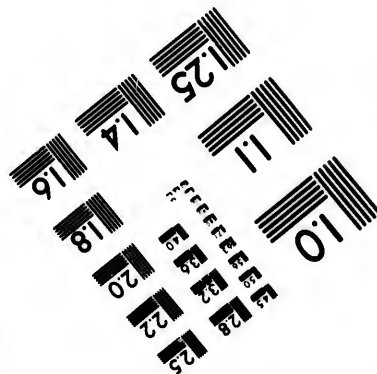
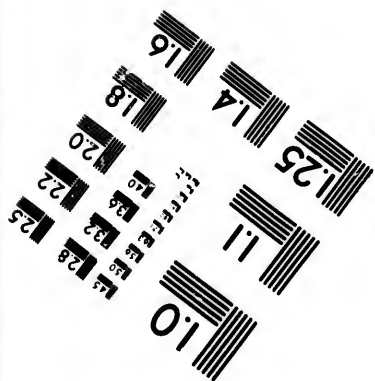
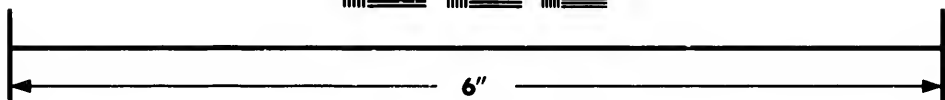
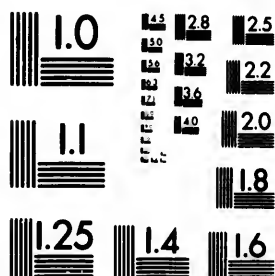


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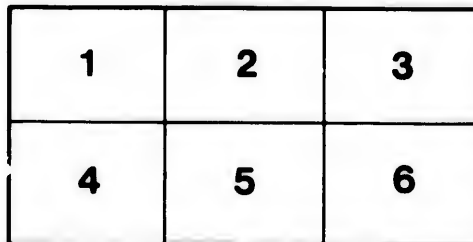
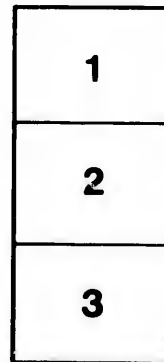
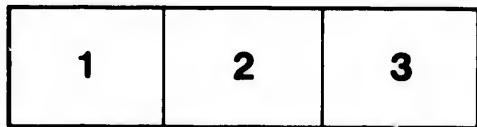
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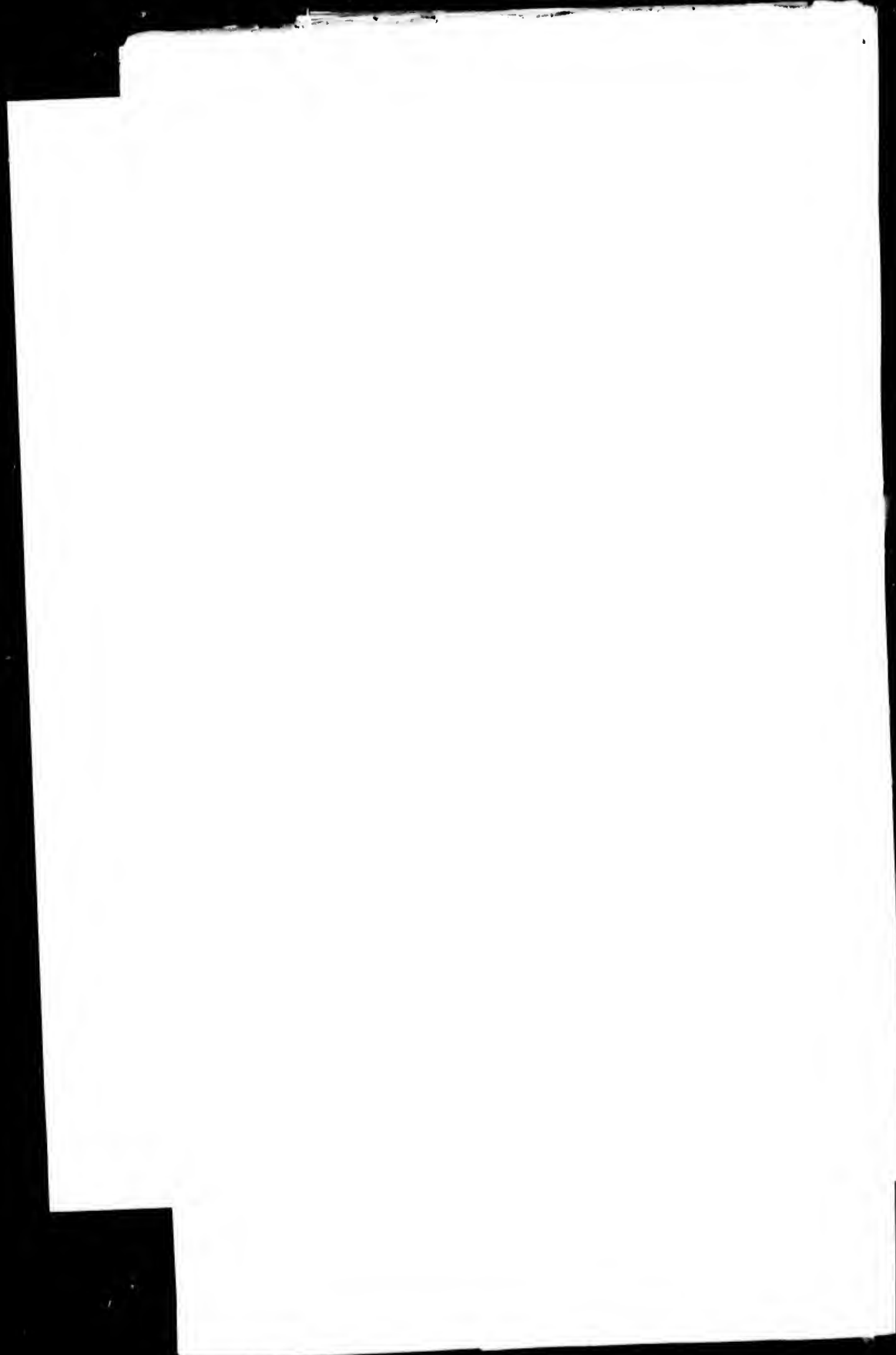
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NORTH AMERICA. No. 3 (1873).

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NORTH-WEST AMERICAN WATER BOUNDARY.

CASE

OF THE

GOVERNMENT OF HER BRITANNIC MAJESTY,

SUBMITTED TO THE

ARBITRATION AND AWARD

OF

HIS MAJESTY THE EMPEROR OF GERMANY,

IN ACCORDANCE WITH

ARTICLE XXXIV OF THE TREATY

BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA,

SIGNED AT WASHINGTON, MAY 8, 1871.

[For Maps and Charts referred to in this Case, see North America No. 7.]

Presented to both Houses of Parliament by Command of Her Majesty.
1873.

LONDON:
PRINTED BY HARRISON AND SONS.

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(Drawn by Charles Preuss, under the orders of the Senate of the United States. Washington City, 1848.)

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Case of the Government of Her Britannic Majesty.

HIS Majesty the Emperor of Germany having consented to accept the office of Arbitrator between the Government of the United States of America and the Government of Her Britannic Majesty under the provisions of Article XXXIV of the Treaty concluded at Washington on the 8th May, 1871, between the United States and Her Britannic Majesty, the Government of Her Britannic Majesty submits to the consideration of His Majesty the Emperor of Germany, in pursuance of Article XXXVI of the said Treaty, the following Case:—

The Question for Decision.

The question submitted to the decision of His Imperial Majesty affects so much of the boundary line between Her Britannic 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.

The boundary line is described in the Treaty between the United States and Great Britain of June 15, 1846, in the following general terms:—

Treaty of June 15, 1846 (Article I).

“From the point on the forty-ninth parallel of north latitude, where the boundary line 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 Fueca'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.”

The question more immediately submitted to the decision of His Imperial Majesty is described in Article XXXIV of the Treaty of 8th May, 1871, in the following terms:—

Treaty of May 8, 1871.

“Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th June, 1846, between Her Britannic Majesty and the United States, that the line of boundary between the territories of the United States and those of Her Britannic Majesty from the point on the forty-ninth parallel of north latitude, up to which it had already been ascertained, should be continued westward along the said 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 Fueca Straits to the Pacific Ocean; and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the Channel aforesaid were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of Her Britannic Majesty and the Government of the United States shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned Article of the said Treaty, shall decide thereupon finally and without appeal which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846.”

The Question for Decision.

Charts Nos. 3 and 4.

Appendix No. 2.

Treaty of June 15, 1846.

Appendix No. 1.

Treaty of May 8, 1871.

It will be observed by His Imperial Majesty, that whereas the Treaty of June 1816 speaks only of the Channel which separates the Continent from Vancouver's Island, through the middle of which the boundary line is to be run, the Treaty of 1871 speaks of the Rosario Straits and the Canal de Haro, as if there was more than one Channel between the Continent and Vancouver's Island through which the boundary line may be run and be continued through the middle of Fuca's Straits to the Pacific Ocean.

It will be convenient, therefore, to bring to the attention of His Imperial Majesty at once the hydrography of the entire space between the Continent and Vancouver's Island south of the 49th parallel of north latitude according to the best information which is in the possession of Her Majesty's Government.

The Strait of Georgia.

Chart No. 4.*

The Strait of Georgia.

The 49th parallel of north latitude continued westwardly, according to the provisions of the Treaty of June 15, 1816, strikes the upper waters of the ancient Gulf of Georgia, designated by the Spaniards *El Canal del Rosario*, in *Semahmoo Bay*. These waters are now termed, in British Charts, the Strait of Georgia. Continued across that Bay the parallel line intersects a narrow peninsula, the extreme of which was named by Vancouver, Point Roberts. This Point extends about $1\frac{1}{4}$ miles (English) south of the parallel line. Continued across the Strait of Georgia, the parallel line strikes at an acute angle a line drawn southerly through the middle of the Channel.

Respecting so much of the boundary line, as extends to the middle of the Strait of Georgia, there is no controversy between the High Contracting Parties to the Treaty of June 15, 1816, that it terminates at a point on the parallel of 49° north latitude in the middle of the Strait of Georgia. It is with regard to the line to be drawn southerly from the parallel of 49° north latitude through the middle of the Channel that the Commissioners of the High Contracting Parties have been unable to agree. The true direction of such a line drawn towards the Strait of Fuca would appear, from a survey of the waters, to be south-east by east for a distance of about 19 miles, where the Strait of Georgia gradually expands to a width of nearly 49 miles, and may be said to lose the characteristic features of a single Strait.

The space now entered upon is encumbered by numerous islands, varying in size and character, among which are three navigable channels leading into Fuca's Strait.

The most eastern of the three channels has been of late termed in British charts the Rosario Straits, and in American charts Ringgold's Channel. The most western is termed in British charts the Haro Strait, and in American charts the Canal de Arro. The latter term has been borrowed from the Spaniards, who term the lower part of the Strait the Canal de Lopez de Haro.

There are, besides, other narrow passages; but they may scarcely be considered as highways for ships passing from the Strait of Georgia into Fuca's Strait.

The Rosario Strait.

Chart No. 4.*

The Rosario Strait.

From a point midway between Saturna Island and the Continent and 4 miles (English) south of Point Whitehorn on the shore of the Continent, the waters of the Strait of Georgia merge on almost the same line of bearing (south-east by east) into those of the Rosario Strait, passing eastward of the small Islands of Patos, Sucia, Matia, and Clark, thence between the large Islands of Lammie and Orcas. At Point Lawrence, which is the eastward point of Orcas, the Strait trends a little westward of south for 3 or 4 miles (English), and then leads by a due south course into the head-waters of the Strait of Fuca, the whole distance from the point above-mentioned, as where the Strait of Georgia merges in the Rosario Strait, being 30 miles (English).

The width of the Rosario Strait varies from 6 to $1\frac{1}{4}$ miles (English). At its northern entrance, between the Island of Sucia and Sandy Point, on the Continent, it is 6 miles (English) across; but the Alden Bank lies almost between those two points.

There is, however, a clear passage of 4 miles (English) eastward of the Bank, and a passage of $1\frac{1}{2}$ miles (English) westward. The least water on the shoal part is $2\frac{1}{4}$ fathoms (English). The Bank itself is an extensive patch, being $2\frac{1}{2}$ miles (English) north and south, and more than 1 mile (English) east and west. On the greater part of it, anchorage may be had in from 5 to 9 fathoms (English).

The Bank is not really an impediment to the Channel. The shoal part of it, which would be dangerous to a ship, is of small extent, and is easily avoided by good natural leading marks during the day, and by the lead at night; whilst it is a manifest advantage to a sailing-vessel to be able to anchor in a moderate depth should calms

* See Chart No. 3.

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strong tides, or fogs render it desirable, and when it would probably be impossible to fetch a harbour. The width of the Rosario Strait, southward of the Alden Bank, soon decreases to $3\frac{1}{2}$ miles and 2 miles (English), which latter is about its average breadth. Between Cypress and Blakely Islands, it is as narrow as $1\frac{1}{2}$ miles; but soon opens out again to $2\frac{1}{2}$ miles. The Bird and Belle Rocks lie almost in the centre of the Strait, $3\frac{1}{2}$ miles (English) within its southern entrance. The former is an extensive rock, 15 feet above high water. The latter lies north-north-east of it, more than half-a-mile (English), and is covered until near low water. The tides, which sweep with considerable strength over these rocks, are calculated to render the passage between them dangerous to sailing-vessels in calms or fogs; but there is a good passage on either side of them; that to the eastward of them being $1\frac{1}{2}$ miles (English) wide, while the width of that to the westward is $1\frac{1}{2}$ miles (English). The Williamson and Denis rocks which extend about one-third of a mile off the south-west side of Allan Island, are easily avoided. The former is 22 feet above high water; the latter awash at low spring tides.

The Davidson Rock, occasionally uncovering itself at low spring tides, lies three-fourths of a mile (English) east by south of Colville Island, and is easily avoided, as it is marked by kelp. The only other hidden danger which has been discovered to exist in Rosario Strait is the Panama Reef, which extends one-third of a mile (English) off the north-west end of Sinclair Island. This reef is marked by kelp, and uncovers itself at low water. A rock also, which is about the same distance west of Rock Islet, near the north end of Cypress Island, is also marked by kelp, and uncovers itself at low water.

The tides in Rosario Strait run with considerable strength; in the narrow part between Cypress and Blakely Islands they have been found, during spring tides, to exceed 6 miles (English) an hour; in other parts of the Strait their velocity is from 2 to 5 miles (English). The depth of water, however, being from 25 to 35 fathoms over the greater part of the Strait, admits of vessels anchoring anywhere, if it should be necessary; but the most desirable stopping places are Fidalgo Bay, on the western side of the island of the same name; Walmouth Bight, on the south-east side of Lopez Island; the Guemes Passage, and Strawberry Bay, on the west side of Cypress Island.

The Canal de Haro.

The Canal de Haro.
Chart No. 4.*

On the other hand, the Canal de Haro, from the point where the Strait of Georgia may be said to lose the characteristic features of a single Strait, takes a direction about south-west and a half south between the east point of Saturna Island and the small Island of Patos, for a distance of 8 miles (English), it then turns to the westward, and runs in a direction south-west by west for almost an equal distance, until between Stuart and Moresby Islands, where it turns to the southward, and runs for a further distance of about 20 miles (English), trending to the south-east, when it strikes the Strait of Fuca.

The width of the Canal de Haro at its northern entrance between East Point and Patos Island is $2\frac{1}{2}$ miles (English), where, from the strong tides and irregularity of the bottom, heavy races occur; about the same width is carried for 12 miles (English) when, between Turn Point and Moresby Island, it decreases to something less than 2 miles (English), and the narrowest part, which is between Stuart Island and Cooper's Reef, is $1\frac{1}{2}$ miles (English). After passing south of Henry Island it gradually widens, and is more than 6 miles in breadth when it enters the Strait of Fuca.

The water is deeper and the depth is more irregular in the Canal de Haro than in the Rosario Strait, and though the tides run with about equal velocity in both, the former is more subject to irregularities and races.

The eastern or San Juan shore of the Canal is bold and steep.

After passing San Juan, when northward of Henry Island, very strong and irregular tides are met with, and there are rocks off Spieden Island which must not be approached too close.

Off Turn Point, on Stuart Island, there are strong whirls and eddy tides; and, unless with a commanding breeze, a sailing-vessel is liable to be turned round by them and lose the power of her helm.

On the western side of the Canal the principal dangers are—

The Zero Rock and its neighbouring shoals in Cormorant Bay; also the Kelp Reefs, which extend southward and eastward of Darcy Island.

Cormorant Bay, however, affords good anchorage. To enter it vessels may safely stand in midway between Gordon Head and Zero Rock, and anchor in 9 fathoms,

* See Chart No. 3.

where they will be free from any considerable tide. The Low and Bare Islands, northward of Sidney Island, should not be approached very close, and Cooper's Reef should be particularly avoided. The flood tide sets strongly to the north-west through the Miner's Channel, and sailing-vessels would be very liable to be set into it during light winds.

Plumper Sound, on the northern side of the bend of the Strait, between Stuart Island and the east point of Saturna Island, is a good anchorage, with a moderate depth of water for vessels seeking shelter, and one of the few among the group of islands, which is of easy access to a sailing-vessel.

Cowlitz Bay, on the western side of Waldron Island, is also an excellent stopping-place, easy of access or egress.

There are two small anchorages in Stuart Island, Reid and Prevost Harbours, but they are only suited to small vessels or steamers.

A vessel passing through the Canal de Haro may seek shelter in any of the above-mentioned anchorages, but the great depth and irregular nature of the bottom would render it impossible for her to anchor anywhere in the main channel.

Such is the most complete account which Her Majesty's Government is able to lay before His Imperial Majesty respecting the hydrography of the two channels, which are in controversy.

Origin of the Names of the two Channels.

With regard to the origin of the respective names of the two Channels there is some uncertainty. From an account published by Mr. Robert Greenhow, the Librarian of the Department of State of the United States, in his "History of Oregon and California" (Boston, 1845), it would appear that, in the summer of 1790, an attempt was made by the Spaniards to explore the waters supposed to be identical with a north-west passage leading into the Polar Sea, which, according to an ancient tradition, had been discovered in the sixteenth century by a Greek pilot, called commonly Juan de Fuca. For that purpose, to quote Mr. Greenhow's words (History, p. 221), "Elisa, the Commandant of Nootka, detached Lieutenant Quimper, in the sloop 'Princess Royal,' who traced the passage in an eastwardly direction, examining both its shores to the distance of about a hundred miles from its mouth, when it was observed to branch off into a number of smaller passages towards the south, the east, and the north, some of which were channels between islands, while others appeared to extend far into the interior. Quimper was unable, from want of time, to penetrate any of these passages; and he could do no more than note the positions of their entrances and of several harbours, all of which are now well known, though they are generally distinguished by names different from those assigned to them by the Spaniards. Among these passages and harbours were the Canal de Caamano, afterwards named by Vancouver Admiralty Inlet; the Boca de Flon, or Deception Passage; the Canal de Guemes, and the Canal de Haro, which may still be found under those names in English charts, extending northward from the eastern end of the strait; Port Quadra, the Port Discovery of Vancouver, said to be one of the best harbours on the Pacific side of America, with Port Quimper near it on the west; and Port Nunez Gaona, called Poverty Cove by the American fur-traders, situated a few miles east of Cape Flattery, where the Spaniards attempted, in 1792, to form a settlement.

"Having performed this duty as well as possible, under the circumstances in which he was placed, Quimper returned to Nootka, where he arrived in the beginning of August."

