoint commissioners for that purpose: Now, know ye, that we, reposing especial trust and confidence in the diligence, skill, and integrity of our trusty and well-beloved James Charles Prevost, esquire, a captain in Our Royal Navy, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint him Our first Commissioner for the purpose of surveying, ascertaining, and marking out, in conjunction with the commissioner or commissioners appointed, or to be appointed, by the President of the United States in that behalf, so much of the line of boundary hereinbefore described as it is to be traced from the point where the 49th parallel of north latitude strikes the eastern shore of the Gulf of Georgia. And we do hereby give to our said commissioner full power and authority to do and perform all acts, matters, and things which may be necessary and proper for duly carrying into effect the object of this, our commission.

And we, reposing especial trust and confidence in the diligence, skill, and integrity of our trusty and well-beloved George Henry Richards, esquire, a captain in Our Royal Navy, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint him our second commissioner for the purposes of this, our commission; and we do hereby give unto him full power and authority to be present with and to assist Our first commissioner in the due execution thereof; and also in case of the death, absence, or incapacity of Our said first Commissioner, to supply his place and to act singly as Our commissioner for the due execution of this, Our commission.

In witness whereof, we have signed these presents with Our royal hand, given at Our Court, at Osborne House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and fifty-six, and in the twentieth year of Our reign.

By Her Majesty's command :

CLARENDON.

Captain Prevost's original Instructions, so far as they relate to the Determination of the Water Boundary.

FOREIGN OFFICE, December 20, 1856.

SIR : I enclose to you herewith a commission, under Her Majesty's sign manual, appointing you to be Her Majesty's first Commissioner for ascertaining and marking out so much of the boundary under the first article of the treaty between Great Britain and the United States, of which a copy is enclosed, as is traced from the point where the 49th parallel of north latitude strikes the eastern shore of the Gulf of Georgia, and also appointing Captain Richards to be Her Majesty's second Commissioner, and authorizing him to be present with and to aid and assist you in the execution of your duties as first commissioner, and, in case of your being incapacitated by any cause from the performance of your duties, to supply your place as first commissioner.

Under the authority of this appointment Captain Richards may, if you consider it desirable, be present at, and take part in, the discussions between yourself and the commissioner or commissioners appointed by the United States, but the responsibility for the conduct of the commission and the control of its proceedings, as far as the British portion of it is concerned, rests exclusively with yourself. Captain Richards is placed under your orders, and you will assign to him such a portion of the duties devolving upon the commission as you may consider expedient.

I have appointed Mr. George Young to be Secretary to the Commission, and so will be under your orders.

In a subsequent despatch I furnish you with detailed instructions for your guidance ; and I have only, therefore, to state to you, in my present despatch, that the boundary line which may be agreed upon must be accurately laid down on a map drawn in duplicate, and each copy of such map must be signed by the commissioners of both parties, and annexed to the protocol, also signed in duplicate, in which the agreement come to shall be recorded.

The Board of Admiralty have been requested to supply you with such scientific instruments as you may require for the use of the commission, and with any maps or charts which may be likely to be useful to you.

You will report to me, from time to time, and in duplicate, your proceedings in execution of the instructions which I have addressed to you.

I am, &c.,

CLARENDON.

Captain PREVOST, R. N., &c., &c., &c.

Mr. Campbell to Captain Prevost.

WASHINGTON CITY, D. C., April 14, 1858.

SIR : Your letter of the 22d December, (enclosing a copy of your commission and original instructions,) addressed to me, at Port Townsend, Washington Territory, reached me at this place on the 1st ultimo.

In reply thereto I have the honor respectfully to state that, during our discussions in relation to the determination of "the channel" separating the continent from Vancouver's Island, I thought I perceived that your mind was sub-

ject to difficulties not inherent in the question; and this impression was strengthened when you informed me that you had instructions for your guidance, in the event of our disagreement, which, according to my recollection, were not embodied in those you exhibited to me at our first meeting.

I knew your commission gave you ample powers to bind your government; but there might be conditions in your instructions which would prevent you, under certain circumstances, from exercising those powers to their full extent. And it occurred to me that, unless I could be informed of all the difficulties in the way of an agreement between us, I should labor under great disadvantage in laying the matter before my government for its further action.

Under these impressions I made the inquiries contained in my letter of the 4th of December, and subsequently requested copies of your instructions. It would, perhaps, as you suggest, have been more regular to have made the request at an earlier period. But I do not know that either party could, of right, demand copies of the instructions given to the other by his government. Nevertheless, as the British ambassador at Washington had requested and promptly received, from the State Department, and you had been furnished by him with, a copy of the instructions given by my government to me, I think that when I felt it necessary, even at that late period, to apply to you for a copy of your instructions, the request should not have been considered unreasonable.

It is unnecessary to observe that the copy you furnish is not a compliance with my request, as it is not the document containing the directions cited by you, and which have been referred to as those likely to have embarrassed our proceedings.

In conclusion, permit me to say I think you have misapprehended the object of my request for copies of your instructions. I did not by that request intend to convey the idea that you had not acted in accordance with your own judgment. I regret, therefore, that you should have felt it necessary to repeat the assurances made in your letter of the 8th of December, which, if any were required, I need hardly say, would have been quite sufficient to disabuse me of any doubt I might have entertained on the subject.

With the highest esteem I have the honor to be, very respectfully, your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States
for determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,
British Commissioner, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Off Point Roberts, June 4, 1858.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th April last, in reply to mine of the 22d December last.

Taking this opportunity of again offering you my assurance of esteem and consideration,

I have the honor to be, sir, your most obedient servant,

JAMES C. PREVOST,

*Captain Ship Satellite, and Her Majesty's First Commissioner
for ascertaining the Water Boundary under the
1st Article of the Treaty of 15th June, 1846.*

ARCHIBALD CAMPBELL, Esq.,

*Commissioner on the part of the United States
for the Northwest Boundary.*

Mr. Cass to Mr. Campbell.

DEPARTMENT OF STATE,
Washington, June 8, 1859.

SIR: Since writing to you last, I have received your several communications of the 19th of July, 25th of August, 11th and 25th of September, 17th November, 1st, 27th, and 30th of December, 1858, and 20th of January, 1859. I now transmit to you, for your information, the copy of a despatch of the 17th of January last, addressed by this Department to Mr. Dallas, relative to the instructions given by the British government to its boundary commissioner, Captain Prevost, with an extract from Mr. Dallas's reply, and a transcript of the documents which accompanied it, excepting the instructions to Captain Prevost, with a copy of which, it is understood, you have already been furnished. Among the papers here sent is an extract from so much of a further instruction to Captain Prevost as relates to the character of his duties and to the extent of his powers, which extract it is very probable you have not yet seen, and which, doubtless, will be interesting to you.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

ARCHIBALD CAMPBELL, Esq., &c., &c., &c.

Mr. Cass to Mr. Dallas.

DEPARTMENT OF STATE,
Washington, January 17, 1859.

SIR: This government has learned, with some surprise, that a misunderstanding with regard to the water boundary has taken place between the commissioners appointed to run and mark the northwestern boundary line between the United States and Great Britain, under the treaty of limits westward of the Rocky Mountains, of the 15th of June, 1846. Upon consideration of the correspondence which soon after took place between Mr. Bancroft and Lord Palmerston, on the subject of the water boundary, it was not apprehended that any doubt could arise between the commissioners with regard to the matter.

Lord Napier was promptly furnished with a copy of the instructions which were given to our commissioner; but, up to this time, we have not been furnished with a copy of those given to the British commissioner. I have, accordingly, to request that you will, at your earliest convenience, apply to the British government for a copy of those instructions for the information of the government of the United States.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., &c.

Mr. Dallas to Mr. Cass.

[Ext

LEGATION OF THE UNITED STATES,
London, February 25, 1859.

SIR: In conformity with your No. 146, (January 17) I addressed, on the fifth instant, to the Earl of Malmesbury a request to be furnished with a copy of the instructions given by this government to their commissioners for determining the

northwestern boundary line between the United States and Great Britain under the treaty of limits of the fifteenth of June, 1846. These papers were sent to me the day before yesterday with a note from his lordship, and I now annex transcripts of the whole.

In my No. 36, of the first of January, 1857, communicating the names of the gentlemen appointed on this service, I took the liberty to suggest to Mr. Marcy the probability that some difficulty might arise in determining the channel, down the centre of which, from latitude 49° and the Gulf of Georgia, the boundary should run according to the treaty. This apprehension arose mainly from considering a map or sketch issued from our Coast Survey office in 1855, showing the progress of the survey of Washington sound and vicinity.

Since the receipt of your No. 146 I have searched the archives of the legation, thinking it possible that something might be found to throw light upon the question. There are two notes addressed by Mr. Bancroft to Lord Palmerston, her Majesty's principal secretary of state for foreign affairs, dated respectively the thirty-first of July, 1848, and third November, 1848, both of which show the decided and declared opinion at that time entertained by our minister. *

* * * * *

I have the honor to be, sir, your most obedient servant,

G. M. DALLAS.

Hon. LEWIS CASS,
Secretary of State.

Mr. Dallas to Lord Malmesbury.

LEGATION OF THE UNITED STATES,
London, February 5, 1859.

MY LORD: In the apprehension that some difference of opinion has arisen among the commissioners appointed respectively by Her Majesty's government and the government of the United States, for carrying into effect the provisions of the first article of the treaty of the fifteenth of June, 1846, in regard to limits westward of the Rocky Mountains, I am specially charged to request that your lordship will be good enough to cause me to be furnished, for the information of my government, with a copy of the instructions given by Her Majesty's government to the British commissioners. It may be proper for me to apprise your lordship that a copy of the instructions addressed by the government of the United States to the commissioners appointed by them was promptly, some time ago, delivered to Lord Napier.

I beg your lordship to accept the renewed assurance of my highest consideration.

I have the honor to be your lordship's most obedient servant,

G. M. DALLAS.

The Right Honorable THE EARL OF MALMESBURY.

Lord Malmesbury to Mr. Dallas.

FOREIGN OFFICE, *February 22, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the fifth instant, requesting to be furnished with a copy of the instructions given to the commissioners appointed by Her Majesty's government to carry into effect the provisions of the first article of the treaty of June 15, 1846, in regard to

* See discussion of the Water Boundary question, page 84-5.

limits westward of the Rocky Mountains. I have the honor, in reply, to transmit to you a copy of the commission, under Her Majesty's sign manual, appointing Captains Prevost and Richards to be respectively first and second commissioners for this purpose, and a copy of the instruction (December 20, 1856) to Captain Prevost, which accompanied it. Copies of these documents have, I have reason to believe, been already furnished by Captain Prevost to the United States commissioner, Mr. Campbell, and they accord generally with the nature of the commission and instructions communicated by Mr. Campbell to Captain Prevost, as those under which he was acting.

I also enclose an extract of so much of a further instruction (December 20, 1856.) to Captain Prevost as relates to the character of his duties and to the extent of his powers, and I should feel obliged by your communicating to me a copy or extract of any further instructions of a similar character which may have been given to the United States commissioner *

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

MALMESBURY.

GEORGE M. DALLAS, Esq., &c., &c.

Extract from Additional Instructions to Captain Prevost.

FOREIGN OFFICE, December 20, 1856.

"The Queen having been pleased to appoint you to be Her Majesty's first commissioner for marking out so much of the boundary between Her Majesty's possessions in North America and the territories of the United States as is comprised between the continent of America and Vancouver's Island, I have to furnish you with the following instructions for your guidance in the execution of the duties intrusted to you by Her Majesty. The boundary, which, in conjunction with one or more commissioners appointed by the government of the United States, it will be your duty accurately to define, is described in the treaty between Great Britain and the United States, of June 15, 1846, in the following general terms :

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Strait to the Pacific Ocean; provided, however, that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.

It is to be regretted that no map or plan was annexed to the treaty on which the line of boundary thus indicated was laid down, as in the intermediate space between the continent and Vancouver's Island there are several smaller islands, through and among which different channels run in various directions, along one or more of which a passage to the southward from the Gulf of Georgia to the Strait of Juan de Fuca may be found.

At the time, however, when the treaty was concluded, in 1846, only one navigable channel was known to exist, viz: that known by the name of Rosario Strait, (sometimes called Vancouver's Channel,) which runs due south from the lower extremity of the Gulf of Georgia to the eastern extremity of the Straits of Fuca. A line drawn through the centre of the Gulf of Georgia and along the centre of the channel would, therefore, exactly answer the description of the channel contained in the treaty. On this ground Her Majesty's government, shortly after the conclusion of the treaty of 1846, proposed to the government of the United States that the channel known as Rosario Strait should be adopted,

* No additional instructions were given to the United States commissioner.—A. C.

by mutual agreement, as the channel of the treaty. But the government of the United States showed no disposition to accede to this proposition; and on the contrary, in the year 1848, through their minister at this court, Mr. Bancroft, they spoke of another channel more immediately adjacent to Vancouver's Island, namely, the channel of Arro, as that through which the boundary line passed. Since that time the question of defining the boundary has remained in abeyance, because the legislature of the United States has refrained from appropriating the sums necessary to meet the expenses incidental to the operation. This obstacle has now been removed, but Her Majesty's government have not thought it advisable, after what has passed on the subject, to renew the proposal, that, as a preliminary to the meeting of their respective commissioners, the two governments should come to an understanding between themselves as to what was the channel of the treaty. That channel is, therefore, now to be ascertained. It is to be sought for between Vancouver's Island and the mainland, in an archipelago of islands hitherto unsurveyed by any British authority; though it would seem from a chart published in the United States, in the year 1854, called, "a reconnoissance of Canal de Arro and Strait of Rosario," that a survey has been made of it on the part of the United States government.

It will be the duty of Her Majesty's commissioner to ascertain, with the assistance of the officers placed under his orders, and in communication and conjunction with the commissioners of the United States, what is the channel through the middle of which and of Fuca's Straits, according to the terms of the treaty, the line is to be run from the forty-ninth degree of north latitude to the Pacific Ocean. The first operation will, of course, be to determine with accuracy the point at which the forty-ninth parallel of north latitude strikes the eastern shore of the Gulf of Georgia, and to mark that point by a substantial monument. That point ascertained, the commissioners will carry on the line of boundary, as prescribed in the treaty, along the forty-ninth parallel north latitude to the middle of the channel which separates the continent from Vancouver's Island.

The point next to be ascertained is the middle of the channel which separates the continent from Vancouver's Island, from which point the boundary line is to be drawn in a southerly direction through the middle of the said channel.

That point will probably be found somewhere about $123^{\circ} 15'$ west longitude.

At whatever place this point may be fixed, the line is to be drawn from thence through the middle of the channel separating the continent from Vancouver's Island in a southerly direction.

In this part of the space between them there is only one channel, namely, the Gulf of Georgia, and it would seem, therefore, to be clear that the line must be drawn along the centre of that gulf to its southern extremity, where it ceases to be the *only* channel between the continent and Vancouver's Island.

At the other extreme point of the boundary between the territories of Great Britain and of the United States, namely, the Straits of Juan de Fuca, there is only one channel, and along the centre of that channel the boundary line is to be drawn.

Any question, indeed, as to which channel is to be adopted as the true line of boundary indicated by the treaty can only arise when there is more than one channel which might be supposed to answer the description of the treaty.

So long as there is only one channel separating the continent and Vancouver's Island, no doubt can be entertained, and, therefore, the centre of the Gulf of Georgia, so far as the latitude where it ceases to be the only channel and the centre of the Strait of Fuca, till it ceases, also, to be the only channel between the continent and Vancouver's Island, appear to Her Majesty's government to be fixed points in the line of boundary, and it is only as regards the space between these two points that any differences of opinion as to the proper channel can exist.

A line drawn down the middle of the Gulf of Georgia would pass just to

the eastward of the Matia group, at the head of Rosario Strait, and being prolonged from thence nearly due south, would pass through Rosario Strait into the Strait of Juan de Fuca. It appears to Her Majesty's government that the line which I have described is so clearly and exactly in accordance with the terms of the treaty that it may be hoped you will have no difficulty in inducing the American commissioner to acquiesce in it.

If, however, the commissioner of the United States will not adopt the line along Rosario Strait, and if, on a detailed and accurate survey, and on weighing the evidence on both sides of the question, you should be of opinion that the claims of Her Majesty's government to consider Rosario Strait as the channel indicated by the words of the treaty cannot be substantiated, you would be at liberty to adopt any other intermediate channel which you may discover on which the United States commissioner and yourself may agree as substantially in accordance with the description of the treaty.

But if you are satisfied that the British claim is unquestionably sound, and you are unable to come to an understanding on the subject of an intermediate channel with your American colleague, you will then propose that you should lay before your respective governments, either jointly or severally, a statement of the points on which you disagree, and the reasons by which each of you supports his opinion. Having disposed of the difficulties in regard to the boundary line from the Gulf of Georgia to the Straits of Juan de Fuca, it is not supposed likely that you will have any further difficulty in carrying on the line through those straits to the Pacific Ocean.

From the character of the whole line being that of a water boundary, it will be more difficult than in the case of a land boundary to mark exactly the territorial limits of the respective governments. You will do so, as far as circumstances admit, by the intersection of the cross-bearings of natural or artificial landmarks, endeavoring, as far as possible, to make the line so clear and easy to be understood as to obviate any future difference on the subject between the two governments.

Captain PREVOST.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, August 4, 1859.

SIR: I have the honor to acknowledge the receipt (on the 25th ultimo) of your letter of the 8th of June. All of the accompanying documents were interesting to me, but the *extract* from Captain Prevost's secret instructions for his guidance was essential to a proper knowledge of the relations which now subsist between us as joint commissioners. I find from these instructions that I was fully justified in the apprehensions I communicated to him, (subsequent to our discussion on the boundary question in November, 1857,) that he was virtually, if not positively, prohibited from adopting the Canal de Haro as the boundary channel intended by the treaty. A perusal of these instructions throws a flood of light upon the tortuous and one-sided course which guided his action, with a view to bring about a disagreement and reference of the matter back to our respective governments, unless he could accomplish the object his government had in view. Having been furnished at an early day, through his government, with a copy of my instructions, he had the advantage of knowing that I was in no way hampered in regard to the channel through which the boundary line was to be run, while he knew that he dare not go further than the channel east of the island of San Juan. I cannot well conceive of a more dishonest mode of attempting to evade the obligations of a treaty, or a greater out-

rage upon the confiding disposition of the government of the United States, than is exhibited in these instructions for the guidance of the British commissioner. Nor can I understand how an officer of the British navy could conscientiously undertake to carry a treaty into effect under such instructions.

I have never regarded the duty of commissioner to carry the treaty into effect as of a diplomatic character. I have, therefore, from the outstart, been open and unreserved in my communication with my colleagues both of the land and water boundary. But I have learned by experience that their views of duty are widely different from mine. I came out here to do a fair and honest business—to carry out faithfully, on the part of my government, a contract entered into with Great Britain. Although the language of the treaty is as clear as day, and scarcely admits of more than one meaning, I did not plant myself upon its mere letter, but, finding that the lapse of time, the changes of administration in our government, and selfish interests on the part of the British government, instigated by the Hudson's Bay Company, had enveloped its meaning in an air of obscurity, I made diligent search for evidence which would throw light upon the intention of the negotiators, framers, and ratifiers of the treaty, fully determined, whatever might be the result of my investigations, to give due weight to it, without partiality, fear, or favor. The various documents I have laid before the department will attest the sincerity with which I have labored to bring forward the truth. The British commissioner, Captain Prevost, on the contrary, has taken the very opposite course. The pursuit or fair consideration of evidence to elucidate any obscurity in which the language of the treaty might be involved from any cause whatever has been most studiously avoided. A blind adherence to a tortured interpretation of the meaning of the words of the treaty has been with him apparently a sacred act of duty. This perverted reading of the treaty has been his infallible guide throughout my connection with him. And he has so resolutely shut his eyes to the light of the most authentic cotemporaneous evidence I have laid before him, not only of the views of my government, but also of his own, that I sincerely believe, though one should rise from the dead to confirm it, he would not give it credence.

That so amiable and estimable a gentleman as Captain Prevost should pursue a course so inconsistent with the ordinary dictates of common sense and good judgment, to say nothing of the demands of high honor, has been to me a source of the most unfeigned regret and mystification. If the British government, however, has the right to exact of its agents an implicit obedience to its mandates, regardless of all considerations but its interests, I must do Captain Prevost the justice of bearing witness to his devoted loyalty.

I would respectfully call the attention of the department to the fact that there are still some points which must be embraced in the instructions for Captain Prevost's guidance which are not to be found in the *extract* forwarded to me. It is evident from the correspondence of Captain Prevost that his claim to Rosario Straits on the ground of the *very peculiar wording* of the treaty, and his main objection to the Canal de Haro by his interpretation of the word *southerly* in the treaty, are derived from instructions; for he says in his letter of November 24, 1857, "the high and official authority to whom I alluded in my letter of the 9th instant as the source of my information that the Vancouver or Rosario Strait was the channel contemplated by the British government, is Her Majesty's present Secretary of State for foreign affairs, the Earl of Clarendon, and I cannot presume that he would intimate to me in writing, as he has done, that such was the case, unless he had substantial grounds for doing so." Lord Napier, while repudiating "the very peculiar wording" of the treaty, and Captain Prevost's interpretation of the word "southerly," informed me that the Earl of Clarendon seemed to attach some importance to them. I cannot but think, therefore, that these instructions or suggestions have been purposely omitted from the *extract*, and, as they really formed the great obstacles to an agreement

between Captain Prevost and myself, I think it important they should be obtained.

A difficulty has also occurred in regard to an agreement upon the common initial point of the water and land boundary on the west side of Point Roberts, which probably is also the result of instructions. And I have also good reason to believe that Captain Prevost was authorized in some shape or form to negotiate with me for the disposal of the southern end of Point Roberts by exchange, make-weight or otherwise. The manner in which the demarcation of the line across Point Roberts is held in abeyance by the refusal of the British commissioner to mark it as the initial point, satisfies me that considerable importance is attached by the British government to the possession of it, and that they hope by some fortuitous circumstance to secure it.

As the department has furnished the British government with a *full* copy of my instructions, there is no reason why they should not in return furnish *full* copies of their commissioner's instructions. I would therefore respectfully recommend that a *full* copy of the instructions of Captain Prevost be requested for the information of the government, and that when received a copy of so much of them as I have not already received in the *extract* be transmitted to me.

I transmit herewith for the information of the department a recent correspondence with Captain Prevost, from which it will be seen that there is little prospect of any progress in the determination of the line until the British government are called upon to give their commissioner peremptory instructions to adopt the Canal de Haro. At present he seems to be divested of all power to act by his reference of the question to his government, a condition of affairs anything but satisfactory.

Circumstances to which I will allude in a subsequent communication* show the necessity of a speedy settlement of the boundary question. And I would strongly urge upon the department decisive measures to bring it about.

As far as I am concerned, I am, as I have ever been, ready to settle it upon principles of common sense and international law. It is for the department to take such steps as will provide me with a colleague whose powers shall be equal to my own, and whose sense of right and duty will not be so crippled by special instructions for his guidance as to render the honest and faithful execution of the treaty an impossibility.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Mr. Campbell to Captain Prevost.

U. S. NORTHWEST BOUNDARY COMMISSION, CAMP SIMIAHMOO,

May 18, 1859.

SIR: On the third day of December, 1857, at your request, a meeting of the joint commission for determining the water boundary was convened at this place, on which occasion you proposed that the whole matter connected with the water boundary should be referred by each commissioner to his government. In this proposal I did not concur.

As the reference of the matter was not agreed upon, and nearly eighteen months have elapsed without any further proceedings on the subject by the

* See Military Occupation of San Juan, p. 112.

joint commission, I have the honor, very respectfully, to request you to inform me whether I am to expect any further communication from you in regard to the determination of the water boundary, and if so, at what period of time I may probably look for such communication.

I have the honor to be, very respectfully, your obedient servant.

ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Captain JAMES C. PREVOST, R. N.,

British Commissioner, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,

Esquimalt, Vancouver's Island, May 27, 1859.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, referring to a meeting of the joint commission held upon the third day of December, 1857, at which you state I proposed that a reference of the whole matter connected with the water boundary should be made by each commissioner to his government, and as you did not concur in such proposal, and as eighteen months have elapsed without any subsequent proceedings, requesting to be informed whether you are to expect any further communication from me in regard to the determination of the water boundary.

2. It seems to me that this letter conveys the implication that the delay which has taken place in the determination of the line of water boundary originated from my act and now rests entirely with me. I therefore feel called upon in justice to myself to offer a few remarks, and to submit that a review of the facts connected with the question will show that the very opposite is the case.

3. I am not unmindful that I made the suggestion for a reference of the matter in dispute between us to our respective governments; and why did I do so? *Purposely to facilitate its settlement.*

You objected to such reference, but for what reason I am not in a position to judge.

4. It needs not that I should enter into any recapitulation of the correspondence that has passed between us. It suffices to say that from the exact wording and intrinsic evidences of the treaty, I formed a clear and fixed opinion as to the direction in which the line of water boundary to be determined between us should be carried. Nothing you advanced, nothing that transpired, shook that opinion in the slightest; on the contrary, the very argument you adduced, founded upon evidence which was *not* the treaty, only served to confirm my opinion and to establish me in my view as to its correctness. In such a case it would neither have been an unnatural nor unreasonable proceeding on my part, had I determined resolutely to adhere to the views I entertained, and not to depart one iota from the line which I then believed, which I now believe, to be the line of boundary established by the treaty; but, actuated by conscientious motives in fully recognizing the importance of a speedy settlement of the matter in possessing the most earnest desire to effect that settlement, and in firmly believing that it was the province of the commissioners to adjust any disagreement, without reference, by mutual concession and forbearance, I frankly offered to meet you half way if you would reciprocate in the same spirit. This conciliatory offer on my part you positively refused to entertain, and I therefore think I am justly absolved from the delay which has in consequence arisen.

5. I would, with the utmost respect, wish to remind you that on the 16th August last a joint commission meeting was held, at which I expressed my readiness to concert certain measures which it was desirable should then be

completed; but proceedings therein were again delayed, not from any desire on my part, but through your declining to act unless I deferred in toto to the views you entertained in connection therewith.

6. In conclusion, I beg to acquaint you that I have not received any instructions from my government upon the subject of the reference made by me on account of the contrary views entertained by us, nor am I aware when it is probable that I may receive instructions.

Permit me to assure you of my consideration and esteem, and believe me to remain your most obedient and humble servant,

JAMES C. PREVOST,

Her Majesty's Commissioner, &c., &c., &c.

ARCHIBALD CAMPBELL, Esq.,

Commissioner on the part of the United States, &c., &c., &c.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, June 7, 1859.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th ultimo in reply to mine of the 18th. The object of my letter, as stated therein, was "to request you to inform me whether I am to expect any further communication from you in regard to the determination of the water boundary; and if so, at what period of time I may probably look for such communication."

In reply thereto, you say, "I beg to acquaint you that I have not received any instructions from my government upon the subject of the reference made by me on account of the contrary views entertained by us, nor am I aware when it is probable that I may receive instructions."

As your reply does not contain the information I asked for, I have the honor again to call your attention to my inquiries, and very respectfully to request an explicit answer thereto.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

United States Commissioner.

Captain JAMES C. PREVOST, R. N.,

British Commissioner, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Esquimalt, Vancouver's Island, June 23, 1859.

SIR: I have had the honor to receive your letter of the 7th instant, referring to a letter which you addressed to me on the 18th May last, and to my answer thereto, dated on the 27th May, of which you quote one paragraph, and then state that, as such reply does not contain the information you asked for, you again beg to call my attention to your inquiries and request an explicit answer.

2. In return thereto I beg very respectfully to refer you to my aforesaid letter of the 27th May, which, with every deference, I submit, when taken as a whole, conveys to you a very explicit answer to your communication of the 18th ultimo.

With every assurance of consideration, I have the honor to be, sir, your most obedient servant,

JAMES C. PREVOST,

Her Majesty's Commissioner, &c., &c., &c.

ARCHIBALD CAMPBELL, Esq.,

Commissioner on the part of the United States, &c., &c., &c.

Mr. Campbell to Captain Prevost.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, July 9, 1859.

SIR: I have the honor to acknowledge the receipt, on the 6th instant, of your letter of the 23d ultimo.

With a sincere desire to extract from your letter of the 27th of May the "very explicit answer" to my communication of the 7th, which you "submit, when taken as a whole," it conveys to me, I have again given it the most careful perusal and consideration, and with due deference, candor compels me to say that, whether taken as a whole or in part, it only conveys to me a very circumlocutory and evasive answer.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
United States Commissioner

Captain JAMES C. PREVOST, R. N.,
British Commissioner, &c., &c., Esquimalt.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Esquimalt, Vancouver's Island, July 19, 1859.

SIR: I have the honor to acknowledge receipt of your letter of the 9th instant in reply to mine of 23d June, 1859.

I have the honor to be, sir, your most obedient servant,
JAMES C. PREVOST,
Captain of H. M. S. Satellite, and Her Majesty's Commissioner.

ARCHIBALD CAMPBELL, Esq.,
United States Commissioner, &c., &c., &c.

III.—MILITARY OCCUPATION OF SAN JUAN ISLAND.

Letter of Mr. Campbell to Mr. Cass, August 18, 1859, reporting military occupation of San Juan Island.

Enclosures:

Correspondence between United States and British commissioners, viz:

Captain Prevost to Mr. Campbell, July 31, 1859.

Mr. Campbell to Captain Prevost, August 4, 1859.

Captain Prevost to Mr. Campbell, August 4, 1859.

Mr. Campbell to Captain Prevost, August 5, 1859.

Captain Prevost to Mr. Campbell, August 4, 1859.

Mr. Campbell to Captain Prevost, August 8, 1859.

Captain Pickett's military order, July 27, 1859.

Protest of Governor Douglas, of Vancouver's Island, against the occupation of San Juan Island, August 2, 1859.

Message of Governor Douglas to the legislature of Vancouver's Island, August 3, 1859.

Address of the legislature of Vancouver's Island to Governor Douglas.

Letter of Mr. Campbell to Mr. Cass, September 3, 1859.

Enclosures:

Correspondence with General Harney, viz:

Mr. Campbell to General Harney, August 14, 1859.

General Harney to Mr. Campbell, August 16, 1859.

Mr. Campbell to General Harney, August 30, 1859.

Letter of Mr. Campbell to General Scott, October 31, 1859.

Letter of Mr. Campbell to Mr. Cass, November 1, 1859.

Letter of Mr. Campbell to Mr. Cass, November 15, 1859.

Letter of Mr. Cass to Mr. Campbell, September 15, 1859.

Letter of Mr. Campbell to Mr. Cass, November 23, 1859.

Letter of Mr. Campbell to General Scott, November 23, 1859.

Letter of Mr. Campbell to Mr. Seward, October 3, 1861.

Letter of Mr. Seward to Mr. Campbell, October 4, 1861.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWESTERN BOUNDARY COMMISSION,
Camp Simiahmoo, August 18, 1859.

SIR: In my letter of the 4th instant, I had the honor to mention that circumstances to which I would allude in a subsequent communication showed the necessity of a speedy settlement of the boundary question. The circumstances therein referred to have resulted from the occupation of the island of San Juan by a company of the United States infantry, under the command of Captain Pickett. This movement was in compliance with a recent order of the Commanding General of the Department of Oregon, making a number of changes in the disposition of the troops in the Puget Sound district.

While engaged in an exploration of the Haro Archipelago, in the Light-house steamer Shubrick, (which Captain De Camp, United States navy, had kindly placed at the disposal of the Boundary Commission,) I happened to be at San Juan Island on the 26th ultimo, when the company arrived. On the following morning the troops were landed, and on the same evening Captain Prevost, Her Majesty's commissioner, arrived with his ship, the Satellite, and brought from Vancouver's Island a magistrate appointed by the British authorities for San Juan Island. The "Satellite" remained in the harbor about twenty-four hours, and then returned to Esquimault. Her Majesty's ship Tribune arrived the next evening, and has since been permanently stationed in the harbor. The "Shubrick" remained there several days, during which time I explored a large portion of the island. I then proceeded with the exploration of the remainder of the Haro Archipelago, and returned to this place on the night of the 1st of August, when I learned that Captain Prevost had been here the day previous, and I found his letter of the 31st July awaiting me.

A copy of the correspondence, of which this is the opening letter, I have the honor to transmit herewith, for the information of the Department.

Whether Captain Prevost was prompted to address me the aforesaid letter by the circumstance of my being present at San Juan Island at the time of Captain Pickett's landing, I am not able to say. While Captain Prevost and I were in the harbor, the usual friendly visits were interchanged. The landing of United States troops on the island was incidentally alluded to, but did not become the subject of discussion between us. I was somewhat surprised, therefore, after the lapse of several days, to receive such a communication as he addressed to me. As this correspondence speaks for itself, it is unnecessary for me to comment upon it further than to repeat what I said to him in my first letter, that I did not recognize his right to question me in the manner he did. This was sufficient reason, in my mind, for declining to answer his series of questions. But being in reality ignorant whether the order for the occupation of San Juan Island emanated from the War Department or originated with the Commanding General of the Department of Oregon, I refrained from making any reply which might embarrass the military operations.

Wishing to intercept the ocean mail steamer at Port Townshend, to get my mail off in time for the steamer from San Francisco, of the 20th August, I left here in the steamer Shubrick on the 8th instant, and arrived at Port Townshend that night. To my disappointment the San Francisco steamer had arrived and departed, having reached Port Townshend two days sooner than she was expected. I mention this to account for the absence of letters from me by that mail which the Department might have looked for.

While the "Shubrick" was lying at Port Townshend, the "Sound" mail steamer Julia arrived from Fort Steilacoom with three companies of infantry on board, under the command of Lieutenant Colonel Casey, on their way to San Juan Island. I called upon Colonel Casey, and he informed me that it had been intimated to him that a landing of British troops on the island was contemplated, which, under his orders, must bring on a collision; that it was his intention, as soon as he landed, to seek a conference with the commanding officer of the British forces, and make to him such a proposition as he thought would be honorable to both parties and prevent a rupture. He requested me to accompany him to the island, as my presence might be of service in aiding him to bring about an amicable arrangement, until the home governments could be heard from. In accordance with his request, I followed after the steamer Julia, and arrived at the island just after the troops had disembarked. Although circumstances prevented the conference desired by Colonel Casey, at his request I remained several days in San Juan harbor. As no demonstrations, however, were made on the part of the British naval or land forces, and it now appearing improbable that any would be made, I did not deem my presence there longer necessary. On the morning of the 15th instant I proceeded to make an examination of the channel adjacent to Vancouver's Island and west of the archipelago, at and immediately south of the 49th parallel, and arrived at this place the same evening. The "Sound" mail steamer arrived here this morning, and brought intelligence that four more companies (from Fort Vancouver) had been landed on San Juan Island.

From present indications, I think there is not the slightest probability that British troops will be landed on the island, or that any molestation of the United States troops will be attempted, at least until the British authorities shall have received instructions from the home government.

The governor of Vancouver's Island, on the 3d instant, sent a message to the legislature of that colony, in which he informs that body that "troops will be landed at San Juan." At the time this movement was in contemplation Admiral Baynes arrived at Esquimalt in Her Majesty's ship Ganges, and no movement towards landing British troops having been attempted, it is generally believed that the presence of the admiral at Vancouver's Island has for the present caused the suspension of further action on the subject.

For the information of the department, I transmit herewith copies of the following documents taken from the Victoria newspapers, viz :

Captain Pickett's military order No. 1, dated San Juan Island, Washington Territory, July 27, 1859.

Protest of Governor Douglas against the occupation of San Juan Island, dated Victoria, Vancouver's Island, August 2, 1859.

Message of Governor Douglas to the Legislature of Vancouver's Island, dated Victoria, Vancouver's Island, August 3, 1859.

Address of the Legislature of Vancouver's Island to Governor Douglas, August 12, 1859.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL.

Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Ex. Doc. 29—8

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Simiahmoo Bay, 49th Parallel, July 31, 1859.

SIR: A body of troops, professedly belonging to the army of the United States, having entered upon an armed occupation of the island of San Juan, in the Haro Archipelago, I have the honor very respectfully to request you will be pleased to acquaint me, at your earliest convenience, whether such occupation has been effected with your cognizance or consent, previous or otherwise, and, if so, whether you have received any intimation that the exact direction of the line of water boundary south of the 49th parallel of north latitude, under the treaty of 15th June, 1846, has been settled, or whether this movement of occupation is the result of instructions, direct or otherwise, from the government of the United States.

2. If you are prepared to return me a negative answer to the foregoing queries, I would most earnestly implore you to undertake, individually or in concert with me, such steps as may induce the military authorities in Washington Territory to abstain from any course which might lead to acts of violence, and which might in the least degree imperil the amicable relations and good understanding of two countries knit together by firmer bonds of kindred and more extensive ties of commerce than any other two nations of the world.

3. It is not for me to comment upon the act, during a period when the most friendly relations are existing, of seizing by violence a portion of territory which we were commissioned by our respective governments amicably to assign to either government as the treaty might be found to determine, and which has not yet been so assigned; but I may remark that an act so unprecedented in the history of civilized and enlightened nations, and so contrary to that natural courtesy which is due from one great nation to another, cannot be productive of good, and may in the end entail such serious consequences, that I am sure both you and I would deplore to the last hour of our existence any hesitation or neglect on our parts to do all that lies in our power to avert impending evil. To this end, I have lost no time in seeking you, and I would again let me beg you to urge the adoption of some instant measures calculated to prevent any untoward and lamentable crisis.

4. With every assurance of personal esteem, and with confidence that you will not, if possible, hesitate to co-operate with me in this serious matter, I have the honor to remain, sir, your most obedient and humble servant,

JAMES C. PREVOST,

Her Majesty's Commissioner.

ARCHIBALD CAMPBELL, Esq.,

United States Commissioner, &c., &c., &c.

Mr. Campbell to Mr. Prevost.

CAMP SIMIAHMOO, August 4, 1859.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, in which you propound to me certain inquiries in regard to what you are pleased to characterize as the armed occupation of the island of San Juan by a body of troops *professedly* belonging to the army of the United States.

As the supervision of the movements and operations of the military forces of the United States forms no part of the duties of the Joint Commission for carrying into effect the first article of the treaty of June 15, 1846, I cannot recognize your pretensions to catechize me thereupon, and therefore I decline to return you either a positive or negative answer to your queries.

I cannot, however, allow your communication to pass without expressing my surprise that one who has had so many opportunities of forming a just appreciation of the military authorities in Washington Territory, as you have, should venture such a reflection upon their honor and integrity as implied in your earnest entreaty to me to undertake, individually or in concert with you, "such steps as may induce "them" to abstain from any course which might lead to acts of violence." Notwithstanding the friendly relations that subsist between myself and the officers of the army constituting the military authorities in Washington Territory, I have too much prudence and self-respect thus to intermeddle with the performance of their duties.

Considering the professed object you have in view, I think you are most unfortunate in your comments upon the presence of the United States troops on the island of San Juan, and I may add that they are not altogether in accordance with that "natural courtesy" which might be expected in a communication like that which you have stepped out of your official position as commissioner to address me.

Notwithstanding the apparent air of moderation with which you have clothed your words, there pervades your whole communication a vein of assumption and an attempt at intimidation by exciting apprehensions of evil, not well calculated to produce the effect you profess so ardently to desire.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

United States Commissioner.

Captain JAMES O. PREVOST, R. N.,
British Commissioner, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Simiahmoo Bay, August 4, 1859.

SIR: A body of troops belonging to the army of the United States having entered upon armed occupation of the island of San Juan, in the Haro Archipelago, and as such island forms part of the territory involved in the boundary established by the treaty between Great Britain and the United States of the 15th June, 1846, I have to call upon you, as the commissioner appointed by the government of the United States to determine, in conjunction with me, the line of boundary under the aforesaid treaty, to enter into a protest against the armed occupation of any part of such territory, the same being contrary to every principle of international law, and antagonistic to the pacific mission upon which both you and I are employed.

I have the honor to be, sir, your most obedient and humble servant,

JAMES O. PREVOST,

Her Majesty's Commissioner.

ARCHIBALD CAMPBELL, Esq.,
Commissioner on the part of the United States, &c., &c., &c.

Mr. Campbell to Captain Prevost.

CAMP SIMIAHMOO, *August 5, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, and in reply thereto I refer you to my letter of the same date for the

views I entertain of the duties of the Joint Commission, in regard to the movements and operations of the military forces of the United States.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
United States Commissioner.

Captain **JAMES C. PREVOST, R. N.,**
British Commissioner, &c., &c., &c.

Captain Prevost to Mr. Campbell.

HER BRITANNIC MAJESTY'S SHIP SATELLITE,
Simiahmoo Bay, August 4, 1859.

SIR: I have duly received your letter of this date acknowledging the receipt of my letter of the 31st ultimo.

2 I need scarcely observe to you that your said letter is not a reply to my communication of the date mentioned. On the contrary, it evades the principal question at issue, and exhibits no desire to reciprocate with me in a friendly intercourse, such as I have a right to expect from a commissioner appointed to treat with me by a government whose relations are in such perfect harmony with the government of Her Britannic Majesty.

I have the honor to be, sir, your most obedient servant,
JAMES C. PREVOST,
Her Majesty's Commissioner.

ARCHIBALD CAMPBELL, Esq.,
United States Commissioner, &c., &c., &c.

Mr. Campbell to Captain Prevost.

CAMP SIMIAHMOO, August 8, 1859.

SIR: I have received your letter of the 4th instant, acknowledging the receipt of mine of the same date. In reply thereto, I have to say that I fully agree with you in your observation, that my letter of the 4th instant is not a reply to your communication of the 31st ultimo, if you mean thereby an answer, either general or particular, to the series of questions therein embodied. But that there is any *evasion* of either the principal question or any other question you propound to me, I flatly deny. I did not recognize your right to question me, and therefore I declined giving *any* answer whatever to your queries.

In the discharge of my official duties, it has ever been my desire and disposition to exhibit towards you a spirit of courtesy and frankness. In my private relations, I have never been backward in meeting your most cordial advances. But how far, outside of our legitimate official duties, you have a *right* to expect me to reciprocate with you in a "friendly intercourse" in my official capacity, as Commissioner, is not for you alone to judge.

It is hardly necessary for me to add that I am equally desirous with yourself for the preservation of the peace and harmony which now subsist between the United States and Great Britain, and which I trust most sincerely may long remain unbroken.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
United States Commissioner.

Captain **JAMES C. PREVOST, R. N.,**
British Commissioner, &c., &c., &c.

Captain Pickett's Military Order.

[Orders, No. 1.]

MILITARY POST, SAN JUAN ISLAND,
Washington Territory, July 27, 1859.

I. In compliance with orders and instructions from the general commanding, a military post will be established on this island, on whatever site the commanding officer may select.

