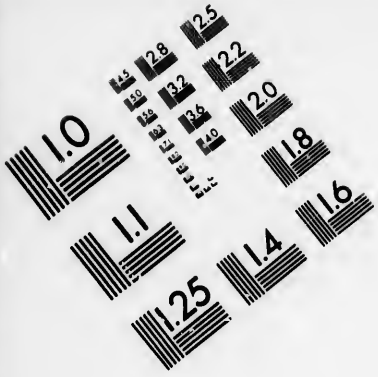

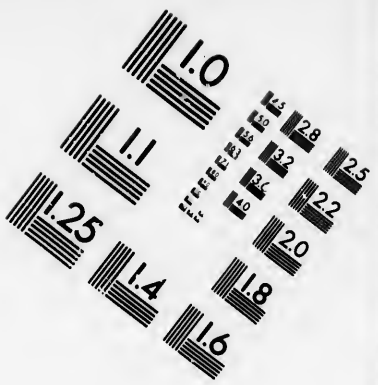

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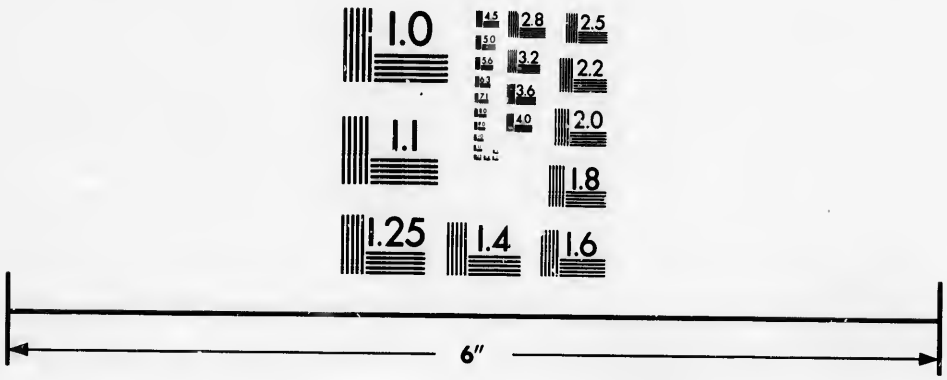

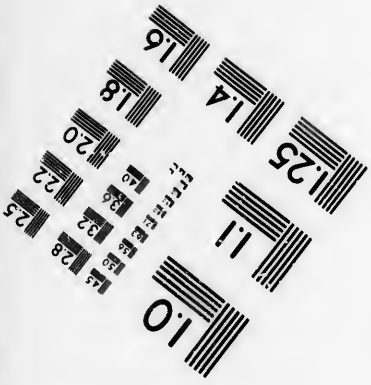

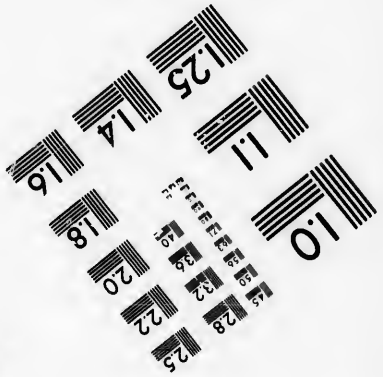

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LETTER

TO THE

SECRETARY OF STATE,

RELATING TO

THE DOMINION OF BEHRING SEA.