It is probable that it was upon the authority of Quimper, who was an Ensign of the Royal Navy of Spain, that the name of the *Canal de Haro* was given to the Strait, which separates Vancouver's Island from the Island of San Juan, in the Spanish Chart of the discoveries made on the north-east coast of America, annexed to the narrative of the expedition of the Spanish exploring vessels, "Sutil" and "Mexicana," which was published at Madrid in 1802, by order of the King of Spain.

A very brief allusion is made in the first chapter of that narrative to Quimper's Expedition. He is stated to have sailed from the port of Nootka on 31st May, 1790, to have reconnoitred the Port of Claucaud (in Vancouver's Island), to have entered afterwards into the Canal of Fuca, to have visited certain ports and part of the coast, to have taken surveys, and to have retired on the 1st of August, the weather not permitting him to continue his labours.

Mr. Greenhow cites, as his authority, the journal of Quimper's voyage among the manuscripts obtained from the Hydrographical Department at Madrid.

Origin of the Names of the two Channels.

Chart No. 1.

Appendix No. 4.1

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On the other hand, the name of *Rosario Channel* appears from the narrative of the "Sutil" and "Mexicana" to have originated with Lieutenant Elisa, who, prior to the arrival of those vessels, had penetrated into the upper waters, now called the Strait of Georgia, and had given to them the name of "El Canal de Rosario." That name is accordingly given to those waters in the Chart, which represents the course of that expedition. Vancouver, on the other hand, in his Chart, to which reference will be made hereafter, assigns that name to certain narrow waters further north, which separate the Continent from the Island now called Texada. How the name has come to be applied in modern days to the waters of the Strait of Georgia, as they are traced southerly through the islands until they join the head-waters of the Strait of Fuca, does not appear. No name was in use, at the time when the Treaty of 15th June, 1846, was concluded, to distinguish these waters from the upper waters. *The fact, however, is clear, that the name assigned by the Spaniards to the upper waters of the ancient Gulf of Georgia is used in the present day to denote the Channel, which Her Majesty's Government maintains to be the true continuation of that Strait.*

Appendix No. 4.

Chart No. 2

The expedition of the "Sutil" and "Mexicana" in 1792 appears to have ascended the Strait of Fuca to its headwaters, having touched first at Port Cordova (now Aquimart Harbour), at the southern extremity of Vancouver's Island. It thence proceeded between the Island of Bonilla (Smith's Island), and the south-east point of Lopez Island, at that time believed to be one and the same Island with San Juan, until it reached the mouth of the Canal de Guemes, which separates the Island of Guemes from the Continent. The expedition then passed up that Strait into the "Beno de Gaston," now Bellingham Bay, and thence along the passage which separates the Island of Pacheco (now Lammi Island) from the Continent, into the upper waters now known as the Strait of Georgia. The two vessels continued their voyage onwards through those waters past the Promontory of Cepeda, afterwards called Point Roberts. Vancouver, and were employed in reconnoitering the Boca de Florida (Bianca), the first large inlet north of Point Roberts, when they were joined by Vancouver.

Appendix No. 4.
Chart No. 1.

The expedition under Vancouver, after making a complete survey of the Strait of Georgia up to its head-waters, had also passed onward through the Channel between the east point of Lopez Island and the Continent; but instead of directing its course toward, like the "Sutil" and "Mexicana," on reaching Guemes Island, it continued its course northward along the main channel, which separates Blakely Island from Gross Island, and anchored in Strawberry Bay.

Chart No. 2.

Thence it pursued its course between Orcas Island and Lammi (Pacheco) Island, until it reached Birch Bay. Passing onwards it pursued a north and west course past Point Roberts, and fell in with the Spanish vessels "Sutil" and "Mexicana," as already mentioned, off the first large inlet north of Point Roberts.

The narrative of Vancouver's expedition was made public in 1798, and there was annexed to it a chart, in which the course of the expedition is traced through the Strait of Rosario, and soundings are given at the entrance and in various parts of the Strait, and in the upper waters of the ancient Gulf in continuation of that Strait.

The name of the Canal de Arro appears also in this chart assigned to the lower part of the Strait which separates Vancouver's Island from San Juan; but the parts between the west and north shores of these waters are not shaded, intimating that Vancouver had his information from Spanish authorities.

No soundings whatever are given of the Canal de Haro either in Vancouver's Chart, or in the Spanish Chart annexed to the narrative of the voyage of the "Sutil" and "Mexicana."

The Chart of Vancouver, in which the soundings as above-mentioned are laid down, has been the guiding chart for all British vessels navigating the waters between the Continent and Vancouver's Island from 1798 until some time after 1847, when a more accurate survey was made of the Strait of Fuca by Captain Kellett, and there is evidence preserved in the logs of vessels in the service of the Hudson's Bay Company prior to that year, that it was their invariable practice to use the Rosario Strait as the leading channel from Fuca's Strait into the upper waters now known as the Strait of Georgia.

Chart No. 2.

Mr. Greenhow, in his "Memoir on the North-West Coast of North America" (New York, 1840), p. 139, says that "the observations of Vancouver form the basis of the best maps of the west coast of America from the 30th degree of latitude to the northern extremity of Cook's inlet, as also of those of the Sandwich Islands, which he surveyed with care. The maps contained in the atlas annexed to the journal of the voyage of the 'Sutil' and 'Mexicana' are nearly all copied from those of the British navigator."

C

Extent of Fuca's Strait.
Chart No. 3.*

Extent of Fuca's Strait.

It will have been observed by His Imperial Majesty that Her Majesty's Government, in speaking of Fuca's Strait, uses that expression to denote the inlet of the sea which extends from Cape Flattery to Whidbey Island, which lies off the American Continent. The utmost length of Fuca's Strait would thus extend over about 2° of longitude, equal in that latitude to about 86 miles (English), when it merges, at its south-east extremity, in Admiralty Inlet, and at its north-east extremity in Rosario Strait.

Navigation of Fuca's Strait.
Chart No. 4.†

Navigation of Fuca's Strait.

The Rosario Strait and the Canal de Haro are both of them connected immediately with Fuca's Strait, so that it is possible for a vessel setting out from a port on either side of the Channel under the 49th parallel of north latitude, to pass by either of the intervening Channels into Fuca's Strait, and thence to the Pacific Ocean; with this difference, however, that a vessel passing down the Rosario Strait would enter Fuca's Strait at its eastern end, in about 122° 47' west longitude, the proper and safe course for such a vessel being to the eastward of Davidson's Rock at the distance of about 1 mile south of Cape Colville, and so would have to navigate the whole of Fuca's Strait on its way to the Pacific Ocean; whereas a vessel passing down the Canal de Haro keep a safe course between Discovery Island and the Middle Bank, and enter the Strait of Fuca in about 123° 10' west longitude, and so would only be obliged to navigate about two-thirds of Fuca's Strait on its way to the Pacific Ocean. On the other hand, a vessel entering Fuca's Strait from the Pacific Ocean and bound up the Rosario Strait by night, after making the light upon Race Island, would have to make the light upon New Dungeness, which is about 70 miles from Cape Flattery, and then the light upon Smith or Blunt Island, which lies almost in the centre of the eastern end of Fuca's Strait, and about 6 miles from the entrance of the Rosario Strait. If she made Smith's Island, the vessel may pass safely either to the northward or the southward of it, according as the wind may allow. In the former case she would probably have to pass within 3 miles of Cape Colville before she can enter the Rosario Strait. On the other hand, if she is obliged to keep a course to the southward of Smith's Island, she would probably have to pass within 3 miles of Whidbey Island before she reaches the entrance of the Rosario Strait. She might thus be obliged in one or the other case to navigate within the three miles limit. On the contrary, a vessel entering Fuca's Strait from the Ocean, and bound up the Canal de Haro, will not be under any necessity to pass within territorial waters on either side of the boundary line, in order to reach the entrance of the Canal.

Chart No. 3.

Having thus, in the first place, brought under the consideration of His Imperial Majesty the physical features of the waters through which the boundary line is drawn pursuant to the provisions of the Treaty of the 15th June, 1846, Her Britannic Majesty's Government proposes, in the second place, to submit to the consideration of His Imperial Majesty certain rules of interpretation which, in the opinion of the highest authority, are applicable to the interpretation of Treaties, and which, in the opinion of Her Britannic Majesty's Government, may be properly invoked to elicit the true interpretation of the Treaty of the 15th June, 1846.

Rules for the Interpretation of Treaties.

Rules for the Interpretation of Treaties.

There are certain admitted Rules to which Her Majesty's Government invites attention of His Imperial Majesty, as proper to be observed in the interpretation of Treaties:—

1. *The words of a Treaty are to be taken to be used in the sense, in which they are commonly used at the time when the Treaty was entered into.*

In affirmation of this rule, Vattel (l. ii, chap. 17, sec. 271) writes:—"In the interpretation of Treaties, compacts, and promises, we ought not to deviate from the common use of language unless we have very strong reasons for it;" and in illustration of what he means by "the common use of language," he goes on to say, in sec. 272, "The usage we here speak of is that of the time when the Treaty or the instrument of whatever kind, was drawn up and concluded. Languages incessantly vary, and the signification and force of words changes with time."

Vattel, l. ii, chap. 17, sec. 271. London, 1811.

* See Chart No. 4.

† See Chart No. 3.

2. *In interpreting any expressions in a Treaty, regard must be had to the context and spirit of the whole Treaty.*

In affirmation of this rule, Vattel (*ibid.*, sec. 285) writes as follows:—

"It frequently happens that, with a view to conciseness, people express imperfectly, and with some degree of obscurity, things which they suppose to be sufficiently elucidated by the preceding matter, or which they intend to explain in the sequel; and, moreover, words and expressions have a different force, sometimes even a quite different signification, according to the occasion, their connection and their relation to other words.

"The connection and train of the discourse is, therefore, another source of interpretation. We must consider the whole discourse together, in order perfectly to conceive the sense of it, and to give to each expression not so much the signification which it may individually admit of, as that which it ought to have from the context and spirit of the discourse. Such is the maxim of the Roman law: 'In civile est, nisi tota lege perspecta, una aliqua particulari ejus proposita, judicare vel respondere.' Digest, l. i, tit. iii, De Legibus, leg. 21."

3. *The interpretation should be drawn from the connection and relation of the different parts.*

Upon this rule, Vattel (*ibid.*, sec. 286) writes as follows:—

"The very connection and relation of the things in question helps also to discover and establish the true sense of the Treaty or of any other piece. The interpretation ought to be made in such a manner that all the parts may appear consonant to each other—that what follows may agree with what preceded, unless it evidently appears, by the subsequent clauses, the parties intended to make some alteration in the preceding ones. For it is to be presumed that the authors of a deed had an uniform and steady train of thinking—that they did not aim at inconsistencies and contradictions, but rather that they intended to explain one thing by another—and, in a word, that one and the same spirit reigns throughout the same production or the same treaty."

4. *The interpretation should be suitable to the reason of the Treaty.*

In illustration of this rule, Vattel (*ibid.*, sec. 287) writes:—

"The reason of the law or of the Treaty—that is to say, the motive which led to making of it and the object in contemplation at the time—is the most certain clue to lead us to the discovery of its true meaning; and great attention should be paid to the circumstance whenever there is question either of explaining an obscure, ambiguous, indeterminate passage in a law or Treaty, or of applying it to a particular case. When once we certainly know the reason which alone has determined the will of the person speaking, we ought to interpret and apply his words in a manner suitable to that reason alone; otherwise he will be made to speak and act contrary to his intention, and in opposition to his own views.

"Pursuant to this rule, a prince who on granting his daughter in marriage has promised to assist his intended son-in-law in all his wars is not bound to give him assistance if the marriage does not take place.

"But we ought to be very certain that we know the true and only reason of the law, the promise, or the Treaty. In matters of this nature it is not allowable to indulge in vain and uncertain conjectures, and to suppose reasons and views, where these are none certainly known. If the piece in question is in itself obscure—if, in order to discover its meaning, we have no other resource than the investigation of the author's views or the motives of the deed, we may then have recourse to conjecture, in default of absolute certainty, adopt as the true meaning that which has the greatest degree of probability on its side. But it is a dangerous abuse to go without necessity in search of motives and uncertain views in order to wrest, restrict, or extend the meaning of a deed, which is of itself sufficiently clear and carries no absurdity on the face of it. Such a procedure is a violation of that incontestable maxim, that it is not allowable to interpret what has no need of interpretation."

It may be observed, by the way, that the motive of the High Contracting Parties to the Treaty of 1846, and the object they had in view, are explicitly stated in the Preamble of the Treaty, so that it will not be necessary for His Imperial Majesty to avail out of the words of the Treaty itself, for the purpose of ascertaining the sense of it.

5. *Treaties are to be interpreted in a favourable rather than an odious sense.*

In illustration of this rule Vattel (*ibid.*, sec. 301) writes:—

"It will not be difficult to show in general what things are favourable, and what odious. In the first place, everything that tends to the common advantage in

Vattel, l. ii. chap. 17, sec. 285.

Vattel, *ibid.*, sec. 286.

Vattel, *ibid.*, sec. 287.

Vattel, *ibid.*, sec. 301.

Conventions, or that has a tendency to place the Contracting Parties on a footing of equality, is favourable. The voice of equity and the general rule of contracts require that the conditions between the parties should be equal. We are not to presume without very strong reasons, that one of the Contracting Parties intended to favour the other to his own prejudice; but there is no danger in extending what is for the common advantage. It, therefore, happens that the Contracting Parties have not made known their will with sufficient clearness, and with all the necessary precision it is certainly more conformable to equity to seek for that will in the sense most favourable to equality and the common advantage, than to suppose it in the contrary sense. For the same reason everything that is not for the common advantage, everything that tends to destroy the equality of a contract, everything that operates only one of the parties, or that operates the one more than the other, is odious. In a Treaty of strict friendship, union, and alliance, everything which, without being burdensome to any of the parties, tends to the common advantage of the Confederates and to draw the bonds of union closer, is favourable. In unequal Treaties, and especially in unequal alliances, all the clauses of inequality, and principally those that operate the inferior ally, are odious. Upon this principle that we ought, in cases of doubt, to extend what leads to equality and restrict what destroys it, is founded the well-known rule—*Incommoda vitantis melior, quam commoda petentis, est causa* (Quintilian, *Inst. Orat.*, l. vii, ch. iv.) The party who endeavours to avoid a loss has a better cause to support than he who aims at obtaining an advantage."

G. *Whatever interpretation tends to change the existing state of things at the time a Treaty was made is to be ranked in the class of odious things.*

Vattel, l. ii, chap. 18, sec. 305.

Vattel (*ibid.*, sec. 305), in illustration of this rule observes, that "the proprietor cannot be deprived of his right, except so far precisely as he relinquishes it on his part and in case of doubt the presumption is in favour of the possessor. It is less repugnant to equity to withhold from the owner a possession which he has lost through his neglect, than to strip the just possessor of what lawfully belongs to him. In this interpretation, therefore, we ought rather to hazard the former inconvenience than the latter. Here also may be applied, in many cases, the rule above-mentioned (sec. 305) that the party who endeavours to avoid a loss has a better cause to support than he who aims at obtaining an advantage."

HER BRITANNIC MAJESTY'S GOVERNMENT will now proceed to submit to the consideration of His Imperial Majesty, in the third place, their views as to the proper application of the above rules to the interpretation of the Treaty of 15th June, 1846.

The First Rule of Interpretation.

The First Rule of Interpretation in its application to the Treaty of 1846.

Chart No. 2.
The general use of the Rosario Strait before 1846.

In accordance with the first rule above mentioned, Her Majesty's Government submits to the consideration of His Imperial Majesty the following facts in support of the position that the narrow waters, now designated the Rosario Strait in British Charts, were the only channel between the Continent and Vancouver's Island generally known and commonly used by sea-going vessels at the time when the Treaty of 15th June, 1846, was made, and that the words "the Channel," in the signification which common usage affixed to them at that time, denoted those waters.

(1.) Vancouver's expedition, in 1792, after exploring the head-waters of Fuca's Strait, passed on to the northward, along the narrow waters which separate Vancouver's Island from what was then believed to be the Continent, and followed those waters between Blakely Island and Cypress Island into Birch Bay, and thence passed onwards to Point Roberts and the upper waters of the ancient Gulf now called the Strait of Georgia. Soundings were made throughout the passage, which are stated in Vancouver's narrative, and are laid down in the chart annexed to it, sufficient to secure for future navigators a safe course from Fuca's Strait into the upper waters of the Strait of Georgia. Vancouver did not explore, nor does he give any soundings of the Canal de Haro, which is not mentioned in his narrative; the name of it, however, appears on the first British Chart, distinguishing waters without soundings from the Channel through which Vancouver passed.

Appendix No. 4.

(2.) The Spanish exploring vessels "Sutil" and "Mexicana," in the same year, appear, from the narrative of the expedition, to have pursued a course to the southward of the San Juan Island until they reached the head-waters of Fuca's Strait. They then entered the same channel which Vancouver entered, and followed it as far as the Island of Guemes, when they passed onwards, along the Canal de Guemes,

Chart No. 1.

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Bellingham Bay ("El Seno de Gaston"). From Bellingham Bay they pursued a northerly course past Point Roberts into the upper waters of the ancient Gulf.

(3.) The Chart of Vancouver, which gives soundings only for navigating through the Rosario Channel, was the Chart in general use up to the end of 1846.

Chart No. 2

(4.) No Spanish chart of a date antecedent to the Treaty of 15th June, 1846, is known to Her Majesty's Government, in which soundings are given for navigating through the Canal de Haro.

(5.) When the "Beaver," the first steam-vessel used by the Hudson's Bay Company, passed up from Fuca's Strait to Fort Langley on the Frazer River in 1837, she made use of what is now known as the Rosario Channel. She explored the Canal de Haro for the first time in 1846.

(6.) When the United States exploring vessel "Porpoise," under Lieutenant Ringgold, passed up to the northward, from Fuca's Straits into the upper Gulf in 1841, she made use of what is now known as the Rosario Channel. The boats, on the other hand, of her consort, the "Vincennes," which remained at New Dungeness, were dispatched to the Canal de Haro to make a survey of it. Lieutenant Wilkes, in his narrative (vol. iv, p. 515), states that they were so engaged for three days, by which time they "completed all that was essential to the navigation of it."

(7.) Her Majesty's steamer "Cormorant," the first of Her Majesty's steam-ships which navigated the waters between the Continent and Vancouver's Island, in September 1846 passed up the Rosario Channel to the northward, and returned to Fuca's Strait by the same channel.

Appendix No. 6.

(8.) The declarations of sea-captains and other persons in the service of the Hudson's Bay Company are conclusive that the only channel, used and considered safe by them prior to 1846, was the Rosario Channel.

Appendix No. 5.

The Second and Third Rules of Interpretation.

It is conceived by Her Majesty's Government that the second and third rules for the interpretation of Treaties, already brought to the attention of His Imperial Majesty, as they are of a cognate character, may be conveniently considered together in their application to the question submitted to the arbitration of His Imperial Majesty.

The Second and Third Rules of Interpretation.

These rules may be, then, briefly expressed:—

(a.) That the context and spirit of a discourse is a source of interpretation, where particular expressions are obscure from over-conciseness of statement.

(b.) The interpretation of any part of a discourse ought to be made in such a manner, that all the parts may be consonant to one another.

It may be observed then, in the first place, that the only expressions in the Treaty of 15th June, 1846, respecting which any disagreement has arisen between the High Contracting Parties, are to be found in the second paragraph of the 1st Article of it: "And thence southerly through the middle of the said Channel, and of Fuca's Strait, to the Pacific Ocean;" and that the disagreement is limited to the words "the said Channel." It is considered, therefore, by Her Majesty's Government that, in order to arrive at the true interpretation of the above words, regard may properly be had, not merely to the context of the paragraph itself, but to the text of the preceding and following paragraphs of the 1st Article, which is the operative part of the Treaty as regards the settlement of the line of boundary.

Appendix No. 2.

The 1st Article, then, of the said Treaty is divided into three paragraphs:—

1. From the point in 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 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.

2. And thence southerly through the middle of the said Channel and of Fuca's Straits to the Pacific Ocean.

3. 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.