II. All the inhabitants of the island are requested to report at once to the commanding officer in case of any incursion of the northern Indians, so that he may take such steps as are necessary to prevent any future occurrence of the same.

III. This being United States territory, no laws, other than those of the United States, nor courts, except such as are held by virtue of said laws, will be recognized or allowed on this island.

By order of Captain Pickett :

JAMES W. FORSYTH,
Second Lieut. 9th Infantry, Post Adjutant.

Protest of Governor Douglas against the Occupation of San Juan Island.

By James Douglas, Companion of the most honorable Order of the Bath, Governor and Commander-in-chief in and over the colony of Vancouver Island and its Dependencies; Vice-Admiral of the same, &c., &c.

The sovereignty of the island of San Juan and of the whole of the Haro Archipelago has always been undeviatingly claimed to be in the Crown of Great Britain. Therefore I, James Douglas, do hereby formally and solemnly protest against the occupation of the said island or any part of the said archipelago, by any persons whatsoever, for or on behalf of any other powers, hereby protesting and declaring that the sovereignty thereof by right now is and always hath been in Her Majesty Queen Victoria, and her predecessors, kings of Great Britain.

Given under my hand and seal, at Victoria, Vancouver Island, this 2d day of August, in the year of our Lord one thousand eight hundred and fifty-nine, and the twenty-third of Her Majesty's reign.

[SEAL.]

JAMES DOUGLAS.

Message of Governor Douglas to the Legislature of Vancouver's Island.

To the Legislature, Council, and House of Assembly of the Colony of Vancouver's Island :

GENTLEMEN: I have to communicate for your information the intelligence of the landing of a detachment of United States troops on the island of San Juan, avowedly (see enclosures Nos. 1 and 2) for the purpose of forming a military post, and of asserting the sovereignty of the United States to that island.

Having received no information from any quarter that the government of the United States ever contemplated taking military possession of any part of the disputed territory while the boundary line remained unsettled, I am forced to believe that the late unwarrantable and discourteous act, so contrary to the usages of civilized nations, has originated in error, and been undertaken without the authority of that government.

That impression is corroborated by a letter (a copy of which is herewith enclosed) from the Hon. W. L. Marcy, Secretary for the United States, dated Washington, 17th July, 1855, to Her Majesty's minister at Washington, which contains instructions from the President of the United States to the governor of Washington Territory, and displays in the clearest manner the conciliatory and moderate views entertained by his government on the subject of the disputed territory.

Though the right of Great Britain to all the islands situated to the westward of "Vancouver" or "Rosario" Straits is, to our minds, clearly established by the first article of the treaty of 1846, and though those islands have since the foundation of this colony been considered as a dependency of Vancouver's Island, it is well known to you, gentlemen, that, out of respect to the construction that has been put upon that treaty by the government of the United States, we have abstained from exercising exclusive sovereignty over them.

Convinced that any officious or unjust assumption on either side of exclusive right to the disputed territory would simply be a fruitless and mischievous waste of energy, neither detracting from nor adding force to the claims of either nation, wise and considerate policy enjoins upon us the part of leaving so important a national question for settlement by the proper authorities, and of avoiding complications foreign to the views and wishes of, and probably embarrassing to, both governments.

Immediately on being informed of the landing of United States troops at San Juan, Her Majesty's ship *Tribune*, under the command of Captain Hornby, was despatched to that quarter, and soon afterward a detachment of royal engineers and royal marine light infantry were ordered from New Westminster, by Her Majesty's ship *Plumper*, Captain Richards, and those troops will be landed at San Juan, to protect the lives and property of British subjects.

You will observe, gentlemen, from enclosure number one, that the captain in command of the United States detachment of troops, in a public notice, dated 27th of July, assumes the exercise of exclusive sovereign rights in the island of San Juan, while the President of the United States altogether disclaims such pretensions, and seeks at most to continue the joint right of sovereignty and domain in common with Great Britain.

We may presume from that circumstance that the notice in question was framed in ignorance of the intentions of the United States government, and that the pretensions set forth will not be maintained.

Entertaining such opinions, I have not failed to impress on Her Majesty's naval officers now stationed at San Juan the desire of Her Majesty's government to avoid every course which may unnecessarily involve the suspension of the amicable relations subsisting between Great Britain and the United States; at the same time, those officers have been instructed, and are prepared, to assert the rights and to maintain the honor and dignity of our sovereign and Her dominions.

I have the honor to be, gentlemen, your most obedient servant,

JAMES DOUGLAS.

GOVERNMENT HOUSE, VICTORIA, August 3, 1859.

Address of the Legislature of Vancouver's Island to Governor Douglas.

The House acknowledges the receipt of Your Excellency's communication of the 3d instant, relating to the clandestine invasion of San Juan Island by United States troops, and the steps to be adopted in relation thereto.

Since that communication it is well known that additional forces have been landed.

The House would, therefore, inquire why the British forces were not landed, to assert our just right to the island in question, and to uphold the honor of our country and our Queen ?

The House would most urgently impress upon Your Excellency to enforce upon Her Majesty's government the necessity of demanding from the government of the United States, not only the immediate withdrawal of those troops, but also strenuously and at all risks to maintain Her right to the island in question, and also to all other islands in the same archipelago, now so clandestinely, dishonorably, and dishonestly invaded.

It is not for our country to be wantonly and insolently insulted, but redress must be demanded.

The weakness of the colony is its greatest danger, and at the same time an inducement for the repetition of similar offences by similar persons ; let it therefore be urged upon Her Majesty's government, that sending out colonists rapidly from Great Britain is the surest way, not only of maintaining peace, but of preserving intact Her Majesty's possessions. Coupled with this, the House would propose that free and liberal grants of land be given to such immigrants after settling thereon for a certain time.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, September 3, 1859.

STR : * * * * *

Since my letter of the 18th ultimo I have received a communication from General Harney, acquainting me with the circumstances which induced him to direct the military occupation of the island of San Juan until he should receive further orders from the President, to whom he had submitted the whole matter.

Although I do not feel called upon to express an opinion as to the expediency of the measure adopted by General Harney in advance of the definite settlement of the boundary question, I may venture to assert that the British government have little cause for complaint. They have given instructions to the governor of Vancouver's Island to treat San Juan and the other islands of the Haro Archipelago "as part of the British dominions." They have sent out a commissioner with secret instructions to claim as the boundary that channel which would secure to Great Britain the whole of the Haro Archipelago ; and, in the event of failure to induce the American Commissioner to acquiesce in that boundary, he is "at liberty to adopt any other intermediate channel" so as to bring San Juan within the British boundary ; but his instructions do not authorize him to adopt the only channel (the Canal de Haro) which would give this valuable island to the United States.

Smith's Island—a small island at the junction of Rosario Straits with the Straits of Fuca—was formerly claimed by the British government. The occupation of it by the United States as a light-house station at once extinguished that claim ; and I have no doubt that a similar result would follow the permanent military occupation of the island of San Juan—the treaty giving us as clear and indisputable right to the one as to the other.

The British government, instigated by the Hudson's Bay Company, have long coveted the possession of the island, and it is scarcely to be supposed that they should regard with indifference its unexpected military occupation by its rightful owners, after their success in raising a dispute about its sovereignty, and keeping the settlement of it in abeyance, while they have had the full benefit of its occupancy.

Nothing has occurred at San Juan to alter the peaceful aspect of affairs exist-

ing at the date of my last letter; nor, as I then stated, is there the slightest probability of any action on the part of the British authorities in consequence of the military occupation of the island which would endanger a collision, until further instructions are received from England.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Mr. Campbell to General Harney.

STEAMER SHUBRICK, SAN JUAN HARBOR,
 August 14, 1859.

MY DEAR GENERAL: Captain Alden is about to leave the harbor for Fort Vancouver with despatches from Colonel Casey, and I take the opportunity of dropping you a line in relation to the state of affairs resulting from the landing of troops on San Juan Island.

When I learned from Captain Pleasanton that Captain Pickett's company was ordered to San Juan, I thought it was a very proper movement for the protection of American settlers from northern Indians, and from the interferences of the Hudson's Bay Company's agents, who had recently been threatening to take one of the settlers to Victoria for trial. And I did not anticipate from it any serious objection on the part of the British authorities on Vancouver's Island—certainly no forcible opposition—troops at various times having been sent there at intervals, in small detachments, for the protection of settlers against the Indians. But I happened to be making an exploration of the archipelago at the time Captain Pickett arrived, and for several days after he landed I was anchored in this harbor, and I soon saw that it was going to produce great excitement unless it was managed with great discretion. Before I saw Captain Pickett's instructions, I did not suppose it possible that any collision could arise between the United States and English troops; and I took it for granted that his duties would be confined to the objects specified hereinbefore. While the boundary line still remained unsettled, and the commission appointed to determine the boundary line still existed, I did not suppose any resistance would be made by Captain Pickett to the landing of British troops, if they thought proper, as a matter of protection to English subjects on the island, to station a force on the island. It did not seem to me, under present circumstances, that we should be justified in going to the extent of refusing to allow them to land troops for peaceable purposes. I found Captain Pickett had different views, derived from your instructions, which he confidentially showed to me. I perceived that they were susceptible of the interpretation he gave them, though they were not directly mandatory on the subject. And supposing it possible, if not probable, that you might have received instructions from the War Department for the occupation of the island, I felt a delicacy in interfering further in the matter, lest I might be disturbing plans well considered by you and determined on by the government. At the same time, as I had no intimation of the subject from the State Department, I felt considerably troubled lest there might be some misunderstanding.

I was called upon officially by my colleague, Captain Prevost, the British commissioner for the settlement of the water boundary, to take steps individually, or in concert with him, to protest against the armed occupation of the island, it being intimated that British troops would be landed. As I did not consider it

my duty as commissioner to interfere with the operations of the military forces of either government, I declined to take the steps indicated. Thus far no serious results have followed from the presence of troops on the island. But there is a good deal of excitement among the authorities of Vancouver's Island, and doubtless a good deal of mortification. And if I may be permitted to advise, I would recommend caution, so as to prevent, if possible, any collision, which I think under no circumstances ought to be allowed to occur.

However certain may be your conviction that the boundary line, according to the treaty, should run down the Canal de Haro—and I have never hesitated, when asked, to say that such is the ground I have taken as commissioner, and that in this I believe I will be supported by the government—still the question has not been authoritatively decided. And unless you have some intimation from the War Department which has governed your action, I fear that the decided action you have taken in declaring the island American territory may somewhat embarrass the question. I shall be greatly relieved to learn that you have some authority from the government for the decisive step you have taken, though I do not pretend to ask or desire the information in my official capacity. I thought it possible, if you had no directions from home, that you might be in error in some points regarding the joint commission, and therefore have taken the liberty of letting you know that it still exists, notwithstanding the slow progress made in settling the boundary question. I presume Colonel Casey has fully informed you of everything that has taken place since his arrival, and therefore I need say nothing further.

Hoping you will excuse the liberty I have taken in writing thus frankly, I am, my dear general, very respectfully and truly, your obedient servant,

ARCHIBALD CAMPBELL.

Brigadier General W. S. HARNEY, U. S. A.,

Fort Vancouver, W. T.

General Harney to Mr. Campbell.

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 16, 1859.

MY DEAR SIR: Your communication of the 14th instant has just been received, and I hasten to place you in possession of the facts connected with the occupation of San Juan Island by some of the troops of my command. This step would have been taken before, but I was informed you were en route to Washington.

I enclose for your information a copy of a protest issued by Governor Douglas, commander-in-chief of the island of Vancouver, to the occupation of San Juan Island, and claiming the sovereignty of said island for the Crown of Great Britain; also, a copy of my letter to Governor Douglas in reply to his protest.

You will perceive that in my reply to Governor Douglas I charge the British authorities of Vancouver's Island with having violated the rights of American citizens on the island of San Juan in such a manner and by such means as to leave me no other alternative than to occupy the island for the protection of American interests. In assuming this responsibility, I was careful to state distinctly and fully to Governor Douglas the position of my troops on the island of San Juan, and I reiterate to you that the relative claims of the two countries has had nothing to do in the assignment of the troops in question. The British authorities chose to violate treaty stipulations made in good faith and maintained by the United States in good faith, by attempting to arrest an American citizen on San Juan Island, to convey him to Victoria to be tried by British laws. To prevent a repetition of this outrage until the government of the United States

could be apprised of it, I have placed troops on the island, with such orders as I have deemed necessary to effect this object.

With the question of boundary between the United States and Great Britain I disclaim having done anything with respect to it in occupying San Juan Island. Great Britain has no sovereignty over American citizens on San Juan Island, and every attempt made by her authorities to advance such claim I shall resist until further orders from the President, to whom I have submitted the whole matter; in the mean time I trust the labors of your joint commission will be prosecuted amicably and successfully, for I can assure you that no one is more desirous of facilitating your labors than myself.

I am, sir, with high respect, your obedient servant,

WILLIAM S. HARNEY,
Brigadier General Commanding.

ARCHIBALD CAMPBELL, Esq.,

U. S. Commissioner Northwest Boundary, Harbor San Juan Island.

Mr. Campbell to General Harney.

CAMP SIMIAHMOO, August 30, 1859.

MY DEAR GENERAL: I had the pleasure of receiving on the 22d instant your letter of the 16th, placing me in possession of the facts connected with the occupation of San Juan Island by some of the troops under your command. For the trouble you have taken to furnish me with this information in the midst of more pressing and important occupations I beg to return you my sincere thanks. Had I known your views earlier, I should have been free from the embarrassment expressed in my letter to you of the 14th instant. The rumor in regard to my departure for Washington City, which prevented your communicating this before, had no foundation whatever.

In a few days I contemplate a trip along the forty-ninth parallel as far as Fort Colville. I shall return to this place *via* the Columbia river towards the middle or close of October, by which time you will probably have received answer to your despatch to Washington, which I trust may be satisfactory to you.

Looking forward with pleasure to meeting you at that time at Fort Vancouver, I am, my dear General, very respectfully and truly, your obedient servant,
ARCHIBALD CAMPBELL.

Brigadier General W. S. HARNEY,
U. S. Army, Fort Vancouver, W. T.

Mr. Campbell to General Scott.

FORT WALLA-WALLA,
October 31, 1859.

MY DEAR GENERAL: I arrived here to-day on my way from Fort Colville to Fort Vancouver, and shall leave day after to-morrow. As I understand from letters received at this post that you will probably be at Fort Vancouver within the next week, I hope to have the pleasure of meeting you there, and avail myself of the express to notify you of my whereabouts, as you may probably desire to see me. Captain Dent will despatch me by the most speedy mode of conveyance within his control, and if no accident delays me, I will be at Fort Vancouver by the 7th proximo.

The late papers which I find here inform me of your mission to the north-

west boundary, and as I deem it important you should be fully informed of the course the British government have pursued to procrastinate the settlement of the boundary between Washington Territory and Vancouver's Island, I hope I may be able to put you in possession of this information before your final determination in regard to the military occupation of San Juan Island, as it may materially affect your views on the question.

I am, my dear General, very respectfully and truly, your obedient servant,
ARCHIBALD CAMPBELL.

Lieut. General WINFIELD SCOTT,
Commanding United States Army.

Mr. Campbell to Mr. Cass.

FORT WALLA-WALLA,
November 1, 1859.

SIR: I reached this place yesterday on my way from the 49th parallel, on the Columbia river, to Fort Vancouver, and learn by the newspapers that General Scott has been sent to this coast on a mission connected with the military occupation of San Juan Island. I understand, also, that the General will be at Fort Vancouver in a few days, and I have written to him by express that I will be there on the 7th proximo, as it is probable he may desire to see me, and that I may there find despatches from the Department requiring me to communicate with him on the subject of the water boundary.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Mr. Campbell to Mr. Cass.

UNITED STATES BOUNDARY COMMISSION,
Camp Simiahmoo, November 15, 1859.

SIR: I have just arrived at this place, via the Cowlitz River, from Fort Vancouver. Notwithstanding I made all possible despatch to reach the Sound, on learning, through the newspapers, General Scott's mission, I found on my arrival at Olympia, on the 13th instant, that the General had returned to San Francisco on the 11th instant, in the mail steamer.

Since my return from Fort Colville I have received four mails, but no letters from the Department have reached me. I have only time by the return steamer to announce my return from my trip along the boundary line to the Columbia River.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Mr. Cass to Mr. Campbell.

DEPARTMENT OF STATE,
Washington, September 15, 1859.

SIR: General Scott has been ordered by the President to take command of our naval and military forces in the neighborhood of the island of San Juan,

on account of the difficulties which have recently occurred in that quarter, in relation to that island. I have to request that you will, without any reserve, show to him all your communications to or from this Department on the subject of the northwestern boundary line, and also extend to him every facility which may be in your power towards the accomplishment of the objects of his mission.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

ARCHIBALD CAMPBELL, Esq., &c., &c., &c.

Mr. Campbell to Mr. Cass.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,
Camp Simiahmoo, November 23, 1859.

SIR: By the arrival of the steamer with the mail from Olympia, I have just received your communication of the 15th of September, directing me to exhibit to Lieutenant General Scott all my communications to and from the Department on the subject of the northwest boundary line, and also to extend to him every facility which may be in my power towards the accomplishment of the objects of his mission.

The letter of the Department is post-marked "St. Helen's, Oregon, Nov. 17," (and franked by Lieutenant General Scott.) This is a post office on the Columbia River, below Fort Vancouver. I have already apprised the Department of the efforts I made to reach the Sound in time to meet General Scott, when I learned at Walla-Walla of his mission to this coast, and also of my failure to to accomplish this object; the General having left for San Francisco before I arrived at Olympia.

I had anticipated the wishes of the Department in respect to an unreserved exhibition of all the correspondence, and documents in my possession, in relation to the boundary line, and regret that it has not been in my power to carry them out in accordance with the instructions just received.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Hon. LEWIS CASS,
Secretary of State.

Mr. Campbell to General Scott.

UNITED STATES BOUNDARY COMMISSION,
Camp Simiahmoo, November 23, 1859.

MY DEAR GENERAL: As I closed my letter of this date to Colonel Thomas, the mail steamer from Olympia arrived and brought me a document postmarked "St. Helen's, Oregon, November 17th," franked by yourself. On opening the envelope I found a communication from the State Department, dated September 15th, informing me of your mission, and directing me to exhibit to you, without reserve, all the correspondence between the Department and myself on the subject of the water boundary line; and also to extend to you every facility in my power towards the accomplishment of the objects of your mission.

Having anticipated the wishes of the Department, the instant I heard of your arrival on the coast, I need not assure you how much I regret that circumstances have prevented me from carrying out the instructions of the Department.

I have the honor to be, very respectfully, your obedient servant.

ARCHIBALD CAMPBELL.

Lieutenant General WINFIELD SCOTT,

Commanding United States Army, San Francisco, California.

Mr. Campbell to Mr Seward.

UNITED STATES NORTHWEST BOUNDARY COMMISSION,

Washington, October 3, 1861.

SIR: The publication of a recent order of the War Department, for the withdrawal of nearly all the regular force of the United States army on the Pacific coast, made me apprehensive that, through inadvertence, the company of United States troops stationed on the island of San Juan (in joint occupancy with a company of British troops) might be removed therefrom. Upon inquiry at the office of the General in-chief, I learned that such was the fact. The attention of General Scott being called to the matter, he promptly gave orders that the error should be corrected, and a company of regulars continued on the island.

As it is not improbable that the attention of the British government may be drawn to the removal of the United States forces from the Pacific coast, and that they may make inquiry in regard to the company stationed on San Juan Island, I have taken the liberty of making the foregoing communication for the information of the Department.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

Commissioner Northwest Boundary Survey.

Hon. WILLIAM H. SEWARD,

Secretary of State.

Mr. Seward to Mr. Campbell.

DEPARTMENT OF STATE,

Washington, October 4, 1861.

SIR: I have to acknowledge the receipt of your letter of yesterday, respecting certain changes that have occurred in the United States military forces at the island of San Juan, and to thank you for the information.

I am, sir, very respectfully, your obedient servant,

WILLIAM H. SEWARD.

ARCHIBALD CAMPBELL, Esq.,

Commissioner United States Northwest Boundary.

EXTRACT FROM LETTER OF THE DEPARTMENT OF STATE.

*Mr. Cass to Mr. Campbell.*DEPARTMENT OF STATE,
Washington, March 3, 1860.

SIR: Your several communications of 1859, including also the reports of Lieutenant John G. Parke, have been received.

The information which you have timely communicated to the Department has been interesting and important.

The question of the water boundary is now the subject of discussion between this government and that of Great Britain.

It gives me pleasure to inform you that your proceedings have received the commendation of the President.

* * * * *
I am, sir, your obedient servant,

LEW. CASS.

ARCHIBALD CAMPBELL, Esq.,
Commissioner Northwest Boundary Survey.

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IV. GEOGRAPHICAL MEMOIR.

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GEOGRAPHICAL MEMOIR.

MAPS AND CROSS-SECTIONS.

Accompanying this memoir is a map to illustrate the water boundary, consisting of the united photographic copies of the three detailed sheets of the boundary maps from Point Roberts to the Pacific Ocean. These sheets were compiled from the data of the United States Boundary Survey, United States Coast Survey, the surveys of Captain G. H. Richards, R. N., published on the Admiralty charts, sketches from the General Land Office, and all available published information. The curve lines, indicating the depths of ten fathoms, twenty fathoms, thirty fathoms, &c., were constructed after a careful study of all the soundings as far as the seventy fathom curve upon the two detailed sheets—the first from Point Roberts to the Straits of Fuca, and the other the Straits of Fuca, (eastern portion,) and were shaded, in order to indicate their relative depths.

Cross-sections on four different parallels of latitude have been constructed to illustrate more clearly the relative depths and widths of the Canal de Haro and Rosario Straits.

CHANNELS.

The waters separating the islands between the mainland and Vancouver's Island, forming the principal continuous channels south from the Gulf of Georgia to the Straits of Fuca, flow—through Stuart Channel south by the Canal de Haro; through Portier Pass, south by Swanson Channel and Canal de Haro; through Active Pass, south by Swanson Channel and Canal de Haro; through the Canal de Haro; through President's Passage, Ontario Roads and Little Belt Passage; and through Rosario Straits.

In tracing out the ten, twenty, thirty, &c., fathom curve on the map, it appears that the main flow of water between the Gulf of Georgia and the Straits of Fuca is through the Canal de Haro on the west, and Rosario Straits on the east.

The "middle of the channel," the *flum aquæ* or *thalweg*—that is, the line of deepest water, of the Gulf of Georgia, at the 49th parallel of north latitude, is much nearer the island shore of Vancouver's Island than to the main land, as shown by the cross-section on that parallel; and thence curves south close to the shore of Saturna Group, having, opposite Tumbo Island, from 100 to 123 fathoms of water. Here the waters are divided between the two channels, those to the east meeting the counter-flow or counter-acting currents of Rosario Straits from Alden's Bank, and those to the west, turning into the Canal de Haro, between East Point and Patos Island, with a depth of 116 fathoms. Alden's Bank, over which there is only $2\frac{1}{2}$ fathoms, thus becomes the barrier to the full sweeping current of the Gulf of Georgia, through the eastern channel. This channel may be considered as beginning between Sucia Group and Sandy Point. Between Alden's Bank and Sucia Group the greatest depth is 90 fathoms, or 26 fathoms less than at the entrance of the Canal de Haro.

The cross-section on the parallel of $48^{\circ} 45'$ shows at a glance the relative depths of the different channels between Vancouver's Island and the mainland. This cross-section is made just north of Lummi and Matia Islands, and represents the Sucia Group as separating the Canal de Haro from Rosario Straits.

The greatest depth of water in the Canal de Haro is 183 fathoms, while in Rosario Straits the deepest water is 60 fathoms, or 123 fathoms less. The Canal de Haro enters the Straits of Fuca with 97 fathoms, while the Rosario Channel enters those straits with 53 fathoms, or 44 fathoms less than the Canal de Haro. Following the soundings along the lines of deepest water in the two channels, the least depth in Rosario Straits is 29 fathoms, and in the Canal de Haro the least depth is 92 fathoms, (just before entering the Straits of Fuca,) a difference of 63 fathoms. *In fact, the least depth along the channel line in the*

Canal de Haro is greater than the greatest depth in the Rosario Straits. The average depths, widths, area of cross-sections, and volume of water of the Canal de Haro, are also much greater than those of Rosario Straits, all of which facts show that the Canal de Haro is the main channel between the Gulf of Georgia and the Straits of Fuca. These facts are exhibited in a marked manner by the cross-sections. One of these, previously mentioned, shows the entrances from the Gulf of Georgia: the next is made on the parallel of $48^{\circ} 35'$, and crosses Rosario Straits about midway between the Gulf of Georgia and the Straits of Fuca, showing almost the greatest breadth of the islands: and the other on the parallel of $48^{\circ} 25'$, just south of Lopez and San Juan islands. This shows the outlets of both the Canal de Haro and Rosario Straits into the Straits of Fuca.

To continue the comparison, it appears that the least breadth of the Canal de Haro is $2\frac{1}{2}$ miles, (between Stuart and Gooch islands,) and the greatest breadth is 8 miles, (between Discovery island and Eagle Point;) while the least breadth of Rosario Straits is $1\frac{1}{2}$ mile, (between Cypress and Blakely islands,) and the greatest breadth $6\frac{3}{8}$ miles, (between Deception Pass and Watmaugh Head.) Further, the Canal de Haro is an open and free channel, with but two exceptions—Unit Rock and the reef off Darcy island; while in Rosario Straits there are many interruptions—Peapod Rocks, Belle Rock, Bird Rock, Kellet Ledge, and Dennis Rock, some of which are directly in mid-channel, and the others close to it; there are, besides, numerous other rocks near the shore. The shores of both the channels are bold; this is in fact the characteristic feature of the shores along all these waters.

It will be seen from the foregoing description that the "middle of the channel," the *thalweg*, or *flum aque*—that is, the line of deepest water separating the continent or mainland from the island of Vancouver—passes from the Gulf of Georgia to the Straits of Fuca by way of the Canal de Haro.

ARCHIPELAGOES.

The islands between the mainland and Vancouver's Island, from the forty-ninth parallel south to the Straits of Fuca, are divided into two archipelagoes, separated from each other by the Canal de Haro.

THE NORTHERN ARCHIPELAGO.

GENERAL DESCRIPTION.

The Northern Archipelago extends from the forty-ninth parallel south to the waters of the Canal de Haro, and is bounded on the east by the Gulf of Georgia, and on the west by Swanson channel. The principal islands of the group are, Salt Spring, Prevost, Saturna Group, Galiano, Kuper, and Thetis, which, together with the numerous smaller islands, have a combined area of about one hundred and thirty-five square miles.

All of these islands are timbered, and the smaller ones, with but few exceptions, are level. The timber is not as large as that of the same character generally in that region. Although no prairies were observed, occasionally open spots were seen on the hillsides overgrown with grass that would afford ample grazing for large flocks of sheep. Judging from the numerous deer trails running in all directions, and from the grouse and other small game that was seen, these islands must abound in food for the Indians that inhabit their shores. The Penalahut Indians have one or two villages on different islands, but the principal tribe is that of the Cowitchens. The Cowitchens are very numerous and live principally on the east shore of Vancouver's Island, hunting and fishing through this archipelago.

Fish of several varieties are taken in the numerous harbors and channels, almost without exertion, and with the abundance of clams and oysters that are everywhere found along the shores, this country is a paradise for the Indians.

In the expeditions made by the assistants of the Boundary Survey to this archipelago, the explorations were not so extended as those to the south, and consequently the general description of it is not so thorough. The surveys of this locality, from the English Admiralty charts, furnish much of the data used in this description.

SALT SPRING ISLAND, (*Admiral Island* of the English Admiralty chart.)

Salt Spring Island, the largest in the group, is sixteen and a half miles long between Regatta Channel on the south and Southy Point, its most northern extremity, and has an average width of four miles between Stuart Channel on the west and Swanson Channel on the east. Its greatest length is in a north-north-west direction, cut by three or more distinct ridges of mountains that extend partly across the island in a northwest and southeast direction. The area of the island is about sixty-seven square miles, one half of which may be considered fit for cultivation or settlement, being a rolling country, but heavily timbered. The southern and western portion is mountainous, and in the most southern ridge, Mount Bruce, 2,329 feet, is the highest peak on the island. Mount Bruce, Mount Baynes, and Mount Erskine, are prominent peaks of the three ridges. The southern ridge is almost cut off from the island by Burgoyne Bay on the north and west, and Fulford Harbor on the south and east, that extend inland for a considerable distance. These, together with Ganges and Long harbors on the east, and Vesuvius Bay on the west, are the principal harbors of this island.

PREVOST ISLAND.

Prevost Island lies to the east of Salt Spring Island, and is separated from it by Ganges Harbor and Captain Passage. Its shores are bold and rocky, with numerous small islands along them that close in the many indentations of the shore, thus forming small harbors. The area of this island is about three square miles, all heavily timbered.

SATURNA GROUP, (*Saturna, Pender, and Mayne Islands* of the English Admiralty chart.)

The Saturna Group was for a long time considered as one island, and only from comparatively recent surveys have its limits become known. It is formed by three large islands known on the English Admiralty chart as Saturna and Mayne islands, lying to the east, and Pender Island to the west of Plumper Sound. Plumper Sound is a large body of water dividing the group, and may be considered as the continuation of Swanson Channel, as at the head of the southern island Swanson Channel turns to the south. The southeast portion of this group is rough and mountainous, and the shores are bold, with innumerable small islands and rocks extending along them. Active Pass divides the group from Galiano Island, and with Swanson Channel on its west, and Gulf of Georgia on its east, it has an area of about thirty-three square miles.

TUMBO ISLAND.

This island is separated from Saturna by a small channel running east and west, and from its eastern end (Savage Point on the north, and Race Point on the south) the waters of the gulf deepen gradually, forming the western side of the entrance to the Canal de Haro from the Gulf of Georgia. It has an area of only about half a square mile. On the west it has the appearance of a

harbor formed by small islands connected by reefs. This island, Bell Chain, and smaller ones, together with rocks between, form an outer coast, as it were, to the Saturna Group from East Point at the eastern extremity, to Edith Point, the end of the peninsula formed by a harbor extending in a northeast direction.

GALIANO ISLAND.

Galiano Island extends from the Saturna Group northward to Portier Pass, which is a little north of the 49th parallel, between Swanson Channel and the Gulf of Georgia. Its eastern shore is bold and comparatively free from rocks or small islands, while on the west there are many indentations, with small islands and rocks near the shore. Parker Island, Wise Island, Walker's Rock, and other islets form a chain from the southern part of this island to Retreat Cove, and from there north it has a bold, regular shore on Swanson Channel. Just north of Retreat Cove is the highest part, and from this cove across to the Gulf of Georgia is the narrowest part of the island. It extends in a north-west and southeast direction, widening out to the south, with two good harbors on each side, formed by Gossip Island on the Gulf of Georgia side and Parker Island on the Swanson channel side. The greatest length of this island is about sixteen miles, and, together with the smaller islands adjacent, has an area of about twenty one square miles, two-thirds of which is mountainous, the mountains, however, rising to no great height, the highest point being about nine hundred feet.

REID, HALL, SECRETARY, AND NARROW ISLANDS.

These islands, together with other smaller ones, form a chain of about six and one-half miles long, almost midway of Swanson Channel, lapping the northern end of Salt Spring Island, and extending a short distance north of the forty-ninth parallel. They comprise an area of about three square miles, and present many favorable points for anchorage in the navigation of Swanson Channel.

KUPER ISLAND.

Kuper Island is situated just north and west of Salt Spring Island, from which it is separated by Houston Passage, which, running north and south, connects Swanson and Stuart channels. It is about three and a half miles long and one mile wide, with its eastern shore free from smaller islands or rocks, washed by the waters of Houston Passage; while to the west Escape Reef, Hudson Island, and other islands, lie close in on the Stuart Channel shore. At the south of this island, and as it were a continuation of it, separated by a narrow channel, is Tent Island, with an area of about one-third of a square mile.

THETIS ISLAND.

Thetis Island is north of Kuper Island, and separated from it by a narrow, crooked channel, connecting Stuart Channel on the west and Swanson Channel on the east. This island is the head of the chain separating the waters forming these two channels, and presents to the north a wide, open harbor between Pilley and Reef points. The island has an area of about four and a half square miles, and is divided by the forty-ninth parallel.

THE HARO ARCHIPELAGO.

GENERAL DESCRIPTION.

Prior to the explorations of Captain Wilkes, of the United States navy, in 1841, the whole of this group was laid down on the maps as one island, and was known by the name now borne by the principal one of the group, *San Juan Island*.

He was the first explorer who developed the fact of this being an archipelago, and at first contemplated calling it the *Naval Archipelago*, an appropriate completion of the nomenclature of the islands, bays and channels, commemorating the brilliant history of our navy. Subsequently he changed his mind, and gave it the name of the *Haro Archipelago*, in honor of Lopez Gonzales de Haro, the Spanish discoverer.

The Haro Archipelago is bounded on the north by the Canal de Haro and the Gulf of Georgia; on the east by Rosario Strait; on the west by the Canal de Haro; and on the south by the Straits of Fuca. It contains seven prominent islands, viz: San Juan, Waldron, Orcas, Shaws, Blakely, Decatur, and Lopez, besides many small ones, some of them scarcely large enough to be worthy of special notice. The combined area of the islands is about one hundred and seventy square miles.

The archipelago occupies an important position in its relation to the other parts of this region. Lying just north of the eastern end of the Straits of Fuca, through which the currents of Puget Sound, and perhaps also of the Gulf of Georgia, flow during the rise and fall of the tides, it obstructs the currents flowing to and from the Gulf of Georgia, giving them various courses by deflection, and often producing, in many places, tide-rips sufficiently extensive to endanger small craft.

The islands are separated by narrow but very deep channels, so deep indeed that the largest class vessels can pass through almost any of them. This is the character of almost every narrow channel separating islands lying between the continent and Vancouver's Island, and has led many a sailor to compare these waters to the Straits of Magellan, where it is often difficult to find anchorage.

In circumnavigating the archipelago scarcely a harbor is to be found capable of accommodating vessels of even ordinary size, although there are many places where anchorage may be found, and where vessels could lie in safety, under the lee of some island, during storms from certain quarters. But within the nest, as it were, there are some of the most beautiful harbors in the world. There is among them a perfect network of channels, all sufficiently deep to be navigated by the largest vessels, and unobstructed by rocks, except in a few localities which are marked on the chart.

Of the entire area of the islands, it is estimated that about sixty square miles is arable land, and about eighty square miles is pastoral land, covered with nutritious grass, which retains its verdure nearly throughout the year. The remainder is principally covered with forests of the coniferous trees of that region, consisting of fir, pine, and cedar, which on some portions of the islands attain great size and beauty. Part of that which is described as arable and pastoral land is also timbered to some extent, and would necessarily have to be cleared before the soil could be cultivated. The islands are well watered by lakes and running streams. Although the portion of open country is small, yet distributed over the whole group are patches of prairie land, smooth, swelling slopes, and mountain sides covered with luxuriant grass to their summits, giving to wild and solitary tracts a pleasingly rural aspect.

A noticeable feature in the topography of these islands is the peculiarity that the mountains at the northern end are almost universally the most elevated, and gradually diminish in height toward the south. Another striking feature is that the southern slopes are almost invariably destitute of timber, but are covered with a luxuriant growth of grass. This peculiarity is so striking as to attract the attention of all who traverse these waters, and in spring time and early summer, when the grass is green and the flowers are in bloom, the prospect is enchanting. The absence of trees in these localities may be attributed to the fact that the soil is very shallow, overlying masses of rock, but sufficiently deep to sustain grass, assisted by the direct rays of the sun.

These islands are particularly adapted to raising sheep, as has been fully

demonstrated by the Hudson's Bay Company on San Juan Island. The mutton of Vancouver's and San Juan islands is remarkable for its delicacy of flavor, which may be accounted for by the peculiar properties of the grazing. The same favorable circumstances exist on the other islands, a mild climate, absence of beasts of prey, (except on Lopez Island,) and an abundance of sweet nutritious grass, even to the summits of the mountains, during nearly the entire year. The deer on the islands were found in midwinter in most excellent condition. On San Juan Island the sheep increased so rapidly it was difficult to find fresh pasturage for them near the Hudson's Bay Company's establishment. The average net weight of the sheep when full grown and fat is fifty pounds; of the fleece three and a half pounds.

Coal and limestone are found on several of the islands. Fisheries were formerly carried on at several localities, and they could easily be made very productive and profitable. Trees of great value for their timber, lumber, and resinous properties, grow on all the larger islands.

Although much of the land is mountainous and only adapted to grazing purposes, these islands are as valuable, agriculturally, as the settled portions of Vancouver's Island, which they resemble in general character.

It might be mentioned, incidentally, that these islands for the most part belong to the Indians of Washington Territory, the Lummies claiming Orcas, Blakely, Decatur, and a part of Lopez, and the Challams a part of San Juan. The whole inside of the northeastern part of San Juan formerly belonged to a tribe kindred to the Lummies, and now extinct.

It is in a military and naval point of view, however, that this archipelago possesses the greatest value, embracing as it does some of the finest harbors in the territory, commanding Bellingham Bay and Admiralty Inlet, and in fact forming the key to the whole of the Puget Sound district. The interior passages and bays are capable of being entirely closed by fortifications, which is not the case with our other possessions on the Sound, and the islands themselves command all the adjacent waters. They are in fact the only check upon the preponderance which the ownership of Vancouver's Island gives to Great Britain in this quarter.

Frequent allusion has been made in the discussion of the water boundary question to the military importance of the Haro Archipelago, and extracts have been made from reports of General Persifer F. Smith, and Captain Stoneman, and Lieutenant Whiting, on the subject.*

General Totten, Chief Engineer of the United States army, made a tour of inspection to this region in 1860, and, in his report to the War Department, says:

The fitness of this island [San Juan] for a permanent fortification, or for a military station of any kind, depends upon its relation to so much of our water frontier as lies along the Straits of Fuca, and its water communications with the Gulf of Georgia.

This particular subject was, therefore, kept in mind while I was pursuing my general examination of the northwest coast. It directed the particular course of my inspections of those waters, and led me to extend my explorations as high up as Fraser's River.

I find nothing in the magnitude, form, or position of San Juan Island that will admit of treatment for such a purpose, separate from general military considerations, those only with which I have anything to do; and I now proceed to give, as briefly as I can, the convictions that have arisen in my mind after mature reflection.

Great Britain, by owning the whole of Vancouver's Island, of which the southern shore bounds the Straits of Fuca on the north, possesses, just within its southern extremity, the admirable man-of-war harbor of Esquimaux; and she now occupies it as a naval station, having present there at the time of my visit one line-of-battle ship and four war steamers. This harbor has, in a high degree, every internal convenience—facility of ingress and egress at all times, and perfect defensibility at a moderate cost, by fortifications, should such defence be considered necessary at any future time.

My first remark on these circumstances is, that, possessing Esquimaux harbor, the ownership of the San Juan archipelago, or of that island alone, is not necessary to Great Britain

for her own occupation, either for defensive or offensive purposes; because, while occupying Esquimault harbor, and enjoying naval superiority, she will command completely, so far as local position can enable her, the Straits of Fuca and all other waters within Cape Flattery, including Puget Sound, Admiralty Inlet, and all the channels and passages of the San Juan archipelago. All our commerce and communications therein will be interrupted, or exposed to the greatest hazards.

With superiority afloat, she will need no fortifications in the archipelago in order to command the passages. Its quiet and pleasant waters may be much resorted to by her cruisers, but the place of refreshment, rendezvous, and, if need be, of refuge, will, because there can be no better, be Esquimault itself. Indeed, a fortified anchorage at San Juan Island, for instance, would not be essentially nearer, and would no better overlook our harbors of Dungeness, Port Discovery, Sequim Harbor, Admiralty Inlet, Puget Sound, &c., &c., than that of Esquimault.

Neither does Great Britain need San Juan Island, nor any other island in the group, for the purpose of defending by fortifications her communications with the Gulf of Georgia. Such a system would demand numerous works to overlook the many navigable passages through the group, while the same naval force that will be indispensable for other purposes will be precisely the best description of force for this defence, and for the interception of, and resistance to expeditions from our distant shores.

If, therefore, the archipelago be assigned to Great Britain, it will hardly be the seat of any naval or military establishment. Possibly, with the growth of the country, some establishments there may be deemed to need slight defences against predatory raids; but nothing of that sort can occur within any reasonable time; and nothing is likely to happen in that way to bear upon our present question. But even if it be her wish to fortify there, her desire to retain the island arises, I am convinced, much less from a belief that such a military or naval station is necessary to her interest in that region than from a knowledge that to us they will afford military advantages quite important, and not otherwise to be had.

This leads me to remark, in the second place, that by the establishment of the division line between the two countries, in the Straits of Haro, we shall, in some sort, have compensation for the advantages Great Britain enjoys by owning the whole of Vancouver's Island, and maintaining a predominant naval force at its southern extremity, since it will then be in our power to react with more or less effect, according to our energy and enterprise, upon these interior waters, by securely fortifying an anchorage at San Juan Island, or some other place close upon the Haro Channel.

The presence, under the shelter of such fortifications, of fast, armed steamers, would exercise an important influence upon the communications between the Straits of Fuca and the Gulf of Georgia, Fraser river, &c.; would at all times threaten and harass this communication; and completely command it, whenever it should happen to be without the actual presence of a strong convoy.

It is easy to see that no such effects could be looked for, with the naval mastery against us, if our nearest fortified position were some forty or fifty miles distant from the main channel—which will be the case if the Rosario Strait is to become the boundary.

My conclusions, from these and such like considerations, are that the possession of the San Juan group of islands is, strategically, of high importance to us; that without this possession, there can be no escape or relief from the paralysis that adverse naval predominance will impose on all our coasts and waters inside of Cape Flattery; and that, so far as considerations of a different nature admit, or can be materially aided by such influences, this importance can hardly have too much weight given to it. (Congressional Globe, 36th Congress, 1st session, p. 2562.)

During the time that the Boundary Commission wintered at Camp Simiahmoos when active operations along the line of survey had to be suspended, and at other convenient opportunities, a number of expeditions were made to these islands by several of the assistants, chiefly for the purpose of collecting natural history information. From their notes, more particularly from those made by Dr. C. B. R. Kennerly, the Surgeon and Naturalist, this general description of the islands is compiled.

It is much to be regretted that a more uniform system has not been adopted in regard to the names given to localities in this region. Many of the islands and channels have two, and in some cases even three names attached to each of them. If the names given by the early Spanish navigators were to be dropped, it is unfortunate that those given by Captain Wilkes should not have been perpetuated. On the chart of the United States Coast Survey, (published some twelve years after Wilkes,) the names he had given were, in many instances, omitted, and in other instances changed. The late British charts have, to a certain extent, ignored both Wilkes and the Coast Survey in this respect.