WASHINGTON, D. C.
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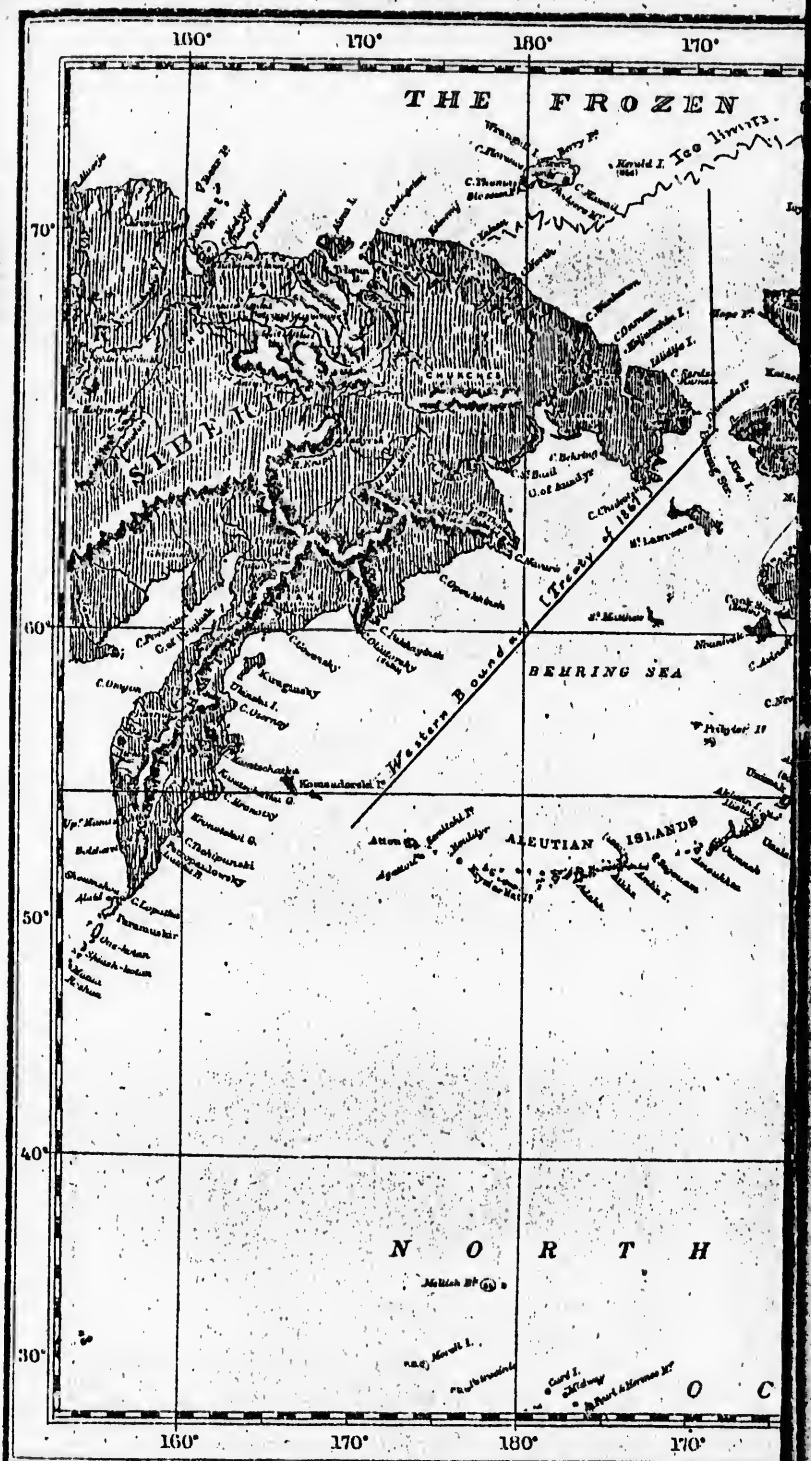
1888.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