Looking now to the text of the first paragraph of this Article in connection with the second paragraph, Her Majesty's Government submits to His Imperial Majesty that the second paragraph may be read as if it were written *in extenso* thus: "And thence southerly through the middle of the Channel which separates the continent from Vancouver's Island, and through the middle of Fuca's Straits to the Pacific Ocean,"

The context of the Treaty considered.

the channel and the straits being so connected in the second paragraph as to be governed by the preceding words, "through the middle of."

Now, the extent of the waters here designated as Fuca's Strait is not in controversy. It is true, indeed, that by some writers, amongst whom may be mentioned Mr. Robert Greenhow, the Librarian to the Department of State of the United States, and the author of a Memoir, Historical and Political, on the North-West Coast of North America, published in 1840 by direction of the Senate, the term "Fuca's Strait" has been used prior to the Treaty of 1846 to denote the whole of the channel through which it was supposed that the Greek pilot, Juan de Fuca, found a passage into the Polar Sea in the sixteenth century. Thus Mr. Greenhow, in his "History of Oregon" (p. 27), speaking of the three great groups of islands south of 54° 40' north latitude, says, "The southernmost group embraces one large island, and an infinite number of smaller ones, extending from the 49th parallel to the 51st, and separated from the continent on the south and east by the channel called the Strait of Fuca." There is a slight inaccuracy, it may be observed, in this passage as regards the latitude of the group of islands; but Mr. Greenhow, in a previous passage of the same work (p. 22), has described the channel which he has in view with greater accuracy, as running eastward about 100 miles between the 48th and 49th parallels of latitude, and then turning to the north-west.

The view of Her Majesty's Government is, that the term "Fuca's Straits" is used in the Treaty of 1846 to signify the lower portion only of Mr. Greenhow's Channel, namely, the inlet of the sea which extends eastward from the Pacific Ocean to the entrance of the passage, through which Vancouver continued his voyage to the northward, and which he has laid down in his chart as a navigable channel, connecting Fuca's Strait with the upper waters of the ancient Gulf.

In accordance with this signification of Fuca's Straits, Her Majesty's Government submits to His Imperial Majesty that the term "Fuca's Straits" must be taken to have been inserted in the second paragraph of the 1st Article of the Treaty of 1846, for the sake of describing with greater precision the course of the boundary line, and that it is one of the necessary conditions of the boundary line, that it should be drawn *through the middle of the inlet of the sea, of which Cape Flattery may be regarded as the south-western extremity, and Deception Pass as the north-eastern extremity.*

Now a line may be properly said to be drawn through the middle of this inlet, if it be drawn in either of two ways, namely, if it be drawn lengthways, or if it be drawn breadthways. There can however be no doubt as to which of such alternative lines is required to satisfy the Treaty, as the line is to be drawn to the Pacific Ocean, and this can only be effected by *drawing the line through the middle of Fuca's Straits lengthways.* Upon this point in the case, Her Majesty's Government submits to His Imperial Majesty that there can be no reasonable doubt.

Her Majesty's Government further submits to His Imperial Majesty that, in order that the second paragraph of the 1st Article of the Treaty of 1846 shall be consonant to the third paragraph, in other words in order to account for and give reasonable effect to the third paragraph, whereby the navigation of *the whole of Fuca's Straits* is secured to both the High Contracting Parties, the second paragraph must be interpreted as requiring the line to be drawn *southerly through the middle of a channel which will allow it to enter the head waters of Fuca's Straits, and to be continued through the middle of the Straits in an uninterrupted line to the Pacific Ocean;* in other words the boundary line after it has entered Fuca's Straits must divide the waters of the Straits in such a manner, as to render the proviso necessary, which is embodied in the third paragraph.

For the purpose of bringing this part of the case more completely before the mind of His Imperial Majesty, Her Majesty's Government will recapitulate briefly the characteristics of Fuca's Straits, as they bear upon the question.

The breadth, then, of Fuca's Straits, where they leave the Pacific Ocean between Cape Flattery on the Continent, their southern point, and Bonilla Point on Vancouver's Island, their northern point, is thirteen miles. Within these points they soon narrow to eleven miles, and carry this width on an east course for forty miles. They then take an east-north-east direction to the shore of Whidbey Island. Between Race Islands and the southern shore is the narrowest part of the Straits. Their least breadth, however, in this part is not less than eight miles, after which the Straits expand immediately to seventeen miles, a width which they maintain more or less in the part where the Canal de Haro enters them. On the other hand, it is difficult to define precisely the place where the waters of Fuca's Straits merge in those of

The consonance of the second and third paragraphs of the Treaty.

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the Rosario Strait; but Fuca's Straits gradually contract as they approach the entrance of the Rosario Strait, which is only five miles wide. A provision which thus secures to the vessels of either nation the right of free navigation on either side of the boundary line throughout the whole of the Channel and Fuca's Straits would be perfectly intelligible, and, in fact, would be a requisite precaution, if the line is to pass through Rosario Strait, dividing the head waters of Fuca's Straits; but it would not be in any such sense a necessary precaution, if the line of boundary is to be drawn through the Canal de Haro.

On the former supposition it would be reasonable to secure to either party the free navigation of the whole of Fuca's Straits equally as of the Rosario Channel, inasmuch as the *medium filum aquæ* in the uppermost part of Fuca's Straits would be within the "three miles limit" of either shore; on the other hand, the part of Fuca's Straits, where the Canal de Haro strikes them, are of so great a breadth that there would be an ample margin of common navigable water for vessels on either side of the *medium filum aquæ*, and no necessity for vessels passing to and from the Pacific Ocean to navigate within the jurisdictional waters of either of the High Contracting Parties.

If it should be said on behalf of the United States' Government that the proviso in the third paragraph of the 1st Article of the Treaty of 1816 was not inserted by way of precaution, but rather by way of comity, to preserve to both the High Contracting Parties a liberty of navigation hitherto enjoyed by them in common, Her Majesty's Government submits that considerations of comity would equally have required the extension of the proviso to the waters of the Channel, which separates the continent from Vancouver's Island north of the forty-ninth parallel of north latitude, as both parties had heretofore enjoyed in common the free navigation of those waters; but no such precaution has been taken in the Treaty to limit the exercise of exclusive sovereignty north of the forty-ninth parallel.

Again, it would have been an unreasonable thing to have provided by the Treaty that both parties should retain the free enjoyment of the navigation of the whole of Fuca's Straits, unless the Treaty is to be interpreted as requiring the boundary line to be drawn through the middle of those Straits, and continued through the Rosario Channel, in which case the free navigation of the whole of Fuca's Straits to the eastward of the Canal de Haro would be at times a condition essentially necessary to enable British or American vessels, as the case may be, to enter or leave the channel connecting Fuca's Straits with the waters of the upper Gulf. To contend, indeed, that this provision of the Treaty would be consonant to an interpretation of the Treaty, which would confine the boundary line through the Canal de Haro, is to deprive the proviso of any rational meaning, as American vessels would possess the right of navigating the Straits to the eastward of the Canal de Haro without any such proviso, and British vessels would not require any such liberty to enable them to enter or leave the Channel through which the boundary line is to pass from Fuca's Straits into the waters of the upper Gulf.

The Fourth Rule of Interpretation.

The Fourth Rule of Interpretation.

The fourth of the rules to which Her Britannic Majesty's Government has invited the attention of His Imperial Majesty is, that *the interpretation should be suitable to the reason of the Treaty*, that is to say, the motive which led to the making of it, and the object in contemplation at the time.

"We ought," says Vattel (section 287), "to be very certain that we know the true and only reason of the law, or the Treaty. In matters of this nature it is not allowable to indulge in vague and uncertain conjectures, and to suppose reasons and views where there are none certainly known. If the piece in question is in itself obscure; if, in order to discover its meaning we have no other resource than the investigation of the author's views or the motives of the deed, we may then have recourse to conjecture, and in default of absolute certainty adopt, as the true meaning, that which has the greatest degree of probability on its side. But it is a dangerous abuse to go without in search of motives and uncertain views in order to wrest, restrict, or extend the meaning of the deed, which is of itself sufficiently clear, and carries no absurdity on the face of it."

Now the motive of the Treaty, as recited in the Preamble of it, was to terminate the state of doubt and uncertainty, which had hitherto prevailed respecting the sovereignty and government of the territory on the north-west coast of America, lying westward of the Rocky Mountains, by an amicable compromise of the rights mutually asserted by the two parties over the said territory.

The motive of the Treaty.

Reasons of the third paragraph.

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

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

The object of the Treaty.

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

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

No name is given to the Channel.

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

Chart No. 2.

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

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

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But it may be said, that there is evidence that the Canal de Haro was contemplated by the United States' Government, and that they had charts in their possession, which satisfied them that it was a navigable and safe channel, equally as the channel along which Vancouver sailed. The reply to such an argument is not far to seek. If it can be established that one of the parties to the Treaty had knowledge only of one navigable Channel corresponding to the provisions of the Treaty, the fact that the other party was aware of another navigable Channel could never justify such an interpretation being given to the Treaty, as should bind the former to accept the Treaty in a sense of which it did not know it to be capable, when the Treaty may be interpreted in a sense in which both parties were aware that it was capable of being interpreted. *The reason of the thing* is against such an interpretation, as has been proposed to be given to the Treaty on the part of the United States' Government.

There is a further reason, why the Canal de Haro does not satisfy the language of the Treaty.

The commencement of the boundary line, which is to be drawn southerly, is described in the Treaty as being in a Channel under the 49th parallel of north latitude; but a glance at the chart will satisfy His Imperial Majesty that the Canal de Haro cannot, in any proper sense of the words, be held to commence under that parallel. It has a distinct commencement between Saturna Island and Patos Island, under a lower parallel. *It has, therefore, not only a distinguishing name, but it has its physical characteristics which distinguish it from the channel described in the Treaty of 1846 as identical with the channel under the 49th parallel of north latitude.*

The Fifth Rule of Interpretation.

The fifth rule of interpretation, to which Her Britannic Majesty's Government invited the attention of His Imperial Majesty is, that *Treaties are to be interpreted in a favourable rather than in an odious sense.*

"We are not to presume," says Vattel (sec. 30), "without any strong reasons that the Contracting Parties intended to favour the other to his own prejudice, but there is no danger in extending what is for the common advantage. If, therefore, it happens that the Contracting Parties have not made known their will with sufficient clearness and with all the necessary precision, it is certainly more conformable to equity to seek for that will in the sense most favourable to equality and the common advantage."

Now, it may be stated by Her Majesty's Government without fear of contradiction, that, at the time when the Treaty of 1846 was signed at Washington, no charts were in the possession of those, who navigated the interior sea between the Continent and Vancouver's Channel, but Vancouver's Chart, and possibly a Spanish Chart purporting to be constructed in 1795 upon the surveys made by the "Sutil" and "Mexicana." Of the latter chart, indeed, Her Britannic Majesty's Government had no certain knowledge until 1846, for the only Spanish chart of those waters, which is to be found in the archives of the British Admiralty at Whitehall, did not come into its possession until 1849. Neither, however, of those Charts are there any soundings of a navigable passage through the Canal de Haro. It is true, indeed, that in the Spanish Chart some soundings are given of Cordova Channel, in which the boats of the "Sutil" and "Mexicana" appear to have crept close along the shore; but there are no soundings which would guide a vessel out of the Canal de Haro into any part of the upper waters, which are south of 49° parallel of north latitude. An interpretation, therefore, of the Treaty, which would declare the Canal de Haro to be the channel, down which the boundary is to be carried, would be to declare that Her Britannic Majesty's Government intended to conclude the Treaty of 1846 intended to favour the United States' Government to its own prejudice, for it would be to declare that Her Britannic Majesty's Government intended to abandon the use of the only channel leading to its own possessions, which would be navigable and safe, and to confine itself to the use of a channel respecting which it had no assurance that it was even navigable in its upper waters for sea-going vessels, nay, respecting which it is not too much to say, that Her Britannic Majesty's Government had a firm belief that it was a dangerous strait. On the other hand, an interpretation which would declare Vancouver's Channel, now distinguished by the name of the Rosario Strait, to be the common boundary, will give to both Parties the use of a Channel, which was known to both Parties at the time when the Treaty was made, to be a navigable and safe channel. The two Parties in respect of such an interpretation would be placed in a position of equality.

The Fifth Rule of Interpretation.

A favourable interpretation to be preferred to an odious interpretation.

The Charts in use in 1846.

Chart No. 2.

The Sixth Rule of Interpretation.

The presumption is in favour of the possessor of a thing.

Chart No. 2.

The Sixth Rule of Interpretation.

The sixth Rule of Interpretation, which is a corollary to the next preceding Rule and which is also submitted to the attention of His Imperial Majesty, is that, *in case of doubt, the presumption is in favour of the possessor of a thing*; in other words, the party who endeavours to avoid a loss has a better cause to support, than he who aims at obtaining an advantage.

It has been already said that the Channel in use in 1846, and the only Channel in use by British vessels navigating from the Straits of Fuca to the stations of the Hudson's Bay Company on Frazer's River and elsewhere north of the 49th parallel of north latitude, was the channel surveyed by Vancouver, and of which soundings are given in his Chart.

The Government of the United States contends for an interpretation of the Treaty which will dispossess British vessels of the use of this channel. There is no evidence on the other hand that the Canal de Haro was used by vessels of the United States prior to the Treaty of 1846.

Her Britannic Majesty's Government, on the other hand, is not contending for an interpretation of the Treaty, which will deprive the citizens of the United States any right habitually exercised by them prior to the Treaty. If, indeed, the United States' Government had knowledge from unpublished surveys or otherwise, prior to the Treaty of 1846, that the Canal de Haro was a navigable and safe channel, cannot be denied that citizens of the United States, if they used any channel at all prior to 1846, made use of the channel now called the Rosario Strait. It is submitted accordingly to His Imperial Majesty, that an interpretation of the Treaty, which declares the Rosario Strait to be the channel, through the middle of which the boundary line is to be drawn, will continue to American citizens the full enjoyment of such rights of navigation as were exercised by them prior to the Treaty, whilst a declaration in favour of the claim of the United States will strip British subjects corresponding rights. *Wherever there is doubtful right, it is less repugnant to equity to withhold from a claimant the enjoyment of a thing, which he has never possessed, than to strip the possessor of a thing, of which he has habitually had the enjoyment.*

The question whether any third channel, other than the Rosario Strait or the Canal de Haro, would satisfy the requirements of the Treaty of 1846 has not been touched upon by Her Britannic Majesty's Government for these reasons—among others, that the existence of any intermediate navigable channel was unknown to both the Contracting Parties at the time when the Treaty of 1846 was signed, and that the Government of the United States has never contended for any such channel. Besides, Her Britannic Majesty's Government presumes that the true interpretation of the Treaty of 1846 is to be sought *rebus sic stantibus*, that is, upon the state of facts known to both parties at the time when the Treaty of 1846 was concluded.

On the above considerations of fact and of public law, Her Britannic Majesty's Government submits to His Imperial Majesty that the claim of Her Britannic Majesty's Government that the portion of the boundary line which, under the terms of the Treaty of 15th June, 1846, runs southerly through the middle of the Channel which separates the Continent from Vancouver Island, should be run through the Rosario Strait, is valid, and ought to be preferred to the claim of the Government of the United States, that it should be run through the Canal de Haro.

Recapitulation of Facts.

Recapitulation of Facts.

The considerations of fact may be briefly recapitulated:—

1. That the Channel, now designated as the Rosario Strait in British charts, which designation embraced the Channel to the north as well as the south of the 49th parallel of north latitude in Spanish charts, was the only Channel between the Continent and Vancouver Island generally known and commonly used by sea-going vessels at the time when the Treaty of 15th June, 1846, was made, and that the words "The Channel," in the signification which *common usage* affixed to them at that time denoted those waters.

2. That the context of the first and second paragraphs of Article I of the Treaty of 15th June, 1846, requires that the boundary line should be continued through the middle of a Channel *so as to enter the head-waters of Fuca's Straits*, which is practicable if the line should be run through the Rosario Strait, but is impracticable, if it should be run through the Canal de Haro.

Appendix No. 2.

3. That the proviso in the third paragraph of Article I, which secures to either Party the free navigation of *the whole of Fuen's Straits*, is intelligible, as a necessary precaution, if the boundary line is to be run through the Rosario Strait, but is unnecessary and unreasonable, if the boundary line is to be run through the Canal de Haro.

4. That a boundary line run through the middle of the Channel, now called the Rosario Strait, satisfies the great aim, which either party had in view prior to the conclusion of the Treaty of the 15th June, 1846; and as that Channel had no distinguishing name at the time when the Treaty was made, *it could not be otherwise described than as it is described in the Treaty*. On the other hand the Canal de Haro had a distinguishing name, and there was no reason, if the Canal de Haro was contemplated by both the High Contracting Parties at the time when the Treaty was made, why it should not have been described by its distinguishing name to prevent all uncertainty.

5. That a line of boundary run through the middle of the Rosario Strait, in accordance with the knowledge, which both the High Contracting Parties possessed at the time when the Treaty of 15th June, 1846, was made, would have been favourable to both Parties, whereas a line of boundary run through the Canal de Haro *would have deprived Her Britannic Majesty of a right of access to her own possessions through the only then known navigable and safe channel*.

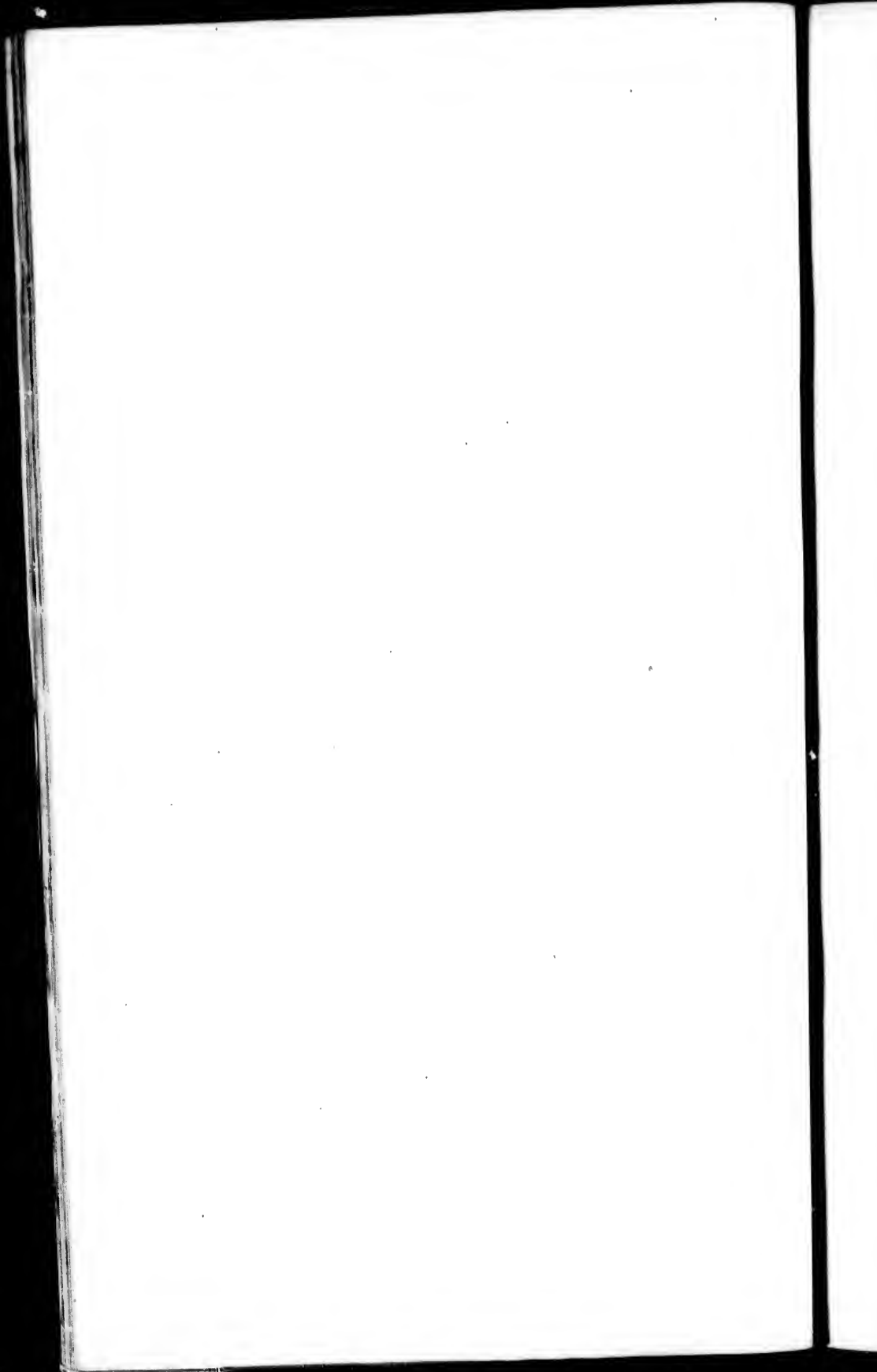
6. That it is more in accordance with equity that His Imperial Majesty should pronounce in favour of the claim of Her Britannic Majesty's Government, than in favour of the claim of the Government of the United States, as a decision of His Imperial Majesty declaring the Rosario Strait to be the Channel through which the boundary line is to be run, will continue to citizens of the United States the free use of the only Channel navigated by their vessels prior to the Treaty of 15th June, 1846; whilst a declaration of His Imperial Majesty in favour of the claim of the Government of the United States *will deprive British subjects of rights of navigation, of which they have had the habitual enjoyment from the time when the Rosario Strait was first explored and surveyed by Vancouver*.