It is but just and proper to retain the names of Captain Wilkes in all cases, except where the names given by the Spanish discoverers are well established. This plan is adopted in the brief sketch herewith presented.

SAN JUAN ISLAND, (*Rodgers Island* of Captain Wilkes)

San Juan Island is bounded on the south and west by the Canal de Haro; on the north by Spieden Channel; and on the east by President's Passage, Ontario Roads, and Little Belt Passage.

It is the most important island of the Haro group, on account of its geographical position, amount of valuable land, and the prominence that has been given to it by the boundary dispute, and its joint military occupation by the United States and Great Britain. It was the first island of the group that the British government attempted to make a dependency of Vancouver's Island, by occupation through the Hudson's Bay Company, and assumption of jurisdiction over it; and now that their claim to all the islands of the archipelago lying east of it has been virtually abandoned, it is the only one of importance to which even a quasi claim by that government is maintained.

In December, 1853, the Hudson's Bay Company sent one of their clerks from Victoria to establish a station on San Juan. This movement was doubtless accelerated by the passage of a law in 1852-'53 by the territorial legislature of Oregon, embracing the Haro Archipelago in one of its counties.

The raising of sheep had been so successfully carried on at Vancouver's Island, it was determined to make use of this island for the same purpose, and a flock of sheep was landed at the same time that the company's agent took up his residence on the island. This may be considered the first permanent occupation of San Juan, although for a number of years previous it had been temporarily occupied by them as a fishing station during the short season when salmon are taken.

The Hudson's Bay Company's movement was soon followed by citizens of Washington Territory, and a custom-house agent was also placed upon the Island by the collector of Port Townsend. The insecurity and danger arising from the depredations of the Indians who came down from the Russian and British possessions at the north, in their immense war canoes, forced our citizens to abandon their attempts at settlement. The Hudson's Bay Company people, however, do not seem to have experienced the same danger, and their establishment went on prosperously.

When these northern Indians start out upon their trading and marauding expeditions with a fleet of canoes, varying in number according to the object and extent of their excursions, they present a truly formidable array. Their canoes, made from the single trunk of the giant cedar of their country, are of the most beautiful model and workmanship; they are from seventy-five to one hundred feet in length, and will carry from fifty to sixty persons, and a plentiful supply of arms, ammunition, and stores. They have been known to capture large vessels. An idea may be formed of the seaworthiness of these craft, and of the Indians' skill in navigating them, from the fact that they make voyages along the coast of over five hundred miles in extent, and go far out to sea in pursuit of the whale. These canoes, propelled by fifty or sixty paddles, are driven through the water with great speed.

The appearance of these "vikings" of the northwest in the waters of Puget Sound formerly spread consternation among the few settlers in that region, and more especially among the Indians there, so inferior in all respects to their hated northern enemies.

It was often made the cause of complaint by the American citizens that these pirates received too friendly a welcome at the Hudson's Bay Company's station on Vancouver's Island, where the authorities seemed to accord to them bellig-

erent rights, and afforded them harbors from which to sally forth in their depredations—advantages similar to those enjoyed by the rebel privateers during the late rebellion. Allowance, however, should be made for the excited state of feeling naturally arising from the fact that while the American citizens were being plundered and murdered, the Hudson's Bay Company were almost entirely exempt from these outrages, and comparatively on friendly terms with the Indians, whose incursions may be said to have had for their object plunder of Americans, and traffic with the Hudson's Bay Company. The more correct explanation of their different treatment of the Americans and British subjects, however, is the latter's greater strength and more politic management of the Indians. And it is only justice to record the fact that United States citizens on San Juan Island have, on several occasions, received the willingly accorded protection of the Hudson's Bay Company's agent.

The first conflict of jurisdiction on the island occurred in 1855. The property of the Hudson's Bay Company was assessed in the same manner as other property within the limits of United States territory. The company refused to pay the taxes, when the sheriff of Whatcom County levied upon and sold enough sheep to satisfy the demand. An enormous claim for damages against the United States on the part of the Hudson's Bay Company followed, which remains unsettled to this day, and is, of course, utterly invalid, if the island belongs to the United States.

No further conflict seems to have taken place until July, 1859, when representation was made to General Harney, commanding the Military Department of Oregon, that it was contemplated by a civil officer of the British government on the island to arrest an American citizen for some alleged offence and carry him to Victoria, the seat of government of Vancouver's Island, for trial. The settlers also reported that there was not sufficient security on the island against the depredations of northern Indians. These combined statements had sufficient weight with General Harney (who seemed satisfied that there could be no doubt that the island belonged to the United States) to induce him to send a company of infantry there for the protection of United States citizens. The troops landed on the 26th of July. The British authorities protested against this military occupation, and events soon transpired of such a character as caused the General to add to the company originally placed there all the available troops in Washington Territory. In the mean time a British naval force was kept at anchor in the harbor. The feeling excited by this movement among the people of both countries resulted in the President's sending out General Scott, in September, 1859, to make some amicable arrangement until the question of sovereignty should be settled by the two governments.

The result of General Scott's mission was a proposition on his part for the withdrawal of all the United States troops, except one company, as originally placed there; and a joint occupancy by the British government with a similar force. The governor of Vancouver's Island replied to this proposition that he had not the authority to accept it; but he gave assurance that no attempt would be made to interfere with the United States troops until he could hear from the home government. The United States troops were accordingly withdrawn, except one company. In March, 1860, the British government sent a company of marines to the northern part of the island, and there established a military post.

The island is still held by this joint military occupation, in accordance with the proposition made by General Scott, and subsequently acquiesced in by the representative of the British government.

San Juan Island is the most western of the Haro group, and has an area of about fifty-four square miles. Its greatest length is about fourteen and a half miles; its general shape being very irregular, the width varies at different localities; its widest part is about six and a half miles. Low ranges of hills trend along its eastern and western shores, those on the western side being the high-

est, Mount San Juan, in this range, having an elevation of about one thousand feet. These ranges slope out toward the north, and there are no elevations of any consequence on the northern shore of the island. Between these hill ranges, near the centre of the island, lies a basin-like country, gently undulating in its character. There are extensive prairies in several localities, and from the south end of the island to within a short distance of its northern extremity flocks can feed on green grass almost throughout the year. The greatest amount of arable land is found within the southern third of the island.

Bellevue prairie, situated on the lower end of the island, is about two miles long by half a mile wide. Oak prairie, which takes its name from the groves of oak scattered over it, containing about one thousand acres, is bounded on the north and west by the hills along the west shore that extend across the island at its greatest width. Some of these hills are grassy to their summits, while others are more or less timbered. Immediately north and west of these hills lies a beautiful valley, stretching towards the north end of the island. The southern end of this valley contains several hundred acres of meadow land, but on the north it is heavily timbered. The land contained in it is all apparently fertile, and around it the hills are covered with a luxuriant growth of grass. This valley lies immediately opposite to Henry Island and adjacent to good harbors.

The northern end of the island contains much good land, now covered by a heavy forest, but when divested of this it can be brought into profitable cultivation. In this region there is a grove of large cedars very valuable for lumber. One-third of the entire area of this island, or about twelve thousand acres, is well adapted to cultivation, and nearly all the remainder to pastoral purposes. The soil of the arable portions is excellent, with the exception of Bellevue prairie, which is somewhat gravelly.

Upon this island are at least four beautiful lakes. From some of these flow rivulets of sufficient size and force to produce good water power; but as yet there are no inducements for the erection of mills, as the lumber of the adjacent shores of Puget Sound is superior to that of the island, the latter having all more or less suffered from frequent conflagrations; but in a few years more, when the husbandman shall begin to receive returns for his labors in rich crops of grain, some of these sites may be selected for erecting mills to prepare the produce for distant markets.

A circumstance of great importance, in connection with this island, is the existence upon it of extensive deposits of limestone. It is to be found near the southern end, in the vicinity of the Hudson's Bay Company's station. On the western shore, near the base of Mount San Juan, immense masses raised up into perpendicular walls are seen at several localities, covering an area of many acres. The northeastern corner of the island is composed of an extensive ledge of the same material. A very small island, (O'Neal's,) lying close to the northeast end of San Juan Island, containing only a few acres, is composed almost entirely of limestone. Tested by acid and burning, it proved to be of a superior quality. It exists in sufficient quantities not only for lime, but might be profitably quarried for building-stone. The value of these deposits can better be appreciated from the fact that up to the time of the discovery of limestone on this island it was not known to exist at any point on Puget Sound, within United States territory, and for building purposes it was necessary to procure all the lime used, from California or Vancouver's Island.

In the vicinity of the southern end of the island are, perhaps, the best fishing grounds on Puget Sound. Great quantities of halibut, codfish, and salmon, are taken by the numerous tribes of Indians who, at the proper season, resort to this vicinity for the purpose of fishing. The Hudson's Bay Company were formerly in the habit of putting up at this place from two to three thousand barrels of salmon alone, which were bought from the natives. Persons supplied with the proper appliances for carrying on a fishery would find it a very profitable vocation.

At the southern end of the island there is a large bay, known as Ontario Roads, where vessels are well protected from the prevailing storms of this region. The water near the shore is not deep, and should it ever be desirable to build a wharf at this point it would require one several thousand feet in length to reach three fathoms at low water. The entrance to this roadstead from the Straits of Fuca is through a very narrow but deep channel, known as Little Belt Passage, separating this island from Lopez Island. It is a very convenient and favorite resort for vessels escaping from storms which, often in winter season, very suddenly arise on Fuca Straits. On the northwestern end of the island are several bays, well protected by Henry Island, forming good harbors for vessels of light draught.

HENRY ISLAND.

This is a small island, lying close to the northwestern shore of San Juan Island, containing about one thousand acres. Its topographical features resemble that portion of San Juan adjacent to it, and may be considered as a part of that island.

STUART, JOHN'S, AND SPIEDEN ISLANDS.

These islands, and several islets, lie immediately north of San Juan Island, to the south and east of the Canal de Haro and west of President's Passage. Spieden Channel separates them from San Juan island, and they are separated from each other by several small and intricate passages. Their combined area is about six square miles.

Stuart, the most northern of the group, is the largest; it lies about midway between the southern end of Saturna and northern end of San Juan, and has an area of about $3\frac{1}{2}$ square miles. At its western end there is a mountain peak five or six hundred feet in height, from the summit of which there is a good view of the entire island, as well as of a large extent of the surrounding country. It contains but a few hundred acres of arable land, the island being rough and hilly; it has two beautiful little harbors, one at its north side, and the other at its southeastern side, upon the shores of which are magnificent quarries of sandstone and slate. These materials, so valuable for building purposes, are very limited in quantity throughout Washington Territory, and a locality like this is, therefore, of great value. On one of the harbors are extensive Indian fisheries. The other islands of this small group appear to be comparatively unimportant.

WALDRON ISLAND.

Waldron island lies to the south and east of the Canal de Haro, and north and west of President's Passage, and contains about five square miles. Its southern end consists of a perpendicular bluff of sandstone and conglomerate nearly two hundred feet in height. The eastern shore, composed of the same material, as far as the northeast end of the island, is bold and uninviting. Strong tidal currents sweeping through the narrow passage between this and Orcas Island are gradually changing its character. While this portion is hilly, the western half is low land, and when divested of the forest which covers it, might yield abundant crops if subjected to cultivation. Within this region is a small grassy prairie containing about one hundred acres. The hills on the eastern half of the island contain much good grass. The island has no harbor, although good anchorage in calm weather may be found all along its southern and western shores.

PATOS ISLAND, (*Gourd Island* of Captain Wilkes.)—SUCIA GROUP, (*Percival Group* of Captain Wilkes.)—MATIA GROUP, (*Edmund's Group* of Captain Wilkes.)—BARNES, CLARKE, AND SISTERS ISLANDS.

This chain of islands lies at the south end of the Gulf of Georgia, and forms the breakwater which divides it into the two channels which surround the Haro Archipelago. Their combined area is about two and one-half square miles. The sandstone, which is the principal geological formation, is too soft to be valuable as a building material, and in the places where it is exposed to the action of the waves it is worn into deep hollows.

ORCAS ISLAND, (*Hull's Island* of Captain Wilkes.)

Orcas island lies immediately south of the chain of islands already mentioned as breaking the continuous flow of the waters of the Gulf of Georgia into the Straits of Fuca, and to the north of Shaw's, Lopez, and Blakely islands. It is bounded on the east by Rosario Strait, and on the west by President's Passage, which separates it from San Juan Island. It is the largest and, with the exception of San Juan, the most valuable island in the archipelago. At its northern end it is about four miles wide, and then runs off towards the southeast and southwest, making its greatest width from east to west about thirteen miles, and its greatest length from north to south about nine miles, containing an area of about fifty-five square miles.

There are two main ridges of mountains trending in a general direction a little east of south, and west of north, which are in many places exceedingly precipitous and rugged. The eastern range, bordering on Rosario Strait, is much the higher, Mount Constitution, its highest peak, having an elevation of 2,500 feet. The highest peak in the corresponding western range is Turtle Mountain, 1,600 feet in height.

Between Point Thompson, the northeastern point, and Point Lawrence, the most eastern point, the shore is so rocky and inhospitable that anywhere along it even small boats would fail to find a safe harbor or anchorage. From Point Lawrence to Obstruction Passage the coast is much less bold, and contains several little bays, into which pour rivulets from the mountains, watering small but beautiful valleys.

There are two large bays and one small one on the southern side of the island. Ironsides Inlet, the most eastern, is the largest. It is about a mile wide, varies in depth from five to fifteen fathoms, and extends about seven miles into the island, within a mile of its northern end, thus nearly cutting it into two. Guerriere Bay, about three miles to the westward, is about three miles in length and a mile and a quarter in width, and has a depth of from five to fifteen fathoms. Both of these bays are excellent harbors. There is a small triangular bay known as Fishtrap, extending a short distance into the southwestern end of the island, with its greatest depth ten fathoms.

Within Ironsides Inlet, particularly toward its northern end, are several beautiful spots of agricultural land, and good timber, having the advantage of being immediately adjacent to an excellent harbor. Streams having their sources in lakes in the mountain gorges empty into the bay. One of the most pleasing prospects in this region, and especially along the shores of Orcas Island, is the frequent recurrence of beautiful cascades.

A stream of water, after traversing for several miles a beautiful valley containing some very good meadow land, empties in Guerriere Bay near its head. The largest stream on the island empties into Fishtrap Bay. The land in this vicinity is beautifully located and well adapted to agricultural purposes.

Between this place and the extreme western point of the island there is scarcely a locality of agricultural value; but leaving this and travelling towards Point Doughty, after passing one mountain range, we enter a region where the land becomes level, and the soil rich and productive.

There are some few localities—one or two on Ironsides Inlet, and one at least on Guerriere Bay—where there is excellent water power, but the timber is not of the best quality at those points, as the Indians, and white men too, in search of deer, have, from time to time, fired the forest, thus greatly injuring the growth of the trees. Doubtless, hereafter, when the more desirable lumber of other localities, especially on the adjacent shores of Puget Sound, has become somewhat exhausted, mills will be erected on these beautiful harbors.

A very important feature of this island is the excellent pasturage which exists on the mountain slopes. The grass is green during every month of the year; and on the south side of Mount Constitution even, almost to the very summit. Sheep, goats and cattle placed upon the island would thrive and multiply, without the necessity of special care, as there are no beasts of prey to molest them. Deer and elk are the only quadrupeds of the larger species on the island, and a few years ago these were very numerous. The latter are now rarely seen, and the former are year after year rapidly disappearing before the approach of the white man, and in a few seasons will not be seen upon the island.

While the lower lands present the character of alluvials, the mountains are composed of trap syenite and quartz and afford no valuable stone for building purposes.

A deposit of coal is found near Point Doughty, at the northwest end of the island, similar to that at Nanaimo, on Vancouver's Island, and at Bellingham Bay, on the mainland. The extent of this deposit is not known, but, should future explorations make as favorable developments as are anticipated, a railroad of three or four miles could be easily constructed that would convey the coal to the excellent harbor of Ironsides Inlet.

SHAW'S ISLAND.

Shaw's Island lies south of the west end of Orcas Island, from which it is separated by Harney Channel, and is bounded on the east by Frolic Strait, separating it from Lopez Island; and on the south and west by President's Passage, separating it from San Juan Island. It contains about eight square miles. It is of very irregular shape, and its shores are indented by numerous small bays. In its interior there are no prominent peaks, though the surface is uneven and much broken by hills and valleys; the latter are small and generally very swampy, and are rendered almost impassable by thorny bushes everywhere heaped up in tangled masses. In many places it is almost as difficult to traverse the higher ground, owing to the undergrowth, which consists mainly of small pines and firs. The timber, consisting of fir and cedar, is small and scattered. Here and there are small patches of arable land which, in the aggregate, would hardly exceed 300 acres on the entire island.

OBSTRUCTION ISLAND.

This is a small island between Rosario Strait on the east and Ironsides Inlet on the west, and is separated by narrow passages from Orcas Island on the north, and Blakely Island on the south.

BLAKELY ISLAND.

Blakely Island lies immediately south of Obstruction Island, from which it is separated by a narrow passage, and is bounded by the same bodies of water as the latter on the east and west, and is separated by Thatcher's Pass from Decatur Island on the south. This island in its general shape is nearly square; (it is a little longer from north to south than from east to west.) It rises from the water almost like a pyramid, its highest peak, which is about 1,050 feet high, being a little north of the centre of the island. It contains about 6½

square miles, and throughout its extent is mountainous and rugged, presenting but few localities of even very limited area which might be profitably cultivated. Its shores are all more or less precipitous and rocky. The timber has been much injured by frequent fires, and for this reason there are no inducements for lumbermen. At least in one place (perhaps in more) there is excellent water power. Grass flourishes on the slopes of the mountains. Near the centre of the island is a beautiful lake of crescentic form, about two miles in length, and four or five hundred yards in width; its outlet is a rapid stream of considerable force which empties into a small bay on the southwestern side of the island.

The only profitable purpose to which this tract of land could be placed would be that of grazing. In this particular it possesses the advantages enumerated on Orcas Island.

DECATUR ISLAND.

Decatur Island lies immediately south of Blakely, from which it is separated by Thatcher's Pass; it is bounded on the east by Rosario Strait; on the south and west by Macedonian Crescent, a bay lying between it and Lopez Island.

The area of this island is about four square miles; its extreme length from north to south being about $3\frac{1}{2}$ miles, and its width about two miles. In its general shape it is quadrangular, resembling Blakely Island. About one-fourth or more of its area is low land, well adapted to cultivation. On its eastern side there is a harbor well protected by its natural configuration from the prevailing southerly winds, and a small island known as James's, immediately adjacent to it in Rosario Strait, leaves it only exposed to storms from the northeast, from which quarter violent winds very rarely blow in this region.

The shores are generally abrupt and precipitous; those on the north being rocky, while those on the south are composed of alternate layers of sand and clay, and their bold bluffs show the continuous action of the waves, which for ages have been violently dashing against them. Evidences of land slides of limited extent, which have occurred apparently very recently, give further proof that the billows are gradually changing them to such an extent that in a few more years their contour will be so much altered that their present topographical features will be no longer recognizable.

Several small streams empty into the bay mentioned as existing on the eastern side of the island, and in this vicinity there is much good cedar timber, which, growing in the low and moist lands, has escaped the repeated fires which have swept through the forest.

The abundance of deer always found upon this island is evidence of its valuable grazing properties.

LOPEZ ISLAND, named after Lopez de Haro, (*Chauncey Island* of Captain Wilkes)

Lopez Island is bounded on the north by Frolic Strait and Ironsides Bay, on the east by the Macedonian Crescent and Rosario Strait; south by Rosario Strait, and west by Little Belt Passage and Ontario Roads, which separate it from San Juan Island. It is very irregular in shape, being characterized, especially on its eastern shore, by deep indentations, which in their formation seem to follow no regular law. Its greatest length from north to south is about ten miles; its greatest width from east to west about four miles, and it has an area of about twenty-eight square miles. At its southern end the land rises into a mound which is nearly five hundred feet in height, known as Watmaugh Head, and is a very prominent landmark for vessels in the Straits of Fuca. The southern coast is abrupt and broken, while to the north there are land-locked bays and beautiful harbors. A body of water lying to the west of Blakely and Decatur

islands, and bounded on the south and west by Lopez Island, called the Macedonian Crescent, is an extensive and well-protected harbor. This bay is studded with small islands covered with verdure.

In many places on the eastern side of Lopez Island the shore is rocky, but on its western side, the soil being alluvial, by washing away it has become in many places high, perpendicular bluffs. The interior of the island contains much level land well adapted to cultivation, and near its centre is a prairie of nearly a square mile in extent; there is also a smaller one near its northern extremity. As on the other islands mentioned, the timber has been much injured by fire. There are scarcely any trees of large size upon the island except in a few low and swampy places. It is not very difficult to traverse much of its extent, especially about its centre, but near the northern end tangled bushes and fallen timber render it a difficult matter, with great toil and trouble, to accomplish more than a mile an hour.

There are permanent streams of water in several localities, and in many places, where the land might be too rocky for profitable cultivation, there is always good grass. Upon this island alone of the entire group was found any positive evidence of the existence of beasts of prey. Wolves are numerous, and of the largest species known to exist on our continent. Why they should be found here and not on Orcas and other islands of the archipelago, is somewhat remarkable. Formerly there were a few of these animals on San Juan Island, but in a very short time after its occupation by white men they almost entirely disappeared, and are now no longer any annoyance to flocks. So it will be on Lopez after a few persons have taken up their abode there.

One-third of the area of this island, perhaps, might be subjected to cultivation, but the greater part of this is still covered with trees, which it would require much labor to clear away. Much of the remaining two-thirds, although rocky, is covered with grass enough to support many hundreds of sheep and cattle.

On its eastern and southern sides there are good fishing grounds, where the Indians yearly take great numbers of salmon and halibut. At one of these localities, on the eastern side, there exists a small but very shallow bay, into which empties, perhaps, the largest stream of the island. At this place the Hudson's Bay Company formerly had a small trading station.

It appears from a report made by Captain Alden, of the United States navy, that in 1853 an American citizen took up a claim on this island for the purpose of getting out timber, and that Governor Douglas, of Vancouver's Island, forced him to take out a license from the British government, and demanded that when his vessel took the timber away she should clear at the Victoria custom-house.*

When the exciting subject of the occupation of San Juan island by United States troops, in the summer of 1859, was under discussion in the Vancouver's Island Legislature, Mr. Pemberton, one of the members, proposed that British troops should be landed on Lopez Island.

* See page 87, Discussion of the Water Boundary Question.

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[36th Congress, 1st session.—Senate Ex. Doc. No. 10.]

Message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 9th instant, the Correspondence of Lieutenant General Scott, in reference to the Island of San Juan, and of Brigadier General Harney, in command of the Department of Oregon.

To the Senate of the United States:

I transmit herewith a report of the Secretary of War, with accompanying papers, in answer to the resolution of the 9th instant, requesting the President "to communicate to the Senate the official correspondence of Lieutenant General Winfield Scott, in reference to the island of San Juan, and of Brigadier General William S. Harney, in command of the Department of Oregon."

JAMES BUCHANAN.

WASHINGTON, January 30, 1860.

WAR DEPARTMENT, January 25, 1860.

SIR: In answer to the resolution of the Senate of the 9th instant, referred by you to this department, I have the honor to transmit herewith copies of the correspondence with Lieutenant General Winfield Scott and Brigadier General William S. Harney, in reference to the recent difficulties at San Juan Island, together with all other papers of interest in possession of this department relating to the subject.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

THE PRESIDENT.

List of papers relating to the recent difficulties at San Juan Island, accompanying the report of the Secretary of War of January 25, 1860.

1. Mr. Marey to Mr. Stevens, July 14, 1855.
2. Same to Mr. Crampton, July 17, 1855.
3. General Harney to Colonel Casey, July 18, 1859.
4. Same to Captain Pickett, July 18, 1859.
5. Same to General Scott, July 19, 1859.
6. Mr. Drinkard to General Harney, September 3, 1859.
7. General Harney to General Scott, August 1, 1859, enclosing petitions of citizens at San Juan.
8. Same to the Adjutant General, August 7, 1859, enclosing letters—
 - a. From Colonel Casey, July 31, with enclosures from Captain Pickett;
 - b. From Captain Pickett, August 3, covering correspondence with Captain Hornby;
 - c. Proclamation of Governor Douglas;
 - d. Reply to same, August 6;
 - e. To Captain Pickett, August 6;
 - f. To commander of the Pacific squadron, August 7; and
 - g. To General Clarke, August 7.
9. Same to same, August 8, 1859.
10. Mr. Drinkard to General Scott, September 16, 1859.
11. General Harney to same, August 18, 1859, enclosing letters—
 - a. To Colonel Casey, August 8;

- b.* From same, August 12, covering correspondence with Admiral Baynes;
- c.* From same, August 14;
- d.* To same, August 16;
- e.* From Governor Gholson, August 11; and
- f.* To Mr. Campbell, August 16.
- 12. Same to the Adjutant General, August 25, 1859, with enclosures—
 - a.* From Governor Douglas, August 13;
 - b.* Reply, August 24;
 - c.* Governor Douglas's message;
 - d.* Debate thereon;
 - e.* Article from the "British Colonist."
- 13. Same to same, August 29, 1859.
- 14. Same to General Scott, August 30, 1859, enclosing letters from Colonel Casey, August 22.
- 15. Same to Colonel Casey, September 2, 1859.
- 16. Same to General Scott, September 14, 1859, enclosing—
 - a.* Affidavit of Mr. Hubbs;
 - b.* Affidavit of Mr. Cutler;
 - c.* Letter from Mr. Hubbs.
- 17. Governor Gholson to General Harney, August 21, 1859.
- 18. General Harney to Mr. Floyd, October 10, 1859, enclosing letters—
 - a.* From Mr. Campbell, August 14;
 - b.* From same, August 30.
- 19. General Scott to the Adjutant General, October 22, 1859.
- 20. Same to same, October 26, 1859.
- 21. Same to Mr. Floyd, October 27, 1859.
- 22. General Harney to General Scott, October 29, 1859, enclosing 1 from Colonel Casey, October 28.
- 23. General Scott to Mr. Floyd, December 8, 1859, with enclosures—
 - a.* Letter to Governor Douglas, October 25;
 - b.* Memorandum by Colonel Lay, October 26;
 - c.* From Governor Douglas, October 29;
 - d.* To same, November 2;
 - e.* Project of settlement;
 - f.* From Governor Douglas, November 3;
 - g.* To same, November 5;
 - h.* Special Orders, November 5;
 - i.* From Governor Douglas;
 - j.* From same, November 7, with enclosure;
 - k.* To Governor Douglas, November 9, with enclosure;
 - l.* To Captain Hunt, November 9;
 - m.* To Colonel Casey, November 9;
 - n.* General Thomas to General Harney, November 9;
 - o.* General Scott to General Harney; and
 - p.* Special Orders.
- 24. General Harney to General Scott, November 17, 1859.

1. *Mr. Marcy to Mr. Stevens.*

DEPARTMENT OF STATE,
Washington, July 14, 1855.

* * * * *

He [the President] has instructed me to say to you that the officers of the territory should abstain from all acts on the disputed grounds which are calculated

to provoke any conflicts, so far as it can be done without implying the concession to the authority of Great Britain of an exclusive right over the premises.

The title ought to be settled before either party should exclude the other by force, or exercise complete and exclusive sovereign rights within the fairly disputed limits. Application will be made to the British government to interpose with the local authorities on the northern borders of our territory to abstain from like acts of exclusive ownership, with the explicit understanding that any forbearance on either side to assert the rights, respectively, shall not be construed into any concession to the adverse party.

By a conciliatory and moderate course on both sides, it is sincerely hoped that all difficulties will be avoided until an adjustment of the boundary line can be made in a manner mutually satisfactory. The government of the United States will do what it can to have the line established at an early period.

I am, sir, your obedient servant,

W. L. MARCY.

His Excellency I. I. STEVENS,
Governor of Washington Territory, Olympia.

2. *Mr. Marcy to Mr. Crampton.*

DEPARTMENT OF STATE,
Washington, July 17, 1855.

SIR: I am under some apprehension that collision may take place between our citizens and British subjects in regard to the occupation of the disputed points along the line between Washington Territory and the British possessions on the north of it.

In the hope of avoiding such a difficulty, I have, by the direction of the President, addressed a letter to the governor of that Territory on the subject, and herewith furnish you with an extract from it. I presume that the government of Her Britannic Majesty will be willing to recommend to her subjects along the boundary in question a similar course until the line can be established. In that way I sincerely hope all collision may be avoided.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

W. L. MARCY.

JOHN F. CRAMPTON, Esq., &c., &c.

3. *General Harney to Colonel Casey.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., July 18, 1859.

SIR: By Special Orders No. 72, herewith enclosed, you will perceive the General Commanding has withdrawn the garrisons from Bellingham and Townsend, and has placed the steamer Massachusetts under your orders for the better protection and supervision of the waters of Puget Sound.

To carry out these instructions with more effect, the General Commanding desires me to communicate to you the following directions: The steamer Massachusetts will proceed without delay to Bellingham, to be used in establishing company "D" 9th infantry on San Juan Island; after which she will convey company "I" of the 4th infantry to Steilacoom, when the company you assign for service on the steamer will be embarked under your supervision. Article 37, general regulations: Troops on board of transports will, as far as

Ex. Doc. 29—10

practicable, govern in the disposition of the company on board. As no surgeon is available for the ship, medical attendance will be obtained at Fort Steilacoom or San Juan Island, when required; medical supplies, however, with directions for use, will be furnished by your medical officer for such probable cases of danger as will require immediate attention.

After the ship has received the necessary stores and supplies, she will be instructed to cruise in the Sound among the islands frequented by the northern Indians, who will be warned not to come into any of the waters under the jurisdiction of the United States, which embraces all the islands and currents to the east of the Straits of Haro.

Any opposition by these Indians will be speedily checked, and the requirements of these instructions will be maintained by force, if necessary. The ordinary rendezvous of the steamer Massachusetts, for wood and water, will be San Juan Island; and should the commander of that island desire the assistance of any force from the ship for purposes connected with the defence of the island, the officer in command of the ship will be instructed to furnish the force and co-operate with the troops in all measures requiring its safety and protection. At the end of every two months the ship will visit Fort Steilacoom to obtain supplies, and for the muster and inspection required by the regulations. The command on the steamer Massachusetts will be borne on the post return of Fort Steilacoom, as a component part of its garrison.

In the ordinary cruising of the Sound, the ship will be propelled by sail only, but at least four days' fuel for steam will be kept constantly on board, to be used whenever necessity requires celerity of motion. The ship will visit the light-houses on the Sound in her cruises, and furnish them any protection that may be needed. As the ship is mounted with eight thirty-two pounders, and the proper ammunition has been provided, the crew will be instructed, under the direction of the master of the vessel, in their use, to obtain the most efficient action from all parties in cases requiring it. Whenever circumstances occur requiring a deviation from the tenor of these instructions, you are authorized to use your own discretion and judgment in the matter, reporting the occurrence to this office. The General Commanding is pleased to communicate his confidence in the zeal, energy, and intelligence you exercise in the discharge of your duties to the service, and he rests assured the details transmitted in this communication will be rendered with satisfaction and advantage to such worthy qualities.

I am, Colonel, very respectfully, your obedient servant.

A. PLEASONTON,

Captain 2d Dragons, Acting Asst. Adj't General.

Lieut. Colonel S. CASEY,

Ninth Infantry, Commanding Fort Steilacoom, Puget Sound.

4. *General Harney to Captain Pickett.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., July 18, 1859.

CAPTAIN: By Special Orders No. 72, a copy of which is enclosed, you are directed to establish your company on Bellevue or San Juan Island, in some suitable position near the harbor at the southeastern extremity. The General Commanding instructs me to say the object to be attained in placing you thus is two-fold, viz:

First. To protect the inhabitants of the island from the incursions of the northern Indians of British Columbia and the Russian Possessions. You will not permit any force of these Indians to visit San Juan Island or the waters of Puget Sound in that vicinity over which the United States have any jurisdic-

tion. Should these Indians appear peaceable you will warn them in a quiet but firm manner to return to their own country, and not visit in future the territory of the United States; and in the event of any opposition being offered to your demands, you will use the most decisive measures to enforce them; to which end the commander of the troops stationed on the steamer Massachusetts will be instructed to render every assistance and co-operation that will be necessary to enable your command to fulfil the tenor of these instructions.

Second. Another serious and important duty will devolve upon you in the occupation of San Juan Island, arising from the conflicting interests of the American citizens and the Hudson's Bay Company establishment at that point. This duty is to afford adequate protection to the American citizens in their rights as such, and to resist all attempts at interference by the British authorities residing on Vancouver's Island, by intimidation or force, in the controversies of the above-mentioned parties.

This protection has been called for in consequence of the chief factor of the Hudson's Bay Company, Mr. Dallas, having recently visited San Juan Island with a British sloop-of-war, and threatened to take an American citizen by force to Victoria for trial by British laws. It is hoped a second attempt of this kind will not be made, but to insure the safety of our citizens the General Commanding directs you to meet the authorities from Victoria at once, on a second arrival, and inform them they cannot be permitted to interfere with our citizens in any way. Any grievances they may allege as requiring redress can only be examined under our own laws, to which they must submit their claims in proper form.

The steamer Massachusetts will be directed to transport your command, stores, &c., to San Juan Island, where you are authorized to construct such temporary shelter as the necessities of the service demand.

Any materials, as doors, window-sash, flooring, &c., that can be rendered available will be taken with you from Fort Bellingham. To secure to your command the vegetables of your garden a small detachment will be left to gather them when grown.

The General Commanding is fully satisfied, from the varied experience and judgment displayed by you in your present command, that your selection to the duties with which you are now charged will advance the interests of the service, and that your disposition of the subjects coming within your supervision and action will enhance your reputation as a commander.

In your selection of a position, take into consideration that future contingencies may require an establishment of from four to six companies retaining the command of the San Juan harbor.

I am, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

Captain 2d Dragoons, Acting Assistant Adjutant General.

Captain GEORGE PICKETT,

Commanding Company D 9th Infantry,

Fort Bellingham, Puget Sound.

5. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., July 19, 1859.

SIR: * * * * *

On the morning of the 9th instant I left Victoria and visited Bellevue, or San Juan Island, about ten miles to the east of Vancouver's Island, on the opposite side of the Straits of Haro. This island is fifteen miles long and five or six broad. It contains fine timber, good water and grass, and is the most com-

manding position we possess on the Sound; overlooking the Straits of Haro, the Straits of Fuca, and the Rosario Strait, it is the most suitable point from which to observe and prevent the northern Indians from visiting our settlements to the south of it. At the southeastern extremity one of the finest harbors on this coast is to be found, completely sheltered, offering the best location for a naval station on the Pacific coast.

The Hudson's Bay Company have an establishment on this island for the purpose of raising sheep, which they export at eight dollars a head. Twenty-five Americans, with their families, are also living upon the island, and I was petitioned by them, through the United States inspector of customs, Mr. Hubbs, to place a force upon the island to protect them from the Indians, as well as the oppressive interference of the authorities of the Hudson's Bay Company at Victoria, with their rights as American citizens. Mr. Hubbs informed me that a short time before my arrival the chief factor of the company at Victoria, Mr. Dallas, son-in-law of Governor Douglas, came to the island in the British sloop-of-war *Satellite*, and threatened to take one of the Americans by force to Victoria, for shooting a pig of the company. The American seized his rifle and told Mr. Dallas if any such attempt was made he would kill him on the spot. The affair then ended. The American offered to pay to the company twice the value of the pig, which was refused.

To prevent a repetition of this outrage, I have ordered the company at Fort Bellingham to be established on San Juan Island for the protection of our citizens, and the steamer *Massachusetts* is directed to rendezvous at that place with a second company to protect our interests in all parts of the Sound.

* * * * *

I am, sir, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Brigadier General, Commanding.

The ASSISTANT ADJUTANT GENERAL,

Headquarters of the Army, New York City.

6. *Mr. Drinkard to General Harney.*

WAR DEPARTMENT, *September 3, 1859.*

SIR: Your despatch of the 19th of July last, addressed to the General-in-chief, has been forwarded to this Department, and laid before the President for his consideration.

The President was not prepared to learn that you had ordered military possession to be taken of the island of San Juan or Bellevue. Although he believes the Straits of Haro to be the true boundary between Great Britain and the United States, under the treaty of June 15, 1846, and that, consequently, this island belongs to us, yet he had not anticipated that so decided a step would have been resorted to without instructions. In cases respecting territory in dispute between friendly nations it is usual to suffer the *status* of the parties to remain until the dispute is terminated one way or the other, and this more especially while the question is pending for decision before a joint commission of the two governments. If you had good reason to believe that the colonial authorities of Great Britain were about to disturb the *status*, by taking possession of the island and assuming jurisdiction over it, you were in the right to anticipate their action. * * * * * The President will not, for the present, form any decided opinion upon your course on the statement of facts presented in your despatch. He will await further details, which he expects to receive from you by the next steamer. He is especially anxious to

ascertain whether, before you proceeded to act, you had communicated with Commissioner Campbell, who could not then have been distant from you, and who was intrusted by this government, in conjunction with the British commissioner, to decide this very boundary question.

In the meantime care ought to be taken to apprise the British authorities that possession has thus been taken solely with the view of protecting the rights of our citizens on the island, and preventing the incursions of the northern Indians into our territory, and not with any view of prejudging the question in dispute or retaining the island should the question be finally decided against the United States.

Very respectfully, your obedient servant,

W. R. DRINKARD,

Acting Secretary of War.

Brigadier General WM. S. HARNEY,
Commanding Department of Oregon, Fort Vancouver.

7. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 1, 1859.

SIR: I have the honor to enclose, for the information of the General-in-chief, a copy of a petition of the American citizens on San Juan Island, Puget Sound, for protection from the constant incursions of marauding Indians.

The requirements of this petition were anticipated by the establishment of company D, 9th infantry, upon the island, and the disposition of the steamer Massachusetts to act in concert with that company, as contained in Special Orders No. 72 from these headquarters, a copy of which order has already been transmitted to your office.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,

Brigadier General, Commanding.

ASSISTANT ADJUTANT GENERAL,
Headquarters of the Army, New York City.

7 a.

SAN JUAN ISLAND, July 11. 1859.

*To General Harney, Commander-in-Chief
of the Pacific Division of the United States Army:*

The undersigned, American citizens on the island of San Juan, would respectfully represent: That in the month of April, in the year one thousand eight hundred and fifty-eight, the house of the United States inspector of customs for this island was attacked and fired into in the night by a party of Indians living on this island, and known as the Clallams, and had it not been for the timely aid of the Hudson's Bay Company, the inspector would have fallen a victim to their savage designs. In the month of July following we found on the beach, close to the above-mentioned Indian camp, the bodies of two white men, apparently Americans, who had, when found, cotton cords about their necks which had been used to conceal them under water. Last fall another daring murder was committed in the middle of the day, and in the plain sight of us all here, without the slightest chance of our rendering them assistance. Only ten days ago another body was found on our shore which had been the

victim of foul play. Inclusive with the above dangers that we are exposed to from our neighboring Indians, we are continually in fear of a descent upon us by the bands of marauding northern Indians, who infest these waters in large numbers, and are greatly retarding the progress of the settlement of this island.

According to the treaty concluded June 15, 1846, between the United States and Great Britain, (the provisions of which are plain, obvious, and pointed to us all here,) this and all the islands east of the Canal de Haro belong to us; we therefore claim American protection in our present exposed and defenceless position.

With a view of these facts, and for the essential advantage of having this and the surrounding islands immediately settled, we most earnestly pray that you will have stationed on this island a sufficient military force to protect us from the above mentioned dangers until we become sufficiently strong to protect ourselves.

J. M. Haggaret.	Noil Ent.
Samuel McCauley.	Michael Farris.
J. E. Higgins.	George Perkins.
Chas. H. Hubbs.	Alex. McDonald.
L. A. Cutlar.	Peter Johnson.
William Butler.	Angus McDonald.
J. D. Warren.	William Smith.
H. Wharton, jr.	Charles McCoy.
John Witty.	D. W. Oakes.
B. S. Andrews.	Paul K. Hubbs, jr.
John Hunter MacKay.	Paul K. Hubbs.

8. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 7, 1859.

COLONEL: I have the honor to enclose, for the information of the War Department, a copy of a proclamation of Governor Douglas, of Her Britannic Majesty's island of Vancouver, also a copy of my reply to the same, with a copy of a letter I have addressed to the senior officer of our navy on this coast, requesting him to send a proper force to observe the British vessels-of-war, which are being used to threaten, with attempts to intimidate, our people on the Sound.

I have also the honor to enclose a correspondence between Captain George Pickett, 9th infantry, commanding on San Juan Island, and Captain Hornby, the senior officer commanding her Majesty's ships Tribune, Plumper, and Satellite.

The threatening attitude the British authorities have seen proper to assume, has caused me to order Lieutenant Colonel Casey to re-enforce Captain Pickett with his three companies from Fort Steilacoom, which post will be occupied by four companies of the 3d artillery from Fort Vancouver until further orders.

In my report of July 19, 1859, to the headquarters of the army, I stated I had ordered the company from Fort Bellingham to San Juan Island to protect the American citizens residing on that island from the insults and indignities which the British authorities of Vancouver's Island did not hesitate to offer them on every occasion. On my visit to San Juan Island, mentioned in that report, the United States inspector of customs on the island, Mr. Hubbs, made an official complaint in behalf of the American citizens of the outrages perpetrated upon them by the British authorities of Vancouver's Island, who are connected with the Hudson's Bay Company establishment, and who have a sheep farm on the island. This company pretend to own the whole island, which is some fifteen or twenty miles long, and five or six broad—while their improvements on the island are a few old houses, and some small fields under enclosure.

A week or ten days ago, before my arrival on that island, one of the Americans shot a pig belonging to the Hudson's Bay Company, after having been greatly provoked by the person in charge, to whom he had applied to have the pig secured, as it damaged his fields. This request was treated with contempt, and the pig was shot, the American offering twice the value for the animal, which was refused. The next day the British ship-of-war *Satellite*, with Mr. Dallas on board, who is the chief factor of the Hudson's Bay Company, and a son-in-law of Governor Douglas, visited the island, and threatened to take the American to Victoria, by force, for trial. The American resisted, seized his rifle, and in return told Mr. Dallas he might take him, but he would kill him first. I was also informed that the Hudson's Bay Company had threatened, at different times, to send the northern Indians down upon them, and drive them from the island. This statement has since been confirmed to me by some of the most reliable citizens of the Sound. I felt it my duty, therefore, to give these citizens the protection they sought with such just and pressing claims.

Governor Douglas is the father-in-law of Mr. Dallas, and, having the local rank of vice-admiral, he commands the British navy in the Sound. This accounts, in some measure, for the use of the British ships of war in the supervision of the interests of the Hudson's Bay Company. To attempt to take, by an armed force, an American citizen from our soil, to be tried by British laws, is an insult to our flag, and an outrage upon the rights of our people, that has roused them to a high state of indignation. I, therefore, most respectfully request the President to consider the necessities for an increased naval force on this station, to give confidence to the people that their rights will be respected.