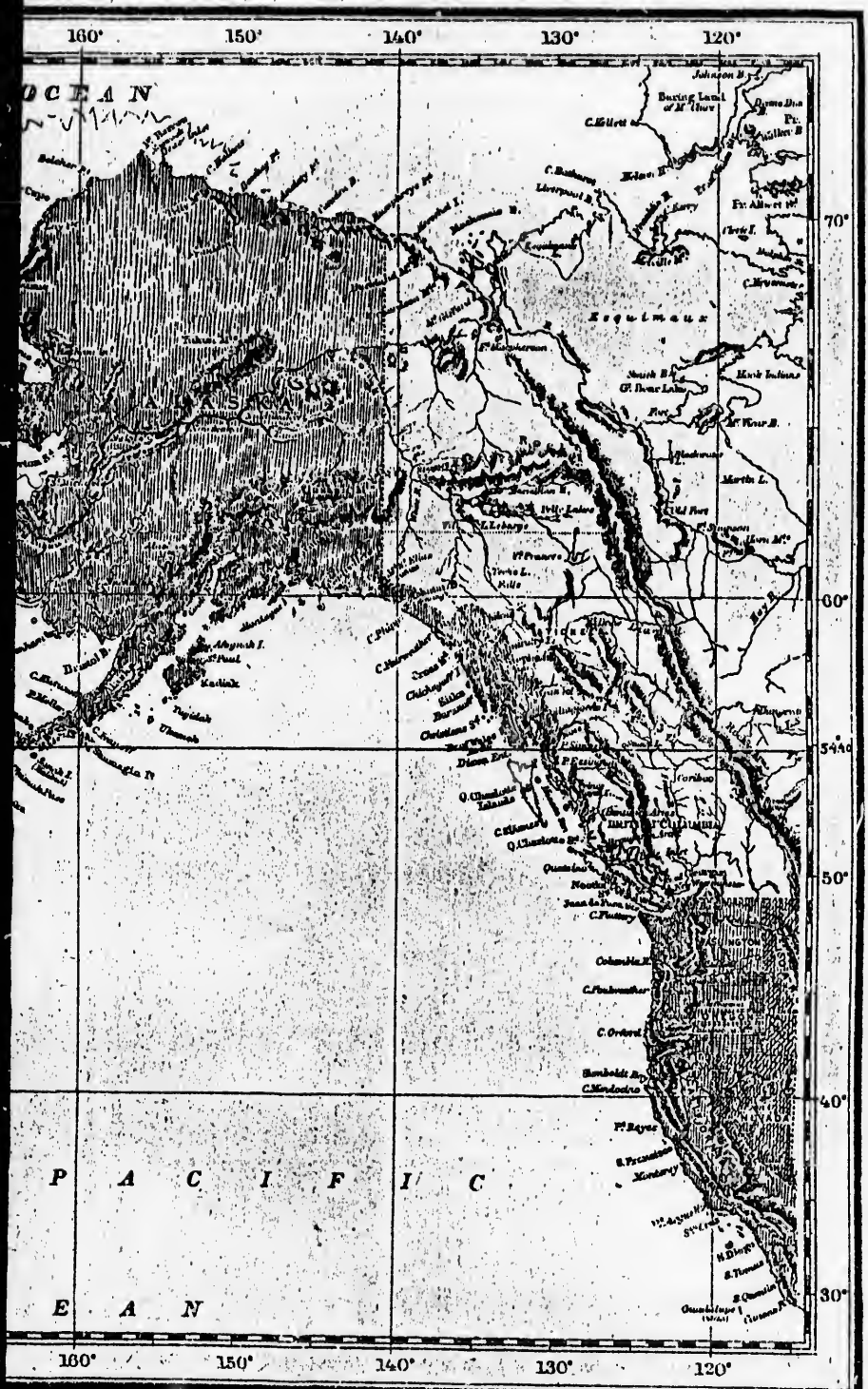
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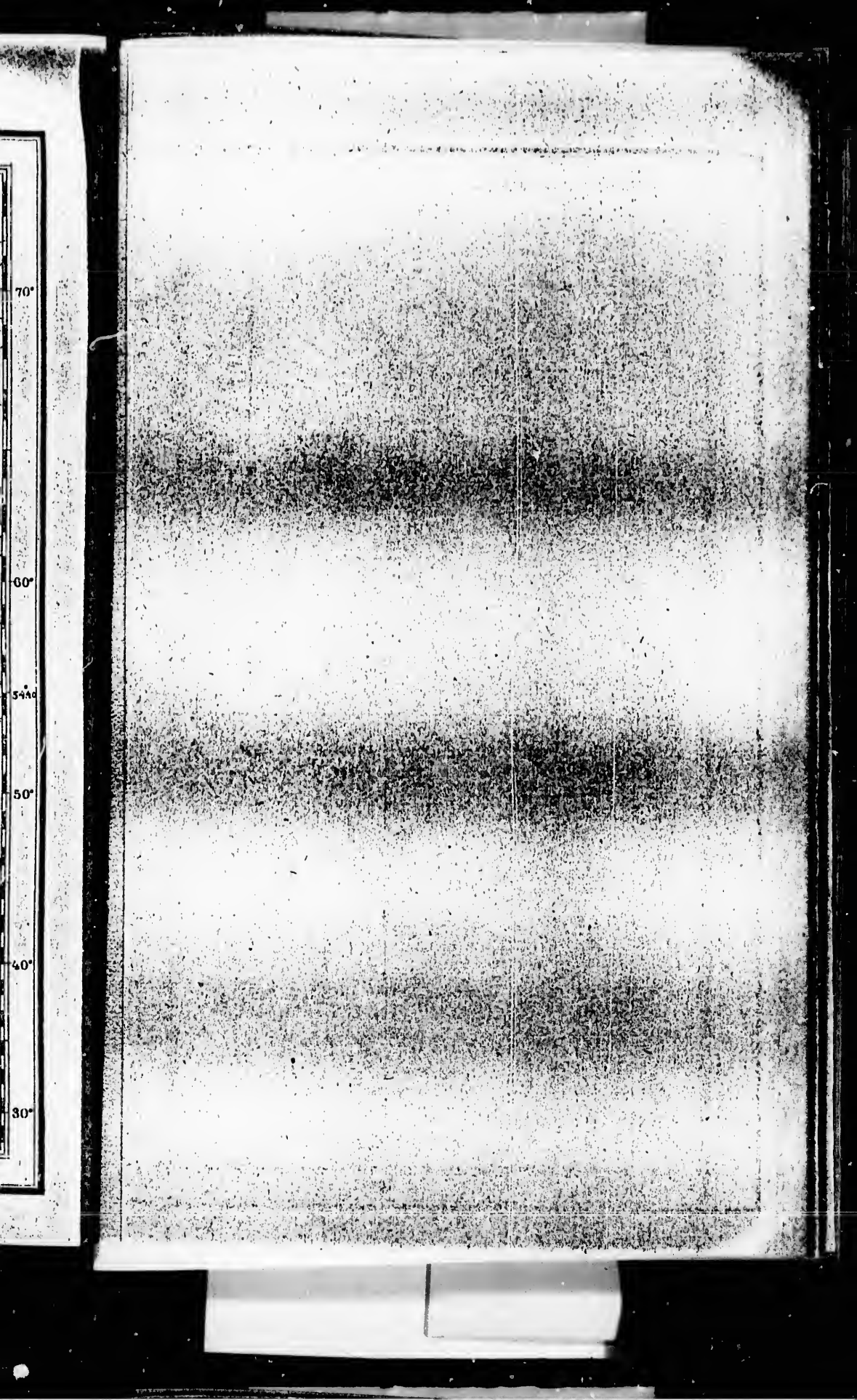