The evidence, which Her Britannic Majesty's Government has thought it proper to offer to the consideration of His Imperial Majesty in support of the present case, and, for the convenience of His Imperial Majesty, been collected in an Appendix, which is annexed thereto.

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Articles X.

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APPENDIX.

No. 1.

Appendix.

No. 1.

Articles XXXIV to XLIII of the Treaty between Great Britain and the United States of America, signed at Washington, on the 8th May, 1871.

ARTICLE XXXIV.

WHEREAS it was stipulated by Article 1 of the Treaty concluded at Washington on the 15th of June, 1846, between Her Britannic Majesty and the United States, that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the point on the 49th parallel of north latitude up to which it has already been ascertained, should be continued westward along the said 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 Straits, to the Pacific Ocean;" and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits; and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of Her Britannic Majesty and of the Government of the United States, shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard for the above-mentioned Article of the said Treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846.

ARTICLE XXXV.

The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive; and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated; it shall be in whatsoever form His Majesty may choose to adopt; it shall be delivered to the Representatives or other public Agents of Great Britain and of the United States respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ARTICLE XXXVI.

The written or printed case of each of the two parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this Treaty, and a copy of such case and evidence shall be communicated by each Party to the other, through their respective Representatives at Berlin.

The High Contracting Parties may include in the evidence to be considered by the Arbitrator, such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

After the written or printed case shall have been communicated by each Party to the other, each Party shall have the power of drawing up and laying before the Arbitrator a second and definitive statement, if it think fit to do so, in reply to the case of the other Party so communicated, which definitive statement shall be so laid before the Arbitrator, and also be mutually communicated in the same manner as aforesaid, by each party to the other, within six months from the date of laying the first statement of the case before the Arbitrator.

ARTICLE XXXVII.

If, in the case submitted to the Arbitrator, either Party shall specify or allude to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrator, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrator may require. And if the Arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to require it from either Party, and shall be at liberty to hear one counsel or agent for each Party, in relation to any matter, and at such time, and in such manner as he may think fit.

ARTICLE XXXVIII.

The Representatives or other public Agents of Great Britain and of the United States at Berlin respectively, shall be considered as the Agents of their respective Governments to conduct their cases before the Arbitrator, who shall be requested to address all his communications, and give all his notices to such Representatives or other public Agents, who shall represent their respective Governments generally in all matters connected with the arbitration.

ARTICLE XXXIX.

It shall be competent to the Arbitrator to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both Agents, either orally or by written discussion, or otherwise.

ARTICLE XL.

The Arbitrator may, if he think fit, appoint a Secretary or Clerk, for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This, and all other expenses of and connected with the said arbitration, shall be provided for as hereinafter stipulated.

ARTICLE XLI.

The Arbitrator shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to in relation to this matter, which shall forthwith be repaid by the two Governments in equal moieties.

ARTICLE XLII.

The Arbitrator shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof to each of the said Agents.

No. I.

No. II.

Copy of Treaty between Great Britain and the United States of America, signed at Washington on the 15th June, 1846.

[Ratifications exchanged at London, July 17, 1846.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, deeming it to be desirable for the future welfare of both countries that the state of doubt and uncertainty which has hitherto prevailed respecting the Sovereignty and Government of the Territory on the North-west 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, have respectively named Plenipotentiaries to treat and agree concerning the terms of such settlement, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on Her part, appointed the Right Honourable Richard Pakenham, a Member of Her Majesty's Most Honourable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America has, on his part, furnished with full powers, James Buchanan, Secretary of State of the United States; who, after having communicated each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude, to the middle of the channel which separates the continent from Vancouver'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.

ARTICLE II.

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers; it being understood that all the usual ports along the line thus described shall, in like manner, be free and open.

In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this Article shall be construed as preventing, or intended to prevent, the Government of the

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United States from making any regulations respecting the navigation of the said river or rivers, not inconsistent with the present Treaty.

ARTICLE III.

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the First Article of this Treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

ARTICLE IV.

The farms, lands, and other property of every description, belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said Company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States' Government should signify a desire to obtain possession of the whole, or of any part thereof, the property so required shall be transferred to the said Government at a proper valuation, to be agreed upon between the parties.

ARTICLE V.

The present Treaty shall be ratified by Her Britannic Majesty and by the President of the United States by and with the advice and consent of the Senate thereof; and the ratification shall be exchanged at London at the expiration of six months from the date hereof, or sooner, if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their aams.

Done at Washington, the 15th day of June, in the year of our Lord 1846.

RICHARD PAKENHAM (L.S.)
JAMES BUCHANAN. (L.S.)

No. III.

No. III.

Narrative of the Passage of His Britannic Majesty's ships "Discovery" and "Chatham," under the Command of Captain Vancouver, through the Straits of Java de Fuca, and through the Channel known at the present day as the Rosario Strait, to Birch Bay, situated in the ancient Gulf of Goojia, S. 23 W., and N. 72 W. (Extracted from Vol. I of "Captain Vancouver's Voyages," published in 1798.)

ON the 29th April, 1792, Captain Vancouver, in command of His Britannic Majesty's ships "Discovery" and "Chatham," anchored, about 8 miles within the entrance, on the southern shore of the supposed Straits of de Fuca.

April 29, 1792, page 220.

On the following morning (30th) the expedition weighed anchor, with a favourable wind, and the same evening anchored off a low sandy point, to which Captain Vancouver gave the name of New Dungeness.

April 30, 1792.

On the 2nd May the expedition quitted New Dungeness, and subsequently anchored in 34 fathoms water, about a quarter of a mile from the shore; in a harbour, to which was given the name of Port Discovery, after the vessel commanded by Captain Vancouver.

May 2, 1792, page 227.

During the stay of the expedition at Port Discovery, namely, until the 18th May, boat expeditions were sent to explore the western shore of the Straits.

On the 18th May the ships quitted Port Discovery and entered Admiralty Inlet, and on the 19th they anchored off Restoration Point, the name given to an anchorage discovered therein.

May 18, 1792, page 258.
May 19, 1792.

During the period of the stay of the vessels at Restoration Point several boating expeditions were dispatched to explore the shores in Puget Sound and Admiralty Inlet.

On the 30th May Captain Vancouver quitted Restoration Point and directed his course to the entrance under examination by Mr. Broughton, who commanded the "Chatham," the entrance to which is from Restoration Point N. 20 E., 5 leagues distant, and there anchored for the night.

May 30, 1792, page 279.

On the 31st May he again weighed anchor, and on the 2nd June Captain Vancouver anchored his ships, in 50 fathoms water, in a branch of the Admiralty Inlet, which he called Possession Sound, and distinguished its western arm by the name of Port Gardner, and its smaller or eastern one by that of Port Susan.

May 31, 1792, page 280.
June 2, 1792, page 283.

On the 5th June the expedition quitted Possession Sound and anchored the same night about half a mile from the western shore of Admiralty Inlet.

June 5, 1792, page 290.

On the 6th June the vessels worked out of the inlet, and reached its entrance at a point to which Captain Vancouver gave the name of Point Partridge and proceeding northward, after advancing a few miles along the eastern shore of the Gulf, the expedition was obliged to anchor in 20 fathoms water, being no effect from the ebb or flood tides, and the wind being light from the northward.

June 6, 1792, page 291.

"In this situation," Captain Vancouver stated, "New Dungeness bore by compass S. 54 W.; the point of Protection Island, S. 15 W.; the west point of Admiralty Inlet, which, after my much valued friend Captain George Wilson, of the navy, I distinguished by the name of Point Wilson, S. 35 E., situated in latitude 48° 10', longitude 237° 31'; the nearest shore east, 2 leagues distant, a low sandy point, forming at its west end a low cliff, above which some dwarf trees are produced from N. 26 W.

Description by Captain Vancouver, of the passage through the channel, now called Rosario Strait, to

Appendix.

Birch Bay, in His Majesty's ships "Discovery" and "Clatham." Page 291.

June 7, 1792.

June 7, 1792, page 293.

June 8, 1792.

June 11, 1792, page 296.

to N. 40 W., and the proposed station for the vessels during the examination of the continental shore by the boats, which, from Mr. Broughton, who had visited it, obtained the name of Strawberry Bay, N. 11 W., at the distance of about 6 leagues, situated in a region apparently much broken and divided by water. Here we remained until 7 in the evening. We then weighed, but with so little wind that after having drifted to the southward of our former station we were obliged again to anchor until 6 the next morning, when we made an attempt to proceed, but were soon again compelled to become stationary near our last situation."

On the 7th June Captain Vancouver continues, "about 6 in the evening, with a light breeze from the S.W., we weighed and stood to the northward; but after having advanced about eleven miles, the wind became light and obliged us to anchor about 9 that evening, in 37 fathoms of water, hard bottom, in some places rocky; in this situation we were detained by calms until the afternoon of the following day. Our observed latitude here was $48^{\circ} 29'$, longitude $237^{\circ} 29'$; the country occupying the northern horizon in all directions, appeared to be excessively broken and insular. Strawberry Bay bore by compass, N. 10 W. about 3 leagues distant; the opening on the continental shore, the first object for the examination of the detached party, with some small rocky islets before its entrance that appeared very narrow, bore at the distance of about five miles, S. 37 E.; Point Partridge, S. 21 E.; the low sandy island, south; the south part of the westernmost shore, which is composed of islands and rocks, S. 37 W., about two miles distant; the nearest shore was within about a mile; a very dangerous sunken rock, visible only at low tide, lies off from a low rocky point on this shore, bearing N. 79 W.; and a very unsafe cluster of small rocks, some constantly, and others visible only near low water, bore N. 15 W. about two and a half miles distant.

"This country presented a very different aspect from that which we had been accustomed to behold further south. The shores now before us were composed of steep, rugged rocks, whose surface varied exceedingly in respect to height, and exhibited little more than the barren rock, which in some places produced a little herbage of a dull colour, with a few dwarf trees.

"With a tolerably good breeze from the north we weighed about 3 in the afternoon, and with a flood tide turned up into Strawberry Bay, where in about three hours we anchored in 16 fathoms, on a sandy bottom. This bay is situated on the west side of an island which, producing an abundance of upright cypress, obtained the name of Cypress Island. The bay is of small extent, and not very deep; its south point bore by compass S. 40 E.; a small islet, forming nearly the north point of the bay round which is a clear good passage west; and the bottom of the bay east, at the distance of about three quarters of a mile. This situation, though very commodious in respect to the shore, is greatly exposed to the winds and sea in a S.S.E. direction."

In consequence of the anchorage being much exposed, Captain Vancouver resolved to proceed with his vessels up the gulf to the north-west in quest of a more commodious situation.

"With a light breeze from the S.E. about 4 o'clock the next morning" (11th June), Captain Vancouver states, "we quitted this station, and passed between the small island and the north point of the bay to the north westward, through a cluster of numerous islands, rocks, and rocky islets, of Mr. Broughton's first visit hither he found a quantity of very excellent strawberries, which gave it the name of Strawberry Bay; but on our arrival, the fruit season was passed. The bay affords good and secure anchorage, though sometimes exposed; yet in fair weather, wood and water may be easily procured. The island of Cypress is principally composed of high, rocky mountains, and steep perpendicular cliffs, which in the centre of Strawberry Bay, fall a little back, and the space between the foot of the mountains and the sea side is occupied by low, marshy land, through which are several runs of most excellent water, that find their way into the bay by coozing through the beach. It is situated in latitude $48^{\circ} 36'$, longitude $237^{\circ} 34'$. The variation of the compass, by eighteen sets of azimuths, differing from 18° to 21° taken on board and on shore, since our departure from Admiralty Inlet gave the mean result of $19^{\circ} 5'$ eastwardly. The rise and fall of the tide was inconsiderable though the stream was rapid. The ebb came from the east, and it was high water 2h. 37m. after the moon had passed the meridian.

"We proceeded first to the north-eastward, passing the branch of the gulph that had been partly examined, and then directed our course to the north-westward, along that which appeared a continuation of the continental shore, formed by low sandy cliffs, rising from a beach of sand and stones. The country moderately elevated, stretched a considerable distance from the north-westward round to the south-eastward, before it ascended to join the range of rugged, snowy mountains. This connected barrier from the base of Mount Baker, still continued very lofty, and appeared to extend in a direction leading to the westward of north. The soundings along the shore were regular, from 12 to 25 and 30 fathoms as we approached, or increased our distance from, the land, which seldom exceeded two miles; the opposite of the gulph to the south-westward, composed of numerous islands, was at a distance of about two leagues. As the day advanced, the south-east wind gradually died away, and for some hours remained nearly stationary.

"In the evening a light breeze favouring the plan I had in contemplation, we steered for a bay that presented itself, where about 6 o'clock we anchored in 6 fathoms of water, sandy bottom, half a mile from the shore. The points of the bay bore by compass S. 32 W. and N. 72 W.; the westernmost part of that which we considered to be the main land west, about three leagues distant; to the south of this point appeared the principal direction of the gulph, though a very considerable arm seemed to branch from it to the north-eastward. As soon as the ship was secured, I went in a boat to inspect the shores of the bay, and found, with little trouble, a very convenient situation for our several necessary duties on shore; of which the business of the observatory was my chief object, as I had wished for a further trial of the rate of chronometers, now that it was probable that we should remain at rest a sufficient time to make the requisite observations for that purpose. Mr. Broughton received my directions to this effect, as also that the vessels should be removed, the next morning, about a mile further up the bay to the north-east, where they would be more conveniently stationed for our several operations on shore; and as soon as the business of the observatory should acquire a degree of forward-

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ness, Mr. Whidby in the 'Discovery's' cutter, attended by the 'Chatham's' launch, was to proceed to the examination of that part of the coast, unexplored to the south-eastward; whilst myself in the yawl, accompanied by Mr. Puget in the launch, directed our researches up the main inlet of the gulph.

No. IV.

No. IV

A Narrative of the Voyages made by the Spanish Vessels "Sutil" and "Mexicana," in the year 1792, to explore the Strait of Fuca. (Extracted from the Account of the Voyage published at Madrid in 1802.)

THE two schooners "Sutil" and "Mexicana" quitted Nootka in the night between the 4th and 5th of June, 1792, and the following is an account of the progress of the expedition through the Strait of Juan de Fuca, translated from the Spanish narrative published at Madrid in 1802:—

El viento cedió luego que salimos del canal que forma la entrada de Nootka, y siguió calmoso hasta las once de la mañana, que se entabló la virazon por el O.S.O. Fue refrescando en la tarde, y nosotros seguimos con toda vela, llegando á andar hasta siete millas por corredera, que es el mayor andar que advertimos en las goletas. De las cinco á las siete se fue quedando el viento, y al anochecer estamos diez y seis millas al O. 10º X. de la entrada de Nitinat, y cinco millas de un islillo que tenemos por nuestro traves.

Debíamos segun las circunstancias dirigimos á adelantar el reconocimiento de la entrada de Juan de Fuca; por esta razon no nos detuvimos á examinar los puntos de la costa que tenemos á la vista, y solo corrimos bases para colocar algunos, y rectificar la carta que de ella habian levantado los oficiales y pilotos del Departamento de San Blas, cuyo por menor hallamos bueno.

Seguimos navegando en la noche con toda vela al E. 7º S., con viento fresco por el O.S.O., en la esperanza de que la claridad de la noche, que aumentó á las diez con la luz de la luna, nos proporcionaba toda seguridad; á las dos se quedó casi calma el viento, y amanecimos en estas circunstancias como media legua al S.E. de la punta E. de Nitinat, y á la vista de la boca del estrecho ó entrada de Juan de Fuca.

Hasta las once siguió la calma; les corrientes nos respaldaron para dentro del Estrecho como una legua.

Á las once se entabló el viento por el S.O., y nos dirigimos al E.S.E. par atravesar la boca del estrecho.

Á las quatro de la tarde avistamos el Puerto de Nuñez Gaona, y poco despues una corbeta en su ancladero, que conjeturamos ser la nombrada "Princesa," perteneciente al Departamento de San Blas. Seguimos la derrota á costear la parte O. del puerto, y á poco llegó el Teniente de Navío Don Salvador Fidalgo, Comandante de dicha corbeta, y nos confirmó en la idea de que la costa O. del puerto era sucia, como lo indicaba el surgazo; nos dexamos perdiendo barlovento, y á costa de algunos bndos conseguimos anclar á las seis y media de la tarde muy próximos á la "Princesa."

Aunque el Alférez de Navío D. Manuel Quimper habia reconocido hasta el Puerto de Quadra, y el Teniente de Navío Don Francisco Eliza hasta el Canal de nuestra Señora del Rosario en los años anteriores, no habian examinado las bocas de

The wind abated as soon as we left the channel which forms the inlet of Nootka, and it continued calm until 11 in the morning, when the sea breeze set in from W.S.W. It freshened in the afternoon and we proceeded with all sail, making us much as 7 miles by the log, which is the greatest way that we observed in the schooners. From 5 to 7 the wind continued, and at nightfall we were 16 miles W. 10º N. from the inlet of Nitinat, and 5 miles from a small islet which we had abreast of us.

We were, according to circumstances, to employ ourselves in advancing the survey of the inlet of Juan de Fuca; for this reason we did not stop to examine the points of the coast which we had in sight, and only ran bases to place some (of them), and to rectify the chart of it taken by the officers and pilots of the Department of San Blas, the detail of which we found good.

We continued our course in the night with all sail to E. 7º S., with a fresh wind from W.S.W., trusting that the clearness of the night, which was increased at 10 o'clock by the light of the moon, would afford us every security; at 2 o'clock the wind was almost calm, and thus day broke upon us about half a league S.E. of the east point of Nitinat, and in sight of the mouth of the strait or inlet of Juan de Fuca.

The calm continued until 11 o'clock; the currents carried us about a league within the Strait.

At 11 the wind set in from S.W., and we proceeded E.S.E. to cross the mouth of the Strait.

At 4 in the afternoon we sighted the port of Nuñez Gaona, and soon after a corvette in its anchorage, which we supposed to be that called "Princesa," belonging to the Department of San Blas. We shaped our course to coast along the west part of the port, and in a short time Lieutenant Don Salvador Fidalgo, Commander of the said corvette, came on board, and he confirmed us in our opinion that the west coast of the port was foul, as the kelp indicated; we dropped away from it, losing the favourable wind and, after some tacks, succeeded in anchoring at half-past 6 P.M., very close to the "Princesa."