It would be well for the British government to know the American people of this coast will never sanction any claim they may assert to any other island in Puget Sound than that of Vancouver's, south of the 49th parallel, and east of the Canal de Haro; any attempt at possession by them will be followed by a collision.

I desire to assure the department that while there is no one more desirous than myself for an amicable settlement of the difficulties raised by the British authorities of Vancouver's Island, at this time, I shall use all the means at my command to maintain the position I have assumed in regard to San Juan Island, being fully convinced that whatever respect and consideration might have been yielded to the statements of a doubtful claim advanced in due form, have been forfeited by the overbearing, insulting, and aggressive conduct Her Majesty's executive officers have displayed, not only towards our citizens, but to the officer commanding our troops at San Juan.

I am, Colonel, very respectfully, your obedient servant,

W. S. HARNEY,

Brigadier General, Commanding.

Colonel S. COOPER,

Adjutant General, Washington City, D. C.

S a.

FORT STEILACOOM, W. T., July 31, 1859.

CAPTAIN: I have the honor to report that I have despatched the Massachusetts to-day with Major Haller's company I, 4th infantry, for San Juan Island. I sent, also, on the same steamer, Lieutenant Shaaff and twenty men, to report for duty with the Boundary Commission, at Simiahmoo.

I have directed the acting assistant quartermaster at this post to forward to San Juan the articles which Captain Pickett informed me he required, and which could be spared from this post. I have also directed the steamer to take

from Fort Townsend a small boat and some tarpaulins, which are much needed at San Juan.

I have directed, in case contrary orders are not received from department headquarters, that the steamer Massachusetts shall stop at Fort Townsend, in returning to this post, on the 31st proximo, (for the muster and inspection of the company,) and take on board all the public property and the detachment of men, and convey them to this post.

I directed that one sergeant and two privates be left there until further orders, to take charge of the public quarters and gardens.

I have enclosed, for the information of the General, copies of communications which have passed between Captain Pickett and the agent of the Hudson's Bay Company at San Juan, also a note which I received from the captain. Not having been informed of the tenor of Captain Pickett's instructions, I could not, of course, advise him with regard to them. The authorities on the other side are trying to bluff a little, but I do not apprehend anything serious.

Very respectfully, your obedient servant,

SILAS CASEY,

Lieutenant Colonel 9th Infantry, Commanding Post.

Captain ALFRED PLEASANTON,

Acting Assistant Adjutant General U. S. A.,

Department of Oregon, Fort Vancouver, W. T.

[Enclosures.]

1. Captain Pickett to Colonel Casey, July 30.
2. Mr. Griffin to Captain Pickett, July 30.
3. Captain Pickett to Mr. Griffin, July 30.

8 a 1.

MILITARY CAMP,

San Juan Island, W. T., July 30, 1859.

MY DEAR COLONEL: I have the honor to enclose you some notes which passed this morning between the Hudson's Bay authorities and myself. From the threatening attitude of affairs at present, I deem it my duty to request that the Massachusetts may be sent at once to this point. I do not know that any actual collision will take place, but it is not comfortable to be lying within range of a couple of war steamers. The Tribune, a 30-gun frigate, is lying broadside to our camp, and from present indications everything leads me to suppose that they will attempt to prevent my carrying out my instructions.

If you have any boats to spare I should be happy to get one at least. The only whale-boat we had was, most unfortunately, staved on the day of our departure.

We will be very much in want of some tools and camp equipage. I have not the time, colonel, to make out the proper requisition, but if your quartermaster can send us some of these articles it will be of great service.

I am, sir, in haste, very truly, your obedient servant.

G. E. PICKETT,

Captain 9th Infantry.

Lieutenant Colonel S. CASEY,

Ninth Infantry, Commanding Fort Steilacoom, W. T.

P. S.—The Shubrick has rendered us every assistance in her power, and I am much indebted for the kindness of officers.

8 a 2.

BELLEVUE FARM, *San Juan, July 30, 1859.*

SIR: I have the honor to inform you that the island of San Juan, on which your camp is pitched, is the property and in the occupation of the Hudson's Bay Company, and to request that you and the whole of the party who have landed from the American vessels will immediately cease to occupy the same. Should you be unwilling to comply with my request, I feel bound to apply to the civil authorities. Awaiting your reply,

I have the honor to be, sir, your obedient servant,

CHAS. JNO. GRIFFIN,

Agent Hudson's Bay Company.

Captain PICKETT, &c., &c., &c.

8 a 3.

MILITARY CAMP,

San Juan, W. T., July 30, 1859.

SIR: Your communication of this instant has been received. I have to state in reply that I do not acknowledge the right of the Hudson's Bay Company to dictate my course of action. I am here by virtue of an order from my government, and shall remain till recalled by the same authority.

I am, sir, very respectfully, your obedient servant,

GEORGE E. PICKETT,

Captain 9th U. S. Infantry, Commanding.

Mr. CHARLES J. GRIFFIN,

Agent Hudson's Bay Company, San Juan Island, W. T.

8 b.

MILITARY POST,

San Juan, W. T., August 3, 10 p. m.

CAPTAIN: I have the honor to report the following circumstances: The British ships the Tribune, the Plumper, and the Satellite are lying here in a menacing attitude. I have been *warned off* by the Hudson's Bay agent; then a summons was sent to me to appear before a Mr. De Courcey, an official of Her Britannic Majesty. To-day I received the enclosed communications, and I also enclose my answer to same.

I had to deal with three captains, and I thought it better to take the brunt of it. They have a force so much superior to mine that it will be merely a monthful for them; still I have informed them that I am here by order of my commanding general, and will maintain my position if possible.

They wish to have a conjoint occupation of the island; I decline anything of that kind. They can, if they choose, land at almost any point on the island, and I cannot prevent them. I have used the utmost courtesy and delicacy in my intercourse, and, if it is possible, please inform me at such an early hour as to prevent a collision. The utmost I could expect to-day was to suspend any proceeding till they have time to digest a *pill* which I gave them. They wish to throw the onus on me, because I refused to allow them to land an equal force, and each of us to have military occupation, thereby wiping out both civil authorities.

I say, I cannot do so until I hear from the General.

I have endeavored to impress them with the idea that my authority comes directly through you from Washington.

The "Pleiades" left this morning for San Francisco with Colonel Hawkins. The excitement in Victoria and here is tremendous. I suppose some five hundred people have visited us. I have had to use a great deal of my *peace-making* disposition in order to restrain some of the sovereigns.

Please excuse this hasty, and I am almost afraid unintelligible letter, but the steamer is waiting, and I have been writing under the most unfavorable circumstances. I must add that they seem to doubt the authority of the General Commanding, and do not wish to acknowledge his right to occupy this island, which they say is in dispute, unless the United States government have decided the question with Great Britain. I have so far staved them off, by saying that the two governments have without doubt settled this affair; but this state of affairs cannot last, therefore I most respectfully ask that an express be sent me immediately on my future guidance. I do not think there are any moments to waste. In order to maintain our dignity we must occupy in force, or allow them to land an equal force, which they can do now, and possibly will do in spite of *my* diplomacy.

I have the honor to enclose all the correspondence which has taken place. Hoping that my course of action will meet with the approval of the General Commanding, and that I may hear from him in regard to my future course at once, I remain, Captain, your obedient servant,

G. E. PICKETT,

Captain 9th Infantry, Commanding Post.

Captain A. PLEASANTON,

Mounted Dragoons, Adjutant General,

Department of Oregon, Fort Vancouver, W. T.

[Enclosures.]

1. Captain Hornby to Captain Pickett, August 3.
2. Captain Pickett to Captain Hornby, August 3.
3. Captain Hornby to Captain Pickett, August 3.
4. Same to same, August 3.
5. Captain Pickett to Captain Hornby, August 3.

8 b 1.

HER MAJESTY'S SHIP TRIBUNE,

Griffin Bay, Island of San Juan, August 3, 1859.

SIR: Having received instructions from His Excellency Governor Douglas to communicate with you in reference to the landing of the United States troops under your command on the island of San Juan, I have the honor to propose a meeting should take place between yourself and any other officers of the United States military forces on the one part, and captains of Her Britannic Majesty's ships on the other, (on board Her Majesty's ship Tribune,) at any hour that may be convenient to you, that we may, if possible, conclude such arrangements as will tend to preserve harmony between the subjects of the two states in this island.

I have the honor to be, sir, your obedient servant,

GEOFFREY PHIPPS HORNBY, *Captain.*

Captain PICKETT,

Commanding Detachment U. S. Troops, Island San Juan.

8 b 2.

MILITARY POST,
San Juan, W. T., August 3, 1859.

SIR: Your communication of this instant, favored by Lieutenant Dunlop, has been received. I have the honor to say, in reply, that I shall most cheerfully meet yourself, and whatever officers of Her Majesty's service that you may select, in my camp, at whatever hour you may choose to designate. Be assured that my wish corresponds with yours to preserve harmony between our respective governments.

I remain, sir, very respectfully, your obedient servant

GEORGE E. PICKETT,
Captain 9th United States Infantry, Commanding.

Captain PHIPPS HORNBY,
*Commanding her Britannic Majesty's Ship Tribune,
 Harbor of San Juan, Washington Territory.*

8 b 3.

HER MAJESTY'S SHIP TRIBUNE,
Griffin Bay, Island of San Juan, August 3, 1859.

SIR: In reply to your letter of this morning, I have to inform you that I shall do myself the honor of calling on you at 2 p. m., in company with the captains of Her Britannic Majesty's ships.

I have the honor to be, sir, your obedient servant,

G. PHIPPS HORNBY, *Captain.*

Captain PICKETT,
Commanding Detachment of U. S. Troops, Island of San Juan.

8 b 4.

HER MAJESTY'S SHIP TRIBUNE,
San Juan Island, August 3, 1859.

SIR: In accordance with your request for a written communication, I have the honor to transmit the substance of the declarations and propositions made by me to you to-day.

Having drawn your attention to the extract of a despatch from Mr. Marcy, Secretary of State, to His Excellency Governor Stevens, dated July 14 1855, prescribing the conduct that should be pursued by the officers of the United States in respect of the disputed grounds, I asked if that was the tenor of your present instructions, or if the relations of the two States had been placed on other than a friendly footing by any of a more recent date.

To this you replied by referring to the date of the despatch.

I then asked you, in the name of Governor Douglas, the terms on which you had occupied the island of San Juan; to which you replied that you did so by order of the "General Commanding," to protect it as a part of the United States territory, and that you believed he acted under orders from the government at Washington.

I then presented to you the Governor's protest against any such occupation or claim. I represented to you that the fact of occupying a disputed island by a military force necessitated a similar action on our part; that again involved the imminent risk of a collision between the forces, there being a magistrate of

each nation now acting on the island, either of whom might call on those of their country for aid.

To prevent the chance of such collision, I suggested that a joint military occupation might take place, and continue until replies could be received from our respective governments; and, during such times, that the commanding officers of the forces should control and adjudicate between their respective countrymen, the magistrates being withdrawn on both sides, or the action of their courts suspended for the time being, their employment not being necessary under a joint military occupation.

I suggested this course as apparently the only one left (short of entire evacuation by the troops under your command) likely to produce the object so much to be desired, viz: the prevention of a collision between the forces or authorities of the two countries, landed or in the harbor of San Juan, an event which must lead to still more disastrous results, by permanently estranging the friendly relations subsisting between Great Britain and the United States of America.

You replied that you had not authority to conclude such terms, but suggested the reference of them to General Harney and Governor Douglas, without interference in any way with our liberty of action.

I pointed out that my proposition was strictly in accordance with the principles laid down in Mr. Marcy's despatch, and that yours, on the other hand, offered no security against the occurrence of some immediate evil.

That as officers of the United States government had committed an act of aggression by landing an armed force on this island pending the settlement of our respective claims to its sovereignty, without warning to us, and without giving you a discretionary power of making any necessary arrangements, that the United States and its officers alone must be responsible for any consequences that might result, either immediate or future.

I agreed to your request to furnish you with the substance of the conversation in writing, and concluded by informing you that having now made what seemed to me a most equitable and simple proposition, I reserved to myself, in the event of your non-acceptance of it, entire liberty of action either for the protection of British subjects and property, or of our claims to the sovereignty of the island, until they are settled by the Northwestern Boundary Commission now existing, or by the respective governments.

I believe I have now given you the substance of our conversation, and have only to add my regret that you were not able to agree to a course which it appears to me would totally avoid the risk of a collision.

The responsibility of any such catastrophe does not, I feel, rest on me or on Her Majesty's representative at Vancouver's Island.

I have the honor to be, sir, your most obedient, humble servant,

GEOFFREY PHIPPS HORNBY,

Captain and Senior Officer.

Captain GEORGE PICKETT,

Commanding Detachment of United States 9th Regiment.

8 b 5.

MILITARY POST,

Island of San Juan, W. T., August 3, 11 p. m.

SIR: I have the honor to acknowledge the receipt of your communication of this date, in reference to the conversation which was held to-day between ourselves and Captains Prevost and Richards. Your recollection of said conversation seems to be very accurate. There is one point, however, which I dwelt upon particularly, and which I must endeavor, as the officer representing my government,

to impress upon you, viz : That, as a matter of course, I, being here under orders from my government, cannot allow any joint occupation until so ordered by my commanding general, and that any attempt to make any such occupation as you have proposed, before I can communicate with General Harney, will be bringing on a collision which *can* be avoided by awaiting this issue. I do not for one moment imagine that there will any difficulty occur on this island which will render a military interference necessary ; and I therefore deem it proper to state that I think no discredit can reflect upon us, or our respective flags, by remaining in our present positions until we have an opportunity of hearing from those higher in authority.

I hope, most sincerely, sir, you will reflect on this, and hope you may coincide with me in my conclusion. Should you see fit to act otherwise, you will then be the person who will bring on a most disastrous difficulty, and not the United States officials.

I have thus hurriedly answered your communication in order to avoid any delay and its consequences.

I remain, with much respect, your obedient servant,

GEORGE E PICKETT,

Captain 9th Infantry, Commanding Post.

Captain G. PHIPPS HORNBY,

Commanding Her Britannic Majesty's Ship Tribune,

Harbor of San Juan, Washington Territory.

8 c.

By JAMES DOUGLAS, C. B., Governor and Commander-in-chief in and over the Colony of Vancouver's Island and its dependencies, Vice-admiral of the same, &c.

The sovereignty of the Island of San Juan, and of the whole of the Haro Archipelago, has always been undeviatingly claimed to be in the Crown of Great Britain. Therefore, I, James Douglas, do hereby, formally and solemnly, protest against the occupation of the said island, or any part of the said archipelago, by any person whatsoever, for or on behalf of any other power, hereby protesting and declaring that the sovereignty thereof by right now is, and always hath been, in Her Majesty Queen Victoria and her predecessors, Kings of Great Britain.

Given under my hand and seal, at Victoria, Vancouver's Island, on this second day of August, one thousand eight hundred and fifty-nine, and in the twenty-third year of Her Majesty's reign.

[SEAL]

JAMES DOUGLAS.

8 d.

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 6, 1859.

SIR: I have the honor to inform you of the receipt of an official copy of a protest made by you to the occupation of San Juan Island, in Puget Sound, by a company of United States troops under my command.

This official copy was furnished by Captain Hornby, of Her Majesty's ship Tribune, to the United States officer in command at San Juan Island, Captain George Pickett, of the 9th infantry of the American army, together with a communication threatening a joint occupation of San Juan Island by the forces

of Her Majesty's ships Tribune, Plumper, and Satellite, now in the harbor of that island by your orders.

As the military commander of the Department of Oregon, assigned to that command by the orders of the President of the United States, I have the honor to state, for your information, that by such authority invested in me I placed a military command upon the island of San Juan to protect the American citizens residing on that island from the insults and indignities which the British authorities of Vancouver's Island and the establishment of the Hudson's Bay Company recently offered them, by sending a British ship-of-war from Vancouver's Island to convey the chief factor of the Hudson's Bay Company to San Juan, for the purpose of seizing an American citizen and forcibly transporting him to Vancouver's Island, to be tried by British laws.

I have reported this attempted outrage to my government, and they will doubtless seek the proper redress from the British government. In the mean time, I have the honor to inform Your Excellency I shall not permit any petition of that insult, and shall retain a command on San Juan Island to protect its citizens, in the name of the United States, until I receive further orders from my government.

I have the honor to be, very respectfully, your obedient servant,
W. S. HARNEY,
Brigadier General United States Army, Commanding.
 His Excellency JAMES DOUGLAS, C. B.,
Governor of Vancouver's Island, &c., Vice-Admiral of the same.

8 e.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 6, 1859.

CAPTAIN : The General Commanding instructs me to inform you of the receipt of Governor Douglas's protest to the occupation of San Juan Island, and directs me to enclose a communication, which you will request Captain Hornby, of Her Majesty's ship Tribune, to transmit to Governor Douglas with all convenient despatch.

The General approves the course you have pursued, and further directs that no joint occupation or any civil jurisdiction will be permitted on San Juan Island by the British authorities under any circumstances.

Lieutenant Colonel Casey is ordered to re-enforce you with his command as soon as possible.

Send Lieutenant Howard to Fort Steilacoom in arrest.

I am, Captain, very respectfully, your obedient servant,

A. PLEASANTON,
Capt. 2nd Dragoons, Acting Asst. Adjt. Gen.
 Captain GEORGE PICKETT,
*9th Infantry, Commanding on San Juan Island,
 Puget Sound, W. T.*

8 f.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 7, 1859.

SIR : I have the honor to inclose for your information a copy of a proclamation of Governor Douglas, the executive officer of Her Britannic Majesty's

island of Vancouver, in Puget Sound; also my reply to this proclamation, as far as it affects the rights of American citizens whose interests have been confided to the protection of my command; and I desire further to inform you that at this time I have a company of United States troops in possession of San Juan Island, to prevent any repetition of the insults that have been offered to our citizens by the British authorities of Vancouver's Island. This company I have ordered to be strongly re-enforced, which the British authorities have threatened not to permit, but also to remove the present force from the island. This I *do not* believe they will attempt, but I shall make every effort to meet and frustrate any designs to place such an indignity upon our flag; and as we have no national vessel belonging to our navy in the waters of Puget Sound to observe the three British vessels of war that have been placed in a threatening attitude over the harbor of San Juan Island, I have the honor to request you, as the commander of the United States naval forces on the Pacific, to order to Puget Sound such force as you can render available to assist in the protection of American interests in that quarter, and to enable us to meet successfully any issue that may be attempted to be made out of the present impending difficulties.

This communication is transmitted through Brigadier General Clarke, commanding Department of California, not having the honor of your acquaintance or a knowledge of your station.

I shall forward immediately a copy of this letter to the Secretary of War, for the information of the President.

I am, sir, with high regard, your obedient servant,

W. S. HARNEY,

Brigadier General U. S. A., Commanding.

The SENIOR OFFICER of the United States Navy
Commanding Squadron on the Pacific Coast.

S g.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 7, 1859.

GENERAL: I have the honor to inclose a communication for the senior officer of the navy commanding on the Pacific coast, in which I have requested a force from his command, to be stationed on Puget Sound, to observe the British men-of-war that are assuming a threatening attitude towards a company of infantry I have placed on San Juan Island.

I will thank you, General, to cause this communication to be transmitted to the proper officer of the navy at your earliest opportunity, as speedy action on his part will do much to allay the excitement which is fast spreading among our people at the overbearing conduct of the British authorities.

I enclose for your information copies of Governor Douglas's proclamation, and my reply to the same.

I enclose, also, an important communication for the Adjutant General, which should reach him as early as possible; perhaps an express line would be more certain and speedy than the mail.

I am, General, with high respect, your obedient servant,

W. S. HARNEY,

Brigadier General, Commanding.

Brigadier General N. S. CLARKE,
*Commanding Department of California,
San Francisco, California.*

9. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 8, 1859.

COLONEL: In connection with my report of yesterday's date, I desire to state that the island of San Juan has for months past been under the civil jurisdiction of Whatcom County, Washington Territory—a justice of the peace had been established on the island—the people had been taxed by the county, and the taxes were paid by the foreigners as well as Americans. An inspector of customs, a United States officer of the Treasury Department, had been placed upon the island in the discharge of his proper duties. The British authorities at Vancouver's Island were aware of all of these facts, and never attempted to exercise any authority on the island, except clandestinely, as reported yesterday in the case of the pig which was killed.

When Governor Douglas heard of the arrival of Captain Pickett's command at San Juan, he appointed a justice of the peace and other civil authorities at Victoria, and sent them over in the British ship-of-war *Plumper* to execute British laws in the island. Captain Pickett refused to permit them to act as such, and I have sustained him in his position. I believe I have now fully and fairly explained all the facts which have any bearing upon the occupation of San Juan Island, which was made an imperious necessity by the wanton and insulting conduct of the British authorities of Vancouver's Island towards our citizens.

I am, Colonel, very respectfully, your obedient servant,

W. S. HARNEY,

Brigadier General, Commanding.

Colonel S. COOPER,

*Adjutant General United States Army, Washington City, D. C.*10. *Mr. Drinkard to General Scott.*WAR DEPARTMENT, *September 16, 1859.*

SIR: 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 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 of July, 1855, addressed a letter to the honorable Isaac I. 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 grounds 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 17th 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 enclosed.

Thus matters stood until General Harney deemed it proper, for the purpose of affording protection to American citizens on the island and the neighboring 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 harbor at the southeastern 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 southeastern 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 July 19 and August 7; and to my despatch to him of the 3d instant, in reply to his of the 19th 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 northern Indians on our frontier settlements, and to 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 favorable 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 shall have been shed. In that event, it would still be your duty, if this can, in your opinion, be honorably done, under the surrounding circumstances, to establish a temporary joint occupation of the island, giving to

neither party any advantage 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 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 tenor of your past life, that you will not suffer the national honor 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, sir, very respectfully, your obedient servant,

W. R. DRINKARD,

Acting Secretary of War.

Lieutenant General WINFIELD SCOTT,

Commander-in-Chief of the United States Army, Washington.

11. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 18, 1859.

SIR: Since my report of the 8th instant to the Adjutant General, a copy of which was sent to your office, with accompanying papers, I have received the inclosed correspondence from Lieutenant Colonel Casey, commanding on San Juan Island, as a record of the events which have occurred at that place; in addition to which I have the honor to report, for the information of the General-in-chief, my own action, based on the above correspondence, as shown by the inclosed copies to Lieutenant Colonel Casey and Commissioner Campbell, and also a copy of a communication from His Excellency Governor Gholson, of Washington Territory, containing an assurance of a cordial response by the people of this Territory whenever it may be necessary to apply for their assistance.

I inclose a list of the fleet and forces of Her Britannic Majesty on service in Puget Sound, which have been made use of to threaten my command occupying San Juan Island. This armament, it will be seen, contains five vessels of war, one hundred and sixty-seven guns, two thousand one hundred and forty men, some six hundred of which are marines and engineer troops; and when it is known that this force has been employed from the 27th day of July until the 10th day of August, the day on which Colonel Casey, with re-enforcements, reached the island, in using every means in its power, except opening a fire, to intimidate one company of infantry but sixty strong, the conviction will be universal that the cause which this large armament had been called upon to maintain must be totally deficient of right, justice, and integrity.

The senior officer of three British ships-of-war threatened to land an overpowering force upon Captain Pickett, who nobly replied that whether they landed fifty or five thousand men, his conduct would not be affected by it; that he would open his fire, and, if compelled, take to the woods fighting; and so satisfied were the British officers that such would be his course, they hesitated in putting their threat into execution. For the cool judgment, ability, and gallantry which distinguished Captain Pickett in his command on San Juan Island, I most respectfully offer his name to the President of the United States for his notice, by the preferment of a brevet, to date from the commencement of his service on San Juan Island.

On the 14th of August Colonel Casey had five companies with him on the island, and was busy placing in position eight thirty-two pounders, taken from the steamer Massachusetts by my orders. By this time four companies more have joined him, making in all nine companies—say five hundred men. These with the citizens on the island, can now defend it until a diversion could be made in their favor. From the height of the island above the water it presents many advantages for shelter from the fire of a fleet, and no force could be landed to dislodge Colonel Casey after his guns are in position and his intrenchments are completed. A detachment of engineer troops will proceed by the mail steamer in a day or two for service with Colonel Casey's command.

The visit of Colonel Casey to Esquimaux harbor to see the British Admiral, was not anticipated by me, and was a generous act of zeal on the part of the Colonel, tending, however, to produce confusion in the minds of the British authorities. I have directed that in future all official communications be referred direct to headquarters.

Some Indian disturbances occurred at Whatcom, on the Sound, about the 7th instant, in which one man was killed. The steamer Massachusetts proceeded immediately to the spot and arrested the ringleaders. Four Indians were killed in the melee at Whatcom, and the remaining offenders have been turned over to the civil authority.

This prompt action has restored quiet to the country around Whatcom.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,

Brigadier General Commanding.

ASSISTANT ADJUTANT GENERAL,

Headquarters of the Army, New York.

11 a.

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 8, 1859.

COLONEL: The General Commanding instructs you to take such supplies from Bellingham and Townsend, for your command on San Juan, as it may require, and any deficiencies make up from Steilacoom.

You are authorized to strengthen your position on San Juan by four companies of the third artillery now en route to Steilacoom, should you conceive the necessity demands it.

It is not the General's intention to reoccupy either Bellingham or Townsend; consequently, as soon as you can conveniently do so, have all the public property from those posts transferred to San Juan and Steilacoom, according to the wants of the service.

The application for Mr. Goldsborough's services as clerk on the steamer Massachusetts to the officer in charge of the public property, has been favorably indorsed and transmitted to the Adjutant General for the approval of the Secretary of War, under General Orders No. 13, from the War Department of this year.

Mr. Goldsborough can be retained in the service until the application is acknowledged.

I am, Colonel, very respectfully, your obedient servant,

A. PLEASANTON,

Captain 2d Dragoons, Acting Asst. Adj. Gen.

Lieutenant Colonel S. CASEY,

9th Infantry, Commanding United States Troops,

San Juan Island, W. T.

11 b.

CAMP PICKETT,

San Juan Island, W. T., August 12, 1859.

CAPTAIN: I have the honor to report that, in obedience to orders received from Department headquarters, I left Fort Steilacoom on the steamer Julia, on the 9th instant, (the morning after the receipt of the order,) with my command. In a short time after leaving we were met by the steamer Active, on her way to Fort Steilacoom, for the purpose of communicating to me the state of affairs on the island. I was strongly and solemnly advised by Captain Alden, in view of the momentous consequences that might arise, not to land any troops on the island, as this would be prevented by the British steamship-of-war Tribune, who, with her fires constantly kept up, was lying with her broadside on the landing.

Although fully appreciating the terrible consequences of a hostile collision with our quasi enemy, which would probably be no less than involving two great nations in war, I did not, under the circumstances, however, consider myself at liberty to disregard my orders, and accordingly resolved to land under the guns of the frigate. The commencing hostilities should be on their side. We left Port Townsend about 12 o'clock the night of the 9th, expecting to reach San Juan early on the morning of the 10th. The fog, however, came up so dense that we did not make the island of San Juan until about 7 o'clock the morning of the 10th.

After hugging the shore for a few miles, I was informed by the captain that we were but a short distance from Captain Pickett's camp, and that it was difficult to get along on account of the fog, and that, moreover, the tide was so low that he would not have been able to have gotten up to the wharf at the landing for several hours.

Finding ourselves a smooth place near the land, with the coast so depressed at the point as to make the ascent from the shore easy, I landed the troops and howitzers, with orders to the senior officer to move them to Captain Pickett's camp. I proceeded on the steamer around to the wharf, taking with me my adjutant and a small guard for the howitzer ammunition and other public property.

I found the Tribune lying as has been described. They did not interfere with the landing of our freight. Whether they would have interfered with the landing of the troops I cannot say. It is Captain Pickett's opinion that they would.

Before I had landed from the steamer I received a message from Captain Pickett, by one of his officers, requesting my presence at once in camp. The captain pointed out to me a British war steamer, ascertained afterwards to be the Satellite, which he was under the impression was about taking a position to shell the camp. The camp is situated on a narrow neck of land opposite to the harbor, and distant about two-thirds of a mile. The Tribune, lying in the harbor, has on board several hundred men, composed of marines, royal artillery, and sappers and miners. He expected the land attack from the harbor side, and was prepared to fire upon them with his howitzers and then spike them, deliver his fire with his musketry, and retreat to the woods. Not having time to form any well considered plan of my own with regard to the state of affairs, I did not countermand the directions that Captain Pickett had given.

Seeing the danger of a collision at any moment, which would inevitably lead to war between two mighty nations connected by so many common bonds, and whichever way it might terminate would be eminently disastrous to the cause of civilization and the interests of humanity, I resolved to make an attempt to prevent so great a calamity. I sent an officer aboard the Tribune with a request

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that Captain Hornby, the commander, would call on me at my camp for the purpose of a conference.

The message returned to me by Captain Hornby was that he was much engaged at that time, and would come if he could conveniently, but would be happy to see me on board his vessel. However, in a few hours the captain came, accompanied by Captain Prevost, the British, and Mr. Campbell, the United States commissioner.

I informed Captain Hornby that I had landed that morning with a force of United States troops, and explained to him the reason why I had not landed at the wharf, under the guns of the frigate. I also said to him that I regretted that Captain Pickett had been so much harassed and threatened in the position he had occupied.

I inquired of Captain Hornby who the officer highest in command was, and where he was to be found. He said it was Admiral Baynes, and that he was then on board the flag-ship Ganges, in Esquimault harbor. I intimated a wish to have a conference with the Admiral, and that I would go down to Esquimault the next day for the purpose of the interview. Both the captain and the British commissioner seemed pleased. The next day, accompanied by Captain Pickett (both of us in full uniform) and Mr. Campbell, I went down to Esquimault on the steamer Shubrick. We anchored near the Ganges, and I sent to the Admiral, by an officer, the note marked A. I received in reply the note marked B. The note marked C was taken on board by Captain Pickett and handed to the Admiral in person. The Captain was courteously received by the Admiral. Governor Douglas was present in the cabin. After reading the note the Admiral handed it to the Governor. The Governor inquired if I knew he was on board the ship. The Captain replied that he had no reason to suppose I did, but that I had not sought an interview with him, but with the Admiral. The Captain informed the Admiral that the steamer was then firing up, but that I would be happy to wait should he then decide to give me the conference. It was declined, but the Admiral reiterated his desire that he would be happy to see me on board the ship. I was of the opinion that I had carried etiquette far enough in going twenty-five miles to see a gentleman who was disinclined to come one hundred yards to see me.

The proposition which I intended to have made the Admiral was this: to calm the rising excitement on both sides among the people, and to give time for the intentions of the home government to be made known in regard to the matter. I intended to propose that in case he, the Admiral, would pass his word on honor that no threats should be made or molestation given by the force under his command for the purpose of preventing Captain Pickett from carrying out the orders and instructions with which he is intrusted, I would recommend to the Commanding General the withdrawal of the re-inforcement which had landed on the island under my command, and that affairs should so remain until the sovereign authorities should announce their intentions. I have so far had no further intercourse with any of the officers of the fleet. Lieutenant Kellogg, 3d artillery, being at Fort Steilacoom on the reception of your order, I directed him to accompany me in charge of the artillery. I trust that, under the circumstances, the General Commanding will approve my course in the matter.

The Massachusetts arrived to-day, with Major Haller's command on board. Inasmuch as most of the subsistence stores here are spoiled, having been damaged on board the Massachusetts before she landed them at Bellingham Bay, and the articles of the quartermaster's department being required, I shall direct the Massachusetts to proceed, as soon as the guns can be landed, to Fort Townsend, and take from there all the public property, leaving a sergeant and two or three privates to take care of the buildings and garden.

I inclose a list of the ships and men which the British have in this vicinity. I would advise that the General send an officer express to San Francisco, re-

questing the Naval captain in command to send up any ships of war he may have on the coast. It is not pleasant to be at the mercy of any one who is liable at any moment to become your open enemy. The British have a sufficient naval force here to effectually blockade this island when they choose. I do not know what the intentions of the British naval authorities with respect to this island are. I shall resist any attack they may make upon my position. I request that five full companies of regular troops, with an officer of engineers and a detachment of sappers, be sent here as soon as possible. Let Lieutenant Kellogg's be one of the companies. I have enclosed copies of communications from Major Haller with regard to his operations with the Indians. I think the Major exercised a commendable enterprise in his operations, and that there will be no further difficulty.

Very respectfully, your obedient servant,

SILAS CASEY,

Lieutenant Colonel 9th Infantry.

Captain ALFRED PLEASANTON,

Acting Assistant Adjutant General, Fort Vancouver, W. T.

[Inclosures.]

1. Colonel Casey to Admiral Baynes, August 11.
2. Admiral Baynes to Colonel Casey, August 11.
3. Colonel Casey to Admiral Baynes, August 11.
4. Statement of British forces at San Juan.

11 b 1.—A.

UNITED STATES STEAMER SHUBRICK,
Esquimault Harbor, W. T., August 11, 1859.

Lieutenant Colonel Casey, United States Army, commanding the forces on San Juan Island, presents his compliments to Admiral Baynes, commanding Her Britannic Majesty's naval forces on the Pacific coast, and would be happy to meet the Admiral in conference on board the United States steamer Shubrick, in the harbor, at his earliest convenience.

11 b 2.—B.

"GANGES,"
Esquimault, W. T., August 11, 1859.

Rear-Admiral Baynes presents his compliments to Lieutenant Colonel Casey, and regrets that circumstances prevent him doing himself the honor of meeting Lieutenant Colonel Casey on board the Shubrick. But Rear-Admiral Baynes will have great pleasure in receiving Lieutenant Colonel Casey, or any one who may wish to accompany him on board the Ganges.

Lieutenant Colonel CASEY,
United States Army.

11 b 3.—C.

UNITED STATES STEAMER SHUBRICK,
Esquimault Harbor, W. T.

Lieutenant Colonel Casey regrets that circumstances prevent Rear-Admiral Baynes from accepting his invitation to meet him on board the Shubrick according to his request.

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11 b 4.

Her Britannic Majesty's Fleet at Vancouver's Island and in its vicinity, Rear-Admiral Baynes Commanding.

Name of vessel.	No. of guns.	Men.	Name of captains.
Flag-ship Ganges.....	84	840	Slavel.
Tribune.....	31	325	Geoffrey Phipps Hornby.
Pylades.....	21	325	De Courcey.
Satellite.....	21	325	James Prevost.
Plumper.....	10	125	Richards.
	167	1,940	

The Tribune, now at anchor in the harbor of San Juan, has, in addition to her own crew, a detachment of sappers and miners and marines brought down from Frazer's River on the 30th July by the steamer Plumper, numbering 200; total, 2,140.

The relative calibre of the Ganges's guns unknown; she is one of the old-fashioned line-of-battle ships, thirty-five years old. Tribune has twenty-two 32-pounders, nine 68-pounders, one of them a pivot-gun. Pylades and Satellite are 68-pounders, twenty broadside, one pivot; they are the new class of corvettes of which the English are building a great number.

Plumper is a surveying vessel; the armament is comparatively light; the guns are all 32-pounders.

On board the fleet there are above five hundred troops, one hundred of that number being sappers and miners, the rest marines.

11 c.

HEADQUARTERS CAMP PICKET.

San Juan Island, W. T., August 14, 1859.

CAPTAIN: I have the honor to acknowledge the receipt of your two communications dated the 8th of August, and also Special Orders No. 82. Since my last, nothing of moment has transpired. The Tribune and Satellite are now in the harbor, with their broadsides on the landing. I have not been informed what the intentions of the British force in these waters are, but am of the opinion, however, that they have concluded to wait for further instructions from higher authority before any violence is attempted. However, it is a wise maxim "to be prepared for the worst, while hoping for the best." I shall accordingly direct the four companies of artillery at Steilacoom to join me at once. In a former communication I asked for five companies and an engineer officer, with a detachment of sappers. I would like to have them sent around on board the United States steamer Active, which Captain Alden has kindly placed at my disposal for carrying this despatch. The service of the engineer officer and the detachment of sappers would most probably be required but a short time. We are encamped in rather an exposed situation with regard to the wind, being at the entrance to the Straits of Fuca. The weather, at times, is already quite inclement. To maintain the object of our occupation I do not, however, from my present information, think it advisable to change my position. I have enclosed a requisition for "Sibley" tents, with stoves and quartermaster's stores, which I would like to be forwarded by the Active on her return. I have also enclosed

a requisition for subsistence stores, which should be sent to Fort Steilacoom as soon as they can be supplied from San Francisco. In view of the possible contingencies of the service, it was my intention to draw from Steilacoom, as a depot, supplies as they would be needed. The Massachusetts landed her guns and ammunition yesterday. I have directed that she leave to-day for Port Townsend and bring all the supplies from the port to this point, leaving there a sergeant and two men to take care of the public buildings and garden. I shall place the 32-pounders in position as soon as possible. With our present appliances I find them rather difficult to manage.

Very respectfully, your obedient servant,

SILAS CASEY,
Lieutenant Colonel 9th Infantry,
Commanding Troops on San Juan Island.

Capt. ALFRED PLEASONTON,
A. A. Adj't General, Headquarters Dep't of Oregon,
Fort Vancouver, W. T.

11 d.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 16, 1859.

COLONEL: The General Commanding has received your reports of the 12th and 14th instant, and accompanying papers, and instructs me to reply as follows:

The supplies and stores required for the command at San Juan Island will be forwarded as soon as practicable; the camp and garrison equipage will be shipped on the Active.

The course pursued by you in ordering the four companies from Steilacoom to San Juan Island is approved.

A detachment of engineers will be sent you by the mail steamer; in the mean time have platforms made for your heavy guns, and cover your camp as much as possible by intrenchment, placing your heavy guns in battery on the most exposed approaches; the howitzers to be used to the best advantage with the troops, or in the camp, according to circumstances.

Select your position with the greatest care to avoid the fire from the British ships. In such a position your command should be able to defend itself against any force the British may land. The General has requested a naval force from the senior officer on the coast, and has notified General Clarke, as well as the authorities at Washington, of the existing state of affairs on the Sound. Troops and supplies will be sent to you as fast as they can be collected.

The General regrets, under all the circumstances, your visit to Esquimaux harbor to see the British Admiral, but is satisfied of your generous intention towards them. He instructs you for the future to refer all official communication desired by the British authorities to these headquarters, informing them at the same time that such are your orders. It is almost needless to inform you that the subjects of Great Britain on San Juan Island will be treated with the same consideration and respect that is shown to our own citizens.

I am, Colonel, very respectfully, your obedient servant,

A. PLEASONTON,
Capt. 2nd Dragoons, A. A. Adj. Gen'l.

Lieut. Col. S. CASEY, 9th Infantry,
Comd'g U. S. Troops, San Juan Island, Puget Sound.

11 e.

EXECUTIVE OFFICE, OLYMPIA, W. T.,
August 11, 1859.

SIR: By yesterday's mail I had the honor of receiving your favor of the 7th instant, inclosing copies of your "orders to Colonel Casey," "the proclamation of Governor Douglas, and your reply to the same."

Among other things you have been pleased to inform me that you have authorized Colonel Casey to call for volunteers, and that you "feel assured of my cordial co-operation whenever an emergency may demand it."

Reciprocating the frankness of your communication, I have to reply that, should the contemplated emergency arise, your just expectations of the course to be pursued by myself shall *not* be disappointed, and that in such an event I have an abiding faith that the citizens of this Territory will with enthusiastic alacrity respond to any call necessary for the defence of individual rights, the rights of their country, or their country's honor.

I am, General, most respectfully, your obedient servant,

R. D. GHOLSON,

Governor Washington Territory.

Brigadier General W. S. HARNEY,

Headquarters Department of Oregon, Fort Vancouver, W. T.

11 f.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 16, 1859.

MY DEAR SIR: Your communication of the 14th instant has just been received, and I hasten to place you in possession of the facts connected with the occupation of San Juan Island by some of the troops of my command. This step would have been taken before, but I was informed you were *en route* to Washington.

I enclose for your information a copy of a protest issued by Governor Douglas, Commander-in-chief of the island of Vancouver, to the occupation of San Juan Island, and claiming the sovereignty of said island for the Crown of Great Britain; also a copy of my letter to Governor Douglas in reply to his protest.

You will perceive that in my reply to Governor Douglas I charge the British authorities of Vancouver's Island with having violated the rights of American citizens on the island of San Juan in such a manner and by such means as to leave me no other alternative than to occupy the island for the protection of American interests. In assuming this responsibility I was careful to state distinctly and fully to Governor Douglas the position of my troops on the island of San Juan, and I reiterate to you that the relative claims of the two countries has had nothing to do in the assignment of the troops in question. The British authorities chose to violate treaty stipulations made in good faith and maintained by the United States in good faith—by attempting to arrest an American citizen on San Juan Island to carry him to Victoria to be tried by British laws. To prevent a repetition of this outrage, until the government of the United States could be apprised of it, I have placed troops on the island with such orders as I have deemed necessary to effect this object.

With the question of boundary between the United States and Great Britain I disclaim having done anything with respect to it in occupying San Juan Island. Great Britain has no sovereignty over American citizens on San Juan Island, and every attempt made by her authorities to advance such claims I shall resist,

until further orders from the President, to whom I have submitted the whole matter ; in the mean time I hope the labors of your joint commission will be prosecuted amicably and successfully, for I can assure you that no one is more desirous of facilitating your labors than myself.

I am, sir, with high respect, your obedient servant,

W. S. HARNEY,

Brigadier General Commanding.

ARCHIBALD CAMPBELL, Esq.,

United States Commissioner Northwest Boundary,

Harbor San Juan Island, Puget's Sound.

12. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 25, 1859.

COLONEL : I have the honor to inclose a copy of a despatch from His Excellency Governor Douglas, of Her Britannic Majesty's island of Vancouver ; also a copy of my reply to the same ; both of which papers I request may be submitted for the information of the President of the United States, at your earliest convenience.

Governor Douglas denies that the British authorities of Vancouver's Island were cognizant of the outrage attempted upon an American citizen on San Juan Island, as reported in my communication to the Headquarters of the Army, of July 19, and my letter to you of the 7th instant. This denial, couched as it is in strong language, does not explain how a British ship-of-war did convey Mr. Dallas, the chief factor of the Hudson's Bay Company, and son-in-law of Governor Douglas, to San Juan Island ; that Mr. Dallas landed and threatened an American citizen by the name of Cutler with imprisonment at Victoria, to which place he would be taken in the ship-of-war waiting for him. This threat was not put into execution for the reason that Cutler told Mr. Dallas if it was attempted he would kill Mr. Dallas on the spot. But Mr. Dallas having left the island in the ship-of-war, the conclusion is irresistible that Mr. Dallas either had the ship-of-war under his control by some direct authority from the British authorities, or he was acting independent of that authority in the exercise of powers delegated to him elsewhere.