Although Sub-Lieutenant Don Manuel Quimper had surveyed as far as the port of Quadra, and Lieutenant Don Francisco Eliza as far as the Channel of Our Lady of the Rosary, in the preceding years, they had not examined the mouths of Caanaño,

Caamaño, de Flon, Seno de Gaston, Canal de Floridablanca, Bocas del Carmelo y de Mazarredo. Por las noticias que habian adquirido de los Indios, la de Caamaño internaba mucho, pero su fondo no permitia paso sino á las canoas; la de Flon era de muy poca consecuencia. Juzgaban, con alguna duda, cerrado el Seno de Gaston, y proponian como el reconocimiento mas interesante el de la Boca de Floridablanca, que segun se presentaba en la carta que habian trazado de estos canales, ofrecia dos entradas formadas por una isla colocada en su mediania, que despues de nuestro exámen se halló ser la Peninsula de Cepeda y Lángara. El canal, segun habian comprendido á los Indios, internaba mucho.

Con tales noticias tratamos de internarnos para acabar de exáminar el Seno de Gaston, y proceder al reconocimiento del Canal de Floridablanca, dexando los de Caamaño y Flon como de menor entidad, y mas propios para ser reconocidos en el caso, que creiamos probable, de haber de retroceder. La direccion del Canal de Caamaño hacia el Sur, y la probabilidad de que fuese á salir á la boca de Ezeta próxima á los $46^{\circ} 14'$ de latitud, fue otra de las consideraciones que tuvimos presentes al adoptar este plan.

A las doce entró el viento floxo por el S. E.; el tiempo claro nos indicaba que en el canal reynaria el O. A las doce y media dimos la vela, y dirigimos á pasar por el pequeño canal que hay al E. de la isleta de la boca: lo que conseguimos con felicidad. Este canal es muy estrecho por las restingas que salen de las puntas que lo forman, y así solo debe seguirse quando lo exija la necesidad, ó se vea en ello una ventaja decidida. A nosotros nos pareció que adelantabamos la navegacion, pues pensabamos seguir la costa sur del Estrecho, por estar llena de excelentes fondeaderos.

Luego que salimos del canal conocimos que la derrota que debia hacerse para internar en él era acercarse á la costa N., respecto de que en la que internabamos seguir reynaba una perfecta calma. Quando vimos el oleaje que movia el viento fue preciso echar el bote al agua y armar los remos para salir á encontrarle.

Luego que salimos al viento fuimos dirigiéndonos á la costa del N., navegando al N.N.E. y arribando para el E. al paso que nos fuimos acercando á ella: á las once de la noche nos pusimos á costearla á distancia de una legua escasa, y seguimos con el viento al O.N.O., fresco con un tiempo claro y hermoso.

Anunciamos cerca de la Punta de Moreno de la Vega, y orzamos á pasar por entre ella y los islotes que tiene en su cercania; derrota que indicaba Tetacus, y que recomendaban mucho los que habian navegado en este Estrecho. Verificado este paso abonanzó el viento, y seguimos con ventolinas del O. al S. toda la mañana.

Nos dirigimos al puerto de Córdoba, donde Tetacus indicaba debia quedarse, y á que daba el nombre Chachinmutupusas. Tetacus habia dormido con sosiego toda la noche, no desmintiendo jamas su franquesa y confianza; daba su trato continuas pruebas de su fácil comprehension; conocia en la carta la configuracion del estrecho ó islas descubiertas, y nos dixo los nombres que él les daba. Doblada la Punta de Moreno de la Vega nos advirtió hiciésemos allí agua que era rica y abundante, porque pasado aquel sitio los manantiales

of Flon, Bay of Gaston, Channel of Floridablanca, mouths of Carmelo and of Mazarredo. From the information which they had obtained from the Indians, that of Caamaño went far inland, but its depth did not allow a passage except to canoes. That of Flon was of very little importance. They thought, though with some doubt, that the Bay of Gaston was closed; and they proposed as the survey of most interest that of the mouth of Floridablanca, which, as shown on the chart which they had drawn of those channels, presented two inlets formed by an island situated in its centre, which, after our examination, was found to be the peninsula of Cepeda and Lángara. The channel, as they had understood from the Indians, penetrated far.

With such information, we thought of penetrating inwards to finish the examination of the Bay of Gaston, and to proceed to the survey of the Channel of Floridablanca, leaving those of Caamaño and Flon as of less importance, and more fitting to be surveyed in case of our having to fall back, which we thought probable. The direction of the Channel of Caamaño towards the south, and the probability of its issuing at the mouth of Ezeta, near $46^{\circ} 14'$ latitude, was another of the considerations which we had in mind when adopting this plan.

At 12 o'clock began a slack wind from S.E. The clear weather indicated that the W. would prevail in the channel. At half-past 12 we made sail, and shaped our course to pass by the little channel which there is to the E. of the islet in the mouth. This channel is very narrow on account of the reefs which issue from the points which form it, and, therefore, it ought only to be followed in a case of necessity, or if it appears decidedly advantageous. To us it appeared that we were advancing the navigation, for we thought of following the south coast of the Strait, because it had plenty of excellent anchorages.

As soon as we got out of the channel we found that the course to be taken to get inwards was to approach the N. coast, because on that which we were trying to follow a perfect calm prevailed. When we saw the waves which were moved by the wind it was necessary to lurch the boat and ship the oars to go to meet them.

As soon as we got out into the wind we shaped our course to the N. coast, navigating to N.N.E. and bearing for E. as we were getting near to it. At 11 at night we began to coast along it at the distance of a short league, and we went on with the wind fresh from W.N.W., the weather calm and fine.

Day broke upon us near the Point of Moreno de la Vega, and we luffed to pass between it and the islands in its vicinity—a route pointed out by Tetacus, and much recommended by those who had navigated in this Strait. This passage having been made, the wind went down and we proceeded with light breezes from W. to S. all the morning.

We steered for the port of Cordova, where Tetacus said he was to stay, and to which he gave the name of Chachinmutupusas. Tetacus had slept quietly all night, never belying his frankness and confidence; his behaviour gave continual proofs of his easy comprehension; he understood on the chart the configuration of the strait and the islands discovered, and he told us the names which he gave them. When the Point of Moreno de la Vega was doubled he advised us to take water there, as it was excellent and abundant, but afterwards

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gran escaso y el agua de mal sabor. Conia con seso de quanto le daban, imitando en todo nuestras acciones, que observaba siempre cuidadosamente, le acordaba de los nombres de todos los capitanes Ingleses y Españoles que han visitado la costa de Iema-firme y archipiélagos de Claucaud y Nutka, como nos dió noticia de que habia dos embarcaciones grandes dentro del Estrecho.

Quando nos hallábamos cerca de la rada de Eliza acercáron á bordo de la "Mexicana" tres canoas con quatro ó cinco Indios cada una, pero sin querer entrar al costado.

A las once de la mañana conseguimos tomar el puerto de Córdoba, y anclamos en seis brazas de mar, suelo arena en la parte del S. del fondeadero. . . . Se despidió Tetacus de nosotros en la mayor cordialidad, y se fue á tierra.

Por la tarde estuvimos en tierra visitando las pesquerías de Tetacus, donde habia como cincuenta Indios. . . . Tetacus mostraba la mayor amistad á sus huéspedes. . . . y nos retiráramos á bordo muy satisfechos. Por la noche hubo una quietud en el puerto, y nosotros tuvimos la precaución que pedía el evitar una ocasión de gracia.

El puerto de Córdoba es hermoso. . . . Este puerto fue donde la goleta "Saturnina" tuvo que canoear las canoas de los habitantes para defender la lancha del paquebot San Carlos, que iba en su conserva, y de la que obstinadamente iban apoderarse.

Como el tiempo nos habia favorecido para que permanesamos en el día la latitud y longitud del puerto, nos levamos á las tres de la madrugada la marea saliente. Desde las ocho de la mañana empezamos á gozar de la vizazon, que es bonancible por el S.S.O. Nos dirigimos á la boca del canal para tener el viento en toda su fuerza y buscar las Islas de Bonilla, que son una mala marea para la derrota. Pasamos algunos arrecifes muy fuertes de las corrientes, y avistadas las islas nos dirigimos á ellas, dexándolas por babor. A las cinco de la tarde, que empezó á darse el viento, atraenmos la punta S.E. de la Isla de San Juan para dar fondo á la parte E. de lo que conseguimos á las nueve de la noche.

El objeto principal de tomar este ancladero era observar en él una emersion del primer satélite de Júpiter.

Fondear estaba la marea parada; se examinó la fuerza, y nunca pasó de una milla y media por en direccion al S.S.E. hasta las tres y media, después esto hon cambió para adentro. Subió el agua á las nueve pies.

A las siete de la mañana se dexó sentir una mala marea por el S.S.E.; con ella dimos la vela para aprovechar lo restante de la marea favorable; pero como estaba nublado, y el horizonte apenas era una milla. Ceñimos el viento para atravesar la boca del E., no solo para seguirla, y no perder la boca del Canal de Güemes, que va por entre la punta de este nombre y la costa, sino tambien para evitar los islotes que hay á la mediania del canal que nos estamos, y sobre los que nos respaldaba bastante con rapidez. A proporcion que fuimos llegando á la mediania fue tesando y alargándose el viento; arribamos al paso que nos acercábamos a la punta del E., y costeamos las dos Islas Morros con auxilio de la vizazon que apuntó por el S. A las ocho de la mañana despejando el cielo, fuimos á la punta S.O. del Canal de Güemes, y fuimos en él navegando al principio á medio

passing that place the springs were scanty and the water of bad taste. He ate what was given to him with decency, imitating our actions, which he always carefully observed, in all things. He remembered the names of all the English and Spanish captains who had visited the coast of the mainland and the archipelagos of Claucaud and Nootka, and he also informed us that there were two large vessels within the Strait.

When we were near the mouth of Eliza three canoes approached the "Mexicana," with four or five Indians in each, but without wanting to come alongside.

At 11 in the morning we succeeded in making the port of Cordova, and we anchored in six fathoms of water, sandy bottom, in the southern part of the anchorage. . . . Tetacus took leave of us with the greatest cordiality, and went ashore.

In the afternoon we landed and visited the bays of Tetacus, where there were about fifty Indians. . . . Tetacus was exceedingly friendly to his guests. . . . and we returned on board very well satisfied. At night it was perfectly quiet in the port, and we exercised such vigilance as was necessary to prevent any chance of misadventure.

The port of Cordova is beautiful. . . . It was in this port that the schooner "Saturnina" had to fire upon the canoes of the inhabitants to defend the launch of the packet-boat "San Carlos," which came in her company, and of which they obstinately endeavoured to get possession.

As the weather had been so favourable as to enable us to determine the latitude and longitude of the port in the day time, we weighed at 3 in the morning with the tide going out. From 8 in the morning we began to enjoy the breeze which sprung up lightly from S.S.W. We steered for the middle of the channel to have the wind in all its force, and to seek the Islands of Bonilla, which are a good mark for the course. We passed some very strong reefs, and, having sighted the islands, we made for them and left them on the starboard hand. At 5 in the afternoon, when the wind began to fail, we neared the S.E. point of the Island of San Juan, in order to cast anchor at its eastern part, which we effected at 9 at night.

The principal object of taking this anchorage was to observe there an emersion of the chief satellite of Jupiter.

On anchoring, the tide was at the slack; its force was examined, and it never exceeded a mile and a-half an hour in the direction of S.S.E., until half-past 3, when it changed for the direction inwards. The water rose from 8 to 9 feet.

At 7 in the morning a breeze was felt from S.S.E.; with it we set sail to avail ourselves of the remainder of the favourable tide; the sky was cloudy, and the horizon scarcely a mile. We hugged the wind to cross to the east coast, not only in order to follow it and not to lose the mouth of the channel of Güemes, which runs between the island of that name and the coast, but also to double the islets which are in the middle of the channel in which we were, and upon which the current was driving us with rapidity. In proportion as we were getting into mid-channel the breeze freshened and veered aft; we bore away whilst we neared the eastern coast, and we coasted along the two Morros Islands with the aid of the breeze, which was direct S. from 8 in the morning and cleared the sky. We reached the S.W. point of the channel of Güemes, and we entered it, navi-

frenu para libertarnos de la calma de la costa; pero ya dentro tomó el viento su dirección, y nos acercamos á la del Sur para libertarnos de la fuerza de la corriente contraria, que siempre contrarestamos con mucha ventaja, pues aunque el viento estaba floxo andálabamos tres millas y media por hora. La navegacion era muy agradable por lo frondoso de la costas. En la del N., que á la entrada es de playa, vimos una ranchería próxima á la punta N.O., que examinada con el antejo se halló con ástir en dos casas grandes; varios Indios corrieron á la playa, se embarcaron en una canoa, y se dirigieron á las goletas, dándoles caza con tanto acierto como pudieran hacerlo el más experto marino Entre tanto seguimos la costa del Sur del canal por cinco brazas de agua fondo arena hasta la punta S.E., y desde esta lo atravesamos dirigiéndonos á la punta tajada del N.E. de la que pasamos á muy corta distancia para seguir la costa de la Isla de Güines, y por ella y las "Tres Hermanas" dirigimos al Seno de Gaston.

Luego que doblamos la punta N.E. quedamos en calma, y fue necesario acudir á los remos para verificar el paso, contrarestando algunas ventolinas escasas del O.S.O. que se oponian; pero luego que pasamos las islas, llamó el viento al O. y echimos abiertos por labor para montar la Punta de Solano. El calor incomodaba mucho, pues aunque el termómetro á la sombra estaba en la graduacion templada, expuesto al sol subia hasta veinte y nueve grados y medio, y aun hubiera subido mas si no hubiéramos salido á encontrar la corriente del viento.

A las cinco entabló este por el S.; hicimos rumbo, y nos internamos en el Seno de Gaston, que aunque no estaba del todo reconocido costeamos su parte E. para dirijirnos á su fondo, y ver si tenia en él algun canal. El viento fue refrescando, y favorecidos de él estábamos al anochecer satisfechos de que quando mas habria un río pequeño en su parte interior. La costa que lo formaba era de tierra baja y arenadiza que corria por entre dos lomas, y á alguna distancia aparentaban canal; el fondo era de seis á siete brazas piedra, y pensábamos bordear para echarnos fuera quando caímos en cinco greda dura, por lo que se prefirió fonlear, contando como hasta entonces habíamos visto que el viento se quedaria en la noche. La situacion era buena para dexar caer el ancla, y poder reconocer mas prolixamente la parte interior de la ensenada en la mañana siguiente. Aferramos todo aparejo, avisó el timonel de la "Sutil" de quatro brazas de fondo, y se dexó caer el ancla; pero despues de arriar treinta brazas de cable, se halló la goleta en dos y media de agua.

Inmediatamente mandó el Comandante sondar por la poza y las goletas; á dos cables de distancia si hallaron dos brazas, y se conoció que el ancla habia caido en tres. Esta equivocacion del timonel nos puso en muy mala situacion. Se pasó la noche con cuidado, y durante toda ella vació el agua, de suerte que al amanecer estábamos en una braza y media. Habíamos visto claridades al S.E. de la montaña del Carmelo, y aun á veces algunas llamadas, señales que no dexaban duda que hay volcanes con fuertes erupciones en aquellas cercanias. La Mexicana habia fondeado como dos cables mas al O., y en media braza menos de agua; el viento, que habia soplado en la noche bastante fresco por el S.S.E., habia levantado algun marejada, con lo que empezó á tocar de popa. Dió una espia inmediatamente con su launcha, y sobre ella trató de dar la vela sin largar el cabo hasta estar en viento.

gating at first in mid-channel to avoid the calm of the coast; but when within, the wind took its direction, and we heaved that of the S. to avoid the force of the contrary current, which we always resisted with great advantage, for although the wind was slack we went three miles and a-half hour. The navigation was very pleasant from the frondosness of the coasts. On that of the N., which at the entrance is a beach, we saw a station near the N.W. point, which on being examined with telescope was seen to consist of two large houses; several Indians ran to the beach, embarked in canoes, and made for the schooners, giving the chase with as much skill as the most expert seaman. Meanwhile we followed the southern side of the channel in five fathoms of water, from the bottom, to the S.E. point, and from that we crossed it towards the N.E. point, from which we passed at a very short distance to follow the coast of the Island of Güines, and by that and the "Three Sisters" to make for the Bay of Gaston.

As soon as we doubled the N.E. point we were becalmed, and it was necessary to resort to the oars to make the passage, resisting some squally breeze from W.S.W. which opposed us; but as soon as we passed the islands, the wind veered to the W. and we hauled free to port to double the Point of Solano. The heat was very distressing, for although the thermometer in the shade was at the temperature, when exposed to the sun it rose to 29 degrees, and would even have risen higher if it had not gone out to meet the current of the water.

At 5 o'clock the wind settled from the S.; we made our course, and we went into the Bay of Gaston. Although it was not at all surveyed, we coasted along its eastern part, in order to mark its extremity, and to see if there was any channel therein. The wind still freshened, and favored thereby, we were by night-fall satisfied that we could have at most but a small river in its eastern part. The coast which formed it was of inundated land, which ran between two hills, and at some distance they appeared to be a channel. The depth was from 6 to 7 fathoms, stony, and were about to tack to get out when we fell in 5 fathoms hard chalk, wherefore it was thought to anchor, reckoning, as we had found until then, that the wind would continue in the night.

The situation was favourable for casting anchor, and examining more carefully the inner part of the inlet on the following morning. We made fast, the steersman of the "Sutil" notified the fathoms depth, and the anchor was dropped after paying out 30 fathoms of cable, the shot was found to be in 2 and a-half fathoms of water. The Commander immediately ordered soundings at the stern and the quarters; at cables distance two fathoms were found, and it was ascertained that the anchor had fallen in 2. This mistake of the steersman placed us in an awkward situation. The night was passed with anxiety, and during the whole of it the wind decreased, so that at daybreak we were in 2 and a-half. We had seen illuminations to the S.E. of the mountain of Carmelo, and even flashes at times, indications which left no doubt that there are volcanoes with strong eruptions in those parts. The "Mexicana" had anchored about two cables more to the W., and in 1 fathom less water; the wind which had blown pretty freshly in the night from S.S.E., had become a swell, with which it began to touch the stern. She immediately gave out a warp with

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Entre tanto la "Sutil" se llamó á pique del ancla, se halló en dos brazas de agua; se estaba haciendo el bote para dar la vela quando vimos que la "Mexicana" habia varado, por lo que se volvió á cobar fuera, y se le envió una auxiliarla. Habia tenido aquella goleta la elegancia de venirse el anclote, que habia dado en la espin, y se hallaba muy expuesta á dar en laudazo, siendo preciso á la gente hacer fuerza con los remos para evitar este desastre. La "Sutil" tambien se le vino el ancla en el instante de dar la vela, y por pronto que se acudió al aparejo, varó en seis pies escensos de agua; y tomadas las debidas providencias, al cabo de una hora salieron las dos á flote.

Inmediatamente se procedió á disponer los cables para dar la vela y continuar la navegacion, y á las ocho y media ^{de la mañana} ya estaban abando con el viento fresco del S. S. E. para hacerse fuera del Seno de Gaston, sin experimentar ningunas agua alguna, aunque habian dado algunas golpes en el fondo.