If Mr. Dallas can use a British ship-of-war to overlook the interests of the Hudson's Bay Company on this coast, without the authority of Governor Douglas or the British Admiral, which is just what he has done, according to the facts and Governor Douglas's despatch, then the interests and rights of our citizens have been in greater jeopardy than I have heretofore supposed, and the necessity of retaining the occupation of San Juan Island is still more imperative.

Governor Douglas has opposed the occupation of San Juan on the ground of sovereignty, and lays great stress upon Mr. Marcy's despatch of July 17, 1855, to Her Majesty's minister at Washington.

In a communication to Commissioner Campbell, of the Northwest Boundary Survey, I have disclaimed any intention of asserting any sovereignty over the island of San Juan, beyond that which the necessity of the case has demanded. A copy of this communication has already been sent to you.

Mr. Marcy's instructions in reference to the conduct of officers of the two governments never contemplated the case of a direct aggression on the rights of our people, backed by so powerful a naval force as to create strong surmises of

its intentions. Indeed, so extraordinary has been the course of conduct of the British in reference to San Juan, and so evident has been their design to force our people from the island, that I should consider I had been recreant to the high trust imposed on me, in not taking possession of the island, it being the only position from which we could defend our rights to advantage.

Eight companies are now on the island, with eight 32-pounders landed from the steamer Massachusetts. A detachment of engineer troops are engaged with the troops in constructing a field-work to defend their position, at the same time protect them from any fire from the water. This command is fully supplied for over two months, and is considered now to be able to hold its own in the event of any difficulty until re-inforcements could arrive.

I inclose a copy of Governor Douglas's message to the Legislature of Vancouver's Island; also of "The British Colonist," the government paper published at Victoria, giving an account of the proceedings of the assembly in relation to San Juan; also an editorial, complaining that an error had been committed by somebody on their side. Our quick-witted people were aware of that fact nearly two months ago.

I am, Colonel, very respectfully, your obedient servant,

WM S. HARNEY,

Brigadier General Commanding.

Colonel S. COOPER,

Adjutant General U. S. Army, Washington City, D. C.

12 a.

GOVERNMENT HOUSE,

Victoria, Vancouver's Island, August 13, 1859.

SIR: On the evening of the 10th instant I had the honor of receiving your despatch, dated Fort Vancouver, August 6, 1859.

2. In reply thereto, I must thank you for the frank and straight-forward manner in which you communicate to me your reasons for occupying the island of San Juan, on the Haro Archipelego, with a portion of the military forces of the United States under your command.

3. I am glad to find that you have done so under your general instructions from the President of the United States as Military commander of the Department of Oregon, and not by direct authority from the Cabinet at Washington.

4. You state that the reasons which induced you to take that course are the "insults and indignities which the British authorities of Vancouver's Island and the establishment of the Hudson's Bay Company have recently offered to American citizens residing on the island of San Juan, by sending a British ship-of-war from Vancouver's Island to convey the chief factor of the Hudson's Bay Company to San Juan, for the purpose of seizing an American citizen and forcibly transporting him to Vancouver's Island to be tried by British laws."

5. I will explain for your information that the agents of the Hudson's Bay Company hold no official position in Vancouver's Island, nor exercise any official power or authority, and are as entirely distinct from the officers of the executive government as are any of the other inhabitants of Vancouver's Island.

6. To the reported outrage on an American citizen, I beg to give the most unhesitating and unqualified denial.

None of Her Majesty's ships have ever been sent to convey the chief factor or any officer of the Hudson's Bay Company to San Juan for the purpose of

seizing an American citizen, nor has any attempt ever been made to seize an American citizen and to transport him forcibly to Vancouver's Island for trial, as represented by you.

7. Up to a very recent period, but one American citizen has been resident on San Juan. About the commencement of the present year a few American citizens began to "squat" upon the island, and upon one occasion a complaint was made to me by a British subject of some wrong committed against his property by an American citizen; but no attention was paid to that complaint, out of consideration and respect to the friendly government to which the alleged offender belonged, and whose citizens, I think, it cannot be denied, have always been treated with marked attention by all the British authorities in these parts.

With reference to San Juan, in particular, I have always acted with the utmost caution, to prevent, so far as might lie in my power, any ill feeling arising from collisions between British subjects and American citizens, and have in that respect cordially endeavored to carry out the views of the United States government as expressed in a despatch from Mr. Marcy, dated 17th July, 1855, to Her Majesty's minister at Washington, a copy of which I herewith enclose for your information, as I presume that the document cannot be in your possession.

8. Following the dignified policy recommended by that despatch, I should, in any well-grounded case of complaint against an American citizen, have referred the matter to the federal authorities in Washington Territory, well assured that if wrong had been committed reparation would have followed.

9. I deeply regret that you did not communicate with me for information upon the subject of the alleged grievance; you would then have learned how unfounded was the complaint, and the grave action you have adopted might have been avoided. I also deeply regret that you did not mention the matter verbally to me when I had the pleasure of seeing you at Victoria last month; for a few words from me would, I am sure, have removed from your mind any erroneous impressions, and you would have ascertained personally from me how anxious I have ever been to co-operate to the utmost of my power with the officers of the United States government in any measures which might be mutually beneficial to the citizens of the two countries.

10. Having given you a distinct and emphatic denial of the circumstances which you allege induced you to occupy the island of San Juan with United States troops; having shown you that the reasons you assign do not exist, and having endeavored to assure you of my readiness on all occasions to act for the protection of American citizens and for the promotion of their welfare, I must call upon you, sir, if not as a matter of right, at least as a matter of justice and of humanity, to withdraw the troops now quartered upon the island of San Juan, for those troops are not required for the protection of American citizens against British authorities, and the continuance of those troops upon an island the sovereignty of which is in dispute, not only is a marked discourtesy to a friendly government, but complicates to an undue degree the settlement in an amicable manner of the question of sovereignty, and is also calculated to provoke a collision between the military forces of two friendly nations in a distant part of the world.

I have the honor to be, sir, your most obedient servant,

JAMES DOUGLAS.

Brigadier General W. S. HARNEY,

Commanding the Troops in the Department of Oregon.

12 b.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 24, 1859.

SIR : I have the honor 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 the 17th July, 1855, to Her Majesty's minister at Washington, stated to be in your communication enclosed, 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 aggression 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 measures which might be mutually beneficial to the citizens of the two countries, and your regret is signified that communication with you on the subject of 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 good will 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 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's Island in the recent occurrences on San Juan Island against the rights of our citizens, does not expose any evidence of a preventive nature to a repetition of the acts which have caused so serious a 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 the honor to be, very respectfully, your obedient servant,
W. S. HABNEY,

Brigadier General United States Army, Commanding.

His Excellency JAMES DOUGLAS, C. B.,

Governor of Vancouver's Island and its Dependencies,

Vice-Admiral of the same, &c.

12 c.

GOVERNMENT HOUSE,

Victoria, August 3, 1859.

To the Legislative Council and House of Assembly of the Colony of Vancouver's Island:

GENTLEMEN: I have to communicate for your information the intelligence of the landing of a detachment of United States troops on the island of San Juan, avowedly (see enclosed Nos. 1 and 2) for the purpose of forming a military post, and of asserting the sovereignty of the United States to that island. Having received no information from any quarter that the United States ever contemplated taking military possession of any part of the disputed territory while the boundary line remained unsettled, I am forced to believe that the late unwarrantable and discourteous act, so contrary to the usages of civilized nations, has originated in error, and been undertaken without the authority of that government. That impression is corroborated by a letter (a copy of which is here enclosed) from the Honorable W. L. Marcy, Secretary of the United States, dated Washington, July 12, 1855, to Her Majesty's minister at Washington, which contains instructions from the President of the United States to the governor of Washington Territory, and displays, in the clearest manner, the conciliatory and moderate views entertained by his government on the subject of the disputed territory.

Though the right of Great Britain to all the islands situated to the westward of "Vancouver" or "Rosario" Straits is, to our minds, clearly established by the first article of the treaty of 1846, and though those islands have, since the foundation of this colony, been considered as a dependency of Vancouver's Island, it is well known to you, gentlemen, that out of respect to the construction that has been put upon that treaty by the government of the United States we have abstained from exercising exclusive sovereignty over them. Convinced that any assumption, on either side, of exclusive right to the disputed territory would simply be a fruitless and mischievous waste of energy, neither detracting from, nor adding force to the claims of either nation, wise and considerate policy enjoins upon us the part of leaving so important a national question for settlement by the proper authorities, and of avoiding complications foreign to the views and wishes of, and probably embarrassing to both governments. Immediately on being informed of the landing of the United States troops at San Juan, Her Majesty's ship Tribune, under the command of Captain Hornby, was despatched to that quarter, and soon after a detachment of royal engineers and royal marine light infantry were ordered from New Westminster by Her Majesty's ship Plumper, Captain Richards, and those troops will be landed at San Juan to protect the lives and property of British subjects. You will observe gentlemen, from enclosure No. 1, that the captain in command of the United States detachment of troops, in a public notice, dated 27th of July, assumes the exercise of exclusive sovereign rights in the island of San Juan, while the President of the United States altogether disclaims such pretensions, and seeks at most to continue the joint right of sovereignty and domain in common with Great Britain. We may presume from that circumstance that the notice in question was framed in ignorance of the intentions of the United States government, and that the pretensions set forth will not be maintained. Entertaining such opinions, I have not failed to impress on Her Majesty's naval officers now stationed at San Juan the desire of Her Majesty's government to avoid every course which may unnecessarily involve the suspension of the amicable relations subsisting between Great Britain and the United States. At the same time, those officers have been instructed, and are prepared to assert the rights and to maintain the honor and dignity of our sovereign and her dominions.

I have the honor to be, gentlemen, your most obedient servant,

JAMES DOUGLAS.

12 d.

[From the "British Colonist," Victoria, August 17, 1859.]

Reply to Governor's Message about San Juan.

VICTORIA, V. I.,

House of Assembly, Friday, August 12, 1859

Mr. Speaker, learning that neither Mr. Skinner nor Mr. Pemberton intended to insist on their motion as regards San Juan, had prepared a reply to the message. He considered that a great mistake had been made by the government in sending out men to settle the boundary. Common sense and dollars should have been sent. The dollar the Americans worship. If dollars had been used a different interpretation of the treaty might have been made. Why not have made the proceeding a mere mercantile affair and paid the commissioner? Then the island would have been ours and the Americans would have clearly seen the justice of our claim. But a general on his own authority had invaded our territory. His grounds for doing so were based on falsehood and carried out clandestinely. What more could be expected of a man who has spent a lifetime in warring with Indians? But what is to be done? His Excellency sends troops and ships. Why all this expense and show if for parade? Why were not the troops landed? Instead of fighting, Her Majesty's captains take to diplomacy. It shames me to think that the Satellite was running around after Commissioner Campbell. I am ashamed to think that post captains were holding a pow-wow with a subaltern of the American army. They should have landed their troops and avoided all degrading negotiations. But more troops have landed in spite of post captains and admirals. (Here he read some extracts from the Blue Book of British Columbia enjoining the necessity of accustoming the colonists to defend themselves.) Yes, a militia must be raised. We must defend ourselves, for the position we occupy to-day would make the iron monument of Wellington weep, and the stony statue of Nelson bend his brow.

The reply to the message was then read. Mr. Yates agreed with a part of the address, but could not understand why the honorable speaker had said in it that the time to land troops has gone by. My motion is to learn why they were not landed. The time to land them was when there was no danger of blood being shed. Now, perhaps, the case is different.

Mr. Pemberton. I am not sure that the time to land troops has gone by. If it has not, I recommend His Excellency to land them. That portion of the address in relation to militia I would leave out. If we asked the home government for arms for the militia, they would be likely to send us some old muskets from the Tower 150 years old. No allusion has been made to British subjects occupying the island. I think it necessary.

Mr. Speaker. I think there was a council on board the flag-ship. His Excellency was present. Negotiation was the object, perhaps, as American officers had arrived on the Shubrick. I would not hold any negotiations with so dishonorable a man as Campbell. I have not said anything in the address about San Juan as the key to British Columbia. I leave that to His Excellency.

Mr. Yates preferred negotiation to war. I believe the powers that be have been too slow, and put the Governor in a false position. My motion is to learn who is to blame.

Mr. Pemberton believed a few soldiers, if supported by a man-of-war, could land without danger of collision.

Mr. McKay was favorable to landing troops at all hazards.

Mr. Speaker had no doubt the naval officers had said: "N-o-w, Mr. Pick-ett, will you - al-low - - us to land?"

Mr. Pemberton thought the colony would be benefited by the difficulty. A

large naval station would be built here, and everything would be removed from Valparaiso.

Mr. Speaker thought the honorable member very patriotic in taking such an interested view of the question. He cared nothing for the paltry local advantages. It is a national question, and in that light alone he looked at it.

Mr. Pemberton proposed the occupation of Lopez Island by British troops.

After some amendments to the address, the following to the governor's message was then adopted:

ADDRESS.

The House acknowledges the receipt of your excellency's communication of the 3d instant relating to the clandestine invasion of San Juan Island by United States troops, and the steps to be adopted in relation thereto.

Since that communication it is well known that additional forces have been landed.

The House would therefore inquire why the British forces were not landed to assert our just right to the island in question, and to uphold the honor of our country and our Queen.

The House would most urgently impress upon your excellency to enforce upon Her Majesty's government the necessity of demanding from the government of the United States not only immediate withdrawal of those troops, but also strenuously and at all risks to maintain her right to the island in question, and also to all other islands in the same archipelago, now so clandestinely, dishonorably, and dishonestly invaded.

It is not for our country to be wantonly and insolently insulted, but redress must be demanded.

The weakness of the colony is its greatest danger, and, at the same time, an inducement for the repetition of similar offences by similar persons. Let it, therefore, be urged upon Her Majesty's government that sending out colonists rapidly from Great Britain is the surest way, not only of maintaining peace, but of preserving intact Her Majesty's possessions. Coupled with this, the House would propose that free and liberal grants of land be given to such emigrants after settling thereon for a certain time.

12 e.

[From the "British Colonist," Victoria, August 17, 1859.]

WHY WERE NOT TROOPS LANDED AT SAN JUAN?

On our first page will be found the assembly debate on the Governor's message in relation to landing soldiers on San Juan. From the severe strictures passed on our naval officers by the speaker, who is taken as the exponent of the government, it is evident that a serious difference of opinion as to our policy exists between the naval and civil authorities. It is difficult to imagine how so high an official could use such language except from information derived from official sources; and it is still more difficult to believe, as suggested by the chairman during debate, that the naval authorities had refused to land when they had no discretionary instructions. If they had full instructions to land, the unenviable position of the government, since the publication of the message, is justly chargeable to them. If, on the other hand, they were governed by discretionary instructions, the charges against the commanders of Her Majesty's ships for equivocal conduct is justly reprehensible. No future explanation, however, can explain away the palpable inference which will be drawn from the language used in debate.

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An error has been committed by somebody. Either the Administration should have been satisfied with a pacific policy, manifested by serving the United States authorities with a formal protest or an assertion of our sovereignty in the first place, and then have allowed the matter to rest till despatches were received from the imperial government, or it should at once have landed troops on the island, without making such a display of force or asking permission. We confess that we are not disposed to accept peace at any price; for if that were the case, cowardice would be the safest policy. We do, however, concur with the opinion expressed in the message that our forces should have been landed. The Americans took the ground that their citizens required protection, and that they landed troops with that object. Now, in order to protect British subjects on the island, we also should have done the same. Then our position would have been exactly similar to theirs. On this high ground, had bloodshed followed, we could have appealed to the world, with right on our side, certain of a verdict in our favor. As it is, the Americans have been allowed to strengthen their forces with men, munitions of war, and settlers, and actually occupy private property long in the possession of British subjects, whilst we, apparently divided in our councils, have made a grand and useless parade, and done nothing but render ourselves ridiculous. Whoever are the parties, or whatever are the causes why a vigorous and firm policy has not been pursued, it is certain an explanation is due to account for the charges made against the naval forces in our waters.

In the mean time some action ought to be taken by the people to show the deep interest we have in San Juan, and that we are determined to protect our fellow-subjects on the islands. In addition, it is necessary to arouse our sister colonies to the importance of the island to British America, and show to the imperial government the necessity of holding the island to guard the overland transit from Great Britain to her Asiatic dependencies.

It matters not what may or may not have been said by British or American statesmen in relation to the reputed claims to Canal de Haro or Rosario Strait. We are forced to abide by the treaty. If the United States knew all about Canal de Haro at the time of the treaty, and that the line was deflected from the 49th parallel, so as not to divide the sovereignty of this island, then why was it not named as the boundary? On the other hand, had Rosario Strait been thoroughly known and fixed on as the channel by the negotiators, it would have been in the treaty. Finding neither one nor the other there; finding no *ship* channel or *main* channel named in the treaty, but finding four channels leading north from the Straits of Fuca, and that the only channel named in the treaty is that which separates the continent from this island, we see no way for a pacific adjustment, except making Washington Channel, between San Juan and Lopez, the boundary. That we justly claim.

13. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., August 29, 1859.

COLONEL: I have the honor to enclose a copy of Mr. Marcy's despatch,* referred to in Governor Douglas's communication to me of the 13th instant, which was received on the night of the 27th instant, with a note from William A. G. Young, esq., Acting Colonial Secretary, a copy of the same being also enclosed.

My communication of the 24th instant had been sent to Governor Douglas before Mr. Young's note and its enclosure were received. The instructions of

* See Nos. 1 and 2 of these papers, pp. 144-5.

this document from Mr. Marcy have no bearing upon the question at issue between the British authorities of Vancouver's Island and myself at this time; and my answer to Governor Douglas of the 24th instant would appear as it is, had this copy of Mr. Marcy's despatch accompanied the Governor's letter of the 13th instant.

The spirit of Mr. Marcy's instructions, when carried out in good faith by the functionaries and citizens of both countries, I not only most heartily approve, but I am satisfied my conduct will stand the most critical and searching investigation in the support of that approval.

From the time of my assuming the command of this Department until the occupation of San Juan Island, I was most careful neither to increase nor change the position of the force on Puget Sound, that there might be no misconceptions of my acts, on the part of the British, of the good faith which animated me in the observance of treaty stipulations. Time and again our light-houses were attacked, and the wives and children of our citizens on that coast were brutally murdered by British Indians. Reports reached me that these Indians had been instigated to these acts by the Hudson's Bay Company, in order to drive them from the lands which this immense establishment covet for their own purposes. I was well aware of the extent and power of this great commercial monopoly, second only to the East India Company, which has crushed out the liberties and existence of so many nations in Asia, and committed barbarities and atrocities for which the annals of crime have no parallel. I knew the exacting policy of the Hudson's Bay Company would not hesitate to adopt any measure deemed necessary to insure their success, for their history had shown this, and the history of our wars with England establish the fact that an Indian alliance is their first requirement. With all these truths before me, I was still reluctant to believe that the Hudson's Bay Company would attempt the violation of the solemn obligations of a treaty, or that the British authorities would permit any action to be taken by the Hudson's Bay Company, in case an attempt was desired by them. Judge, then, of my astonishment and mortification in my late visit to San Juan to find an unworthy advantage had been taken of my forbearance to outrage our people in the most insulting manner.

For this thing was not done in a corner, but in open day. A British ship-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. These affidavits would have been sent before this, but the disturbances at San Juan and the difficulty of communication in this country have delayed their completion.

It is proper also that I should inform you that Captain Alden, of our navy, commanding surveying steamer Active, has reported to me a conversation which he held with Governor Douglas since the occupation of San Juan, in which conversation Governor Douglas stated that, in the event of a collision between the forces of the two countries, he would not be able to prevent the northern Indians from driving our people from the island. This intimation from Governor Douglas is significant, as indicating the conception of such an action originated before the occupation of the island, and was the foundation of the reports of our people throughout the winter, that I did not consider at the time of sufficient importance as to notice in my official reports. From all the events which have occurred before and since the occupation of San Juan Island, I am convinced the British government have instituted a series of acts aiming at the eventual

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sovereignty of San Juan Island, in consequence of its paramount importance as a military and naval station. Its position, in connection with the islands adjacent to it, has induced the English to call it the Cronstadt of the Pacific, and with good reason, for the power that possesses it will command a supremacy on this coast.

In the occupation of San Juan I have assumed a defensive position against the encroachments of the British, either by authority or through the medium of their Indians, upon the rights, lives, and property of our citizens. I was influenced by no other motive in placing troops upon the island.

In the matter of ownership, I have carefully investigated the treaty of 1846, defining the boundary between Great Britain and the United States, and I have also personally examined the premises in question under the fairest auspices, and I fearlessly assert a stronger title cannot exist than that which the treaty of 1846 establishes for the United States in San Juan, nor do I believe the British would have ever attempted the hazardous game they are now playing, but for the immense prize at stake.

I am, Colonel, very respectfully, your obedient servant,

WM. S. HARNEY,

Brigadier General Commanding.

Colonel S. COOPER,

Adjutant General, Washington City, D. C.

14. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 30, 1859.

SIR: I have the honor to enclose, for the information of the General-in-chief, copies of two reports from Lieutenant Colonel Casey, 9th infantry, commanding on San Juan Island.

These reports convey all the intelligence received from San Juan since my report to you of the 18th instant.

The number of troops forming Colonel Casey's command at this time is as follows:

Companies A and C, 4th infantry, and H of the 9th	139
Companies A, B, D, and M, of 3d artillery.....	181
Company D, 9th infantry.....	66
Company I, 4th infantry.....	64
Detachment of company A, engineers	11
Aggregate	461

Besides this force, Colonel Casey has with him eight 32-pounders, which I ordered to be taken from the steamer Massachusetts.

The ammunition for these guns consists of round shot—grape and canister. Captain Pickett's company took with them to the island one 6-pounder and two mountain howitzers, and Colonel Casey's command from Steilacoom increased that number by three mountain howitzers.

This command is busily engaged placing its position under intrenchment, and has been amply supplied with everything necessary and requisite to maintain itself for nearly three months. From the conformation of the island, and the position occupied by the troops, the English ships could not remain in the harbor under a fire from the 32-pounders, but would be compelled to take distance in the sound, from whence they could only annoy us by shells, which

would be trifling. The English have no force that they could land which would be able to dislodge Colonel Casey's command as now posted.

There is a rumor current that Rear-Admiral Baynes has countermanded Governor Douglas's orders to attempt a landing on San Juan by force; nothing official on the subject has reached me.

I am, sir, very respectfully, your obedient servant,

WM. S. HARNEY,
Brigadier General Commanding.

ASSISTANT ADJUTANT GENERAL,
Headquarters of the Army, New York City.

14 a.

HEADQUARTERS CAMP PICKETT,
San Juan Island, W. T., August 22, 1859.

CAPTAIN: I have the honor to report that I received by the "Active," Captain Alden, the General's instructions of the 15th of August.

After a personal examination of the ground within a few miles of the harbor, I have taken up a position for a camp, which I think, above all others, will fulfil many of the conditions which I wished to obtain. The subject presented many difficulties.

Were it merely to select a position for an intrenched camp, where I would be able with my present force but to sustain myself against a land attack of an enemy, and where, at the same time, I would be secure from the shells of the ships-of-war, the question is solved.

About three and a half miles from the harbor I have discovered a very good position for an intrenched camp, secure from the shells of ships-of-war. But in order to keep the position to which I have just referred, the following alternatives would present themselves: I would either be obliged to give up my present guard at the landing, my position for the 32-pounders which bear upon and my oversight of the harbor, or render the troops whom I might maintain at these positions almost certain to be cut off, in case of a serious land attack, before they could reach the intrenched camp, nearly four miles off.

In view of all these circumstances, I have taken up a position near the Hudson's Bay establishment, and shall put my heavy guns in position to bear upon the harbor, and also on vessels which might take a position on the other side. Shells from the shipping may be able to reach us, and we may not be able to protect the camp from them; but I shall try.

The British authorities appear to be very sensitive with regard to anything like fortifying on the island. Owing to the peculiar circumstances of the case, we have none of the advantages which a case of actual war would confer, as regards keeping any action secret from the enemy.

Our every manœuvre is closely observed, and I have considered it best to act with circumspection lest a conflict should be forced upon us prematurely.

The General may rest satisfied that I shall give the whole matter my best abilities, and I trust everything will come out right.

Very respectfully, your obedient servant,

SILAS CASEY,
Lieutenant Colonel 9th Infantry, Commanding Camp.

Captain ALFRED PLEASANTON, U. S. A.,
Acting Asst. Adjt. Gen., Dept. of Oregon, Fort Vancouver, W. T.

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14 b.

HEADQUARTERS CAMP PICKETT,
San Juan Island, W. T., August 22, 1859.

CAPTAIN : I have the honor to report that I received by the "Northerner" the General's instructions of the 17th and 19th instant.

The "Massachusetts" arrived on the night of the 21st, and she is now unloading the government property from Fort Townsend. I will cause the freight of the Northerner to be placed on her, as directed.

I had ordered Major Haller on shore with his company before receiving the General's instructions so to do. It was not my intention to place another company on at present. When I do, I shall be happy to offer the position to Captain Pickett, as I am as fully impressed as the General with the gallant behavior displayed by him during the late difficulties on the island.

I have placed Lieutenant Kellogg, with his company, on duty in charge of all the artillery. That leaves, including Major Haller's, eight companies, which I have formed into an infantry battalion, and shall endeavor to have them efficiently exercised in drill.

Very respectfully, your obedient servant,

SILAS CASEY,

Lieutenant Colonel 9th Infantry, Commanding Camp.

Captain ALFRED PLEASANTON,

Acting Asst. Adjutant General United States Army,

Department of Oregon, Fort Vancouver, W. T.

15. *General Harney to Colonel Casey.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., September 2, 1859.

COLONEL : The General commanding instructs me to enclose, for your information, a copy of a communication he addressed to Governor Douglas, under date of the 24th of August, in answer to the governor's letter to himself of the 13th of that month, which you have doubtless seen, it having appeared in the Victoria papers.

From the tenor of this answer you will perceive it is not the intention of the General commanding to remove any portion of the present force on San Juan Island from that position until the orders of the President are communicated on the subject.

You are therefore instructed to make such preparations for the comfort, efficiency, and health of your command as will anticipate a period of at least six months.

I am, Colonel, very respectfully, your obedient servant,

A. PLEASANTON,

Captain 2d Dragoons, A. A. Adj. Gen.

Lieutenant Colonel S. CASEY,

Ninth Infantry, Commanding Camp Pickett,

San Juan Island, Puget Sound.

16. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., September 14, 1859.

SIR : I have the honor to enclose, for the information of the General-in-chief, copies of two affidavits verifying the accusation of attempted outrage upon one

of our citizens on San Juan Island, which was charged to the British authorities and the Hudson's Bay Company of Vancouver's Island, in my communication to Governor Douglas of the 6th of August.

The affidavit of Lyman A. Cutler, the person upon whom the outrage was attempted of being taken by force to Victoria for trial by British laws, fully and completely refutes the denial of Governor Douglas, transmitted in his communication of the 13th of August, a copy of which has been sent to you.

* * * * *

The want of propriety and good faith on the part of the British officials is so apparent, in the course pursued by them towards ourselves in the matter of San Juan Island, as to have forced Governor Douglas into a flimsy evasion of the facts which so strongly condemn them, and it is not surprising that Governor Douglas should attempt to throw discredit upon my action in the occupation of San Juan after being compromised by conduct he dares not acknowledge.

Governor Douglas speaks of the Hudson's Bay Company establishment as one of no significance or responsibility, and that its acts are no more to be considered than those of any other of the inhabitants of Vancouver's Island. In the face of such a statement I consider it my duty to inform the General-in-chief that this insignificant company has a positive military organization, with a discipline exceeding in rigor that of our own service. The forts of this company on this coast are armed with guns of much heavier calibre than any we possess, and in its service are steamers that can readily be applied to war purposes. The authorities of this Company have boldly claimed the exclusive ownership of San Juan Island, warning the United States officer, Captain Pickett, from the island, and threatening him, at the same time, with the civil authorities if he did not obey. This was reported in my communication of the 7th of August to the Adjutant General, and accompanying reports of Captain Pickett, copies of which have been furnished your office. This is the establishment whose acts Governor Douglas calls upon us to ignore, but which he carefully supports in its aggressions by both the civil and naval forces under his orders.

I trust the British government will see how useless it will be for them to attempt to maintain a course of conduct that exposes them to the reflection of having used unworthy means to obtain that to which they have no claim, and showing the Hudson's Bay Company to be a willing cat for extracting the chestnuts from the fire.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,

Brigadier General Commanding.

ASSISTANT ADJUTANT GENERAL,

Headquarters of the Army, New York City.

16 a.

WASHINGTON TERRITORY, *Whatcom County:*

On this 7th day of September, A. D. 1859, appeared before the undersigned, a notary public in and for said county, Paul K. Hubbs, jr., who, being duly sworn, on his oath deposes and says: That he had an interview with General Harney while on his visit to this island, and stated to the General that there had been some trouble between one of the American settlers and some of the officers of the Hudson's Bay Company. Upon being asked by the General the cause of the trouble, he said that a short time since Mr. Cutler, one of our citizens, had shot a hog belonging to the said Company, and immediately went to Mr. Griffin, the superintendent, and offered to pay for the hog. Mr. Griffin became enraged,

and declared that the Americans were a pack of intruders, and said that he was a fool for ever allowing a United States inspector of customs to come on the island. In the afternoon of the same day the Hudson's Bay Company's steamer Beaver arrived from Victoria with Mr. Dallas, a director of the Hudson's Bay Company, Dr. Tolmie, a chief factor, and some other parties, who, after holding an interview with Mr. Griffin, called on Mr. Cutler, and used some very threatening language, and, among other words, they said that they had a posse on board, and would take him a prisoner and carry him to Victoria for trial.

PAUL K. HUBBS, JR.

Subscribed and sworn before me this 7th day of September, 1859.

HENRY R. CROSBIE,

Notary Public.

[L. s.]

16 b.

TERRITORY OF WASHINGTON, *County of Whatcom :*

Lyman A. Cutler, being duly sworn, deposes and says : That he has been a resident of San Juan Island since last April, at which time he located one hundred and sixty acres of land, agreeably to the pre-emption law, and upon which land he has ever since resided.

That on or about the 15th of last June he shot a hog belonging to the Hudson's Bay Company ; that immediately after so doing he proceeded to the house of the agent of the Hudson's Bay Company on the island, Mr. Griffin, and informed him of the fact, stating that it was done in a moment of irritation, the animal having been at several times a great annoyance, and that morning destroyed a portion of his garden ; he desired to replace it by another, or they could select three men, and whatever valuation they might place on the animal he would at once pay. Mr. Griffin, very much enraged, said the only way it could be settled would be by him (Cutler) paying one hundred dollars. He replied he was astonished both at Mr. Griffin's conduct and his proposal, and left him. The same afternoon Mr. Griffin, in company with three other persons, came to his house. He afterwards learned they were Mr. Dallas, one of the directors of the Hudson's Bay Company ; Dr. Tolmie, a chief factor, and a Mr. Fraser. Mr. Dallas asked him if he was the man that killed the hog ; he answered, yes. Mr. Dallas then, in a very supercilious manner, asked him how he dared do it. He replied that was not the proper way of talking to him ; that he dared do whatever he thought was justifiable, and he had no cause to blame himself in the matter ; as soon as he had killed the animal he went to Mr. Griffin and offered to make him a proper reparation—that he was ready to do it then ; had he have chosen to have acted otherwise, he could have said nothing about it, and Mr. Griffin would have never known his loss ; the animal was so worthless he would never have troubled himself about it. Mr. Dallas, in reply, stated this was British soil, and if he, Cutler, did not make the reparation demanded—one hundred dollars—he would take him to Victoria ; their steamer (the Hudson's Bay Company's steamer Beaver) was in port, and they had a posse at their command. He answered, Mr. Dallas must be either crazy or deem him so, to pay one hundred dollars for an animal that was not worth ten ; and as for taking him to Victoria for trial, that could not be done ; when they brought their posse he would have his friends to resist them ; this was American soil and not English ; and whilst he was willing to answer before any American tribunal for what he had done, no English posse or authority should take him before an English tribunal. Mr. Fraser commenced speaking about its being British soil, &c. ; he (Cutler) declined, however, having any conversation with him on the matter ; he had said all he had to say about it. Dr. Tolmie said nothing. Mr.

Griffin simply asked him if he ever knew him (Griffin) to disturb any of the settlers or insult them? He answered, never before that morning.

As they rode off one of the party remarked, "You will have to answer for this hereafter," or words to that purport.

Their manner and language were both insulting and threatening.

Afterwards, on the 27th of June, the morning Captain Pickett landed, the British steam frigate *Satellite* arrived and landed Mr. DeCourcy, who was installed as British magistrate for the island of San Juan, as Captain Prevost publicly stated; at the time he left Victoria nothing was known of the landing of the American troops; it seemed evident that the magistrate came over for the purpose of apprehending him, (Cutler); that he understood process was issued by the said DeCourcy to compel his attendance to answer to his charge; that Captain Gordon, the English constable, with a posse, came to his house during his absence, on or about the 29th or 30th of July; word was sent to him by Mr. Crosbie, the American magistrate, to come in and place himself under the protection of Captain Pickett; that he came, staid one day, and returned the next, Captain Pickett having informed him if they attempted in any way to interfere with him to send him word, and he should be protected at all hazards.

He is convinced that if troops had, not been on the island he would have been taken by force and carried before an English magistrate. His reason for this belief is based on the fact that the English force on board the steam frigates *Satellite* and *Tribune* had orders to obey any requisition that Mr. DeCourcy should make on them.

LYMAN A. CUTLER.

Subscribed and sworn before me this 7th of September, 1859.

[L. s.]

HENRIE R. CROSBIE, *Notary Public.*

PORT TOWNSEND,

Washington Territory, September 2, 1859.

ESTEEMED SIR: I find that we have some disappointed or annoyed gentlemen (by the recent movement of General Harney) that are puffing the letter of Governor Douglas in reply to that of General Harney.

The General, it seems, did not say in his letter anything relative to the inroads and murders committed by the northern Indians, but confined himself to the immediate subject of grief, that of the threatened taking of an American citizen to Victoria for trial.

How beautifully the Governor in his reply "finesses" out of. In substance, he says that "the government did not threaten," &c., all of which is true theoretically; but practically, the Hudson's Bay Company, with half a dozen armed steamers, the government governor being the head of the company, and his son-in-law, Mr. Dallas, the chief director and *the power* that practically moves the Hudson's Bay Company and the governor, did land and go to "the man that shot the boar," and threaten to take him on board their steamer (not the government steamer, but that of the Hudson's Bay Company) to Victoria; and finding they (five of them) could not do it, left with a threat to send the *Plumper*, a British government frigate for him, and, as I am reliably informed, did afterwards put the magistrate on the island, who sent three times after him, every time being watched by our peace officers and posse with reliance on our government officers and men.

Very truly, yours, &c.,

PAUL K. HUBBS.

I am not personally acquainted with General Harney, but his timely aid and position taken meets the unbounded admiration of the citizens of this Territory.

P. K. H.

His Excellency, the President, JAMES BUCHANAN.

17. *Governor Gholson to General Harney.*

EXECUTIVE OFFICE,
Olympia, Washington Territory, August 21, 1859.

SIR: In view of the excited state of a portion of the people (Gov. D. included) on Vancouver's Island, &c., I have thought that a judicious regard for the welfare of this Territory and the success of our arms, (should a collision occur,) perhaps, made it my duty to inform you that we have about (1,000) one thousand of small arms, (850) eight hundred and fifty muskets, ordinary, and (150) one hundred and fifty muskets (rifled,) and (4) four twelve-pound mountain howitzers, and that for none of these have we a shot, shell, or cartridge.

Permit me to say, General, that as we shall be wholly dependent upon your orders for a supply, (if I correctly understand the regulations of the War Department,) I shall be pleased (either now or at such time as your *discretion* may direct) to receive whatever supplies you may think proper to order to this place.

I have the honor to be, General, your most obedient servant,

R. D. GHOLSON,

Governor of Washington Territory.

Brigadier General W. S. HARNEY,
Headquarters Department of Oregon.

[Indorsement.]

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., September 19, 1859.

Respectfully forwarded for the information of the General-in-chief, who is notified that eighty-five thousand rounds of ordinary musket ammunition, fifteen thousand of rifled-musket, and two thousand rounds of mountain howitzer ammunition has been placed at Fort Steilacoom, subject to the requisition of Governor Gholson, in case of an emergency.

W. S. HARNEY.

Brigadier General Commanding.

18. *General Harney to Mr. Floyd.*

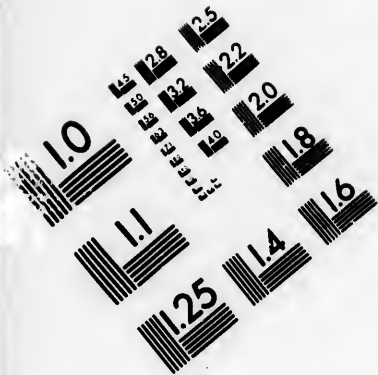
HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., October 10, 1859.

SIR: I have the honor to acknowledge the receipt of your communication of the 3d of September last, transmitting the views of the President of the United States in reference to the military occupation of San Juan or Bellevue Island, as reported in my despatch of the 19th of July last, addressed to the General-in-chief.

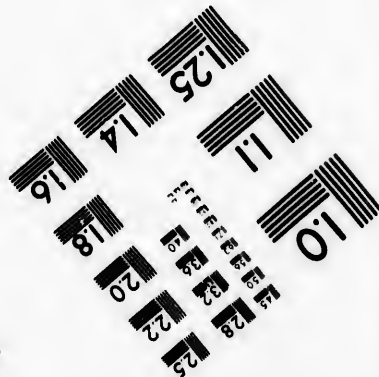
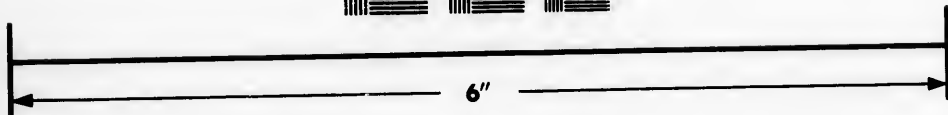
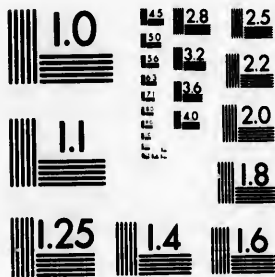
Since the date of that despatch other events have transpired, which are conclusive in showing the intentions of the colonial authorities of Great Britain were directed towards assuming a positive jurisdiction over the island of San Juan. These occurrences have all been reported in a regular course of correspondence to the General-in-chief, duplicates having been transmitted to the Adjutant General.

The President expresses an anxiety to ascertain whether, before proceeding to act, I communicated with Commissioner Campbell, who was intrusted by the government of the United States, in conjunction with the British commissioner, to decide the boundary question. In reply, I desire to inform His Excellency, the President, that no official communication had passed between Commissioner





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Campbell and myself in reference to the boundary, previous to the occupation of San Juan Island by Captain Pickett's company, for the reason that no exigency had arisen requiring it. In the personal interviews I have had with Commissioner Campbell since my arrival on this coast, he has always assured me that there could be but one solution of the boundary question under the treaty of June 15, 1846, and that was to be obtained by taking the mid-channel of the "Canal de Haro," or Straits of Haro, as the boundary line between the United States and Great Britain. He has several times stated that a strict construction of the treaty will not only give us the Haro group of islands, of which San Juan is the most important, but also the Saturna Island, which is yet nearer to Vancouver. This island, he said, he was willing to give to Great Britain, under a liberal and generous construction of the treaty.

In each of these interviews Commissioner Campbell has deplored the course pursued by the British government in the opposition they made to the settlement of this question, and the delays continually seized upon by the British commissioner to prevent coming to an early decision. Commissioner Campbell appeared to be earnestly impressed with the conviction that the British government intended to keep this an open question until some future time, when they could advance their claims to better advantage, as they had no foundation in justice or right. I saw Commissioner Campbell for the last time at Simiahmoo, on the 7th day of July last; at that date neither he nor myself had any knowledge to induce us to believe the colonial authorities of Great Britain had attempted to assume jurisdiction over San Juan. When Captain Pickett's company arrived at San Juan, it appears Commissioner Campbell was making an exploration of the islands in the Haro group, and visited San Juan the day Captain Pickett landed; he rendered the captain every assistance, and approved the course that had been pursued. Captain Pickett landed on the 27th of July, and Commissioner Campbell remained in that vicinity until the 16th of August, when I received a private communication from him, a copy of which is enclosed. I immediately answered it officially, giving him my reasons in full for occupying San Juan; this would have been done at the time Captain Pickett's order was issued, but I did not know his whereabouts until I received his communication. A copy of this answer to the Commissioner is also enclosed, and a copy of his reply dated the 30th of August.

I would respectfully call the attention of the President to the unqualified denial of Governor Douglas, in his despatch of the 13th of August, that any attempt had ever been made to arrest an American citizen and convey him to Victoria to be tried by British laws. At the very moment this denial was being penned three British ships-of-war were in that harbor by the orders of Governor Douglas, to support a British stipendiary magistrate sent by Douglas to arrest the same American citizen (Cutler) of San Juan, who would have been arrested but for the positive interference of Captain Pickett; indeed, so pressing and urgent were the British to possess themselves of Cutler that Captain Pickett did not hesitate to report his capture could only be averted by occupying the island in force.

Such are the facts of this case, in which the British government furnished five ships-of-war, carrying one hundred and sixty-seven guns and from two to three thousand men, to an unscrupulous colonial governor for the purpose of wresting from us an island that they covet. Such puny faith should never be tolerated, however plausible the pretext upon which it may be founded.

I am, sir, very respectfully, your obedient servant,

WM. S. HARNEY,

Brigadier General Commanding.

Hon. SECRETARY OF WAR,
Washington City, D. C.

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18 a.

STEAMER SHUBBRICK,
San Juan Harbor, August 14, 1859.

MY DEAR GENERAL: Captain Alden is about to leave the harbor for Fort Vancouver, with despatches from Colonel Casey, and I take the opportunity of dropping you a line in relation to the state of affairs resulting from the landing of troops on the island of San Juan.

When I learned from Captain Pleasonton that Captain Pickett's company was ordered to San Juan, I thought it was a very proper movement for the protection of American settlers from northern Indians, and from the interferences of the Hudson's Bay Company's agents, who had recently been threatening to take one of the settlers to Victoria for trial; and I did not anticipate from it any serious objection on the part of the British authorities of Vancouver's Island—certainly no forcible opposition—troops at various times heretofore having been sent there at intervals, in small detachments, for the protection of the settlers against the Indians.

But I happened to be making an exploration of the archipelago at the time Captain Pickett arrived, and for several days after he landed I was anchored in this harbor; and I soon saw that it was going to produce a great excitement unless managed with great discretion. Before I saw Captain Pickett's instructions I did not suppose it possible that any collision could arise between the United States and the English troops, and I took it for granted that his duties would be confined to the objects specified hereinbefore. While the boundary line still remains unsettled, and the commission appointed to determine the boundary line still existed, I did not suppose any resistance would be made by Captain Pickett to the landing of the British troops, if they thought proper, as a matter of protection to English subjects on the island, to station a force on the island. It did not seem to me, under present circumstances, that we should be justified in going to the extent of refusing to allow them to land troops for peaceable purposes. I found that Captain Pickett had different views, derived from your instructions, which he confidentially showed to me. I perceived that they were susceptible of the interpretation he gave them, though they were not directly mandatory on the subject; and supposing it possible, if not probable, that you might have received instructions from the War Department for the occupation of the island, I felt a delicacy in interfering further in the matter, lest I might be disturbing plans well considered by you and determined on by the government. At the same time, as I had no intimation on the subject from the State Department, I felt considerably troubled lest there might be some misunderstanding.

I was called upon officially by my colleague, Captain Prevost, the British commissioner for the settlement of the water boundary, to take steps individually, or in concert with him, to protest against the armed occupation of the island, it being intimated that British troops would be landed. As I did not consider it my duty, as commissioner, to interfere with the operations of the military forces of either government, I declined to take the steps indicated. Thus far no serious results have followed from the presence of troops on the island; but there is a good deal of excitement among the authorities of Vancouver's Island, and, doubtless, a great deal of mortification, and, if I may be permitted to advise, I would recommend caution, so as to prevent, if possible any collision, which, I think, under no circumstances ought to be allowed to occur:

However certain may be your conviction that the boundary line, according to the treaty, should run down the Canal de Haro—and I have never hesitated, when asked, to say that such is the ground I have taken as commissioner, and that in this I believe I will be supported by the government—still the question

has not been authoritatively decided; and unless you have some intimation from the War Department which has governed your actions, I fear that the decided action you have taken in declaring the island American territory may somewhat embarrass the question. I shall be greatly relieved to learn that you have some authority from the government for the decisive step you have taken, though I do not pretend to ask or desire the information in my official capacity. I thought it possible, if you had no directions from home, that you might be in error on some point regarding the Joint Commission, and therefore have taken the liberty of letting you know that it still exists, notwithstanding the slow progress made in settling the boundary question.

I presume Colonel Casey has fully informed you of everything that has taken place since his arrival, and therefore I need say nothing further.

Hoping you will excuse the liberty I have taken in writing you thus freely, I am, my dear General, very respectfully and truly, your obedient servant,
ARCHIBALD CAMPBELL.

Brigadier General W. S. HARNEY,
United States Army.

NOTE BY THE DEPARTMENT OF WAR.—See General Harney's letter to Mr. Campbell, August 16, with No. 11 of these papers, [p. 169.]

18 b.

CAMP SIMIAHMOO, *August 30, 1859.*

MY DEAR GENERAL: I had the pleasure of receiving, on the 22d instant, your letter of the 16th, placing me in possession of the facts connected with the occupation of San Juan Island by some of the troops under your command. For the trouble you have taken to furnish me this information, in the midst of more pressing and important occupations, I beg to return you my sincere thanks. Had I known your views earlier, I should have been free from the embarrassment expressed in my letter to you of the 14th instant. The rumor in regard to my departure for Washington City, which prevented your communicating this before, had no foundation whatever.

In a few days I contemplate a trip along the 49th parallel as far as Fort Colville. I shall return to this place via the Columbia river towards the middle of October, by which time you will probably have received answers to your despatches to Washington, which I trust may be satisfactory to you. Looking forward with pleasure to meeting you at that time at Fort Vancouver, I am, my dear General, very respectfully and truly, your obedient servant,

ARCHIBALD CAMPBELL.

Brigadier General W. S. HARNEY,
United States Army.

19. *General Scott to the Adjutant General.*

HEADQUARTERS OF THE ARMY,
Portland, Oregon, October 22, 1859.

SIR: The General-in-chief desires me to report, for the information of the Secretary of War, that he arrived in good health at Fort Vancouver on the night of the 20th instant, and had an interview with Brigadier General Harney the following morning.

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The answer of that officer, of October 10, to the Secretary of War, in answer to his communication of September 3, gave an account of the affairs existing at the island of San Juan to that period, since when nothing of interest has occurred.

Captain Pickett, 9th infantry, the judge advocate of a general court-martial, ordered by General Harney to convene at Fort Vancouver, who arrived here yesterday, just from the island, reports everything quiet, and that the British vessels of war had all returned to their usual anchorage near Victoria except one—the Satellite.

The steamer *Northerner*, on which the General is a passenger, leaves this place this afternoon for Puget Sound, and, on her arrival in those waters, it is his intention to go on board the government steamer *Massachusetts*, at Port Townsend, and from thence open a correspondence with the British authorities. The General does not intend to pass beyond the limits of the United States.

Commissioner Campbell is on his way from Colville to Fort Vancouver, and may arrive at the latter place in a day or two.

I have the honor to be, very respectfully, your obedient servant,

L. THOMAS,

Assistant Adjutant General.

Colonel SAMUEL COOPER,

Adjutant General U. S. Army, Washington, D. C.

20. *General Scott to the Adjutant General.*

HEADQUARTERS OF THE ARMY,

Fort Townsend. W. T., October 26, 1859.

SIR: By direction of the General-in-chief I enclose, for the information of the Secretary of War, a copy of his communication of yesterday's date to His Excellency James Douglas, governor of Vancouver's Island, and its dependencies, containing a proposition to serve as a basis for the temporary adjustment of the difficulties existing at the island of San Juan between our government and that of Great Britain. Lieutenant Colonel Lay, who was charged with the delivery of the communication, is momentarily expected, in the revenue cutter on this station, with the Governor's reply, and if received in time for the mail a copy thereof will also be enclosed.

The General-in-chief further intends to send the substance of the communications by the overland mail from San Francisco to the commanding officer of Fort Leavenworth, with instructions to telegraph the same to the Secretary of War.

The steamer *Northerner* takes her departure from Fort Townsend this morning, via Victoria, for San Francisco, where she is expected to arrive in ample time, with the mails, for the steamer to leave that port on the 5th proximo. This communication will be sent by the *Northerner*.

I have the honor to be, very respectfully, your obedient servant,

L. THOMAS,

Assistant Adjutant General.

Colonel S. COOPER,

Adjutant General U. S. Army, Washington, D. C.

21. *General Scott to Mr. Floyd.*

[Telegram.]

FUCA STRAIT, *October 27,*
via Leavenworth, November 24.

Hon. J. B. FLOYD.

Secretary [of War.] Washington :

Two days ago I despatched 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.

WINFIELD SCOTT.

22. *General Harney to General Scott.*HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., October 29, 1859.

SIR: I have the honor to enclose, for the information of the General-in-chief, a copy of a communication from Lieutenant Colonel Casey, commanding on San Juan Island, in which he reports that Rear-Admiral Baynes, commanding Her Britannic Majesty's fleet on the Pacific coast, was actually on board the British steamship-of-war Tribune, in the harbor of San Juan Island, at the time Colonel Casey landed his troops, and when Captain Hornby, of the British navy, the commander of the Tribune, informed the Colonel, in presence of the British and American commissioners, that Admiral Baynes was then at Esquimault harbor, near Victoria, Vancouver's Island.

I mentioned this fact to the General-in-chief, in conversation at the time of his arrival at this post, but I deem it of such importance in showing the duplicity and bad faith exercised towards us by both the colonial and naval authorities of Great Britain in reference to San Juan Island, that I desire to place it on record.

This statement exposes three high officials of Her Britannic Majesty's service, viz: the British commissioner, the admiral, and the senior captain of the navy in these waters, to the imputation of having deliberately imposed a wilful falsehood upon the authorities of a friendly nation to advance the sinister designs of the British government in obtaining territory that rightfully belongs to the United States.

Is it too much to suppose they would be guilty of like conduct should they be permitted to assume a position in which it would aid their purposes?

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,
*Brigadier General Commanding.*The ASSISTANT ADJUTANT GENERAL,
Headquarters of the Army, Port Townsend,
Puget Sound, W. T.

22 a.

FORT VANCOUVER, W. T., *October 28, 1859.*

CAPTAIN: In my communication of the 12th August, from San Juan Island, narrating the events which had transpired on that island, from the time of my arrival with a re-enforcement of three companies of infantry from Fort Steilacoom, it

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will be seen that I had requested an interview with Rear-Admiral Baynes, commanding Her Britannic Majesty's fleet on the Pacific coast. As I did not in that communication state the principal reason which governed me in not proceeding to the flag-ship *Ganges*, for the purpose of having an interview with the Admiral on board that ship, in the harbor of Esquimault, I have thought it due to myself that that reason should be made known to the General commanding the department, and I would respectfully request that the following be considered a part of my communication of the 12th August, 1859, viz :

Soon after my conference with Captain Hornby, I was informed by Mr Campbell, the United States commissioner, that Rear-Admiral Baynes was actually on board the British steamship *Tribune*, in the harbor of San Juan Island, at the very time I was informed by Captain Hornby, in the presence of the British and American commissioners, that the Admiral was at Esquimault harbor, twenty-five miles distant.

I was somewhat astonished at this, and considered that I had not been dealt by with that openness and candor which the object to be brought about seemed to demand.

I resolved, notwithstanding this, to comply with my promise to meet the Admiral at Esquimault harbor ; but knowing what I did, thought it not incumbent on me to repair on board the *Ganges*, for the purpose of the contemplated interview.

Very respectfully, your obedient servant,

SILAS CASEY,

Lieutenant Colonel 9th Infantry, Commanding on San Juan.

Captain A. PLEASANTON,

Acting Assistant Adjutant General,

Department of Oregon, Fort Vancouver, W. T.

23. *General Scott to Mr. Floyd.*

HEADQUARTERS OF THE ARMY,
At Sea, December 8, 1859.

SIR: After the despatch of October 26, by Lieutenant Colonel Thomas to the Adjutant General, I had no opportunity of communicating with the Department before the steamer from San Francisco of the 21st ultimo, and in her I embarked for home.

This letter will be accompanied by copies of my correspondence and orders on the subject of the island of San Juan, while I was on the Pacific coast, viz :

1. My communication to Governor Douglas, October 25.

Hasty memorandum by Lieutenant Colonel Lay, October 26. [Copies were communicated by Lieutenant Colonel Thomas's despatch.]

3. Governor Douglas to me, October 29.

4. My letter to Governor Douglas, November 2; and

5. Project of a temporary settlement, November 2.

6. Governor Douglas to me, November 3.

7. My letter to Governor Douglas, November 5.

8. My special orders—sending troops from San Juan, November 5.

9. Governor Douglas to me, November 7.

10. The same, enclosing deposition, &c., November 7.

11. My letter to Governor Douglas, November 9.

12. Extract of instructions to General Harney, November 9; and

13. Extract of instructions to Captain Hunt furnished Governor Douglas, November 9.

14. Lieutenant Colonel Thomas to Captain Hunt, November 9.
15. Lieutenant Colonel Thomas to Lieutenant Colonel Casey, November 9.
16. Lieutenant Colonel Thomas to General Harney, November 9.
17. My letter to General Harney, November 15.
18. Special order, November 15.

It will be seen that the British governor having assured me that he entertained no design of attempting the dislodgment by force of our troops from the disputed island, I immediately, in order to take from our position every semblance of hostility or menace, took measures to reduce that force to a single company of infantry, with its proper arms only, (for the protection of American settlers,) with the understanding that, in the same spirit, one of the vessels of war (the larger) in the harbor of San Juan would also be sent off at an early day.

And here it is proper to remark that, from the beginning of the recent difficulties, there has virtually been a joint occupation of the island, by our troops in the land, and by one or more British vessels of war in the harbor.

I have the honor to be, sir, with high respect, your obedient servant,
WINFIELD SCOTT.

Hon. JOHN B. FLOYD,
Secretary of War.

23 a.

HEADQUARTERS OF THE ARMY.
Fort Townsend, October 25, 1859.

The undersigned, Lieutenant General and Commanding 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 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 one hundred 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, aide-de-camp of the undersigned, who has the honor to subscribe himself,

With high respect, His Excellency's obedient servant,
WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,
*Governor of the Colony of Vancouver's Island
 and its Dependencies, and Vice-Admiral of the same.*

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23 b.

Hasty Memorandum.

VICTORIA, VANCOUVER'S ISLAND,
Night of October 26, 1859.

His Excellency Governor Douglas authorizes me to say that, having yet had no time to consider in detail the proposition offered by Lieutenant General Scott, nor to consult with his official advisers here, he is at a glance satisfied that no obstacle exists to a completely amicable and satisfactory adjustment, (continuing throughout the period of diplomatic discussion respecting the title to the island of San Juan,) either upon the plan suggested by General Scott, or some other that may be mutually agreed to after advisement.

His Excellency has read this memorandum and retains a copy.

G. W. LAY,
Lieutenant Colonel U. S. Army.

23 c.

VICTORIA, VANCOUVER'S ISLAND,
October 26, 1859.

SIR: I have had the honor 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 frontier 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 neighborhood, 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 which 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 no 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 one hundred 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 the United States troops—the "status" established on the moderate and conciliatory views laid down by 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 honorable 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 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.

7. Should it, however, 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 endeavored 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 to be free from molestation from the British authorities. I feel confident, sir, that 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 favor the proposition I have made.

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

JAMES DOUGLAS.

Lieutenant General WINFIELD SCOTT,
Commanding in Chief the Army of the United States.

23 d.

HEADQUARTERS OF THE UNITED STATES ARMY,
False Dungeness Harbor, W. T., November 2, 1859.

I have the honor 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 honor 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 supervene and directly to dispose of the whole subject of the disputed island forever.

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 intrusted 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 also 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 "*Projet 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 the 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 that I do not see how I can positively 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 the honor to remain, with high consideration, Your Excellency's most obedient servant,

WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,
Governor of the Colony of Vancouver's Island and
its Dependencies, and Vice-Admiral of the same.

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 on behalf of Her Britannic Majesty's government by His Excellency James Douglas, esquire, 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 shall be amicably settled, shall consist of two detachments of infantry, riflemen, or marines of the two nations, neither detachment of more than one hundred 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 persons 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 to 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 or 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.

23 f.

VICTORIA, VANCOUVER'S ISLAND,
November 3, 1859.

SIR: Lieutenant Colonel Lay yesterday placed in my hands your despatch of the 2d 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 and express instructions of my government.

3. I am authorized to maintain all treaties as they exist, but not to alter the

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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, in my opinion, does not 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 affording 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 whatsoever 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 as 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 mean time 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 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 the honor to remain, sir, your most obedient and humble servant,

JAMES DOUGLAS.

Lieutenant General WINFIELD SCOTT,
Commanding in Chief the Army of the United States.

23 g.

HEADQUARTERS OF THE UNITED STATES ARMY,
False Dungeness Harbor, W. T., November 5, 1850.

SIR: I have the honor to acknowledge a second communication from Your Excellency dated the 3d 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 the United States troops on that island to be reduced to the small detachment (Captain Pickett's company of infantry) originally sent hither in July last for the protection of American settlers (such protection being petitioned for by them) against neighboring and northern Indians.

A copy of my orders in the case I enclose 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.

I have the honor to remain, with high consideration, Your Excellency's most obedient servant,

WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,
*Governor of the Colony of Vancouver's Island
 and its Dependencies, and Vice-Admiral of the same.*

After the foregoing communication was despatched the General-in-chief determined to leave Captain Hunt's company on the island, instead of Captain Pickett's, and a copy of his order, after modification, was subsequently sent to Governor Douglas to replace the one previously transmitted. The following is a copy of the order as finally issued.

L. THOMAS,
Assistant Adjutant General.

23 h.

[Special Orders, No. —.]

HEADQUARTERS OF THE ARMY,
United States Propeller Massachusetts, W. T., 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; company A of the 4th and H of the 9th infantry to Fort Steilacoom; company D of the 9th infantry to Fort Bellingham; and last, the companies of the 3d artillery to Fort Vancouver.

Captain Hunt and his 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 this propeller, and will send the light battery to Forts Townsend, Bellingham, and Steilacoom.

By command of Lieutenant General Scott:

L. THOMAS,
Assistant Adjutant General.

23 i.

VICTORIA, *Vancouver's Island, November 7, 1859.*

SIR: I have the honor to acknowledge your communication of the 5th 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

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the protection of the American settlers against neighboring and northern Indians, and transmitting a copy of your orders in that case to the commanding officer in 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 in 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 the honor to be, sir, your most obedient servant,

JAMES DOUGLAS.

Lieutenant General W. SCOTT,

Commanding in Chief the United States Army.

23 j.

VICTORIA, *Vancouver's Island*, November 7, 1859.

SIR: I have the honor to enclose to you herewith a deposition which has been forwarded to me, made by one William Moore, a British subject, concerning his having been apprehended by the United States authorities on San Juan Island, and compelled to work in the trenches, and, when released, deprived of the sum of seventy-five dollars.

2. I bring this matter to your notice with the full assurance that you will cause it to be investigated, and such reparation made as the circumstances may demand.

I have the honor to be, sir, your most obedient, humble servant,

JAMES DOUGLAS.

Lieutenant General WINFIELD SCOTT,

Commanding in Chief the Army of the United States.

[Inclosure.]

I, William Moore, state as follows:

I. That I am a British-born subject, and a native of Sligo, in Ireland.

II. I have been trading with my canoe between Victoria and Bellevue Island for nearly two months, dealing in onions, potatoes, bread, milk, and sometimes liquor, taking with me on several trips from two to five gallons at a time.

III. Early on the morning of the 16th September last I sold to a party of the name of Powell, who is an employé of the Hudson's Bay Company, a bottle of rum, for which I received the sum of one dollar. Powell returned shortly after he took the rum away, and asked me if I was on good terms with an American of the name of Crow. I said I had never been on bad terms with him. About an hour after this occurred I saw this party, Crow, and the sheriff coming down towards my tent. The sheriff said, "I have a warrant for you, my man, and want you to come along with me." I went with him to the court-house, and arrived there about eight o'clock in the morning.

IV. I was tried the same day, and the judge (Crosbie) said I was guilty, and ordered me to the guard^{house} till next day. I was then put into a tent with six or seven soldiers, who were prisoners, and after I had been there about half an hour the sheriff said he had orders to search me, and accordingly took my purse, containing \$160.

V. On the morning of the 17th the prisoners turned out to work, and I answered to my name when it was called, and subsequently went to work in the trenches, rolling stones and shovelling earth there. Previously, however, to going to work I asked the sergeant of the guard if I was to work with the rest, when he replied "that he had orders from Captain English, the officer of the rest, to put me to work with the rest."

VI. I worked in the trenches till the prisoners were called in to prepare for dinner, and between two and three o'clock a constable by the name of Cutler took me to the court-house. Judge Crosbie then told a constable to take \$75 from my purse, which was lying on the table, which he did, and gave me the rest of the money, and I was then informed that I was discharged. Judge Crosbie never asked me if I was a British or American subject.

WILLIAM ^{his} X MOORE.
mark.

Sworn at Victoria, on this sixth day of October, in the year of our Lord one thousand eight hundred and fifty-nine, before me, having been first read over and explained to the said William Moore, who seemed perfectly to understand the same.

DAVID CAMERON, C. J.

I, Richard K. Powell, employé of the Hudson's Bay Company, at Bellevue Island, state as follows: That I personally saw William Moore at work in the trenches on Bellevue Island on the 17th September last, along with other prisoners, and I believe he was so put to work in consequence of orders from the court, or Judge Crosbie, the magistrate on the island.

R. R. POWELL.

Subscribed in presence of us, who have hereunto set our names as witnesses.

(D) JOHN COPLAND, of Yates street, Victoria.

(D) WILLIAM YILLECK, of Esquimault.

[See statement of case of William Moore, page 205.]

23 k.

HEADQUARTERS OF THE ARMY,

U. S. Propeller Massachusetts, W. T., November 9, 1859.

SIR: I have the honor 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 whilst 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

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instant removal of the offender; and if afterward 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, second, 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 interference with British subjects.

I have the honor to remain, with high consideration, Your Excellency's most humble servant,

WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,
Governor of the Colony of Vancouver's Island
and its Dependencies, and Vice-Admiral of the same.

[Inclosure 23 k.]

The following extracts of communications addressed from the Headquarters of the Army to different commanders were furnished to his excellency Governor Douglas, with the General-in-chief's letter of November 7, 1859:

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.

"L. THOMAS,
"Assistant Adjutant General."

[To Captain Hunt, commanding company C, fourth infantry, San Juan Island.]

2. "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 instant, respectively, as also a copy of his special order on the same subject. These papers will show 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*.

"L. THOMAS,
"Assistant Adjutant General."

23 l.

HEADQUARTERS OF THE ARMY, U. S. PROPELLER MASSACHUSETTS,
Off Port Townsend, W. T., November 9, 1859.

SIR: Your company, with only its appropriate arms, is to be left alone on San Juan Island, when you will revert to the instructions from the Headquarters of the Department of Oregon, dated July 18, 1859.

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 instant, 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*.

It is, further, the direction of the General that after the departure of Captain Pickett's company you occupy his part of the camp, where your men will be better sheltered during the winter, and also be further removed from the establishment of the Hudson's Bay Company. Captain Pickett will, of course, be at liberty to take back to Fort Bellingham the property carried over to the island, such as doors, window-sash, &c., as also his company property, but it is hoped that some part of the excellent shelter he erected may be transferred to you.

I am, sir, very respectfully, your obedient servant,

L. THOMAS.

Captain LEWIS C. HUNT,

*Commanding Company C, 4th Infantry,
San Juan Island.*

23 m.

HEADQUARTERS OF THE ARMY, U. S. PROPELLER MASSACHUSETTS,
Off Port Townsend, W. T., November 9, 1859.

SIR: I herewith put under cover, for your information and government, the following papers, viz:

1. A copy of Special Orders, dated November 5, 1859.
2. An open package for Captain Hunt.

I am desired by the General-in-chief to add that he wishes you to leave with Captain Hunt's company two effective subalterns.

I enclose a copy of an affidavit made at Victoria the 6th of October last, by William Moore, claiming to be a British subject, who complains of injustice done him, not only on the part of the civil authorities of Washington Territory, but on that of the military. His statement is no doubt greatly misstated and exaggerated, but the General wishes you to make a careful examination of the case, and redress, as far as may be in your power, any wrong Moore may have sustained. He wishes you, further, to furnish the colonial secretary of Vancouver's Island with the results of your examination.

I am, sir, very respectfully, your obedient servant,

L. THOMAS,

Assistant Adjutant General.

Lieutenant Colonel SILAS CASEY,

Officer Commanding at San Juan.

23 n.

HEADQUARTERS OF THE ARMY, U. S. PROPELLER MASSACHUSETTS,
Off Port Townsend, W. T., November 9, 1859.

GENERAL: By direction of the General-in-chief I enclose for your information and guidance the following papers, viz:

1. Copies of the General-in-chief's communication to His Excellency Governor Douglas, dated the 5th and 9th instant.
2. A copy of Special Orders, dated the 5th instant.
3. A copy of my letter to Captain Hunt, dated the 9th instant.

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These papers will show you to what extent the General has interfered in the affairs of the Department of Oregon, except that he has made free use of the United States propeller Massachusetts, on board of which vessel he made his headquarters.

Captain Hunt will be left on the island of San Juan, under your instructions of July 18, modified by my letter to him dated the 7th instant; but the General-in-chief wishes it to be remembered that the sovereignty of the island 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.

Captain Fauntleroy represents that the Massachusetts leaks badly, and that repairs are necessary, which can better be done at San Francisco this winter. The General-in-chief concurs, but gives no orders on the subject.

I have the honor to be, very respectfully, your obedient servant,

L. THOMAS,

Assistant Adjutant General.

Brigadier General W. S. HARNEY,

Commanding Department of Oregon, Fort Vancouver, W. T.

23 o.

HEADQUARTERS OF THE ARMY,
St. Helen's, Oregon, November 15, 1859.

SIR: Intending at the first moment to urge that the two departments on the Pacific should be thrown back into one, and being aware of your preference for that having St. Louis as its headquarters, I have already suggested to you a change. Another motive has just occurred to me for renewing the subject.

I have no doubt that one of the preliminary demands which will be made by the British government upon ours, in connection with your occupation of the island of San Juan, will be your removal from your present command.

In such an event it might be a great relief to the President to find you, by your own act, no longer in that command.

I make the suggestion from public considerations solely, and have not received the slightest hint to that effect from Washington.

To take effect in conformity with your own wishes, I enclose herewith a conditional order to repair to St. Louis, Missouri, and assume the command of the Department of the West.

If you decline the order, and I give you leave to decline it, please throw it into the fire; or, otherwise, before setting out for the east, call your next in rank to you, and charge him with the command of the Department of Oregon.

We have been forced into this river by a defect in a boiler, and to take in a new supply of coal. I may not have time to hear in reply from you on this side of the continent, unless we arrive at San Francisco too late for the Panama steamer of the 20th instant, which we begin to fear.

I am, sir, very respectfully, your obedient servant,

WINFIELD SCOTT.

Brigadier General W. S. HARNEY,

Commanding Department of Oregon, Fort Vancouver, W. T.

23 p.

[Special Order No. —.]

HEADQUARTERS OF THE ARMY,
St. Helen's, Oregon, November 15, 1859.

Brigadier General Harney will repair to St. Louis, Missouri, and assume command of the Department of the West. Colonel Wright, ninth infantry, or the next senior present, will be charged, until further orders, with the command of the Department of Oregon, and will be instructed to repair to Fort Vancouver.

By command of Lieutenant General Scott:

L. THOMAS,
Assistant Adjutant General.

24. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., November 17, 1859.

SIR: I have the honor to acknowledge the receipt of a communication from the Headquarters of the Army, dated St. Helen's, Oregon, November 15, 1859, and signed by the General-in-chief, enclosing a conditional order for me to repair to St. Louis, Missouri, and assume the command of the Department of the West.

The General-in-chief is pleased to express himself in the following language in this communication, viz:

"I have no doubt that one of the preliminary demands which will be made by the British government upon ours, in connection with your occupation of the island of San Juan, will be your removal from your present command.

"In such event it might be a great relief to the President to find you, by your own act, no longer in that command."

The General-in-chief states this is his own opinion in the matter, as he has not received the slightest hint to that effect from Washington, and concludes by giving me the liberty of declining this order.

In reply to this communication of the General-in-chief, I desire to inform him that I am not disposed to comply with such an order. I do not believe the President of the United States will be embarrassed by any action of the British government in reference to San Juan Island; nor can I suppose the President would be pleased to see me relinquish this command in any manner that does not plainly indicate his intentions towards the public service.

I am, sir, very respectfully, your obedient servant,

WM. S. HARNEY,
Brigadier General Commanding.

ASSISTANT ADJUTANT GENERAL,
Headquarters of the Army, New York City.

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STATEMENT IN THE CASE OF WILLIAM MOORE.

Colonel Casey to Colonial Secretary Young.

FORT STEILACOOM, W. T.,

November 21, 1859.

SIR: In accordance with instructions from Lieutenant General Scott, I have the honor to enclose, for the information of Her Majesty's colonial government of Vancouver's Island, the enclosed statement in the case of William Moore, of Henry R. Crosbie, esq., a justice of the peace on the island of San Juan.

It is to be regretted that the merits of this case had not been more thoroughly investigated before being made the subject of a grave official communication to the Lieutenant General commanding the army of the United States. It certainly cannot claim the importance sought to be attached to it. It is by no means certain that Moore owed allegiance at the time to the Crown of Great Britain.

By the first paragraph of the copy of the affidavit enclosed to me, I find that he does not swear that he owed allegiance to that crown, but only that he was a *British-born subject*.

From the previous two years' history of the man, the presumption is strong that he owed allegiance to the United States of America.

In case, however, if allegiance was due the Crown of Great Britain, the treacherous conduct displayed by him, as set forth in the statement of Mr. Crosbie, did not, in my opinion, merit from the British government any very favorable consideration.

I have the honor to be, very respectfully, your obedient servant,

SILAS CASEY,

Lieut. Col. 9th Inf., late commander U. S. forces on island of San Juan.

W. A. G. YOUNG, Esq.,

*Acting Colonial Secretary, Vancouver's Island.**Mr. Crosbie to Governor Gholson.**

SAN JUAN ISLAND, W. T.

November 30, 1859.

SIR: In answer to the complaint made by William Moore, of alleged injustice received at the hands of the civil authority of Washington Territory, and forwarded by Governor Douglas, on the ground that the complainant is a British subject, I have to state that some 16 months since this man was sick and destitute at Whatcom, and was taken care of by the authorities at that place at an expense to the county of nearly \$300. He then claimed to be an American citizen, and so far from abandoning that claim during the latter part of July and the earliest part of August, when there was serious apprehension of a collision, made himself extremely useful in obtaining and conveying information with regard to the English movements. It was on account of the services thus rendered that I requested Colonel Casey that he should have the privilege of stopping within the military reserve or confines of the camp for the purpose of selling his vegetable and other commodities, which request was granted on assurance being given that he would not sell any liquor to the soldiers. Shortly afterwards representations were made to me from all quarters—the camp, the Hudson's Bay Company employes, and the citizens—that Moore was selling large quantities of liquor, both to soldiers and Indians. On a complaint made to that effect a warrant was issued for his apprehension. He was convicted mainly on the evidence of his own partner. After trial he was remanded to the guard-house for sentence next day, at 12 o'clock, for safe keeping. His effects were taken in charge by the sheriff. It was entirely

* 36th Cong., 1st sess., Ho. Repts. Ex. Doc. No. 77, pp. 14-15.

optional with the prisoner to pay the fine of \$50 and costs, or to be subject to imprisonment for the usual number of days. He chose the former, and was discharged. The penalty amounted in all to \$65, and not \$75, as he has falsely sworn. On his discharge he expressed his extreme penitence, and showed its utter insincerity by engaging the very next day more extensively in the traffic than before, and I was again called upon to issue a warrant, to avoid the service of which he fled the island.

I have gone into details further than necessary, although the right of inquiry ceases from the fact that the man, to my own knowledge, has for the last two years claimed to be an American citizen, in order to show that the whole complaint was simply "a made-up case."

The "injustice" in this matter is evidently against the law and not the individual.

To those who have seen the intoxication prevalent amongst the Indians on the island for the last few months, and the great trouble and annoyance that has arisen entirely from that cause, the complaint must seem more than an absurdity, and I cannot refrain from expressing my utter astonishment that Governor Douglas should have forwarded it, the more so from the fact that there was an English magistrate on the island, Major de Courcy; in addition there were also Captain Prevost, commanding H. B. M. ship *Satellite*, and Mr. Griffin, the agent of the Hudson's Bay Company, either of whom could have furnished a true version of the affair; indeed the British magistrate was the source from whence this complaint should have originated, as he was placed on the island for the avowed purpose of seeing that the rights of British subjects were not infringed upon.

I take pleasure here in stating that, so far from captiously endeavoring to thwart my efforts in preserving quiet and order, Major De Courcy has done whatever lay in his power to assist me. When a similar complaint was made to him by a person engaged in the same trade as Moore, he replied that "he came to the island for the purpose of seeing the laws enforced, and not to assist in breaking them by throwing a shield around those engaged in illegal traffic."

In reviewing the transaction, all that I can blame myself with is the mistaken leniency of not inflicting a penalty more in proportion to the mischief created.

Very respectfully, your obedient servant,

HENRY R. CROSBIE.

His Excellency R. D. GHOLSON,
Governor of Washington Territory.

LETTER OF GENERAL HARNEY TO THE ADJUTANT GENERAL U. S. ARMY, ENCLOSING RESOLUTIONS OF THE COUNCIL OF WASHINGTON TERRITORY.*

General Harney to the Adjutant General.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., January 24, 1860.

COLONEL: I have the honor to enclose, for the information of the War Department, a certified copy of a resolution relative to San Juan Island, which has passed unanimously the Legislative Assembly of Washington Territory.

I am, Colonel, very respectfully, your obedient servant,

W. S. HARNEY,
Brigadier General Commanding.

Colonel S. COOPER,
Adjutant General, Washington City, D. C.

* H. Ex. Doc. 65, 36th Cong., 1st sess., pp. 51-53.

Council of Washington Territory—7th Session.

Whereas it has come to our knowledge that attempts are making, or will be made, to merge the Military Department of Oregon into the Department of the Pacific, and in case this is not effected, to cause Brigadier General William S. Harney to be removed from command; and

Whereas we believe that said Department was established for good and sufficient reasons, which reasons still exist in as full force as when said Department was established, the interior of our Territory being still occupied by numerous tribes of Indians, only restrained from hostilities by the presence of large bodies of troops, and our frontier being still liable to murderous incursions of powerful and savage hordes of Indians living upon a foreign soil; and

Whereas experience has shown that, in order that these troops may act promptly and efficiently for the protection of our Territory, it is necessary that the Headquarters of the Department should be of convenient access, which would not be the case were it removed to the State of California; and

Whereas General Harney, in all his official acts while in command of this Military Department, by protecting us from Indians, domestic and foreign; securing and maintaining peace, by revoking those unlawful military orders under which an attempt was made to exclude our citizens from portions of our Territory, which, under the laws, were open to settlement; opening communications between different portions of the Territory; protecting emigration by placing troops on the island of San Juan, an island which is as unquestionably American soil as any other portion of our Territory; for the protection of American settlers against foreign Indians, and against attempted acts of foreign jurisdiction, has deserved and secured the entire confidence of the people of this Territory: Therefore be it

Resolved, That we, the legislative assembly of the Territory of Washington, earnestly and respectfully protest against any change by which the Military Department of Oregon shall be merged into any other department, and against its headquarters being removed.

Resolved, That we respectfully and earnestly solicit the President of the United States to continue the present able, experienced, and prudent officer (Brigadier General Harney) in command of said Military Department.

Resolved, That we firmly believe General Harney has acted in a prudent and proper manner in placing a military force on the island of San Juan for the protection of American citizens from foreign savages and wanton aggressions of foreign officials:

1. Because the island is clearly ours under a fair construction of the treaty.
2. Because said island is within the Military Department of Oregon, it having been, by an act passed in 1854, at the first session of the legislative assembly of this Territory, made a part of the organized county of Whatcom, which act was duly submitted to the Congress of the United States, as by the organic act is required, and has not to this day been disapproved, and is still the law of the land; and
3. Because, at the time, the circumstances of the case required that a military force should be placed there.

Resolved, That General Harney, having rightfully placed a military force upon said island, would have been recreant to his trust had he failed to support it with all the power at his command when it was threatened with an attack by a foreign nation.

Resolved, That having the fullest confidence in our title to the island, our right should be maintained at all hazard.

Resolved, That we most respectfully ask the proper authorities to revoke the odious military order placing San Juan Island (a portion of Whatcom County) under military rule.

Resolved, That we have the fullest confidence that the President of the United States will act justly and firmly in the premises, and that American rights will be fully vindicated by him.

Resolved, That copies of these resolutions, duly signed and certified, be sent to our delegate in Congress, to be by him submitted to the President of the United States; and also to General W. S. Harney.

We hereby certify that the foregoing resolutions is a true copy of the original, *unanimously* passed by the Legislative Assembly of Washington Territory.

JOHN D. BILES,

Speaker of the House of Representatives.

H. J. G. MOXON,

President of the Council.

JANUARY 7, 1860.

[Extract from H. Ex. Doc. No. 98, 36th Congress, 1st session, pp. 15-27.]*

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, Washington Territory, April 11, 1860.

SIR: I have the honor to enclose, for the information of the General-in-chief, a copy of a communication from Captain L. C. Hunt, fourth infantry, commanding on San Juan Island, forwarding a copy of the orders of Rear-Admiral Baynes, commanding Her Britannic Majesty's naval forces in the Pacific, to the officer commanding a detachment of royal marines landed on San Juan by the orders of the Admiral.

I have the honor, also, to enclose a copy of a communication from certain citizens on San Juan, complaining of Captain Hunt's conduct towards them. The Captain has not reported his acts to this office, and the fact of his being inimical to a portion of the inhabitants of the island, under present circumstances, has decided me to replace Captain Pickett's company upon the island, with such instructions as are necessary to meet the requirements of the service, a copy of which is also enclosed.

In consequence of the expense attending the maintenance of the position at Fort Townsend, and its want of usefulness in a military point, I have directed the company there to be withdrawn to Fort Steilacoom.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,

Brigadier General, Commanding.

The ASSISTANT ADJUTANT GENERAL,
Headquarters of the Army, New York City.

CAMP PICKETT, SAN JUAN ISLAND,

March 27, 1860.

SIR: I have the honor to state, for the information of the Commanding General of the Department, that a detachment of British marines has been landed upon the north end of the island, conformably to the proposition of Lieutenant General Scott, for establishing a joint military occupation.

From the tenor of my instructions and the papers furnished for my guidance, I consider it my duty simply to announce the fact, and await the orders of the Commanding General of the Department upon the subject.

* See letter of Mr. Stanton to Mr. Seward, page 268.

I enclose herewith a copy of the communication of Rear Admiral Baynes, accompanied by an extract from the orders furnished by Captain Bazalgette, commanding the detachment. I beg to call the attention of the Commanding General to the fact that while the British commanding officer has full power, plain and definite instructions by which my complaints to him of British subjects would be promptly acted upon, I am without such instructions as regards his complaints, (and liquor dealing will be very certain to produce them) General Scott's instructions to me seem to acknowledge (to a certain extent) territorial jurisdiction, but in all probability there will be no magistrate upon the island, (the present magistrate, Mr. Newsom, has just resigned,) and even if there should be, juries will find verdicts for the offenders, implying independence of Whatcom County jurisdiction. This has been shown lately in the cases of two persons tried for liquor dealing, unlicensed. The fact is that a great many of the persons upon the island are vagabonds, of no particular nationality, or of any, as it may suit their purpose, and it seems a great scandal that no power, civil or military, should be operative to keep them in order.

It certainly seems that Whatcom County jurisdiction should apply fully (to American citizens) or else that which I am quite sure the *bona fide* settlers and well-disposed citizens would prefer, military authority, so long as the present anomalous condition of affairs shall exist.

Under all these circumstances of the case, and as the best solution of future difficulties, I respectfully request that the Commanding General would furnish me with instructions analogous to those possessed by Captain Bazalgette.

I am, sir, very respectfully, your obedient servant,

L. C. HUNT,

Captain 4th Infantry, Commanding.

Captain ALFRED PLEASANTON,

2d Dragoons, A. A. A. General, Fort Vancouver, W. T.

HER BRITANNIC MAJESTY'S SHIP GANGES,

In Esquimalt Harbor, March 20, 1860.

SIR: I have the honor 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 the honor to be, sir, your obedient servant,

R. LAMBERT BAYNES,

Rear Admiral and Commander-in-Chief

Of her Britannic Majesty's Naval Forces in the Pacific.

Captain HUNT,

Commanding United States troops, San Juan Island.

[Extract.]

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, 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 to Captain Hunt, or officer commanding the United States troops.

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

Ex. Doc. 29—14

Should the officer commanding United States troops bring to your notice offences committed by any of Her Britannic 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.

ROBERT LAMBERT BAYNES,

Rear Admiral, and Commander-in-Chief.

Captain GEORGE BAZALGETTE,

Royal Marines, Commanding Detachment on the Island of San Juan.

SAN JUAN ISLAND, *March 7, 1860.*

GENERAL: We, the undersigned citizens of this island, beg respectfully to call your attention to the gross and ungentlemanly conduct of Captain Hunt, the officer in command of this station. We ask if he is justified as a military man to infringe on the rights and privileges of American citizens? Is he justified in stopping trade, and endeavoring to drive the inhabitants from the island? Such conduct he is guilty of, and, unless immediate steps are taken to prevent any further outrage on his part, not only the service to which he belongs, but the dignity of the country, who boasts her liberty of the subject, will be compromised. By his recent conduct the whole of the inhabitants of this island have been insulted, their position as tradesmen and citizens lowered, and he himself become an object of contempt. We, therefore, respectfully ask your attention to this appeal, and trust that either a more sane and proper officer may replace the one now in command, or steps may be taken to prevent any further inquisitorial and unjust interference on his part.

With profound respect, we beg to subscribe ourselves, General, your most obedient servants,

D. W. DARLING.

J. S. BOWKER.

B. M. KENNELLY.

N. BAKER

FRANK CHANDLER.

DENNIS McCARTHY.

GEORGE BORDEW.

JOHN SMYTH.

JAMES FRAZER.

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., April 10, 1860.

CAPTAIN: You will perceive by Special Orders, No. 41, of this date, a copy of which is enclosed, that the General Commanding has replaced you in command of your company on San Juan Island.

For your information in this position you will receive, as accompanying papers, the correspondence and instructions of Lieutenant General Scott with reference to San Juan Island, with an extract from the orders of Rear-Admiral Baynes, commanding Her Britannic Majesty's naval forces in the Pacific, to Captain George Bazalgette, of the royal marines, commanding a detachment of royal marines landed on San Juan Island by the consent of General Scott.

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These orders of Admiral Baynes communicate to his officer that he is placed on the island for the protection of British interests, and to form a joint military occupation with the troops of the United States.

To meet these orders of the Admiral, and to remove any misconception on the part of the British authorities as to your duties, I am directed to impart to you the following explanations and requirements of the General Commanding, 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.

Second. 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 similar purposes 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 misunderstanding, which shall prove honorable and satisfactory to all parties, until a final settlement is attained by the governments.

Third. 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 prevent or 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 interests 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 tenor of his instructions to Captain Bazalgette is sufficiently liberal to justify this conclusion.

I remain, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

Captain 2d Dragoons, A. A. Adj. Gen'l.

Captain GEORGE A. PICKETT,

Commanding Company "D," 9th Infantry,

Fort Bellingham; Puget's Sound, W. T.

[Special Orders—No. 41.]

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., April 10, 1860.

The following disposition of troops on Puget's Sound will take effect without delay :

1. Company D, ninth infantry, Captain George Pickett, will replace company C, fourth infantry, at Camp Pickett, San Juan Island.

2. Company C, fourth infantry, on being relieved, will proceed to Fort Steilacoom, to which post it is assigned for duty.

* * * * *

II.—The steamer *Massachusetts* will be used in the execution of these orders, under such special instructions as will be given.

By order of General Harney :

A. PLEASANTON,

Captain Second Dragoons, Acting Assistant Adjutant General.

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., April 10, 1860.

GOVERNOR : I have the honor to enclose an extract of the orders of Rear Admiral Baynes, commanding Her Britannic Majesty's naval forces on the Pacific, to the officer in command of a detachment of royal marines, landed on San Juan Island; also a copy of my orders replacing Captain Pickett's company on San Juan, with his instructions in that position.