Despues de varios borbos montaron las puntas y O. del Seno de Gaston á las quatro de tarde, y entraron por el Canal de Pacheco; salieron por medio fren, codiendo algo el ancla, y tomando la direccion del mismo canal, por que entraron en él. Despues de salir del canal, en la Ensenada de Lara, vimos dos embarcaciones menores, la una con aparejo de vela, y la otra con vela redonda, que seguian la costa hacia el N. No dudamos que pertenecieran á los dos buques Ingleses que estaban en el Puerto, segun las noticias de nuestro amigo Garzon. Seguimos sin variar de rumbo, pensando llegar toda la noche con poca vela, y amanecer en la Punta de San Rafael para estar al principio del dia en la boca de Floridablanca, é iramos en ella á verificar desde luego su cumplimiento que, como se ha dicho, teniamos vivo para creer fuese muy interesante. Atravesamos de diez á doce de la noche la Ensenada de Garzon, viendo luces dentro de ella, que nos hicieron que los buques á que pertenecian las embarcaciones menores estaban en aquel fondeadero. El viento, que veló fresco toda la noche, hizo disminuir la distancia hasta cerca de la Punta de San Rafael á la una de ella. Cerremos con las das arriadas de la vuelta de fuera, y á las dos de mañana viramos de la de dentro, sondando á poco en siete brazas de fondo; volvimos á tomar vuelta de fuera, y continuó disminuyendo el fondo hasta cinco brazas arena. En esta situacion no oportuno dexar caer el ancla por no cansarse de noche en buscar la salida, ni ser posible el continuar hacia la boca sin tener de mas seguro como intento.

Viramos, y con las primeras luces del dia nos establemos á medio canal, en la cañal de Punta de San Rafael con la punta E. de la Isula de Cepeda.

launch, and upon that set about hoisting sail without losing the rope until meeting the wind. Meanwhile the "Sutil" was shortening in her cable, and was found to be in two fathoms water; we were hoisting in the boat in order to set sail, when we noticed that the "Mexicana" had grounded; it was therefore got out again and sent to her assistance. That schooner had had the misfortune to drag home the stream anchor, which she had cast with the warp, and was in great danger of going over, so that it was necessary for the men to prop her with the oars to prevent such a disaster. The "Sutil" also dragged home her anchor at the moment of setting sail, and quickly as the tackle was resorted to she grounded in a scanty six feet of water; but all due means having been applied, at the end of an hour both vessels were afloat.

Preparations were immediately made for the vessels to set sail and continue the navigation, and at half-past 8 in the morning they were tacking with a fresh S.S.E. wind to get out of the Bay of Gaston, and it was not found that they made any water, although they had frequently struck the bottom.

After various tacks they doubled the S. and W. points of the Bay of Gaston at 4 in the afternoon, and made for the Channel of Pacheco; they proceeded by mid-channel, the wind somewhat abating, and taking the direction of the channel itself as soon as they entered it. After leaving the channel, in the Creek of Lara, we saw two smaller boats, one with sliding sail rigging, the other with square sail, which were following the coast towards the N. We had no doubt that they belonged to the two English vessels which were in the Strait, according to the information of our friend Tetaens. We went on without changing course, thinking to navigate all night with little sail, and to be off the Point of San Rafael at daybreak, so as to get to the mouth of Floridablanca early in the morning, to go within and to make the survey at once, which, as has been said, we had reason to believe would be very interesting. From 10 to 12 at night we crossed the Creek del Garzon, and saw lights within it which indicated that the vessels to which the smaller boats belonged were in that anchorage.

The wind, which kept fresh all night, enabled us to make the distance to near the Point of San Rafael by 1 o'clock. We stood outward with reefed topsails; and at 2 in the morning we veered inward, sounding soon in seven fathoms deep; we again stood outward, and the depth continued decreasing to five fathoms sand. In this situation it appeared fitting to cast anchor, so as not to run any risk in seeking the outlet at night; and as it was not prudent to continue near the mouth without having more certain knowledge of it.

We anchored, and with the first light of day we saw that we were in mid-channel, in a line with the Point of San Rafael, and the East point of the Peninsula of Cepeda.

San Pedro, 1807

Relacion del Viage hecho por las Goletas "Satil" y "Mexicana" en el Año de 1792, &c.

LA noticia confusa del reconocimiento hecho en 1592 por el piloto Griego Juan de Fuca del Canal de su nombre, era la única que teníamos hasta el año de 1789. Hallándose en Nutka el Alférez de Navío Don Esteban Martínez, despues de haber tomado posesion de este puerto en nombre de Su Magestad, recordó que en 1774, de vuelta de su expedicion al Norte, le habia parecido ver una entrada muy ancha por los 48° 20' de latitud. Creyendo que pudiese ser la de Fuca, comisionó un segundo piloto mandando la goleta "Gertrudis" para que se cerciorase de si existia ó no dicha entrada; en efecto el piloto volvió, diciendo la habia hallado de veinte y una millas de ancho, y cuya mediania estaba en 48° 30' de latitud, y 19° 28' al O. de San Blas.

Basadas estas noticias á la superioridad, tuvo orden el Teniente de Navío Don Francisco Eliza en el año de 1790 para hacer practicar un reconocimiento prolixo de esta entrada. Destinó á esta fin al Alférez de la misma clase Don Manuel Quimper, mandando la balandra la "Princesa Real." Este oficial se hizo á la vela del Puerto de Nutka el 31 de Mayo, reconoció el Puerto de Claucaud, se internó despues en el Canal de Fuca, visitó algunos puertos y parte de la costa, levantó sus planos, y se retiró el 1 de Agosto, no habiéndole permitido los tiempos el continuar los trabajos.

Al año siguiente recibió Eliza órdenes del Virey de Nueva España para llevar á su fin el reconocimiento ya empezado, y que causaba la curiosidad de los geógrafos. Dicho oficial salió de Nutka mandando el paquebot "San Carlos" y goleta "Horcasitas," con la intencion de elevarse á los 60° de latitud, y descender examinando la costa hasta el Canal de Fuca, é interiorizarse en él para reconocerlo completamente; pero no permitiéndole los vientos en muchos dias el ganar al N., resolvió empezar los reconocimientos por los 48°, y envocó el canal el dia 27 de Mayo. Permaneció en él hasta el 7 de Agosto, en que se vió precisado á retirarse por tener ya escorbútica parte de su tripulacion, y carecer de dietas para suministrarle. En este tiempo hizo levantar planos de algunos puertos, y exáminar un trozo de la costa al piloto Don Joseph Narvaez, no pudiendo verificarlo por sí á causa de haber caido enfermo.

De vuelta á Nutka escribió al Virey de Nueva España las resultas de su viage, y despues de otras reflexiones dice:—"Asegurando á V. E. que el paso al Océano que con tanto anhelo buscan sobre esta costa las naciones extranjeras, si es que lo hay, me parece no hallarse por otra parte que por este gran canal."

A Reference to the Voyage of Sub-Lieutenant Don Manuel Quimper, in 1790, to the Strait of Fuca, extracted from Chapter I of the Narrative of the Voyage of the "Satil" and "Mexicana," 1792.

THE confused account of the examination made in 1592 by the Greek Pilot John de Fuca of the channel which bears his name was the only one we had up to the year 1789. Sub-Lieutenant (Alférez de Navío) Don Esteban Martínez, being Nootka, after having taken possession of that port in the name of Her Majesty, stated that, in 1774, in returning from his expedition to the North, he thought he saw a very wide entrance at 48° 20' latitude. Believing that it might be that of Fuca he directed a second mate (piloto) in command of the schooner "Gertrudis" to ascertain whether that entrance existed or not. The mate returned saying that he had found it to be twenty-one miles wide, and its centre in 48° 30' latitude 19° 28' west of San Blas.

These accounts having been sent on to the authorities, Lieutenant Don Francisco Eliza received orders in the year 1790 to have a minute survey made of that entrance. He appointed Sub-Lieutenant Don Manuel Quimper who commanded the sloop "Princesa Real," to that purpose. The said officer sailed from the Port of Nootka on the 31st of May, examined the Port of Claucaud, afterwards penetrated the Channel of Fuca, surveyed some ports and part of the coast, drew plans of them, and retired on the 1st of August, the weather not having allowed him to continue his labours.

In the following year Eliza received orders from the Viceroy of New Spain to complete the examination already begun, and which excited the curiosity of geographers. That officer left Nootka in command of the packet "San Carlos" and the schooner "Horcasitas," intending to go up to 60° latitude and to come down and examine the coast to the Channel of Fuca, then to enter therein to examine it completely; but the wind not allowing him many days to get to the north, he determined to begin his examinations at 48°, and entered the channel on the 27th of May. He remained in it till the 7th of August, when he found himself obliged to retire because part of his crew had the scurvy, and he had not the necessary diet to cure them. During this time he caused plans to be made of some of the ports, and had part of the coast examined by the mate Don Joseph Narvaez, being unable to do it himself because he had fallen sick.

On his return to Nootka he wrote the result of his voyage to the Viceroy of New Spain, and after other remarks, he said:—"Assuring your Excellency that the passage to the Ocean which foreign nations seek for so eagerly on this coast, if there be one, will not be found, as it appears to me, elsewhere than by this great channel."

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Declarations of W. H. McNeill, W. Mitchell, Captain Swanson, Messrs. Anderson, H. G. Lewis, and Finlayson, Master Mariners, &c., who have commanded or are in command of Vessels navigating the Straits between Vancouver's Island and the Continent of America.

To all to whom these presents shall come, I, Montague William Tyrwhitt Drake, of the City of Victoria, Province of British Columbia, Dominion of Canada, Notary Public, duly admitted, and practising, in pursuance of an Act of Parliament made and passed in the 6th year of the reign of His Majesty King William IV, intituled "An Act to repeal an Act of the present Session of Parliament, intituled an Act for the more effectual Abolition of Oaths and Affirmations, taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extrajudicial Oaths and Affidavits, and to make other provisions for the abolition of unnecessary Oaths," I do hereby certify that, on the day of the date hereof, personally came and appeared before me, Henry Slye Mason, named and described in the declaration hereunto annexed, being a person well-known, and worthy of good credit; and by solemn declaration which the said Henry Slye Mason then made before me, did solemnly and sincerely declare to be true, the several matters and things mentioned and contained in the said annexed Declaration:—

In faith and testimony whereof I have set my hand and seal of office, and have caused the said Declaration to be hereunto annexed.

Dated in Victoria, the 29th day of September, A.D. 1871.

(Signed)

M. W. TYRWHITT DRAKE,

Notary Public.

I hereby certify, that Montague William Tyrwhitt Drake, whose signature is herewith attached, is a Notary Public, duly admitted and practising in the City of Victoria, Province of British Columbia, Dominion of Canada.

In testimony whereof I have herewith set my hand and official seal, this 4th day of October, 1871.

(Signed)

CHARLES GOOD,

Colonial Secretary.

This is the paper writing marked Z, produced and shown to William Henry McNeill, William Mitchell, and John Swanson, and referred to in their several declarations, marked respectively A, B, and C, declared this 27th day of September, 1871.

Before me:

(Signed)

M. W. TYRWHITT DRAKE,

Notary Public.

(Z.)

I, Henry Slye Mason, of Victoria, in the Province of British Columbia, in the Dominion of Canada, do solemnly and sincerely declare as follows:—

That the following are the interrogatories submitted to Herbert G. Lewis, Alexander Caulfield Selkirk, John Swanson, William H. McNeill, and William Mitchell; and on the perusal of which interrogatories they gave the answers respectively contained in the several accompanying Statutory declarations, marked A, B, C, D, and E:—

Interrogatories relative to the North-West Water Boundary Question submitted to Alexander Caulfield Selkirk, Herbert G. Lewis, John Swanson, William H. McNeill, and William Mitchell.

1. About 1845-46, had the Hudson's Bay Company any fort or settlement on the Fraser River?
2. How did trading-vessels or other craft communicate with that fort or settlement from foreign ports, and from other settlements on the Columbia River, or its neighbourhood?
3. The date of the settlement of Fort Langley on Fraser River?
4. About the time of the negotiation of the Treaty of June 1846, what was the common opinion of Great Britain insisting on the 49th parallel being deflected in a southerly direction through the Straits of Juan de Fuca to the Pacific, instead of cutting through Vancouver's Island?
5. If to secure access to the possessions to the northward of 49° parallel, state what possessions of Great Britain held to the northward of 49°, and where?
6. If the free navigation of the Straits and adjacent Channel was not guaranteed to Great Britain, how could access be obtained to those possessions north of 49°?
7. When the Treaty was signed in June 1846, and previous to that date, which Channel was known to be used by vessels amongst the islands forming the Archipelago between Vancouver's Island and the Continent, to get access to our Dominions north of 49°?
8. Forward proofs and affidavits, legally attested by captains of vessels, and others, who made use of the Channel then known, and their reasons for making use of it?
9. Previous to the signing of the Treaty in 1846, and also at that time, how many channels were known to be navigable amongst the islands forming the Archipelago between Vancouver Island and the Continent of America?

And I, Henry Slye Mason, above-named, solemnly declare, that I make the above statements, conscientiously believing the same to be true. And by virtue of the provisions of an Act made and passed in the 6th year of the reign of His Majesty King William IV, intituled "An Act to repeal an Act of the present Session of Parliament, intituled an Act for the more effectual abolition of Oaths and

Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other provisions for the abolition of unnecessary Oaths."

(Signed) HENRY S. MASON.

Declared at Victoria, in the Province of British Columbia, Dominion of Canada, this 29th day of September, 1871.

Before me:
(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

TO all whom these presents shall come: I, Montague William Tyrwhitt Drake, of the City of Victoria, Province of British Columbia, Dominion of Canada, Notary Public, duly admitted and practising in pursuance of an Act of Parliament made and passed in the sixth year of the reign of His Majesty King William IV, intituled "An Act to Repeal an Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extrajudicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths," do hereby certify that, on the day of the date hereof, personally came and appeared before me, William Henry McNeill, named and described in the declaration herunto annexed, being a person well known and worthy of good credit, and by solemn declaration which the said William Henry McNeill then made before me did solemnly and sincerely declare to be true, the several matters and things mentioned and contained in the said annexed Declaration.

In faith and testimony whereof I have set my hand and seal of office, and have caused the said Declaration to be herunto annexed.

Dated in Victoria the 29th day of September, A.D. 1871.
(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

I hereby certify that Montague William Tyrwhitt Drake, whose signature is herunto attached, is a Notary Public, duly admitted and practising in the City of Victoria, Province of British Columbia, Dominion of Canada.

In testimony whereof I have herunto set my hand and official seal, this 4th day of October, A.D. 1871.

(Signed) CHARLES GOOD,
Colonial Secretary.

This is the paper writing marked A, shown to Henry Slye Mason, at the time of making the said Declaration, and therein referred to on the 29th day of September, 1871.

Before me:
(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

(A.)

I, William Henry McNeill, of Gonzalo Bay, Vancouver Island, in the Province of British Columbia, Dominion of Canada, now a settler, do solemnly and sincerely declare as follows:—

I am 68 years of age, and at 20 years of age I became a master mariner.
I have been on the North-west Pacific Coast since 1832, and have been employed as a master mariner during the greater part of that time till 1865 on the said coast.

From 1832 till 1837 I was employed by the Hudson's Bay Company, in the command of the schooner "Llama," which during that period plied between Columbia River and Fort Simpson, British Columbia, 54° north latitude.

On two occasions during that period, in going through the Straits of Fuca to Fraser River, returning from Fraser to Columbia River, I passed through Rosario Straits. My reason for not passing through Haro Straits was that there was then no known or surveyed channel through Haro Straits, and on the other occasions I went to the westward of Vancouver Island. During the whole of this period I never heard of a vessel passing through Haro Straits, and Rosario Straits was the only channel known and surveyed, and I was in constant communication during such period with seafaring men who traversed the waters between Vancouver Island and the mainland. In 1837 and from thence till 1843 I commanded the steamer "Beaver," belonging to the Hudson's Bay Company, and she was employed during that time in trading between Fort Simpson aforesaid, Fraser River, and Ne-qually-Puget Sound. During all that time between 1837 and 1843, I never heard of a vessel going through Haro Straits, and I was during that period, from 1837 till 1843, in constant communication with ship-masters trading in the said waters.

In 1843 I went to England, and continued absent from this North-west Pacific Coast for two months, and returning in 1844, I was still in the Hudson's Bay Company's service at Stekin, Rupert, and Fort Simpson on the said North-west Pacific Coast, and from thence till 1846 I never heard of any vessel going through Haro Straits, with the exception of the steamer "Beaver," in 1845. Till then she always went through Rosario Straits on her usual voyages in the Hudson's Bay Company's employ, the only then known channel.

During all this time till 1846, I never heard of Haro Straits being used by vessels, and I was in constant communication with ship-masters trading in the waters between Vancouver Island and

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mainland, and the North-west Pacific Coast. And since 1846 Rosario Straits has still been the most usual channel for sailing-vessels.

In navigating these waters between Vancouver Island and the mainland, I always used Vancouver's charts, and heard of no others till the chart made in pursuance of the survey of Captain Richards and his officers, with the exception of the old Spanish Chart, which was of little value.

The first chart which I knew of as laying down a survey of Haro Straits, was Captain Richards' Chart.

I further say that Vancouver Island was generally supposed to be united with what is now named Galiano Island on Richards' Chart till after Captain Richards' Survey.

In Rosario Straits the currents and tides are comparatively regular, but in Haro Straits and round the islands adjacent to Vancouver Island, and in the waters about Vancouver Island itself, the tides and currents are always very irregular.

Referring to the questions submitted to me relative to the boundary line referred to in the Treaty of Oregon, in answer to the first question I declare as aforesaid.

1. That about 1845 and 1846 the Hudson's Bay Company had a settlement at Langley, on the Fraser River, and the said settlement existed since 1827 or 1828, to the best of my knowledge and belief.

2. In answer to the second question, I declare as aforesaid, that trading vessels or other craft communicated with the settlement of Langley from foreign parts, and from the settlements on the Columbia River or its neighbourhood by the Straits of Rosario and the Gulf of Georgia.

3. In answer to the third question, I declare as aforesaid that, to the best of my knowledge, information, or belief, Langley, on the Fraser River, was settled about the year 1827 or 1828.

4. In answer to the fourth question, I declare as aforesaid that, about the time of the negotiation of the Treaty of June, 1846, the common opinion as to the object of Great Britain insisting on the 49th parallel being detected in a southerly direction, and through the Straits of Fuca to the Pacific, instead of cutting through Vancouver Island, was that it was to secure access to her possessions to the southward of the 49th parallel through the Straits of Fuca.

5. In answer to the fifth question, I declare as aforesaid that Great Britain then held British Columbia, up to parallel of the north latitude 54°40' and Vancouver Island.

6. In answer to the sixth question, I declare as aforesaid that, if the free navigation of the straits and adjacent channel was not guaranteed to Great Britain, access could only be secured and obtained to those possessions by ships going to the westward of Vancouver Island. And as regards those possessions on the coast of British Columbia between the 51st and 49th parallel, access would have to be sought through a strait which is intricate and difficult of navigation, by reason of the strength of the tides, and almost impracticable for sailing vessels.

7 and 8. In answer to the seventh and eighth questions, I declare as aforesaid that, when the treaty was signed in June 1846, and previous to that date, the channel which was known and used by vessels amongst the islands forming the archipelago between Vancouver Island and the continent to get access to the Dominion of Great Britain north of the 49th parallel, was the Strait of Rosario, and that channel only, as it was then the only surveyed channel.

9. In answer to the ninth question, I declare as aforesaid that, previous to the signing of the treaty in A.D. 1846, and also at that time, the only channel known to be navigable amongst the islands forming the archipelago between Vancouver Island and the continent, was the Strait of Rosario.

And I declare as aforesaid that, even since Haro Straits has been fully surveyed, I consider Rosario Strait as a much safer channel for a sailing-ship, in passing either from the Straits of Fuca to the Gulf of Georgia, or for a sailing-ship passing from the Gulf of Georgia to the Straits of Fuca, inasmuch as the Rosario Strait has good anchorage throughout its entire length, and has more regular tides than Haro Straits. The anchorage in Haro Strait is bad, on account of the great depth of its waters, and the irregularity and strength of its tides. The navigation of Haro Strait, moreover, is much impeded by numerous small islands and rocks.