These papers will explain to you the state of affairs at San Juan, and I beg leave to say, I have the fullest assurances that your action in the premises will be of the most satisfactory character in support of the different interests depending upon it.

I am, Governor, very respectfully, your obedient servant,

W. S. HARNEY,

Brigadier General Commanding.

His Excellency R. D. GHOLSON,

Governor of Washington Territory, Olympia, W. T.

Remarks of the General-in-Chief.

These papers are important :

1. Brigadier General Harney has substituted Captain Pickett for Captain Hunt in the command at the San Juan Island—reversing my act. My reason for substituting Hunt for Pickett was this : Pickett, on landing on the island, in July, 1859, under the orders of Harney, issued a proclamation declaring the island to belong to the United States, and containing (I speak from memory) other points or language extremely offensive (as I learned) to the British authorities; and, as my mission was *one of peace*, I thought it my duty to substitute Hunt for Pickett after I had named Pickett for the command. Hunt (as our officers informed me) was remarkable for firmness, discretion and courtesy. (The Secretary of State can, probably, confirm this character of Hunt.)

2. It will be seen by Brigadier General Harney's instructions to Pickett, of the last month (herewith,) that Harney considers San Juan Island *as a part of Washington Territory*, and Pickett is directed "to acknowledge and respect" *the authority of that Territory*. If this does not lead to a collision of arms, it

will again be due to the forbearance of the British authorities; for I found both Brigadier General Harney and Captain Pickett proud of their *conquest* of the island, and quite jealous of any interference therewith on the part of higher authority. I beg it may further be remembered that I intimated a doubt to the War Department whether Brigadier General Harney would carry out my pacific arrangement, respecting the occupation of the island, with good faith, or even with courtesy, and hence one of my reasons for wishing to relieve him from his command.

Respectfully submitted to the Secretary of War.

WINFIELD SCOTT.

MAY 14, 1860.

WAR DEPARTMENT, June 8, 1860.

The Adjutant General will order Brigadier General Harney to repair to Washington city without delay.

JOHN B. FLOYD,
Secretary of War.

[Special Orders—No. 115.]

WAR DEPARTMENT,

Adjutant General's Office, Washington, June 8, 1860.

Brigadier General William S. Harney, United States army, will, on the receipt hereof, turn over the command of the Department of Oregon to the officer next in rank in that Department, and repair without delay to Washington city, and report in person to the Secretary of War.

By order of the Secretary of War:

S. COOPER,
Adjutant General.

CAMP PICKETT, SAN JUAN ISLAND,

April 24, 1860.

MY DEAR SIR: I drop a line in hopes that it may go by the mail steamer, now in the Sound, to mention the receipt of orders from Department Headquarters breaking up Fort Townsend and Fort Bellingham, and sending Captain Pickett to replace me, who will return to Fort Steilacoom. No cause is assigned for this disturbance of the arrangements made by the General-in-chief, and as the Department order comes simultaneously with the arrival of the War Department order abandoning Fort Bellingham, I presume the movement has been intended for a long time past, and the War Department order procured for the purpose of carrying it out.

In the anomalous situation of the island, with the jurisdiction undetermined, and my orders general in their character, my command has been a delicate and difficult one, and it has been, in general, my aim to avoid any pretext for fault-finding to those who I knew were eagerly seeking it. I have not been altogether successful, as will be seen by the correspondence enclosed, which I forward as giving a history, as it were, of matters upon the island, and as showing the animus of Department Headquarters towards me. I have no doubt

however, that the replacing of Captain Pickett's company upon the island is quite independent of complaints of me, that it has long been contemplated.

The order comes at a most inconvenient time; gardens just planted; while four companies are sent to a post having accommodations for three only, and excellent quarters left vacant at Fort Townsend.

I remain, sir, very respectfully, your obedient servant,

L. C. HUNT,

Captain Fourth Infantry Commanding.

Major E. D. KEYES,
Military Secretary.

Indorsement of the General-in-Chief.

I deem it my duty, in defence of a gallant and excellent officer, (Captain Hunt,) most unjustly accused by Brigadier General Harney, to make this letter and its five enclosures public. It will be seen that Captain Hunt's defence is most triumphant.

Respectfully submitted to the Secretary of War.

WINFIELD SCOTT.

JUNE 14, 1860.

HEADQUARTERS DEPARTMENT OF OREGON,
Fort Vancouver, W. T., March 21, 1860.

CAPTAIN: The enclosed copy of a communication from citizens of San Juan Island to the General Commanding is transmitted for your information, and I am instructed to say you will report without delay to these Headquarters whatever action you have taken against the citizens of San Juan Island.

You are directed by the General Commanding not to interfere with the trade of our citizens in any way except the one prohibition of selling liquor to Indians, nor will you throw any impediment in the way of persons coming to or leaving the island.

You will make a full and complete report to these Headquarters of all your actions affecting citizens up to this time, and hereafter you will take no steps regarding them without reporting the same immediately to this office.

I am, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

Captain Second Dragoons, A. A. A. General.

Captain L. C. HUNT,
*Fourth Infantry, Commanding Camp Pickett,
San Juan Island, Washington Territory.*

SAN JUAN ISLAND, *March 7, 1860.*

GENERAL: We, the undersigned, citizens of this island, beg respectfully to call your attention to the gross and ungentlemanly conduct of Captain Hunt, the officer in command of this station. We ask if he is justified as a military man to infringe on the rights and privileges of American citizens? Is he justified in stopping trade and endeavoring to drive the inhabitants from the island? Such conduct he is guilty of; and, unless immediate steps are taken to prevent any further outrage on his part, not only the service to which he belongs, but the dignity of the country who boasts her liberty of the subject, will be compromised. By his recent conduct the whole of the inhabitants of

this island have been insulted; their position as tradesmen and citizens lowered; and he himself become an object of contempt. We, therefore, respectfully ask your attention to this appeal, and trust that either a more sane and proper officer may replace the one now in command, or steps may be taken to prevent any further inquisitorial and unjust interference on his part.

With profound respect, we beg to subscribe ourselves, General, your obedient servants,

D. W. DARLING.
J. S. BOWKER,
R. H. KENNELLY.
N. BAKER.
MILBREY DAY.
FRANK CHANDLER.
DENNIS McCARTHY.
GEORGE BORDEW.
JOHN SMYTH.
JAMES FRAZER.

The foregoing was written by a young Englishman from Victoria, whose knowledge of drugs induced me to place him in the hospital, with the view of enlisting him, perhaps, as hospital steward. He proved trifling and tricky, and was sent off.

L. C. HUNT, Captain, &c.

- CAMP PICKETT, SAN JUAN ISLAND,

March 30, 1860.

CAPTAIN: I have the honor to acknowledge the receipt of your communication of the 21st instant, enclosing another which purports to come from citizens of San Juan Island complaining of my conduct as commanding officer on the island.

I regret being obliged to notice, in any manner, a statement couched in such language, and conveying charges so incredible. It is unnecessary, I am sure, for me to deny that I have interfered with "trade" or "tradesmen" beyond the fact of taking action *in behalf* of the citizens of San Juan Island against a number of transient persons, illicit liquor dealers, who had been complained of in the strongest terms by the real settlers, who lived by dealing poison to my men, and who all, without exception, I believe, have no other stake upon the island than that arising from their ill-gotten gains. I recognize the names of three individuals (and their creatures) who are indignant that I should have interfered with their "trade," however illegal.

For the information of the Commanding General, and to give him the fullest proofs of the embarrassing position I occupy, unless I choose to shut my eyes to the evils existing upon the island and attempt no remedy, I beg to forward the statement of Mr. Newsom, late magistrate on the island, as also a petition from the bona fide settlers. In the present anomalous position of the island all sorts of opinions are held by even the residents as to jurisdiction and authority. They are opposed to Whatcom County jurisdiction in whole or in part, alleging certain grievances. Many of the citizens think that until the question of title is settled the island is properly under military jurisdiction, and would be glad to have it so declared.

I understood from Judge Fitzhugh last December that, in his opinion, I had full power to act against evil-doers in general; and "if I found difficulty in that, to arrest them and send them over to him." In the absence of any fixed and definite jurisdiction, opinions being various, and my instructions general in their character, I have been obliged to act as cases arose, according to circumstances and my judgment.

At the suggestion and by the advice of Mr. Crosbie, then magistrate, to whom I applied for action against the nuisance of two whiskey shanties in the immediate neighborhood of my camp, I published an order on the 16th of December declaring the military reserve to embrace an area of four square miles, and directed Frank Chandler and his partner, Dennis McCarthy, and Frazer, (understood since to be a British subject,) to remove their respective nuisances, giving them the privilege of joining their liquor-dealing brethren in "town," which they promptly accepted. The same order forbade, under penalty of prosecution, the trading or having in possession soldiers' clothing, a practice which had been carried to a great extent by the liquor dealers, a special shop at Victoria for their sale having been kept supplied. Subsequently, James Frazer, who had been permitted to occupy his shanty on the promise of abstaining from liquor traffic, was detected in lying, a number of bottles of liquor destroyed which he had kept concealed beneath his flooring, whereupon he again retired to the "town." Drunkenness increasing, I determined that the authors of the mischief should not go on with impunity. I preferred to make use of civil action when possible rather than take the shorter method of acting upon my "reserved" rights, and brought suit against Bowker, Chandler, and Frazer. The first two only were tried, and the jury, in the face of the facts, acquitted. A German Jew, whose establishment was the greatest nuisance of all, who had repeatedly declared his intention of a speedy removal, I made an example of by directing him to remove his liquors off the "reserve." It so happened that the order was simultaneous with the arrival of the Jew's boat for the purpose of carrying out his intention of removing his stock altogether from the island, and this coincidence, I presume, has suggested the charge of "driving" the inhabitants from the island. Finally, Mr. Higgins, the only merchant (i. e., the only person who deals in dry goods, &c.) in the "town," who had frequently expressed a fear of his life being attempted by the vile rabble who surrounded him, applied to me for assistance. Many circumstances went to prove that his neighbor, a boatman, Kearney by name, and, as has since appeared, a British subject, had robbed him during his absence of a large quantity of potatoes. Several robberies had occurred about that time; there was no magistrate upon the island, and with some reluctance I yielded to the appeals of Mr. Higgins, and sent a file of the guard to accompany Mr. Higgins in the search for his potatoes. This is probably the "inquisitorial" action referred to, but it was for Kearney to complain, if any one. On the contrary, he expressed his perfect willingness that the military should search his cabin.

In conclusion, I may be permitted to add, that I congratulate myself upon having won the confidence and best wishes of all the respectable inhabitants of the island.

I am, sir, very respectfully, your obedient servant,

L. C. HUNT,

Captain Fourth Infantry, Commanding.

Captain ALFRED PLEASANTON,

Acting Assistant Adjutant General, Fort Vancouver, W. T.

SIR: Your communication to Captain Hunt, dated March 21, has been shown to me, and I have been required to make a brief statement concerning it.

A portion of the parties who signed the communication to you, dated March 7, 1860, reside in the town of San Juan, and are engaged in the retail traffic of liquors; the balance are itinerant boatmen, &c.

Bowker, Chandler and Frazer have each been arrested on warrants issued by

myself, (as a justice of the peace of Whatcom County,) for retailing liquors without a license, and notwithstanding the proofs were positive as to the facts, the jury in each case brought in a verdict of "not guilty," thereby showing a determination to resist the execution of the revenue laws of Washington Territory on the island. The matter has been referred to the county commissioner of Whatcom County.

Justices of the peace have not the power to summarily punish offenders against this portion of the revenue laws.

The general feeling of the actual settlers of the island (numbering about fifty, a majority of whom are citizens of the United States) appears to be in favor of having the laws of Washington Territory extended over the island in all cases relating to life and property, but that no revenue, either federal or municipal, should be collected from any resident of the island; and they consider a license tax municipal revenue.

Under the existing state of affairs on the island, it is necessary that summary power should be exercised by some officer representing the United States.

There is at present no civil officer upon the island, I having resigned the position which I held.

Very respectfully, your obedient servant,

D. F. NEWSOM,
Late Magistrate.

General WM. S. HARNEY.

SAN JUAN ISLAND, *March 30, 1860.*

SIR: We, the undersigned, American citizens, actual settlers upon the island, and tillers of the soil, respectfully represent, that the peace and quiet of the island demand that a stop should be put to the unlicensed and uncontrolled liquor dealing carried on upon the island; that there is no prospect, for various reasons, that any magistrate will long continue to exercise his functions amongst us; that by the result of two recent jury trials it appears that no check exists on the part of the civil power.

Having full confidence in the judgment and discretion of Captain Hunt, the military commander upon the island, we respectfully request that you will give him such instructions as may seem proper to you, to the end that the military power may be brought to bear promptly for the suppression of this great nuisance in our midst.

We have the honor to be, with high respect and esteem,
J. EVERETT HEWETT.
DANIEL W. OAKES.
D. F. NEWSOM, *Late Magistrate,*
And thirty others.

General WM. S. HARNEY,
Commanding the Department of Oregon.

No. 4.

*Lord Lyons to Mr. Cass.*WASHINGTON, *May 12, 1859.*

SIR: Her Majesty's government have received information that attempts have been recently made by citizens of the United States to establish themselves on the Island of San Juan, in the Gulf of Georgia. It appears that this is not the first time that similar practices have been resorted to by the citizens of the United States, and representations on the subject have more than once been addressed by this mission to the cabinet of Washington.

I have to-day received instructions from Her Majesty's principal secretary of state for foreign affairs to lose no time in calling the attention of the government of the United States to this matter, and in requesting that any such unauthorized proceedings on the part of American citizens may be discountenanced by the neighboring authorities of the United States.

The question as to whether the island of San Juan shall ultimately appertain to Great Britain or to the United States depends upon the solution to be arrived at in regard to the boundary line between their respective territories, under the Oregon treaty of 1846. Commissioners have been appointed by the two parties to ascertain how that line is to be run in conformity with the treaty. These commissioners have not been able to come to an agreement on the subject. It therefore remains for the two governments to enter into direct communication with each other for the settlement of a question which very closely affects the good understanding between them.

Her Majesty's government have deferred taking any step, consequent on the disagreement of the commissioners, until they should be in possession of the results of a survey, which they thought it necessary to institute, of the various channels into which the lower part of the Gulf of Georgia is divided by the numerous islands with which it is studded.

They have now received the report of the British surveyor, and I am directed to acquaint the government of the United States that instructions will shortly be sent to me to communicate with them in the hope of arriving at a satisfactory settlement on the subject. And I am desired to add, that Her Majesty's government are sure that the Cabinet at Washington would regret as much as themselves that any local collision should arise in the interval which would tend to imbitter a discussion which might otherwise be conducted with cordiality and good will. Her Majesty's government trust, therefore, that citizens of the United States will be restrained, as far as the institutions of this government admit of their being so, from attempts to settle by unauthorized acts of violence a question which there will probably be little difficulty in arranging by amicable communication between the two governments.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

L. YONS.

Hon. LEWIS CASS, &c., &c., &c.

No. 5.

Lord Russell to Lord Lyons.

No. 42.]

FOREIGN OFFICE, *August 24, 1859.*

MY LORD: Your lordship was apprised by my predecessor in his despatch No. 30, of the 28th of April, that instructions would shortly be sent to you with

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regard to the boundary between Her Majesty's possessions and those of the United States on the northwest coast of North America as fixed by the treaty of 1846. Circumstances prevented that intention from being acted upon previously to the change of government, and it is now my duty to convey to you those instructions.

Your lordship is no doubt aware that the British and American commissioners appointed in 1856 to survey and mark out the boundary differed in opinion as to that portion of it lying between the Gulf of Georgia and Fuca's Straits. As far, indeed, as there is only one channel separating the continent from Vancouver's Island, no doubt can be entertained as to the true boundary, which, according to the treaty, runs from the 49th parallel of latitude down the centre of the Gulf of Georgia to its southernmost point, and no question can arise as to that portion of the boundary which is to be drawn through the centre of the Straits of Fuca to the ocean. But with regard to the intermediate portion of the boundary the commissioners differed in opinion, the British commissioner conceiving that the line should be traced through the channel known as Rosario Straits, while his American colleague maintained that it must be sought for in the Haro Channel. The commissioners defended their respective positions in a correspondence of some length, marked by much ability on both sides. Neither commissioner, however, was prepared to defer to the arguments of the other. The American commissioner rejected an offer to compromise the matter subsequently made to him by his English colleague, and the commissioners, considering that under these circumstances it was useless to continue their correspondence, signed, on the 3d of December, 1857, a minute recording their disagreement and adjourning their proceedings until circumstances should render it necessary for them to meet again.

It is much to be regretted 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 the first article of that treaty could have been authoritatively ascertained. 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, is the channel known as Rosario Straits, and Her Majesty's government fully share that opinion; but inasmuch as it is now proved that there are several channels connecting the Gulf of Georgia with Fuca's Straits, that circumstance afforded to the American commissioner the means of contesting the view of the case taken by his English colleague, and the result has unfortunately been, that a question which Her Majesty's government had hoped was finally set at rest by the treaty of 1846, remains still a subject of discussion.

It may be convenient that I should here pass in review a few of the arguments which led Her Majesty's government to the well-founded belief, that the boundary between the British and American possessions, as fixed by the treaty of 1846, is the Rosario, and not the Haro channel.

The words of the first article of that treaty are as follows :

From the point on the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 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 the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both parties.

The treaty, therefore, in dealing with the space separating Vancouver's Island from the continent, speaks of two divisions only, viz: the "channel" and the "straits"—the channel being that commencing in the Gulf of Georgia, and those straits being the Straits of Fuca. The information acquired by subsequent surveys shows that it might have been more correct to have divided that space into three portions, viz: the Gulf of Georgia, the Straits of Fuca,

and the intervening channel or channels by which the Gulf of Georgia and the Straits of Fuca are connected. A glance, however, at Vancouver's chart, which is the only map that the British government, and, it is believed, the plenipotentiaries of the two governments had before them, at the time when the treaty of 1846 was negotiated, will suffice to show why the treaty speaks only of the "channel" and the "straits." Vancouver's chart depicts the channel through which he sailed as being an uninterrupted water line, passing in a southerly direction through the Gulf of Georgia, and the passage known by his name, but since called Rosario Straits, into the Straits of Fuca; and on the assumption suggested by a study of that map, that the channel discovered by Vancouver was the main artery connecting the Gulf of Georgia with Fuca's Straits—there was no necessity for mentioning the channel which was to serve as the boundary between the British and the American possessions, otherwise than in the terms used in the treaty:

For the same reason the treaty designates as "southerly" the direction which the boundary line is to take, from the westernmost point of the 49th parallel of latitude, considered with reference to Vancouver's chart. The term "southerly" is a sufficiently accurate description of a boundary line to be traced through the centre of the Gulf of Georgia, and of the passage navigated by Vancouver into the Straits of Fuca.

But if the boundary line 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. Moreover, it 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.

The Gulf of Georgia extends as far south as the latitude of Orcas and Lummi islands; consequently the boundary line between the British provinces and those of the United States, which, in accordance with the clearly expressed words of the treaty, runs down the centre of that gulf, must, if it is to be diverted from the southernmost point of that gulf into the Haro channel, take for some distance, not a southerly, but a westerly direction, describing for that purpose an acute angle before the southerly course spoken of in the treaty could be resumed. Consequently, if the plenipotentiaries had intended that the boundary line should pass through the Haro channel, they would undoubtedly have specified that channel by name, in order to distinguish it from *the channel*—that is to say, the channel used by Vancouver—the channel, namely, which was the continuation of the Gulf of Georgia; and they would also have added some modified qualification of the word southerly, from which it may be inferred that the boundary channel was intended to be one contiguous to the main land.

Another argument may be adduced in support of the view taken by the British commissioner, from the fact that the Canal de Haro, so far from being a continuation of the channel through the Gulf of Georgia, is rather a distinct and independent channel running parallel to that gulf, and having its commencement in the straits separating Saturna and the other islands in that quarter from Vancouver's Island.

But all these points were so ably argued by Captain Prevost, the British commissioner, that Her Majesty's government do not think it necessary to restate them in this despatch. They think it sufficient to refer to his reports, and to state in general terms their conviction; that, whereas the channel through Rosario Straits does, in all essential points, answer to the plain meaning and intention of the treaty, the Haro channel does not do so.

The commissioner of the United States rested his view of the interpretation to be given to the first article of the treaty mainly on the expression made use

of by Mr. McLane, the American minister at this court in 1846, in reporting to his government the terms of arrangement which he thought the British government would probably offer, and on the language employed by Mr. Benton in the Senate when the treaty came under discussion before that body. It appears that both Mr. McLane and Mr. Benton indicated the Canal de Haro; Mr. McLane as that which he thought the British government would offer as the boundary line; Mr. Benton as that which the government of the United States had understood as the boundary.

Her Majesty's government have not failed to consider, with the attention it deserves, the arguments to be drawn from those statements in favor of the position of the American commissioner; but, while those statements may be taken as evidence of what were the views of Mr. McLane and Mr. Benton, Her Majesty's government cannot accept them as necessarily proving what were the intentions of the plenipotentiaries who signed the treaty, or what is the fair construction of the treaty itself.

Her Majesty's government, indeed, do not think that they should be asked to do so, seeing that the words of the treaty, which ought to be the guide, do not properly admit of that interpretation; and that it is beyond dispute that the intentions of the British government that the line of boundary should be drawn through Vancouver's channel.

With reference to this point I have to state to you that the Earl of Aberdeen, to whom I have referred, informs me that he distinctly remembers the general tenor of his conversations with Mr. McLane on the subject of the Oregon boundary, and it is certain that it was the intention of the treaty to adopt the *mid-channel of the straits* as the line of demarcation, without any 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 the Canal de Haro, or, indeed, any other channel than those described in the treaty itself. I also enclose a memorandum drawn up by Sir Richard Pakenham, the negotiator of the treaty of 1846.

Such being the state of the question, and Her Majesty's government being anxious to see it finally settled in a manner satisfactory and honorable to both parties, Her Majesty's government have had to consider the advice which it behoves them to tender to the Crown with a view to so desirable a result.

This duty has been rendered, in the present case, a comparatively easy one. Her Majesty's government cannot doubt that their desire for a mutually satisfactory and honorable settlement of the question is fully reciprocated by the government of the United States, and they feel confident that the gradual disappearance, one after another, through the good sense and conciliatory spirit shown by both governments, of these points of difference, which the President of the United States, in a former message to Congress, described as irritating questions, has left no room for doubting that this sole remaining question can also be satisfactorily adjusted.

Her Majesty's government trust that, as between this country and the United States, the day for tedious arbitrations, and still more, for hostile demonstrations, is gone by; they see no reason why this, and, indeed, any other question which may from time to time arise, should not be settled by direct and friendly communication between the two governments. The true and just interpretation of treaty engagements is the only law by which Her Majesty's government claim to be governed in their dealings with the United States; the force of argument is the only force to which they desire to appeal; and when the interpretation is asserted to be doubtful, or the argument fails to convince, her Majesty's government conceive that the only alternative which befits two great nations, bound to each other by such ties as those which unite Great Britain and the United States, is to endeavor to adjust the difference by mutually honorable compromise of conflicting pretensions.

Now the result of the survey upon which Captain Richards, of Her Majesty's ship *Plumper*, has been lately engaged, as set forth in the enclosed chart, shows that, in addition to the Rosario Straits and to the Haro Channel, there exists a third navigable passage connecting the Gulf of Georgia with Fuca's Straits.

This third channel is indeed reported by Captain Richards to answer, in respect of its central position and southerly direction, to the channel described in the treaty; and assuming it to have been the intention of the plenipotentiaries that the several channels connecting the Gulf of Georgia with Fuca Straits should be considered for the purpose of the treaty as one channel, it may fairly be argued that this central passage would not only satisfy the requirements of the treaty, but would divide between the two countries, in proportions which each party might consent to, the cluster of islands by which the channel is intersected. The advantage of such a line would indeed be with the United States, for there are only three islands of any territorial importance situated between the Haro Channel and Rosario Straits, namely, Orcas and Lopez islands and the island of San Juan; and by the adoption of the central channel as the boundary line, the two first named islands would belong to the United States, while only the island of San Juan would remain to Great Britain.

Your lordship will accordingly propose to the United States government that the boundary line shall be the middle channel between the continent of America and Vancouver's Island, as thus defined:

Starting from the north in the parallel $48^{\circ} 50'$ north, and the meridian 123° longitude, west from Greenwich, (as laid down in the accompanying chart,) the mid-channel line would proceed due south, passing half way between Patos Island, on the east, and the east point of Saturna, on the west, to the centre of Douglas Channel, half way between Waldron and Orcas islands. Thence sweeping round to the southwest, southeast, and south, between San Juan, on the west, and the islands of Orcas, Shaw, and Lopez, on the east, the line would rejoin the 123° meridian, as soon as the safety of navigation would permit, at about one mile to the southward of the Salmon Bank, on the parallel $48^{\circ} 28'$ north, and continue due south along this meridian until it falls into the common mid-channel course through Juan de Fuca Straits.

It will thus be observed that the meridian of 123° is assumed as the boundary, and is only departed from when forced to do so by the physical interference of the islands.

This middle channel, though inferior in some respects to the Haro Channel or to Rosario Straits, is described by Captain Richards as being perfectly safe for steamers, and also, under ordinary circumstances, navigable for sailing vessels. Her Majesty's government, however, do not consider this point as of much importance, since their proposition only extends to making this channel the line of boundary, and they do not propose to alter in any way that stipulation of the treaty which secures to the shipping of both countries the free navigation of the whole of the channels and of the straits—a stipulation advantageous to both parties, and which Her Majesty's government cannot doubt that the government of the United States will agree with them in thinking, must, under all circumstances, be maintained.

It appears to Her Majesty's government that a boundary line traced through the above-mentioned central channel likewise recommends itself for adoption as being in accordance with the principles which regulated the division between the two countries of the islands in the river Saint Lawrence.

Her Majesty's government further submit to the Cabinet of Washington whether, to a view to mutual convenience, it might not be desirable that the small promontory known as Point Roberts should be left to Great Britain. The point is of no intrinsic value to either government; but its possession by the United States will have the effect of detaching an isolated spot of small dimensions from the more convenient jurisdiction of the British colony. As the gov-

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ernment of the United States will obtain, under the proposal now made, the more valuable portion of the islands in the straits, Her Majesty's government consider that the retention of Point Roberts can hardly be an object with them.

There is one other consideration to which I would wish to draw the attention of the government of the United States. In the discussions between Lord Ashburton and Mr Webster, which resulted in the treaty of 1842, the American plenipotentiaries argued upon the relative importance to the two countries of the territory then in dispute. Her Majesty's government admitted the value of that argument, and acted upon it. The same language was employed in 1846, upon the Oregon question, and on both occasions the United States obtained the larger portion of the territory in dispute, their plenipotentiaries successfully arguing that it was of greater value to the United States than it could be to Great Britain.

Upon the present occasion this state of things is reversed. The adoption of the central channel would give to Great Britain the island of San Juan, which is believed to be of little or no value to the United States, while much importance is attached by British colonial authorities, and by Her Majesty's government, to its retention as a dependency of the colony of Vancouver's Island.

Her Majesty's government must, therefore, under any circumstances, maintain the right of the British Crown to the island of San Juan. The interests at stake in connection with the retention of that island are too important 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.

Your lordship will bring to the consideration of this question the same conciliatory spirit and frank and straight forward bearing which have distinguished you on previous occasions; and I am happy to think that in the President and Secretary of State of the United States you will find statesmen animated by the same honorable dispositions.

Her Majesty's government hope that the American government will appreciate the arguments you are instructed to employ and the spirit in which you will advance them, and Her Majesty's government will not permit themselves to believe that the negotiation can, under such circumstances, fail of a successful issue.

It may be proper, however, that you should make the government of the United States understand that this proposal of compromise which you are thus instructed to lay before them is made without prejudice to the claim, which Her Majesty's government consider themselves justified in maintaining, to the Rosario Channel as the true boundary between Her Majesty's possessions and those of the United States. They offer the compromise in the hope that its acceptance by the government of the United States may obviate any further discussion on the subject; but if it is rejected they reserve to themselves the right to fall back on their original claim to its full extent.

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

I am, &c., &c., &c.,

J. RUSSEL.

Lord LYONS, &c., &c., &c.

Sir Richard Pakenham on the Water Boundary under the Oregon treaty of 1846.

I have examined the papers put into my hands, by Mr. Hammond, relating to the line of boundary to be established between the British and the United States possessions on the northwest coast of America, and I have endeavored

to call to mind any circumstance which might have occurred at the time when the Oregon treaty was concluded (15th June, 1846,) of a nature either to strengthen, or invalidate the pretension now put forward by the United States Commissioner, to the effect that the boundary contemplated by the treaty would be a line passing down the middle of the channel called Canal de Haro, and not, as suggested on the part of Great Britain, along the middle of the channel called Vancouver's or Rosario Strait, neither of which two lines could, as I conceive, exactly fulfil the conditions of the treaty, which, according to their literal tenor, 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. And, I think I can safely assert, that the treaty of 15th June, 1846, 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 that treaty.

All that we knew about it was that it was to run "through 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."

It is true that in a despatch from Mr. McLane, then United States minister in London, to the Secretary of State, Mr. Buchanan, dated 18th May, 1846, which despatch, however, was not made public until after the ratification of the treaty by the Senate, Mr. McLane informs his government that the line of boundary about to be proposed by Her Majesty's government would "probably be substantially to divide the territory by the extension of the line in 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 Haro and straits of Fuca to the ocean."

It is also true that Mr. Senator Benton, one of the ablest and most zealous advocates for the ratification of the treaty, (relying, no doubt, on the statement furnished by Mr. McLane,) did, in speech on the subject, describe the intended line of boundary to be one passing along the middle of the Haro channel.

But, on the other hand, the Earl of Aberdeen, in his final instructions, dated 18th May, 1846, says nothing whatever about the Canal de Haro, but on the contrary, desires that the line might be drawn "in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the Pacific Ocean."

It is my belief that neither Lord Aberdeen, nor Mr. McLane, nor Mr. Buchanan, possessed at that time a sufficiently accurate knowledge of the geography or hydrography of the region in question to enable them to define more accurately what was the intended line of boundary than is expressed in the words of the treaty and it is certain that Mr. Buchanan signed the treaty with Mr. McLane's despatch before him, and yet that he made no mention whatever of the "Canal de Haro" as that "through which the line of boundary would run, as understood by the United States government."

My own despatch of that period contains no observation whatever of a tendency contrary to what I thus state from memory, and they, therefore, so far, plead in favor of the accuracy of my recollection.

No. 6.

Lord Lyons to Mr. Cass.

Immediate.]

WASHINGTON, September 3, 1859.

SIR: It is stated by the newspapers that intelligence has been received in this city that a detachment of United States troops has endeavored, by order of General Harney, to establish itself on the island of San Juan, in the Gulf of Georgia.

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It is needless that I should dwell upon the considerations which render me extremely anxious that this statement should not reach Her Majesty's government without such information respecting its truth or falsehood, and such explanations concerning it as the government of the United States may be disposed to afford. It cannot be necessary for me to do more than refer you to the note which I had the honor to address to you on the 12th of May last, in pursuance of the orders of Her Majesty's principal secretary of state. In that note, after informing you that instructions would shortly be sent to me to communicate with you in the hope of arriving at a satisfactory settlement on the subject of the respective claims of Great Britain and the United States to the island of San Juan, I wrote as follows :

I am desired to add, that Her Majesty's government are sure that the Cabinet at Washington would regret, as much as themselves, that any local collision should arise in the interval which would tend to embitter a discussion which might otherwise be conducted with cordiality and good will. Her Majesty's government trusts, therefore, that citizens of the United States will be restrained, as far as the institutions of their government admit of their being so, from attempts to settle, by unauthorized acts of resistance, a question which there will probably be little difficulty in arranging by amicable communications between the two governments.

I have not had the honor to receive from you an answer to the note just quoted, and I am, on that account, the more earnest in requesting you to enable me to send, as speedily as possible, satisfactory information to Her Majesty's government on the subject to which it relates. I am so anxious on this point that I venture to remind you that I shall despatch a messenger from this Legation on Monday next, the 5th instant, (the day after to-morrow,) at half past 1 o'clock, to meet the royal mail steamer packet at Boston.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

LYONS.

Hon. LEWIS CASS,
Secretary of State, &c., &c., &c.

No. 7.

Lord Lyons to Mr. Cass.

Immediate.]

WASHINGTON, September 7, 1859.

SIR : When I had the honor of waiting upon you, at your request, at the State Department on the 5th instant, you were so good as to say that although you were not yet in possession of sufficiently detailed reports to enable you to reply at once to the note which I had, two days before, asked for explanations with regard to the alleged occupation of the island of San Juan by United States troops, you would, nevertheless, verbally give me such information as it was in your power to afford.

You then did me the honor to state to me that the only official account which had reached the government was a report from General Harney, which had been forwarded from New York by General Scott, and that the substance of that report was that General Harney had found it necessary, in consequence of a requisition from United States citizens, to send to the island of San Juan a detachment to protect those citizens from the Indians, and from ill treatment on the part of the English, and that he had accordingly sent one company of soldiers for this purpose, and held another in readiness to send also in case of need.

You proceeded to inform me that the President had directed the War Department to apprise General Harney that the government of the United States considered that the principle to be observed with regard to disputed territory was, that the actual status should be maintained; that, consequently, he was by no means to take possession of the island of San Juan, or to set up any juris-

diction there. You added, however, that orders had not been sent to withdraw the United States troops. Those troops you said would be instructed to confine themselves strictly to the protection of American citizens, but it might, you added, be necessary that they should remain at San Juan for that purpose.

Finally, you did me the honor to request me to acquaint Her Majesty's principal Secretary for foreign affairs with what you had said, and especially to assure his lordship, from the President and from yourself, that General Harney had not acted upon orders from the government, but entirely upon his own responsibility.

I had just time, after my return home, to write a report of the information which you had thus given me to despatch to Lord John Russell by the messenger who was about to set out to meet the royal mail steam packet at Boston. I made that report almost exactly in the words which I have used in repeating above the substance of your communication to me.

The newspapers of this evening announce the arrival of a mail, bringing full intelligence respecting the disembarkation of the United States troops on the island of San Juan. I feel confident that you will hasten to afford me the information and explanation for which I applied in the note to which I have already referred. But I am so desirous that these explanations should reach Her Majesty's government, as nearly as possible simultaneously with the intelligence of the occurrences at San Juan, that I take the liberty of reminding you that I shall be able to send by telegraph to Halifax, in time to be forwarded to London by the royal mail steamer, any information which you may do me the honor to give me in the early part of to-morrow. I am rendered particularly anxious upon this subject, by observing among the news inserted in the evening journals the following document, purporting to be an order issued by Captain Pickett, commanding the party of United States troops which has landed on the island :

MILITARY POST, SAN JUAN ISLAND,
Washington Territory, July 27, 1859.

I. In compliance with orders and instructions from the General commanding, a military post will be established on the island, on whatever site the commanding officer may select.

II. All the inhabitants of the island are requested to report at once to the commanding officer, in case of any incursion by the northern Indians, so that he may take such steps as he may deem necessary to prevent any future occurrence of the same.

III. This being United States territory, no laws other than those of the United States, nor courts, except such as are held by virtue of said laws, will be recognized or allowed on this island.

Captain PICKETT.

By order:

JAMES W. FORSYTH,
Second Lieut. 9th Infantry, Post Adjutant.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

You are doubtless aware that I have the means of transmitting confidential communications by telegraph in a cipher which can be understood only at the Foreign Office in London.

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No. 8.

General Cass to Lord Lyons.

DEPARTMENT OF STATE,
Washington, September 8, 1859.

MY LORD: Your note of yesterday reached me this morning. Your note of the 3d instant, to which you refer, was received the next day after its date,

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Sunday; and on Monday, the day following, as there was not time to write you before the departure of your messenger, I requested an interview with your lordship, during which the conversation took place which is recapitulated in your last note. I mention these circumstances in explanation of their delay of two days, to which your lordship has referred.

The conversation is correctly reported, with one exception. The exception is where you understood me to say "that consequently he (General Harney) was by no means to take possession of the island of San Juan, or to set up any jurisdiction there." I have already explained to your lordship why I could not have made this remark, and I now beg leave to add that in attributing it to me you misunderstood my views.

No information respecting occurrences at San Juan has reached the government since the receipt of General Harney's report.

I avail myself of this opportunity to renew to your lordship the assurance of my high consideration.

LEWIS CASS.

LORD LYONS, &c., &c., &c.

No. 9.

Lord Lyons to Mr. Cass.

WASHINGTON, September 9, 1859.

SIR: I have this morning received the note dated yesterday, in which you refer to the verbal communication which you did me the honor to make to me on the 5th instant, with respect to the disembarkation of United States troops upon the island of San Juan.

You were, early yesterday, so good as to inform me, orally, that the recital of that communication made in my note of the 7th instant contained one phrase which gave an erroneous representation of your views on a particular point. I immediately transmitted, by telegraph, to Halifax a despatch, to be forwarded to Her Majesty's principal Secretary of state for foreign affairs, in which I stated to his lordship that you had informed me that the phrase in question ought to be cancelled. I will to-day transmit to Her Majesty's government a copy of the note from you to which I have now had the honor to reply.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

No. 10.

Mr. Cass to Mr. Dallas.

No. 195.]

DEPARTMENT OF STATE,
Washington, September 22, 1859.

SIR: Difficulties, as you are aware, have arisen respecting the boundary upon the Pacific, between the United States and the British possessions. The commissioners who have been engaged in running the line have been unable to come to an agreement, and have referred the matter to their respective governments. The subject in dispute is the strait or channel between the Gulf of Georgia and the Straits of Fuca, and especially the island of San Juan, which is considered valuable from its position. This government has no doubt but that

the Canal de Haro is the true boundary contemplated by the treaty of 15th June, 1846. The question of title has been ably discussed by our commissioner, Archibald Campbell, esq., and I will, in the course of a few days, cause an abstract of his argument to be made out and forwarded to you. At an early day I shall also communicate to you the views of this government, in reply to the note of Lord John Russell, dated the 24th ultimo, of which a copy has been sent to you. In the mean time the papers which accompany this despatch will make known to you the state of things in that quarter, and also the complaints and claims of the British government. I have had a good deal of conversation with Lord Lyons on this subject, and I have assured him of the regret of the President at the recent difficulties at San Juan, and his confident hope that, by the moderation and friendly feelings of the two governments, it will be attended with no serious consequences.

I am, sir, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq.

List of papers accompanying the above.

- Lord Lyons to General Cass, May 12, 1859.
 Lord J. Russell to Lord Lyons, with an accompaniment, August 24, 1859.
 Lord Lyons to General Cass, September 3, 1859.
 Same to same, September 7, 1859.
 General Cass to Lord Lyons, September 8, 1859.
 Lord Lyons to General Cass, September 9, 1859.
 Mr. Marcy to Mr. Crampton, with an accompaniment, July 17, 1855.
 General Harney to the Assistant Adjutant General, July 19, 1859.
 Mr. Drinkard to General Harney, September 3, 1859.
 The above papers are to be found elsewhere in this report.

No. 11.

Lord Lyons to Mr. Cass.

WASHINGTON, October 1, 1859.

SIR: I have received a despatch from Her Majesty's principal Secretary of state for foreign affairs, in which his lordship adverts to the note which I had the honor to address to you, on the 12th of May last, on the subject of the reports which had reached Her Majesty's government, of an intention on the part of citizens of the United States to take possession of the island of San Juan. In that note I stated the conviction of Her Majesty's government that the Cabinet of Washington would regret as much as Her Majesty's government that any local collision should arise tending to embitter a discussion which might otherwise be conducted with cordiality and good will; and also the hope of Her Majesty's government that citizens of the United States would be restrained, so far as the institutions of their country admitted, from attempts to settle, by any unauthorized acts of violence, a question which there would probably be little difficulty in arranging by amicable communication between the two governments. No answer has yet been made to this note, but Her Majesty's government are so convinced of the friendly disposition and loyal intentions of the Cabinet of Washington, that they might not have thought it necessary to revert to the subject had they not learned that a report had reached this city that troops of the United States had actually taken possession of the island of San Juan.

Under these circumstances Her Majesty's government are anxious that my note should not remain unanswered. They cannot doubt that you, sir, will be ready to disclaim, on the part of the Cabinet of Washington, the having authorized, or having been in any way privy to these reported proceedings, and to give an assurance of the determination to discountenance and to repress, so far as the institutions of the United States will allow, all attempts to settle, by unauthorized acts of residence, a question which ought to be arranged by friendly discussion between the two governments, and with respect to which Her Majesty's government justly anticipated that I would have already entered into communication with you, under the instructions contained in the despatch from Lord John Russell, dated the 24th August, of which I had the honor to place a copy in your hands on the 12th ultimo.

I have thought it my duty thus to make known to you the sentiments expressed by Her Majesty's government upon becoming acquainted with the concise telegraphic intelligence which appeared in the newspapers of this city on the 3d ultimo. I will not encroach upon your time by adding any observations of my own, either upon the detailed accounts which have since from time to time been received here from San Juan, or upon the frequent conversations which I have had the honor to hold with you respecting them. I will merely beg you to accept my best thanks for the information you have so courteously given me in the course of these conversations, and to believe that if I await with some impatience a more formal and explicit communication from you, it is because I am persuaded that such a communication would be the most effectual means of displaying in their true light the just and friendly sentiments of the Cabinet of Washington.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS,

Secretary of State, Washington, D. C.

No. 12.

Lord Lyons to Mr. Cass.

WASHINGTON, October 10, 1859.

SIR: Her Majesty's government have received my report of the verbal communication which you did me the honor to make to me on the 5th of last month, with regard to the recent occupation of the island of San Juan by United States troops.

It is satisfactory to Her Majesty's government to learn, as to the past, that General Harney did not act on that occasion upon any order from the United States government, but entirely on his own responsibility.

But, as to the future, Her Majesty's government cannot consider it satisfactory that my note of the 12th of May last should have remained without an answer. They have, consequently, requested me to press for an answer to that note, and to urge that orders be sent to the United States officers not to use military force on disputed territory without direct authority from the President, for Her Majesty's government cannot but think that if such acts are to take place by the sole direction of subordinate officers, and the President does not disavow them, the consequence must be as evil as if the President had authorized them from the beginning.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

No. 13.

Lord Lyons to Mr. Cass.

WASHINGTON, October 15, 1859.

SIR: I have the honor 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 of the United States of the fair and equitable proposal contained in the despatch from Lord John Russell, dated the 24th of August last, of which I had the honor to place a copy in your hands on the 12th of last month.

I am instructed to earnestly 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 the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

No. 14.

General Cass to Lord Lyons.

DEPARTMENT OF STATE,

Washington, October 22, 1859.

MY LORD: I have had the honor to receive your lordship's note of the 10th 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 endeavored 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 July, 1855, Mr. Marey, 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 negotiation 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

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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 negotiation 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 enclose to you copies of the instructions recently issued on the subject by the [acting] Secretary of War to General Scott,* and by this Department to the governor of Washington Territory. In the transmission of these copies, I trust you 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 this opportunity of renewing to your lordship the assurances of my high consideration.

LEWIS CASS.

Lord LYONS, &c., &c., &c.

Mr. 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 to 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.

Very respectfully, your obedient servant,

LEWIS CASS.

RICHARD D. GHOLSON, Esq.,

Governor of Washington Territory, Olympia, W. T.

No. 15.

Mr. Cass to Mr. Dallas.

No. 209.]

DEPARTMENT OF STATE,

Washington, October 20, 1859.

SIR: 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 northwest coast of Amer-

*The instruction to General Scott is dated 16th September, 1859, and is printed in Senate Ex. Doc. No. 10, 36th Congress, 1st session, p. 22 a copy of which accompanies these papers. (See p. 160.)

ica was forever 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, 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 was thought was beyond any possible dispute. When the first doubt concerning it was suggested, it was hoped that 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 disagreements 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 that 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 honorable 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 these 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 important," 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 further 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

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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 labors, 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 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 subject 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, when this purpose was known, two great nations could never enter into 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 at once determined in harmony with the general tenor of its language, this discussion will be forever 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 the basis of the parallel of 49°, and a proposition for the 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 inaugu-

ral 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 of 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 on 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, 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 perfectly 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 ministers 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 in Washington, and was immediately withdrawn, Great Britain being informed, at the same time, that it would not be renewed, and that no further 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 of 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 occupancy 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 could 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 govern-

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ment 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 Haro 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 expressed also the confident opinion that it will not be possible to obtain the extension of the forty-ninth 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 after 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 forty-ninth parallel of north latitude. It is at this parallel that the boundary begins in the first article. It is this boundary which controls the British right of navigation, "on the great branch of the Columbia River," in the second article. It is this parallel which is referred to also in the third article 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 northwestern boundary of the United States. Had Vancouver's Island never existed, this exception would have been neither proposed nor conceded; but the boundary of forty-nine 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 endeavored for a long time to avoid it, by offering to concede the freedom of the harbors 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 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 to pass unnoticed. There can be no reason

able 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 forty-ninth 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 forty-ninth 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 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 DeMofras 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 forty-ninth 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 favor 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 of 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: "The first article 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 sixth 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

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him on the subject from London, he enclosed to him a traced copy of Wilkes's 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 government to any island lying to the eastward of the Canal de Arro, as marked in Captain Wilkes's 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 main land 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* at the time of demarcation, without reference to islands, the position of which, 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 tenor, 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 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 negotiation, 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 18th, 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 harbors." 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 the 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 distinguished 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 favor 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 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 maps of Vancouver—which his lordship claims was the only map then before the British negotiators—described 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 this 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 forty-nine to the ocean. The language is, "through the middle of said 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 on every considerable chart of that region which existed in 1846, had been formally examined by Captain Wilkes in his Exploring Expedition, and had been particularly de-

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scribed by De Mofras as the easiest channel 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 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 but the language 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 forty-ninth 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 Douglas 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 those 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 the 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 harbors might certainly be of equal interest to either country, and since both governments hold important possessions in its neighborhood its value in a military point of view cannot fairly be 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 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 that 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 skillful 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 until 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 good will and friendly disposition which have always characterized 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 candor 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, sir, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., &c

No. 16.

Lord Lyons to Mr. Cass.

WASHINGTON, October 24, 1859.

SIR: I beg to acknowledge the receipt of the note, dated the day before yesterday, which you have done me the honor to address to me, with regard to the recent occupation of the island of San Juan by United States troops. I did

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not fail to transmit to Her Majesty's government reports of the conversations which I had the honor to hold with you upon this subject, and I will now hasten to communicate to them copies of your note and its enclosures.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

Hon. LEWIS CASS, &c., &c., &c.

LYONS.

No. 17.

Mr. Cass to Mr. Dallas.

No. 210.]

DEPARTMENT OF STATE,

Washington, October 24, 1859.

SIR: I transmit herewith, for your information, a copy of a note addressed by me to Lord Lyons on the 22d instant, in relation to the occupation of the island of San Juan by United States troops, and also a copy of my letter to Governor Gholson, of Washington Territory, of the 15th ultimo, upon the same subject. These, together with the papers accompanying my Nos. 195 and 196, of the 22d and 24th September, respectively, will fully indicate to you the course of your government on this subject.

I am, sir, very respectfully, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., &c.

No. 18.

Lord Russell to Lord Lyons.

FOREIGN OFFICE, *November 29, 1859.*

MY LORD: 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 mean time I wish you to remove, if possible, an unfavorable 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 favor 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 neighborhood. But when the meaning is in the opinion of one of the parties clearly in their favor, 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 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 might thus 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., &c.,

J. RUSSELL.

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

J. R.

LORD LYONS, &c., &c., &c.

No. 19.

Lord Russell to Lord Lyons.

FOREIGN OFFICE, *December 16, 1859.*

MY LORD: Mr. Dallas communicated to me on the 12th ultimo the despatch from General Cass, of which I enclose 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 neighborhood. 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 tenor 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 from 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 portion 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 negotiators of the treaty of 1846 had in view; and

3. That the channel described in the treaty answer 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 parallel 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 reopen 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 convention 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 expectation 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 reverts to Mr. McLane'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. McLane 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 the final draught 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 demarcation having been carried along the 49th parallel of latitude, for a distance of 800 or 1,000 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

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reasonable suggestion that this line should be continued along the same parallel for about half this 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 harbor 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 demarcation should be continued along from 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 Juan de Fuca, to the Pacific Ocean, leaving the whole of Vancouver's Island, with its ports and harbors, in the possession of Great Britain.

In a separate despatch, of the same date, Lord Aberdeen enclosed to Mr. Pakenham a draught 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 honor 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 waters known as the Gulf of Georgia, and be the line of demarcation of the continent between Great Britain and the United States.

The next question on which the government 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 harbor on its southeast 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 demarcation line should be from the centre of the water in the Gulf of Georgia in the 49th degree along the line colored 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 suffered 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 harbor 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 question 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 anything more than Vancouver's Island.

Mr. Crampton on that occasion had stated to Mr. Buchanan the reason 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'appellèrent Canal del Rosario; mais Vancouver eut soin de changer ce nom en celui de Golfe de Georgie.*"

Again Greenhow, who cannot be suspected of any leaning towards the

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British claim, unconsciously gave strong testimony in favor 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 labors, 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 northwestward 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 draught 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. McLane, 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. McLane'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 first 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 John Pelly obtained the consent of the United States government to their views in favor 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 Majes-

ty'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 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, and the other for Vancouver's or the Rosario Channel.

I need not refer further to the argument 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 equidistant 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's 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 island which may be in the channel, according as these islands lie on the one side or on 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 southward, 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."

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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's 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 pretensions 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 twenty thousand copies of Frémont'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 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 endeavor to re-open 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 agreement 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 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 of 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 endeavored to meet the argument 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., &c.,

J. RUSSELL.

Lord LYONS.

No. 20.

Mr. Cass to Mr. Dallas.

No. 231.]

DEPARTMENT OF STATE,

Washington, February 4, 1860.

S : You have already received a copy of Lord John Russell's note to Lord Lyons, dated December 16, in reference to the San Juan controversy, and I now enclose a copy of a previous note to Lord Lyons, dated November 29, 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 October would contain such a withdrawal or explanation in reference to that part of his previous note to which I had felt 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 16—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 of 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 Douglass 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 20, 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 these 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 the 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 argument 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 endeavors 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 one hundred fathoms—so that vessels may sail within a short distance of the land along its whole extent. No fortification 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 twenty thousand copies of Frémont's map of Oregon and California, on which there appears to be a line of demarcation 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 of 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 favor 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 favor 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, sir, respectfully, your obedient servant,

GEORGE M. DALLAS, Esq., &c., &c., &c.

LEWIS CASS.

No. 21.

No. 62.]

Lord Russell to Lord Lyons.

FOREIGN OFFICE, *March 9, 1860.*

MY LORD: I enclose a copy of a note from General Cass respecting the question of San Juan, communicated to me by Mr. Dallas, on the 2d 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, endeavored, 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 candor, 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 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 own claim to the Rosario Channel if that compromise were rejected.

Her Majesty's government maintain that either the Canal de Rosario or the Douglass 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 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., &c.,

LORD LYONS, &c., &c. &c.

J. RUSSELL.

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No. 22.

Mr. Cass to Mr. Dallas.

No. 252.]

DEPARTMENT OF STATE,

Washington, April 23, 1860.

SIR: I enclose a copy of a note from Lord John Russell, 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 clause 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 forever abandoned. If the distinct object of a convention is distinctly understood, and there is no repugnance in the language used, 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 navi-

gation 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 the first article 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. McLane, 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, is 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 demarcation, without any reference to islands; and by the *memorandum*, also, of Sir Richard Pakenham, who expressly declared 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 liberal tenor, would require the line to be placed 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 demarcation drawn midway between Vancouver's Island and the continent, without reference to any intervening islands. In his despatch to Lord Lyons of December 16, 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. McLane, 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

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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 demarcation, described by Mr. Pakenham. The considerations which seem to this government quite decisive in favor 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*, 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 that 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 a 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 to 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 could never be interrupted by the establishment of works on the island of San Juan. While, therefore, the President feels himself obliged to decline 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 governments upon this subject are so directly opposed, but he confidently hopes, 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 am, sir, respectfully, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., London.

No. 23.

Extract of a note of the 25th of May, 1860, from Lord Lyons to Mr. Cass.

* * * * *

I am likewise directed to say that it would, in the opinion of Her Majesty's government, serve no good purpose to settle the question of San Juan, unless

this matter of the Hudson's Bay Company were settled at the same time. The British government desire to see the stipulations of the treaty of 1846 faithfully carried into effect; and they would object equally to a direct or an indirect violation of its provisions.

* * * * *

No. 24.

Lord Lyons to Mr. Cass.

WASHINGTON, June 6, 1860.

SIR: I have just received from Rear-Admiral Baynes, Commander-in-chief of Her Majesty's naval forces in the Pacific, a copy of orders issued to the commanding officer of the United States troops in San Juan, on the 10th of April last, by General Harney, and communicated by the General's direction to the officer in command of Her Majesty's troops on the same island. I do myself the honor to enclose a copy of the orders in question, and I earnestly beg that the United States government will take them immediately into consideration.

It would be superfluous to remark upon the inconsistency of the whole tenor 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 which it will be 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 of 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 while 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 of 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 on the 9th of November, 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 between 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 neighborhood. I am confident that the government of the United States

will lose not a moment in taking measures to arrest 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 the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

HON. LEWIS CASS, &c., &c., &c.

Captain Pickett to Captain Bazalgette.

CAMP PICKETT, SAN JUAN, *April 30, 1860.*

SIR: I have the honor to inform you that, in obedience to orders received from the Headquarters 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 enclose 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.,

G. E. PICKETT,

Captain 9th Infantry, Commanding Post.

Captain G. BAZALGETTE,

Royal Marines, H B. Majesty's Troops.

Captain Pleasonton to Captain Pickett.

[Extract.]

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., April 10, 1860.

CAPTAIN: * * * * a copy of which you will furnish Captain Bazalgette for the information of Rear-Admiral Baynes.

1st. 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.

2d. 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 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 misunderstanding which shall prove honorable and satisfactory to all parties until a final settlement is attained by the two governments.

3d. 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 military obligations of the military service to their own as well as to the civil laws of the country; and it is fair to presume they will be adopted by Admiral Baynes, since the tenor of his instructions to Captain Bazalgette is sufficiently liberal to justify this conclusion.

I remain, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

Captain 2d Dragoons, A. Asst. Adj. Genl.

Captain G. E. PICKETT,
Company D, 9th Infantry.

No. 25.

Mr. Cass to Lord Lyons.

DEPARTMENT OF STATE,

Washington, June 8, 1860.

MY LORD: I have received your lordship's communication of the 6th instant, enclosing 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 on 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 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

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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 commander 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 the honor to be, my lord, with high consideration, your lordship's obedient, humble servant,

LEWIS CASS.

Lord LYONS, &c., &c., &c.

No. 26.

Lord Lyons to Mr. Cass.

WASHINGTON, June 9, 1860.

SIR: I had yesterday the honor to receive your note of that date, in which, in reply to my communication of the day before (6th,) you were so good as to inform me that instructions would be immediately sent off revoking General Harney's order of the 10th of 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 despatched 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 the honor to remain, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

No. 27.

Lord Lyons to Mr. Cass.

WASHINGTON, June 14, 1860.

SIR: It is not with any view of entering into a discussion upon the subject to which it relates that I do myself the honor to transmit to you the enclosed 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 honor to communicate the letter to you.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

Mr. Dallas to General Harney

FORT VANCOUVER, W. T., May 10, 1860.

SIR: I beg leave to address you upon the subject of the recent occupation of the 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 statements contained in your letters of 7th, 8th, 25th and 29th August, to the Adjutant General, to Governor Douglas, on 6th August, to Captain Pickett on the 18th of July, and to General Scott on the 19th July.

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 one hundred 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 an unimpeachable witness to prove this. Cutler was perhaps alarmed at seeing four of us approach him on horseback, and conscious of being in the wrong, not unreasonably took it for granted we had come to seek reparation. After some further 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 other 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

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fourth. The boar was shot in the adjoining forest. With a stock of five thousand 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 also be 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 August 29, 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, jr., 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 in 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 2, 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. Hobbs's unintelligible letter, in so far as I can understand it, states that "the Hudson's Bay Company, with a half-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 the 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 all. As the representative of a large public company, I feel compelled to come forward thus emphatically to contradict the misstatements which have been so repeatedly and extensively circulated regarding the company and myself. I have endeavored 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.,

A. J. DALLAS.

General HARNEY, &c., &c.

No. 28.

*Mr. Cass to Lord Lyons.*DEPARTMENT OF STATE,
Washington, June 25, 1860.

My LORD: 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 opinions entertained by your government, as stated in your note of May 25, 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 inform 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 will 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 the honor to be, my lord, with consideration, your lordship's obedient servant,

LEW. CASS.

LORD LYONS, &c., &c., &c.

No. 29.

*Mr. Irvine to Mr. Trescot.*BRITISH LEGATION,
Washington, August 17, 1860.

SIR: Her Majesty's government are desirous to remove all uncertainty from the question of the temporary jurisdiction of the island of San Juan.

I am therefore instructed to propose to the government of the United States that the civil magistracy should be removed, on both sides, from the island, and that a military jurisdiction should be established on the basis of the arrangement effected by General Scott; or, that a separate jurisdiction should be established over different portions of the island in the hands of the British and American magistrates, if such an arrangement should be preferred by the government of the United States.

The former course appears to Her Majesty's government to be more advisable, and would be also, I have no doubt, acceptable to the United States government. I am likewise instructed to propose that, to prevent the risk of future misunderstandings, the matter should be definitely arranged by means of a convention, or by an exchange of notes between the State Department and her Majesty's Legation.

I have the honor to be, sir, with the highest consideration, your most obedient humble servant,

W. DOUGLAS IRVINE.

HON. WILLIAM HENRY TRESCOT,
Acting Secretary of State.

No. 30.

Mr. Trescot to Mr. Irvine.

DEPARTMENT OF STATE,

Washington, August 18, 1860.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, in which you say that Her Britannic Majesty's government, desirous to remove all uncertainty from the question of the temporary jurisdiction of the island of San Juan, instructs you "to propose to the government of the United States that the civil magistracy should be removed on both sides from the island, and that a military jurisdiction should be established on the basis of the arrangement effected by General Scott, or that a separate jurisdiction should be established over different portions of the island, in the hands of British and American magistrates," and in which you further propose that "the matter should be definitely arranged by means of a convention, or by an exchange of notes between the State Department and Her Majesty's Legation."

In reply, I would say that the government of the United States share the anxiety of Her Britannic Majesty's government for the removal of all uncertainty from this question; but as far as this desirable end can be reached by "an exchange of notes between the State Department and Her Majesty's Legation," it has already been effected; and in this connection I would respectfully call your attention to the correspondence between Mr. Marcy and Mr. Crampton, under the respective dates of the 17th and 18th of July, 1855, and between General Cass and Lord Lyons, of the 6th and 8th of June last, and especially to the following extract from the letter of Lord Lyons, complaining to this government of General Harney's orders: "It would be superfluous to remark upon the inconsistency of the whole tenor and spirit of these orders with the satisfactory arrangement made by General Scott in November last;" and to another extract from the reply of General Cass: "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;" and it may, perhaps, not be improper to recall the fact that it appears from the reported proceedings of Parliament, that Lord John Russell has declared this reply perfectly satisfactory.

This Department is, therefore, of opinion that it has already, by the exchange of notes with Her Majesty's Legation, anticipated the first of the alternative propositions which you have submitted; and it deems this an opportune occasion to invite the serious attention of Her Britannic Majesty's government to the great inconvenience of the existing condition of things on the island of San Juan, and to express the hope that Her Britannic Majesty's government will, before long, remove the necessity of any temporary arrangement, by the final and permanent settlement of this question.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

WILLIAM HENRY TRESNOT,

Acting Secretary.

W. DOUGLAS IRVINE, &c., &c., &c.

No. 31.

Lord Lyons to Mr. Cass.

WASHINGTON, December 10, 1860.

SIR: In the note which you did me the honor to address to me on the 25th June last you informed me that the President was equally solicitous with the government of Her Majesty for the amicable and satisfactory adjustment of the questions at issue between the two countries, respecting the execution of the treaty signed at Washington on the 15th of June, 1846. You added that the government of the United States would be ready to receive and fairly to consider any proposition which Her Majesty's government might be disposed to make for a mutually acceptable adjustment, with an earnest hope that a satisfactory arrangement would 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.

The absence from England of Her Majesty's Secretary of State for the Colonies prevented Her Majesty's government from enabling me to make an earlier reply to this communication. But Her Majesty's government have not relaxed in their desire to close the controversy with regard to the complete execution of the treaty; and, in the confident hope of settling the whole matter in a manner satisfactory and honorable to both parties, they have directed me to lay before you the proposals which I shall proceed to state in this note.

The two points which have been in discussion are, first, the fulfilment of the obligations undertaken by the United States in respect to the Hudson's Bay and Puget Sound Companies; and secondly, the determination of the line of water boundary intended by the first article of the treaty. With regard to the first point, the President said to me, in the course of a conversation which I had the honor of holding with him on the 11th July last, that the best and most expeditious mode of settling the question would be for the companies to state at once the lowest sum for which they would sell their rights to the United States. Upon receiving from me a report of this conversation, Lord John Russell, Her Majesty's Principal Secretary of State for Foreign Affairs, sent for the governor of the Hudson's Bay Company and explained to him what the President had said to me on the subject of the company's claims.

The governor informed Lord John Russell, in reply, that if the company were called upon to fix the amount which they should ask for the extinction of their claims, they should name a sum of six hundred and fifty thousand dollars. He observed that they had been assessed at seven hundred thousand dollars, and that in the United States, as in England, the assessment is always below the real value. The governor added that this sum of six hundred and fifty thousand dollars would be an assessment on land and buildings alone, and would not include any compensation for privileges.

Considering all the circumstances, Lord John Russell recommended the company to reduce their claim to five hundred thousand dollars; and this sum the company have stated their readiness to accept.

I am, accordingly, instructed to state to you, sir, that, if the United States government will agree to pay to the Hudson's Bay and Puget Sound Companies a sum of five hundred thousand dollars in extinction of all their claims against the United States under the treaty of June 15, 1846, Her Majesty's government will be prepared to accept that amount on behalf of the two companies, and to release the United States government from all further liability, so far as regards their engagements to Great Britain under the third and fourth articles of that treaty in behalf of the Hudson's Bay and Puget Sound Companies in

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Oregon, whether on account of lands and buildings or on account of privileges mentioned in the aforesaid articles.

In reference to the line of the water boundary intended by the treaty, with respect to which, also, Her Majesty's government have been invited by the United States government to make a proposition for its adjustment, I am instructed to inform you that Her Majesty's government are glad to reciprocate the friendly sentiments expressed in your note of the 25th of June, and will not hesitate to respond to the invitation which has been made to them.

It appears to Her Majesty's government that, the argument on both sides being nearly exhausted, and neither party having succeeded in producing conviction on the other, the question can only be settled by arbitration.

Three questions would arise thereupon—

1. What is to be the subject-matter of arbitration?
2. Who is to be the arbiter?
3. What is to be the result of the decision of the arbiter?

With regard to the first point, Her Majesty's government are of opinion that the question or questions to be referred should be, What is the meaning of the words relating to the water boundary contained in article 1 of the treaty of June 15, 1846; or, if the precise line intended cannot be ascertained, is there any line which will furnish an equitable solution of the difficulty, and is the nearest approximation that can be made to an accurate construction of the words of the treaty?

In considering these questions the arbiter might fairly consult all the correspondence on the subject and weigh the testimony of the British and American negotiators of the treaty as to their intentions in framing the article; but he should not depart from the true meaning of the article as it stands, if he can deduce it from the words agreed to by both parties, and consigned in a treaty ratified by both governments.

Secondly, Her Majesty's government are of opinion that a reigning prince or sovereign state should be the arbiter; Her Majesty's government propose, with this view, that the King of the Netherlands, or King of Sweden and Norway, or the President of the Federal Council of Switzerland, should be invited to be the arbiter.

With regard to the third point, Her Majesty's government are desirous that this long controversy should not be again thrown loose for dispute; they therefore propose that both governments shall bind themselves to accept the decision of the arbiter, whether he shall give a positive decision or whether he shall declare that he cannot fix the precise meaning of the article in question, but that he has laid down on the chart a line which will furnish an equitable solution of the difficulty, and is the nearest approximation he can make to an accurate construction of the words of the treaty.

Should these proposals be accepted, Her Majesty's government flatter themselves that an equitable decision may be arrived at and a long and dangerous controversy terminated in a manner consistent with the honor and the interests of both governments.

I have the honor to be, sir, with the highest consideration, your most obedient, humble servant,

LYONS.

Hon. General LEWIS CASS,
Secretary of State.

No. 32.

[Extract.]

Deputy Marshal Brown to Mr. Seward.

UNITED STATES MARSHAL'S OFFICE,
Port Townsend, W. T., September 20, 1866.

DEAR SIR: Allow me to call your attention to the fact that difficulties are on the point of occurring between the military authorities of the United States on San Juan Island, and the civil authorities of Washington Territory.

Captain Gray, of the United States forces, having exercised arbitrary power over the citizens, process was issued out of the United States district court of the third judicial district of Washington Territory for his arrest; he refused to be arrested, and the sheriff returned the process to that effect. When the judge ordered him to summon a posse and bring him, he was met by force, and he returned the process unserved, and the court has now adjourned; but the judge ordered a *capias* to issue to the sheriffs of the different counties of the third judicial district, and to enforce the orders and process of the court. Therefore there is a probability of being trouble, unless the Department of State settle the question as to the authority of either the military or civil power over the island. The citizens claim the protection of the court, and Judge Darwin means to enforce civil law upon the island if it requires all the force of the Territory. Therefore, something should be done immediately by the Department of State, or serious difficulties must arise.

* * * * *

JARED C. BROWN,
Deputy United States Marshal.

Hon. WILLIAM H. SEWARD.

No. 33.

Mr. Seward to Mr. Stanton.

DEPARTMENT OF STATE,
Washington, November 19, 1866.

SIR: I have the honor to transmit herewith a copy of a letter of the 20th of September last, from the deputy United States marshal at Port Townsend, Washington Territory, relative to a disturbance which seems likely to take place between the United States military authorities on San Juan Island, and the civil authorities of the aforementioned Territory, growing out of the alleged exercise of arbitrary power over the citizens by Captain Gray, in command of the troops stationed on San Juan Island.

I will thank you to cause inquiry to be made regarding the proceedings of the military officers, and also to suggest the importance of harmony pending the settlement of the controversy between the two governments about the said islands.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. EDWIN M. STANTON,
Secretary of War.

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No. 34.

Mr. Stanton to Mr. Seward.

WAR DEPARTMENT,
Washington City, November 20, 1866.

SIR: I have the honor to acknowledge the receipt to-day of your communication of the 19th instant, enclosing a copy of a letter from the deputy United States marshal at Port Townsend, Washington Territory, and referring to a conflict which is alleged to be imminent between the United States military authorities in San Juan Island, and the civil authorities of the above-named Territory.

The matter has been referred to General Grant, with instructions to cause an investigation and report the facts.

I have the honor to be, sir, your obedient servant,

EDWIN M. STANTON,

Secretary of War.

HON. WILLIAM H. SEWARD, *Secretary of State.*

No. 35.

Mr. Stanton to Mr. Seward.

WAR DEPARTMENT,
Washington City, December 22, 1866.

SIR: Referring to your communication of the 19th ultimo, respecting a conflict alleged to be imminent between the United States military authorities on San Juan Island and the civil authorities of Washington Territory, and to my reply thereto, dated the 20th ultimo, I have now the honor to transmit a copy of a report from General Grant, submitting one from Brevet Brigadier General Babcock, one of his aides-de-camp, who, while at Fort Vancouver, received a statement of the facts from Major General Steele, commanding the Department of the Columbia.

It appears that the cause of the trouble in question was an attempt of a citizen to obstruct the road between the military post and landing. But General Babcock reports that the Department Commander did not apprehend a collision between the civil and military authorities.

I have the honor to be, sir, your obedient servant,

EDWIN M. STANTON,

Secretary of War.

HON. WILLIAM H. SEWARD, *Secretary of State.*

General Babcock to General Rawlins.

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, D. C., December 6, 1866.

GENERAL: In compliance with the request of the General-in-chief I have the honor to submit the following information concerning the difficulty existing between the civil authorities of Washington Territory and the commanding officer, Captain Gray, second United States artillery, of the military post on San Juan Island, Puget Sound.

I first heard of the trouble at General Steele's headquarters, Fort Vancouver Washington Territory, and, as I remember, it was in substance as follows: A citizen living on the island, owning land lying between the landing and the military post, becoming displeased with the military authority, built a fence across the road leading from the post to the landing. He was notified to remove it, but would not, and continued the trouble until Captain Gray ejected him from the island. General Steele did not expect any collision between the civil and military authorities. I may be mistaken in the facts of the case, but I give them as I remember General Steele's statement.

Our title to the island is disputed by the English government, and, according to the agreement for joint occupancy, until the question of title is settled, each government is to keep one company of troops on the island, with no artillery. Now if the military is withdrawn our title to the island is given up. It, therefore, seems to me that the military is the superior authority on the island, and should be thus recognized.

I am, General, very truly, your obedient servant,

O. E. BABCOCK,
Brevet Brigadier General and Aide-de-camp.

Major General RAWLINS,
Chief of Staff.

HEADQUARTERS ARMIES OF THE UNITED STATES,
December 10, 1866.

Respectfully returned to the Secretary of War, and attention invited to the letter of Brevet Brigadier General O. E. Babcock, aide-de-camp, enclosed herewith.

U. S. GRANT, *General.*

No. 36.

Mr. Stanton to Mr. Seward.

WAR DEPARTMENT,
Washington City, January 16, 1868.

SIR: In reply to your communication of the 10th instant, asking for information concerning the joint occupancy of San Juan Island, I have the honor to send herewith copies of papers* which it is believed contain the information you desire, and all that is in this department, on the subject.

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

The Honorable the SECRETARY OF STATE.

* These papers were published in H. Ex. Doc. No. 98, 35th Cong. 1st sess., and will be found on pp. 208-217 of this document.

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No. 37.

*Mr. Stanton to Mr. Seward.*WAR DEPARTMENT,
Washington City, January 24, 1868.

SIR: I have the honor to send herewith, for the information of the Department of State, a copy of a report dated the 18th November, 1867, made to this Department by Major General Halleck, commanding the military division of the Pacific.

* * * * *

Your obedient servant,

EDWIN M. STANTON,
Secretary of War.

The Honorable SECRETARY OF STATE.

General Halleck to the Adjutant General.

[Extract.]

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,
San Francisco, Cal., November 18, 1867.

GENERAL: I beg leave to call the special attention of the War Department, and through it the Department of State, to the present condition of affairs on San Juan Island, and the other islands which form the De Haro Archipelago, between the Straits of De Haro and Rosario.

It is hardly necessary to recapitulate the circumstances which led to the conflicting claims of Great Britain and the United States to this archipelago; and the resulting difficulties between the authorities of Washington Territory and British Columbia, in which the military on both sides became involved.

These difficulties were temporarily arranged, or supposed to be arranged, by an agreement between General Scott and Admiral Baynes, in 1859, for a joint *military* occupation of the disputed territory, thus excluding the civil jurisdiction of both parties. This anomalous arrangement was easily carried into execution on the part of the British government, as the civil and military affairs in the colony are under the same head and directed by the same person. But not so with us. General Scott's agreement, although approved by the Executive, had not the sanction of law, and was repudiated by the civil authorities of Washington Territory as of no binding force. They, therefore, continued to claim the right to collect taxes, execute judicial process, &c., in the disputed territory. Moreover, the United States officers of customs claimed the right to enforce our revenue laws on the same islands. Both of these claims may have been lawful, but they were entirely incompatible with the Scott-Baynes arrangement for exclusive *military* occupation; and to permit them to be carried out would be a virtual abrogation of that agreement, and a renewal of the very conflict of jurisdiction which it was intended to avoid. Hence our military officers, under instructions sanctioned by the War Department forcibly resisted every attempt of our customs and territorial officers to exercise civil authority on these islands. By this course they have avoided all difficulties between the two nations in regard to claims of ownership of the disputed territory; but it has involved them in serious personal difficulties. Brevet Major Graves, lieutenant second regiment of artillery, has been arrested and put under heavy bonds for resisting the civil jurisdiction of Washington Territory, on San Juan.

Island, and Captain Gray has been fined five thousand dollars (\$5,000) for the same alleged offense. Undoubtedly other officers of the command on the island will receive similar treatment as soon as they can be arrested by the civil officers of Washington Territory.

In other words, we have this anomalous condition of affairs on that front. The military officers of the United States are required to prevent the exercise of civil jurisdiction on the disputed islands, while the civil officers of the same government insist upon its execution, and proceed to punish the former for the very acts which are required of them by the War Department.

* * * * *

Very respectfully, your obedient servant,

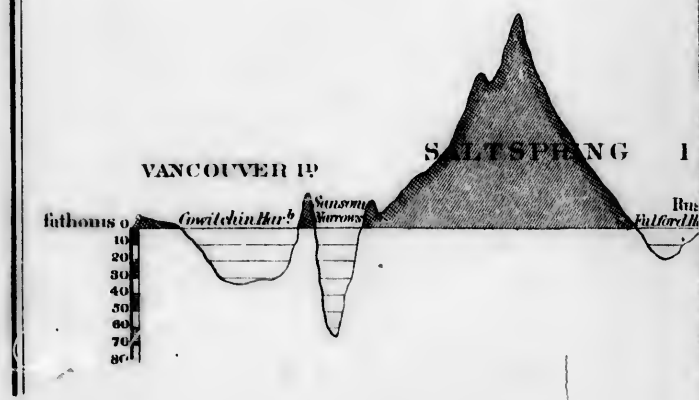
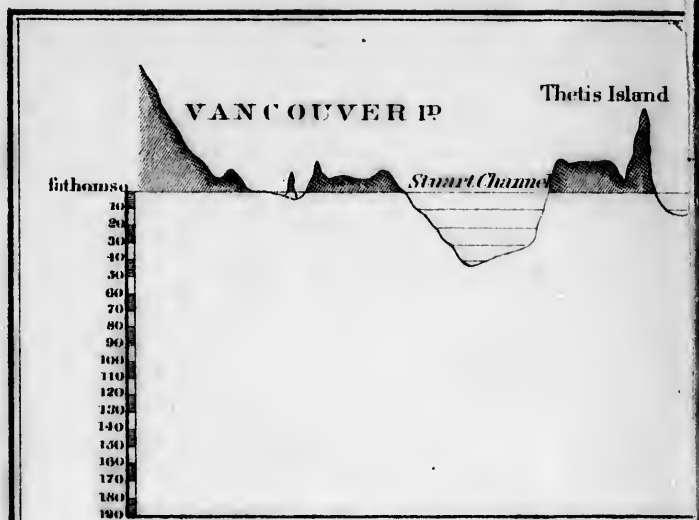
H. W. HALLECK,
Major General

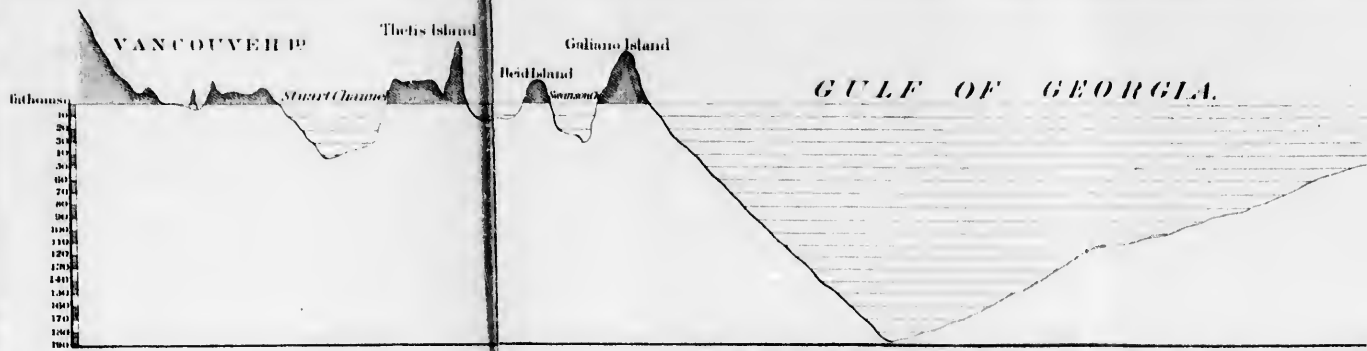
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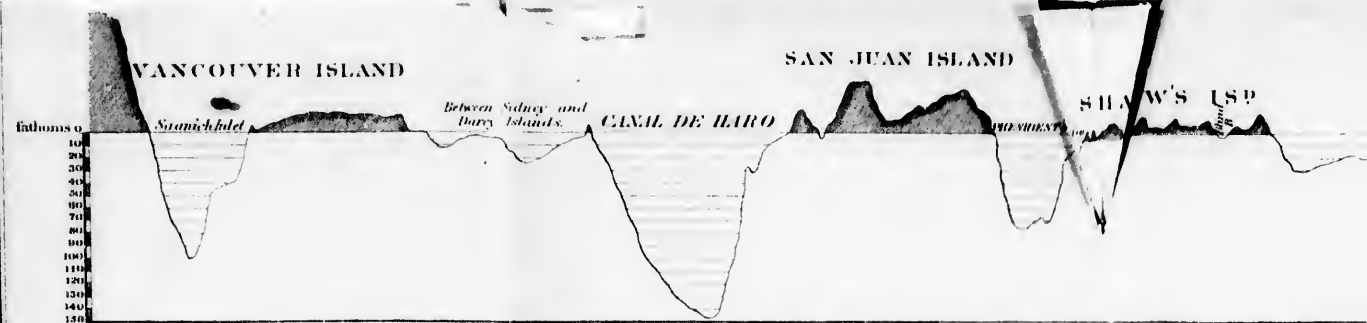




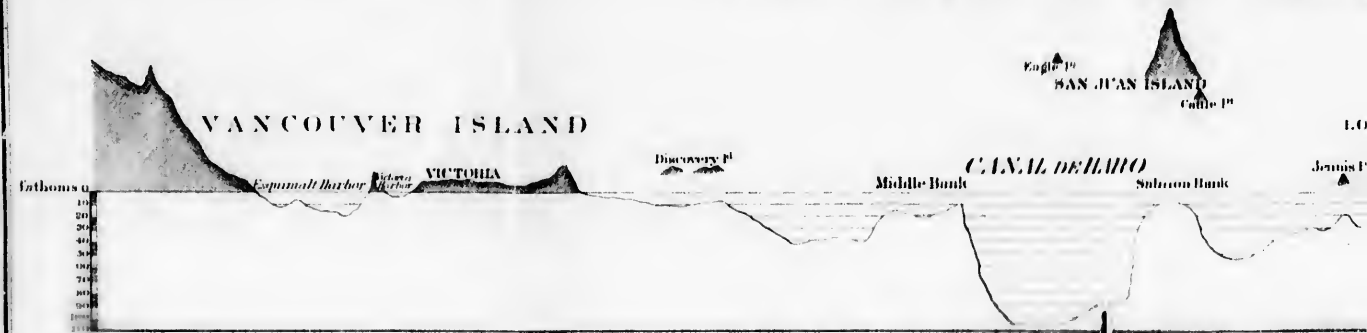
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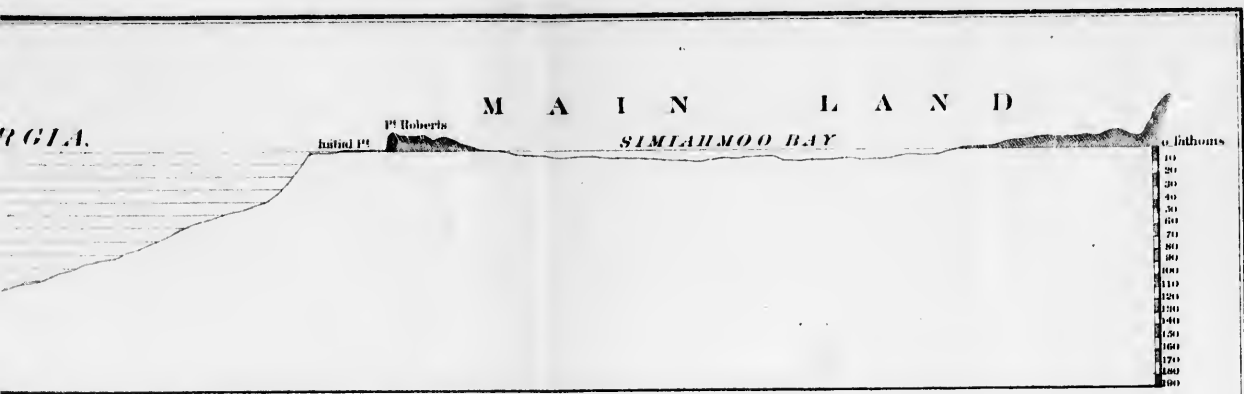
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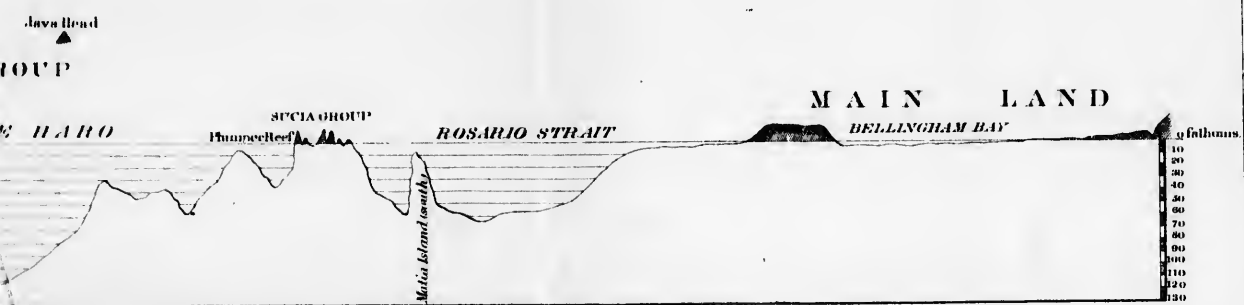
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Scale of Statute Miles.

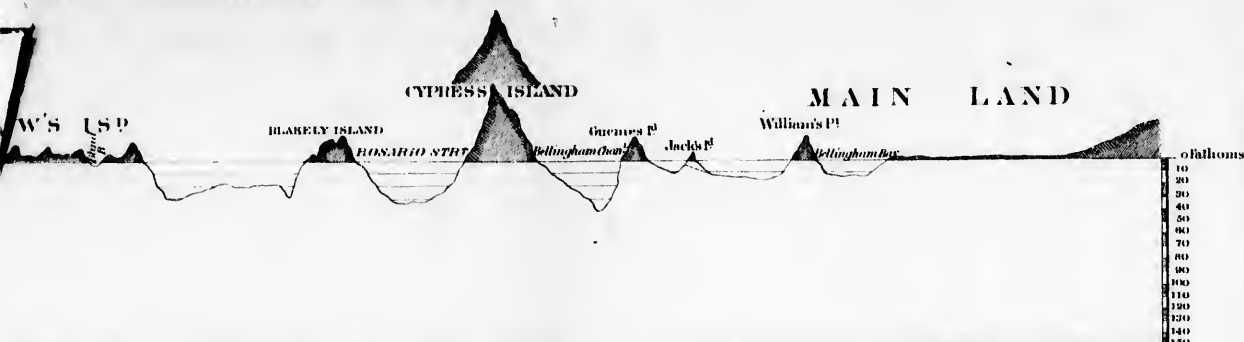




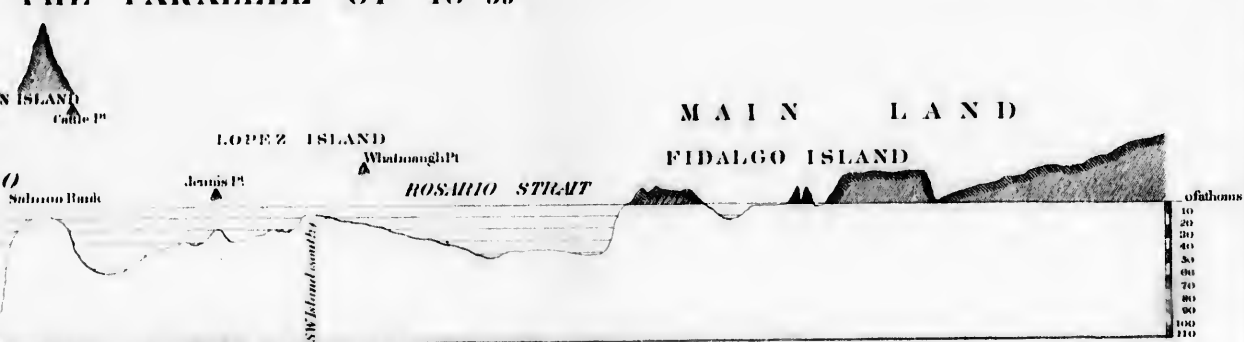
THE PARALLEL OF 49°



THE PARALLEL OF 48°45'



THE PARALLEL OF 48°35'



THE PARALLEL OF 48°25'