During all the time between A.D. 1837 and the year A.D. 1843, I was in command, as aforesaid, of the Hudson's Bay Company's steamer "Beaver," and I was in the habit of taking the said steamer once or twice every year during that period from Fort Simpson to Langley on the Fraser River, and thence to Nisqually-Puget Sound; and from Nisqually back again to Langley and Fort Simpson, and on those occasions I always passed through Rosario Straits, as it was then the only surveyed channel between Fuca Strait and the Gulf of Georgia.

And I, William Henry McNeill, above named, solemnly declare that the questions hereinbefore referred to, are contained in the paper writing marked Z, produced and shown to me at the time of making this declaration, and that I make the above statements conscientiously believing the same to be true. And by virtue of the provisions of an Act made and passed in the sixth year of the reign of His Majesty King William IV, intitled "An Act to repeal an Act of the present Session of Parliament, intitled an Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof and for the entire suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths."

(Signed) WILLIAM H. McNEILL.

Declared at Victoria, in the Province of British Columbia, Dominion of Canada, this 27th day of December, 1871.

Before me:
(Signed) M. W. TYERWHITT DRAKE,
Notary Public.

TO all to whom these presents shall come, I, Montague William Tyrwhitt Drake, of the City of Victoria, Province of British Columbia, Dominion of Canada, Notary Public, duly admitted and practising in pursuance of an Act of Parliament made and passed in the sixth year of the reign of His Majesty King William the Fourth, intituled "An Act to repeal an Act of the present session of Parliament, intituled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths,'" do hereby certify that, on the day of the date hereof, personally came and appeared before me, William Mitchell, named and described in the declaration hereunto annexed, being a person well known and worthy of good credit, and by solemn Declaration which the said William Mitchell then made before me, did solemnly and sincerely declare to be true, the several matters and things mentioned and contained in the said annexed declaration.

In faith and testimony whereof I have set my hand and seal of office, and have caused the said Declaration to be hereunto annexed.

Dated in Victoria, the 27th day of September A.D. 1871.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

I hereby certify that Montague William Tyrwhitt Drake, whose signature is hereunto attached, is a Notary Public, duly admitted and practising in the City of Victoria, Province of British Columbia, Dominion of Canada.

In testimony whereof I have hereunto set my hand and official seal, this 4th day of October A.D. 1871.

(Signed) CHARLES GOOD,
Colonial Secretary.

This is the paper writing marked B, shown to Henry Slye Mason, at the time of making his Declaration, and therein referred to on the 29th day of September, 1871.

Before me:
(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

(B.)

I, William Mitchell, of Victoria, Vancouver Island, in the Province of British Columbia, Dominion of Canada, Master Mariner, do solemnly and sincerely declare, and state as follows:—

I am sixty-eight years of age. I became a Master Mariner in 1851, and have been on the North-west Pacific Coast since 1837, and have been employed all the time in the Hudson's Bay Company ships. From 1837 to 1846 I was constantly employed in passages from Victoria to Fraser River, and back again; from Columbia River to Fraser River, and back again; and from Nisqually-Puget Sound to Fraser River, and back again; and trading generally between those ports as well as sometimes Honolulu and Sitka, and other between ports on the North-west Pacific Coast. And whenever by vessel I was in had occasion to go from the Straits of Fuca to the Gulf of Georgia, or back from the Gulf of Georgia to the Straits of Fuca, she always passed through Rosario Straits as the only the known navigable channel.

As late as the year 1855 I had occasion to pilot a vessel from Victoria to Nisqually, and from Nisqually to Nanaimo, and from Nanaimo to Victoria, and both in going to Nanaimo and returning therefrom made use of Rosario Strait as the best known channel.

Previous to 1846 there was only one channel known to be navigable, and that was the Rosario Straits.

In the year 1846, to the best of my knowledge, information, and belief, no chart of Haro Sound soundings existed.

The chart in use was that of Rosario Strait only, and from soundings made by Vancouver. Referring to the questions submitted to me relative to the Boundary line referred to in the Treaty of Oregon, in answer to the first question I declare as aforesaid—

1. That about 1845 and 1846 the Hudson's Bay Company had a Settlement at Langley, on the Fraser River, and the said Settlement existed since 1827 or 1828.

2. In answer to the second question, I declare as aforesaid that trading-vessels or other vessels communicated with the Settlement of Langley from foreign parts, and from the settlements on the Columbia River, or its neighbourhood, by the Straits of Rosario and the Gulf of Georgia.

3. In answer to the third question, I declare as aforesaid that, to the best of my knowledge, information, and belief, Langley, on the Fraser River, was settled about the year 1827 or 1828.

4. In answer to the fourth question, I declare as aforesaid that, about the time of the negotiation of the Treaty of June 1846, the common opinion as to the object of Great Britain insisting on the 49th parallel being deflected in a southerly direction, and through the Straits of Fuca to the Pacific, instead of cutting through Vancouver Island, was, that it was to secure access to her possessions to the westward of the 49th parallel through the Straits of Fuca.

5. In answer to the fifth question, I declare as aforesaid that Great Britain then held British Columbia up to parallel of north latitude 54° 40' and Vancouver Island.

6. In answer to the sixth question, I declare as aforesaid that, if the free navigation of the Strait and adjacent Channel was not guaranteed to Great Britain, access could only be secured and obtained to those possessions by ships going to the westward of Vancouver Island; and as regards these possessions on the coast of British Columbia, between the 51st and 49th parallel, access would have been

sought through a Strait which is intricate and difficult of navigation by reason of the strength of the tides.

7 and 8. In answer to the seventh and eighth questions, I declare as aforesaid that, when the Treaty was signed in June 1846, and previous to that date, the Channel which was known and used by vessels amongst the islands forming the Archipelago, between Vancouver's Island and the Continent, to get access to the dominions of Great Britain north of the 49th parallel, was the Strait of Rosario and that Channel only, as it was then the only surveyed Channel.

9. In answer to the ninth question, I declare, as aforesaid that, previous to the signing of the Treaty in 1846, and also at that time the only Channel known to be navigable amongst the islands forming the Archipelago between Vancouver Island and the Continent was the Rosario Strait.

And I further say that, even since Haro Strait has been fully surveyed I consider Rosario Strait a much safer Channel for a sailing-ship in passing either from the Straits of Fuca to the Gulf of Georgia, or for a sailing ship passing from the Gulf of Georgia to the Straits of Fuca, inasmuch as Rosario Strait has good anchorage throughout its entire length, and has more regular tides than Haro Straits. The anchorage in Haro Strait is bad on account of the great depth of its waters and the irregularity and strength of its tides. The navigation of Haro Strait, moreover, is much impeded by numerous small islands and rocks.

In the beginning of the year A.D. 1839, I recollect making a voyage as First Mate from Columbia River to Fraser River, and thence back to the Columbia River in the large "Vancouver," and on these occasions she passed and repassed through Rosario Straits.

In A.D. 1840, I made two voyages in the schooner "Cudboro," from Columbia River to Fraser River, and returned to the Columbia River in the "Cudboro," and passed and repassed through Rosario Straits on those voyages.

In A.D. 1842, I made a voyage from Columbia River to Fraser River in the "Cudboro" as First Mate, and returned from Fraser River to the Columbia River, and on these occasions I passed and repassed through Rosario Strait. And between A.D. 1842 and 1846, I made several voyages in the schooner "Cudboro" as First Mate from Columbia River and Victoria to Nisqually and Langley on the Fraser River, and thence returned to Victoria and Columbia River, and on such occasions I always passed and repassed through Rosario Strait, as it was the only then known Channel.

And I, William Mitchell, above-named, solemnly declare that the questions hereinbefore referred to are contained in the paper writing marked Z, produced and shown to me at the time of making this Declaration. And that I make the above statements conscientiously, believing the same to be true; and in virtue of the provisions of an Act made and passed in the sixth year of the reign of His Majesty King William the Fourth, intitled "An Act to repeal an Act of the present Session of Parliament, intitled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths.'"

(Signed) WILLIAM MITCHELL.

Declared at Victoria, in the Province of British Columbia, Dominion of Canada, this 27th day of September, 1871.

Before me:

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

TO all to whom these presents shall come, I, Montague William Tyrwhitt Drake, of the City of Victoria, Province of British Columbia, Dominion of Canada, Notary Public, duly admitted and practising in pursuance of an Act of Parliament made and passed in the sixth year of the reign of His Majesty King William the Fourth, intitled "An Act to repeal an Act of the present session of Parliament, intitled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of Voluntary and Extra-judicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths,'" do hereby certify that, on the day of the date hereunto annexed, being a person well known and worthy of good credit, and by solemn Declaration, with the said John Swanson then made before me, did solemnly and sincerely declare to be true the said matters and things mentioned and contained in the said annexed Declaration.

In faith and testimony, whereof I have set my hand and seal of office, and have caused the said Declaration to be hereunto annexed.

Dated in Victoria the 27th day of September, A.D. 1871.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

I hereby certify that Montague William Tyrwhitt Drake, whose signature is hereunto attached, is a Notary Public, duly admitted, and practising in the City of Victoria, Province of British Columbia, Dominion of Canada.

In testimony whereof I have hereunto set my hand and seal of office this 4th day of October, 1871.

(Signed) CHARLES GOOD,
Colonial Secretary.

Appendix.

This is the paper writing marked C, shown to Henry Slye Mason at the time of his making the Declaration, and therein referred to, on the 29th day of September, 1871.

Before me:

(Signed) M. W. TYRWITT DRAKE,
Notary Public.

(C.)

I, John Swanson, of Victoria, Vancouver Island, in the Province of British Columbia, Dominion of Canada, Master Mariner, do solemnly and sincerely declare as follows:—

I have been a Master Mariner since the year 1855, and have been in the employment of the Hudson's Bay Company on their ships trading on the North-west Pacific Coast, since the year 1842; the present time, as a nautical man and mariner.

Referring to the questions submitted to me relative to the boundary line referred to in the Treaty of Oregon, in answer to the first question I declare as aforesaid:—

1. That, about 1845 and 1846, the Hudson's Bay Company had a settlement at Langley, on the Fraser River, and the said settlement existed since 1827 or 1828.

2. In answer to the second question, I declare as aforesaid that, up to 1845 and 1846, Hudson's Bay Company's ships, bound from Honolulu, in the Sandwich Islands; from Fort Vancouver, on the Columbia River; and San Francisco and Sitka, to Langley, passed through Fuca Straits and Rosario Strait. Also vessels trading between Fort Nisqually and Langley used to pass through Rosario Strait. Also vessels trading between Victoria and Langley used to pass through Rosario Strait.

3. In answer to the third question, I declare as aforesaid that, to the best of my knowledge, information, and belief, Langley, on the Fraser River, was settled about the year 1827 or 1828.

4. In answer to the fourth question, I declare as aforesaid that, about the time of the negotiation of the Treaty of June 1846, the common opinion as to the object of Great Britain insisting on the 49th parallel being deflected in a southerly direction, and through the Straits of Fuca to the Pacific, instead of cutting through Vancouver Island, was, that it was to secure access to her possessions to the northward of the 49th parallel, through the Straits of Fuca.

5. In answer to the fifth question, I declare as aforesaid that Great Britain then held British Columbia up to parallel of north latitude 54° 40', and Vancouver Island.

6. In answer to the sixth question, I declare as aforesaid that, if the free navigation of the Straits and adjacent channel was not guaranteed to Great Britain, access could only be secured and obtained to those possessions by ships going to the westward of Vancouver Island; and, as regards the possessions on the coast of British Columbia between the 51st and 49th parallel, access would have been sought through a Strait which is intricate, and difficult of navigation by reason of the strength of the tides.

7 and 8. In answer to the seventh and eighth questions, I declare as aforesaid that, when the Treaty was signed in June 1846, and previous to that date, the channel which was known and used by vessels amongst the islands forming the Archipelago between Vancouver Island and the Continent, to give access to the Dominions of Great Britain, north of the 49th parallel, was the Strait of Rosario, and that channel only; and it was then the only surveyed channel.

9. In answer to the ninth question, I declare as aforesaid that, previous to the signing of the Treaty in 1846, and also at that time, the only channel known to be navigable amongst the islands forming the Archipelago between Vancouver's Island and the Continent was the Strait of Rosario.

And I further declare as aforesaid that, in the end of the year 1842 or beginning of 1843, I sailed from Vancouver, on the Columbia River to Nisqually, on Puget Sound, and the vessel I was in thence towed through Rosario Straits by the Hudson's Bay Company's steamer "Beaver," and she sailed through Gulf of Georgia and Johnston Strait to Sitka, and returned therefrom through John's Strait and Rosario Strait to Victoria.

During the years 1843 and 1844 I made several trips in the schooner "Cadboro," from Victoria to Langley, through Rosario Strait, and back again from Langley through Rosario Strait, and we were occupied generally in making such voyages during those two years, and we always passed, and repassed through Rosario Straits.

To the best of my recollection, in 1845 I made a voyage in the barque "Vancouver," from the Columbia River to Fort Langley through Rosario Strait, and back again to Victoria.

In the year 1846, to the best of my knowledge, information, and belief, no chart of Haro Soundings existed. The chart in use was that of Rosario Strait only, and from surveys made by Vancouver.

Previous to 1846, to the best of my knowledge, information, and belief, no sailing-vessel, except on the occasion of the "Cadboro," went through Haro Strait under sail. If other sailing-vessels previous to 1846, passed through Haro Strait, I, as a seafaring man on the North-west Pacific Coast, should, in all probability, have heard of it.

The one occasion on which the "Cadboro" passed through Haro Strait was in 1843, and she was carried by the tide in a calm, on her passage from Langley to Victoria, into Haro Straits, and we were then obliged to avail ourselves of the services of an Indian we met with as a pilot, as we had no chart by which to navigate.

And I, John Swanson above-named, solemnly declare that the questions hereinbefore referred to contained in the paper writing marked Z shown to me at the time of making the Declaration, and that I make the above statements conscientiously believing the same to be true; and by virtue of the authority of an Act made and passed in the sixth year of the reign of His Majesty King William the Fourth, intitled "An Act to repeal an Act of the present session of Parliament, intitled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of

State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of Voluntary and Extrajudicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths."

(Signed) JOHN SWANSON.

Declared at Victoria, in the Province of British Columbia, Dominion of Canada, this 27th day of September, 1871.

Before me:

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

To all to whom these present shall come, I, Robert Edwin Jackson, of the city of Victoria, Province of British Columbia, in the Dominion of Canada, Notary Public, duly admitted and practising, in pursuance of an Act of Parliament made and passed in the sixth year of the reign of His Majesty King William IV, intituled "An Act to repeal an Act of the present session of Parliament, intituled an Act for the more effectual abolition of oaths and affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths," do hereby certify that, on the day of the date hereof, personally came and appeared before me, Alexander Caulfield Anderson, named and described in the Declaration herunto annexed, being a person well known and worthy of good credit, and by solemn Declaration which the said Alexander Caulfield Anderson then made before me, did solemnly and sincerely declare to be true the several matters and things mentioned, and contained in the said annexed Declaration.

In faith and testimony whereof I have hereunto set my hand and seal of office, and have caused the Declaration to be herunto annexed. Dated at Victoria aforesaid the 15th day of September, in the year of our Lord, 1871.

(Signed) ROBT. E. JACKSON,
Notary Public.

I hereby certify that Robert Edwin Jackson, whose signature is herunto attached, is a Notary Public, duly admitted and practising in the city of Victoria, Province of British Columbia, dominion of Canada.

In testimony whereof I have hereunto set my hand and official seal this 4th day of October, 1871.

(Signed) CHARLES GOOD,
Colonial Secretary.

This is the paper writing marked B, shown to Henry Snye Mason at the time of his taking his Declaration, and therein referred to on the 29th day of September, 1871.

Before me:

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

(D)

I, Alexander Caulfield Anderson, now of Saanich, Vancouver Island, in the Province of British Columbia, Dominion of Canada, settler, do solemnly and sincerely declare as follows:—

1. I am an ex-clerk of the Hudson's Bay Company, and late an agent of Lloyd's for the Columbia River, and the adjacent coasts, and from 1833 and 1851 I was under the several appointments held by me as agent of the Hudson's Bay Company, connected (with the exception of short intervals, directly or indirectly) with the business of the said Company on the North-west Pacific Coast, which business then required their vessels frequently to navigate the waters of the gulf, and the Shipelago, and Straits of Fuca, and during the greater portion of the said period, resided on, or was constantly in communication with the North-west Pacific Coast.

2. In answer to the first question I declare as aforesaid that, about 1845 and 1846, the Hudson's Company had a settlement at Langley on the Fraser River, and other settlements higher up the

3. In answer to the second question, I declare as aforesaid that trading-vessels or other craft communicated with the settlement of Langley from foreign parts, and from the settlements of the Columbia River and its neighbourhood, by the Straits of Fuca, the Straits of Rosario, and the Gulf of Georgia.

4. In answer to the third question, I declare as aforesaid that, to the best of my knowledge, information and belief, Langley, on the Fraser River, was settled about the year 1827 or 1828,

5. In answer to the fourth question, I declare as aforesaid that, about the time of the negotiation of the Treaty of June 1846, the common opinion as to the object of Great Britain insisting on the 49th parallel being deflected in a southerly direction, through the Straits of Fuca to the Pacific, instead of through Vancouver Island, was to secure access to her possessions to the northward of the 49th parallel.

6. In answer to the fifth question, I declare as aforesaid that Great Britain then held British possessions up to parallel of north latitude 54° 40', and Vancouver Island.

7. In answer to the sixth question, I declare as aforesaid that, if the free navigation of the Straits of Fuca Channel was not guaranteed to Great Britain, access could only be obtained to those possessions by ships going to the westward of Vancouver Island; and as regards those possessions on

the coast of British Columbia, between the 51st and 49th parallel, access would have to be sought through a strait which is intricate and difficult of navigation by reason of the strength of the tides.

7 and 8. In answer to the seventh and eighth questions, I declare as aforesaid that, when the Treaty was signed in June 1846, and previous to that date, the channel which was known and used by vessels amongst the islands forming the Archipelago between Vancouver Island and the Continent, to give access to our dominions north of the 49th parallel, was the Straits of Rosario, and that channel only was it then the only surveyed channel.

9. In answer to the ninth question, I declare as aforesaid that, previous to the signing of the Treaty in 1846, and also at that time the only channel known to be navigable amongst the islands forming the Archipelago between Vancouver Island and the Continent of America was the Straits of Rosario.

I further declare as aforesaid, the whole tenor of my experience during my said residence on or near the North-west Pacific Coast, was to the effect that the only recognized channel of approach to the Fraser River, or to the northern parts by the inner passage through the Gulf of Georgia, was by the Straits of Rosario.

I further declare as aforesaid that, in the winter of 1834, while on my way from Fort Simpson on the Columbia River, on board the Hudson's Bay Company's brig "Dryad," Captain Kipling, we had orders to touch at Fort Langley on Fraser River. The track indicated to me upon Vancouver's chart by the master, and which we purposed to follow, was by the Rosario Strait, the usual and only known channel at that time. Stress of weather and the failure of provisions compelled us to bear up for the "Columbia," after endeavouring to enter the Straits of Fuca without having fulfilled our object, proceeding to Langley.

In 1841, while I was in charge of the Hudson's Bay Company's Establishment at Fort Nisqually on Puget Sound, the United States' Exploring Expedition, under Commodore Wilks, arrived there. Commodore Wilks was desirous of procuring a surveying vessel (the "Porpoise," Commander Ringgold) towards Fraser River, and on his application for a pilot, one of the crew of the Hudson Bay Company steamer "Beaver," was sent on board. This pilot (whose name I think was Wade) was acquainted with the Rosario Channel.

In June, or early in July 1848, having conducted for the first time the brigade with the return from the interior to Fort Langley on Fraser River, I travelled by canoe from that station to Victoria on Vancouver Island. Crossing the Gulf of Georgia, we passed through what has since been known as the Plumper, or Active Pass, and then by the Strait of Haro. This was at that time known as the usual route, as distinguished from the established ship route by the Rosario Strait.

In July 1850, the schooner "Caldora," Captain Scarborough, arrived at Langley during my voyage there from the interior, bringing supplies for the trade. The following year another vessel belonging to the Company (the "Recovery," I think), came to the mouth of Fraser River to receive our furs. In neither case did I hear any mention of the Haro Channel, or that any deviation from the old established track had occurred.

That as late as 1851, I may distinctly state my conviction from personal knowledge of facts, that the Rosario Strait was the only authorized channel of communication followed by the vessels of the Hudson's Bay Company. I have heard, indeed, that an experimental trip through the Haro Strait had on one occasion, been made with the steamer "Beaver," under Captain Brothie, at that time near, but I understand likewise that the master was reprimanded on this occasion for his temerity. Whatever the partial explorations that had been made at an earlier period by the Spaniards, and afterwards by Commander Ringgold, of the United States' Navy, the passage was incompletely known; and it was only after the survey performed under the direction of the present hydrographer of the Admiralty, Admiral Richards, in Her Majesty's ship "Plumper," that the capacity of the Haro Strait as a channel of communication, superseding to some extent the original route by the Rosario Strait, was publicly recognized.

In conclusion, I distinctly state that, up to the winter of 1852-53, when we were surprised by an adverse position then suddenly advanced, no doubt was entertained by me, or any one that I know of, at this quarter acquainted with the facts, as to that interpretation of the Treaty which refers the line to the only ship channel then known, the Rosario Strait.

And I the above-named Alexander Caulfield Anderson, solemnly declare that I made the above statements conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the sixth year of the reign of His Majesty King William IV, intituled "An Act to repeal an Act of the present Session of Parliament, intituled an Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extrajudicial Oaths, Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths."

(Signed) ALEXR. C. ANDERSON

Declared at Victoria, Province of British Columbia, Dominion of Canada, this 16th day of September, 1871.

(Signed) ROBT. E. JACKSON, Notary Public,
Victoria, British Columbia.

I hereby certify that Robert Edwin Jackson, whose signature is attached to this document, is a Notary Public by Royal authority, duly authorized, admitted and sworn, and that he is resident and practising in Victoria, Province of British Columbia, Dominion of Canada.

(Signed) CHARLES GOOD, Colonial Secretary,
September 21, 1871.

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To all to whom these presents shall come, I, Montague William Tyrwhitt Drake, Notary Public by Royal authority, duly authorized, admitted, and sworn, residing and practising in Victoria, Province of British Columbia, Dominion of Canada, in pursuance of an Act of Parliament, made and passed in the sixth year of the reign of His Majesty King William IV, intituled "An Act to repeal an Act of the present Session of Parliament, intituled an Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extrajudicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths," do hereby certify that, on the day of the date hereof, personally came and appeared before me, Herbert G. Lewis, named and described in the Declaration herunto annexed, being a person well known and worthy of good credit; and by solemn Declaration which the said Herbert G. Lewis then made before me, did solemnly and sincerely declare to be true the several matters and things mentioned and contained in the said annexed Declaration.

In faith and testimony whereof I have hereunto set my hand and seal of office, and have caused the Declaration to be hereunto annexed. Dated at Victoria, the 14th day of September, in the year of our Lord 1871.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

I hereby certify that Montague William Tyrwhitt Drake, whose signature is herunto attached, is a Notary Public, duly admitted and practising in the City of Victoria, Province of British Columbia, Dominion of Canada.

In testimony whereof I have hereunto set my hand and official seal, this 4th day of October, A.D. 1871.

(Signed) CHARLES GOOD,
Colonial Secretary.

This is the paper writing marked E, shown to Henry Slye Mason at the time of his making his Declaration, and therein referred to on the 29th day of September, 1871.

Before me:

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

(E.)

HERBERT G. LEWIS.

My name is Herbert G. Lewis, master mariner. I have been a master mariner since 1859. I came to this coast in 1847. I have been in the Hudson Bay Company's service from that time till now, and during the greater part of that time I have been trading on the North Pacific Coast, in charge of that Company's vessels.

2. In answer to Question 2, I say: To the best of my knowledge, information, and belief, the only channel used by sailing-vessels going to Fort Langley on the Fraser River through the Straits of Fuca was the Rosario Straits, in the year 1848-49.

4. In answer to Question 4, I say: In the latter part of 1847 and in 1848 it was considered that the object was to give free access to British territory on the North-west Pacific Coast, up to the 52nd parallel of latitude.

5. In answer to Question 5, I say: She held Vancouver Island and she held British Columbia up to 54° 40' north-latitude.

6. In answer to Question 6, I say: Only by going to the westward of Vancouver Island.

7. In answer to Question 7, I say: I can only speak to the period after 1847, and to the best of my knowledge, information, and belief, from thence to 1848 and 1849 the Haro Straits were not used by sailing-vessels; if they had been so used, I, as a seafaring man on the North-west Pacific Coast, should have heard of it.

8. In answer to Question 8, I say: The reason for Haro Straits not being used by sailing-ships in 1847, 1848, and 1849, was that it was then unsurveyed.

9. In answer to Question 9, I say: As I before said in 1847, 1848, and 1849, Rosario Strait was used as a surveyed channel, and Haro Straits had not been surveyed, and was not so used by ships.

Vancouver's Charts were used for these waters in 1847, and till 1854. I never knew the Spanish Chart used, or any American Chart used, about that time. To the best of my knowledge I never heard of a vessel going through Haro Straits, but only through Rosario Straits in 1847, 1848, and 1849.

The map A, especially as regards Haro Straits, is a most inaccurate representation of what was actually known in 1847, 1848, and 1849. Haro Straits being then unknown, and Rosario Straits generally used by ships.

From 1847 till 1852 I was employed on board ships of the said Company, trading between Honolulu and Victoria for the Hudson's Bay Company, and Haro Straits have been from time to time navigated since 1852 by me.

Tides are very irregular on the east coast of Vancouver Island. This irregularity could hardly exist if Haro Strait was the channel through which the main volume of water ebbcd and flowed.

Off East Point and Patos Island a current with the ebb and flood tide sets so strong as to render that part of Haro Straits unsafe for sailing-vessels.

And I, Herbert G. Lewis, above named, solemnly declare that I make the above statements, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the sixth year of the reign of His Majesty King William IV, intituled "An Act to repeal an Act of the present Session of Parliament, intituled an Act for the more effectual Abolition of Oaths

and Affirmations, taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extrajudicial Oaths and Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths."

(Signed) HERBERT G. LEWIS.

Declared at Victoria, province of British Columbia, this 14th day of September, 1871.

(Signed) M. W. TYRWHITT DRAKE.

Notary Public.

I hereby certify that M. W. Tyrwhitt Drake, whose signature is attached to this document, is a Notary-Public by Royal authority, duly authorized, admitted, and sworn; and that he is resident and practising in Victoria, Province of British Columbia, Dominion of Canada.

(Signed) CHARLES GOOD, *Colonial Secretary,*

September 21, 1871.

TO all to whom these Presents shall come, I, Robert Edwin Jackson, of the City of Victoria, Province of British Columbia, Dominion of Canada, Notary Public, duly admitted and practising in pursuance of the Act of Parliament made and passed in the sixth year of the reign of His Majesty King William IV, intituled "An Act to repeal an Act of the present Session of Parliament, intituled 'an Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof and for the more entire Suppression of voluntary and extrajudicial Oaths and Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths,'" do hereby declare that, on the day of the date hereof, personally came and appeared before me Roderick Finlayson, named and described in the Declaration hereunto annexed, being a person well known and worthy of good credit, and by solemn declaration which the said Roderick Finlayson then made before me, did solemnly and sincerely declare to be true the several matters and things mentioned and contained in the said annexed Declaration.

In faith and testimony whereof I have hereunto set my hand and seal of office, and have caused the said Declaration to be hereunto annexed, dated the 30th day of September, A.D. 1871.

(Signed) ROBT. E. JACKSON,

Notary Public.

I hereby certify that Robert Edwin Jackson, whose signature is hereunto attached, is a Notary Public, duly admitted and practising in the City of Victoria, Province of British Columbia, Dominion of Canada.

In testimony whereof I have hereunto set my hand and official seal, this 4th day of October, AD. 1871.

(Signed) CHARLES GOOD,

Colonial Secretary.

This is the Exhibit marked F, referred to in the annexed Declaration of Roderick Finlayson, declared the 13th day of September, 1871.

Before me:

(Signed) ROBT. E. JACKSON,

Notary Public.

(F.)

Interrogatories relative to the North-West Water Boundary Question submitted to Roderick Finlayson.

1. About 1845-46, had the Hudson's Bay Company any fort or settlement on the Fraser River?
2. How did trading-vessels or other craft communicate with that fort or settlement from foreign parts, and from other settlements on the Columbia River or its neighbourhood?
3. The date of the Settlement of Fort Langley on Fraser River?
4. About the time of the negotiation of the Treaty of June 1846, what was the common opinion of Great Britain insisting on the 49th parallel being deflected in a southerly direction, through the Straits of Fuca to the Pacific, instead of cutting through Vancouver Island?
5. If to secure access to the possessions to the northward of the 49° parallel, state what possessions Great Britain held to the northward of 49° and where?
6. If the free navigation of the straits and adjacent channel was not guaranteed to Great Britain, how could access be obtained to those possessions north of 49°?
7. When the Treaty was signed in June 1846, and previous to that date, which channel was known and used by vessels amongst the islands forming the Archipelagos between Vancouver's Island and the continent, to get access to our dominions north of 49°?
8. Forward proofs and affidavits, legally attested, by captains of vessels and others who made use of the channel then known, and their reasons for making use of it.
9. Previous to the signing of the Treaty in 1846, and also at that time, how many channels were known to be navigable amongst the islands forming the Archipelago between Vancouver Island and the Continent of America?

I, Roderick Finlayson, of Victoria, Vancouver Island, in the Province of British Columbia, Dominion of Canada, Chief Factor in the Hudson's Bay Company, do solemnly and sincerely declare as follows:—

I have been on the North-west Pacific Coast since A.D. 1840, and during all that time have been in the Hudson's Bay Company's employ. I have been a Chief Factor since 1859, and a Lloyd's Agent since 1856, and from A.D. 1844 to 1847 I was the Chief Agent of the Hudson's Bay Company at Victoria.

Referring to the interrogatories relative to the north-west water boundary-question hereunto annexed, marked F, shown to me at the time of making this Declaration, in answer to the first interrogatory, I declare as aforesaid.

1. That about A.D. 1845 and 1846 the Hudson's Bay Company had a settlement at Langley, on the Fraser River, and the said settlement existed since 1827 or 1828.

2. In answer to the second interrogatory, I declare as aforesaid that, up to A.D. 1845 and 1846, Hudson's Bay Company's ships, bound from Honolulu, in the Sandwich Islands, from Fort Vancouver, on the Columbia River, and San Francisco and Sitka, to Langley, passed through Fuca's Straits and Rosario Straits; also vessels trading between Fort Nisqually and Langley used to pass through Rosario Strait.

3. In answer to the third interrogatory, I declare as aforesaid, to the best of my knowledge, information, and belief, Langley, on the Fraser River, was settled about the year 1827 or 1828.

4. In answer to the fourth interrogatory I declare as aforesaid that, about the time of the negotiation of the Treaty of June 1846, the common opinion as to the object of Great Britain in insisting on the 49th parallel being deflected in a southerly direction, and through the Straits of Fuca to the Pacific, instead of cutting through Vancouver Island, was that it was to secure access to her possessions to the northward of the 49th parallel through the Straits of Fuca.

5. In answer to the fifth interrogatory, I declare as aforesaid that Great Britain then held British Columbia up to parallel of north latitude 54° 40', and Vancouver Island.

6. In answer to the sixth interrogatory I declare as aforesaid that, if the free navigation of the straits and adjacent channel was not guaranteed by Great Britain, access could only be secured and obtained to those possessions by ships going to the westward of Vancouver Island; and as regards those possessions on the coast of British Columbia, between the 51st and 49th parallel, access would have to be sought through a strait which is intricate and difficult of navigation by reason of the strength of the tides.

7 and 8. In answer to the seventh and eighth questions, I declare as aforesaid that, when the Treaty was signed in June 1846, and previous to that date, the channel which was known and used by vessels amongst the islands forming the Archipelago between Vancouver Island and the continent, to get access to the dominions of Great Britain north of the 49th parallel, was the Strait of Rosario, and that channel only; and it was the only surveyed channel.

9. In answer to the ninth interrogatory, I declare as aforesaid that, previous to the signing of the Treaty in 1846, and also at that time, the only channel known to be navigable amongst the islands forming the Archipelago between Vancouver Island and the Continent was the Strait of Rosario.

And I further declare as aforesaid that, in A.D. 1840, I went from the Hudson's Bay Company's Station at Nisqually, Puget Sound, in the steamer "Beaver," to Sitka, through Rosario Strait, and Johnson Strait; and, in A.D. 1843, I returned from Sitka and other stations through Johnson Strait and Rosario Strait to Vancouver Island in the "Beaver."

Previous to A.D. 1846 Rosario Strait was the channel for vessels coming to Victoria from Fraser River and the North-west Pacific Coast, or going from Victoria thereto.

And I, Roderick Finlayson, above-named, solemnly declare that I make the above statements conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the sixth year of the reign of His Majesty King William IV, intituled "An Act to Repeal an Act of the present Session of Parliament, intituled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extrajudicial Oaths and Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths.'"

(Signed) RODK. FINLAYSON.

Declared at Victoria, in the Province of British Columbia, Dominion of Canada, this 30th day of September, 1871.

Before me:

(Signed) ROBT. E. JACKSON,
Notary Public.

ATTESTED Copy of the Log of Her Majesty's Steam-ship "Cormorant," in the Months of September and October 1846.

19th day of September, 1846.—At Fisgard Harbour.

Initials of the Officer of the Watch.	Hours.	Knots.	Tenths.	Standard Compass Course.	Leeway Points.	Wind.		Weather.	Deviation of Stand. Comp.	Height of		Temperature of the Sea.	Remarks.
						Direction.	Force.			Bar.	Ther.		
	1	..	..	..	..	S.W.	1	o.g.c.					A.M. 5.—Lighted fire under after boilers.
	2	..	..	..	..	..	..	..					6'20.—Steam up, unmoored ship; hove into 12 fathoms on B.B.
	3	At anchor in Fisgard Harbour.				..	..	..					6'30.—Weighed and proceeded out of harbour working expansively, cutting of at 1/5 stroke.
	4	..	..	..	..	Calm	0	o.c.m.					6.—Trial Island West, 14 m. Employed clearing deck and ship below.
	5	..	..	..	..	..	..	..					Noon.—Saddle Island, N.W. by N. 2 m.
	6	..	..	..	..	East	1	c.m.					Tons. cwt.
	7	..	..	..	..	E.N.E.	..	..					Expended—Coals 2 19
	8	..	..	..	..	..	2	g.c.m.					Wood 3 16
	9	..	..	..	..	..	..	..
	10	..	..	..	..	..	2	..					
	11	..	..	..	..	..	..	..
	Noon	..	..	..	..	..	2	..					
	1	..	..	..	..	..	..	..					P.M. 5.—Sounded off Point Roberts, 50 fms.
	2	..	..	..	..	E.N.E.	1	b.c.m.					5'30.—Eased, stopped and came to with B.B. in 11 fms. Veered to 48 fms.
	3	..	..	..	..	Calm	0	..					Banked up fires. Point Roberts, S. 55° E. South Point Frazer's River, N. 48° W.
	4	..	..	..	..	..	..	..
	5	..	..	..	..	..	..	..
	6	..	..	..	..	N.E.	1	o.c.d.					
	7	..	..	..	..	..	2	..					
	8	..	..	..	..	N.N.E.	3	..					
	9	..	..	..	..	..	2	o.c.					
	10	..	..	..	..	..	1	c.f.					
	11	..	..	..	..	..	..	..
	Midnt.	..	..	..	..	..	..	c.f.					

5th day of October, 1846.—From Sangster's Harbour to Birch Bay.

	1	..	..	..	..	East	1	b.c.					A.M. Fires banked. 4'30.—Drew fires forward.
	2	..	..	..	..	..	..	..					4'45.—Steam up. 5.—Weighed and proceeded out to the eastward, working two after boilers expansively, cutting of at 1/6 of stroke.
	3	At anchor in Sangster's Harbour.				..	..	..					6'30.—East Point, Sangster Island, S.S.E.
	4	..	..	..	..	E.N.E.	2	..					9.—Exercised at General Quarters.
	5	..	..	..	..	..	..	c.					10'45.—Sounded 50 fms.
	6	..	..	..	..	..	..	..					Noon.—Point Gray, N. 45° E. Point Roberts, S. 83° E.
	7	..	..	..	..	..	..	..					Lat. obs. 49° 8' N.
	8	..	..	..	..	..	..	..					Tons. cwt.
	9	..	..	..	..	..	..	..					Expended—Coals 8 2
	10	..	..	..	..	..	..	..					Wood 6 0
	11	..	..	..	..	..	..	..
	Noon	..	..	..	..	..	..	..
	1	..	..	..	..	..	..	..					P.M. 0'45.—Entered discoloured water of Frazer's River. 4.—Point Roberts, N.N.W. 3 m. 5'30.—Eased, stopped and came to with B.B. in Birch Bay 7 fms., and veered to 32 fms. Banked up fires. Point Roberts, S. 83° W. Called the North Point of Bay, bearing N. 47° W. Point Lacey after the Lieutenant; South Point of Bay, white bluff S. 41° E. Point Nutt the Surgeon of the ship.
	2	Proceeding eastward, towards Point Roberts and Birch Bay.								Midnight.—Fires banked under the boilers.
	3					
	4					
	5					
	6					
	7					
	8					
	9					
	10					
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	Midnt.	c.					

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6th day of October, 1846.

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Remarks.

... and after boilers.
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... West, 1 1/2 m. Employed
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of the Watch.	Hours.	Knots.	Tenths.	Standard Compass Course.	Leeway Points.	Wind.		Weather.	Deviation of Stand. Comp.	Height of		Temperature of the Sea.	Remarks.
						Direction.	Force.			Bar.	Ther.		
	1												A.M.
	2												4 30.—Drew the fires forward.
	3												4 45.—Steam up. 4 50.—Weighed and
	4												proceeded out to the southward working
	5												expansively, cutting off at 1/8 of stroke.
	6												7 25.—Passed eastward of Quinlan's
	7												Rocks, named after the 2nd Lieutenant
	8												of this ship. 7 45.—Off the north end
	9												of Cyprus Island, called the Now Point,
	10												Sesborough Bluff, after the Master of
	11												the "Cudboro."
	Noon												8.—Saddle Island 5 1/2 E. 8 20.—Passd
													the S.W. point of Cyprus Island, called
													it Finlaison Point, after the officer in
													charge of Fort Victoria. 9.—Exercised
													at General Quarters. 10.—Loosed sails
													to dry.
													Noon.—Point Gonzalo, N. 39° W. Clover
													Point, N. 89° W.
													Tons. cwt.
													Expended—Coal 9 4
													Wood 1 8
													P.M.
													Opened ten, 13 44; beef, 136 3; pork,
													30 80.
													1.—Eased, stopped, and came to with B.B.
													in 9 fms. Veered to 40 fms., banked
													up fires. Points of entrance, S. 74° E.,
													and S. 74° W. Rocky Point, S. 25° W.
													Employed cutting wood for fuel.
													2.—Furled sails, unhent maintop sail.
													Ship's Draught—Forward 14 feet.
													Aft 15 "
													Remaining Water, 20 tons.

The within copy of the Log, Book of Her Majesty's ship "Cormorant," for the days above specified, been examined and compared with the original in this Department.

Admiralty, Somerset House, November 16, 1871.

(Signed) A. SCOTT.