WASHINGTON, D. C., *January* 14, 1888.

Hon. THOMAS F. BAYARD,

Secretary of State.

SIR: Taking advantage of your suggestion to furnish you, from time to time, with any facts or information of any description I might obtain in reference to the question of the right of the United States to exclusive jurisdiction over the territorial waters of Alaska, I take this occasion to mention, that I have been permitted to examine the bound copy of "Papers relating to Behring Sea Fisheries," compiled and annotated by the State Department, and have devoted some attention to the subjects therein discussed.

The result of my examination I beg respectfully to submit to your consideration, with the hope, that to some slight extent it may assist you in the determination of the question involved.

On page 43 of the pamphlet entitled "Papers relating to "Behring Sea Fisheries," it is said:

"It is evident that whatever rights the United States have "over the Territory of Alaska and the waters adjacent thereto "have been derived from Russia. It is necessary, therefore, "to trace the history of the relation of the United States to "the Russian possessions on that coast prior to the cession of "Alaska to the United States in 1867. The following papers "and extracts tend to explain that relation."

With the same end in view, I shall attempt to point out in the following observations:

1. The incidents disclosed by the correspondence, "papers "and extracts" tending to establish the claims of the respective powers, and the locality to which the contention referred.

2. The adjustment of these claims by the conventions of 1824 and 1825.

3. As to the renewal of the 4th article of the convention of 1824.

4. The effect of the conditions of the 7th section of the treaty of 1825 between Great Britain and Russia.

5. The position of the Treasury Department in 1872 in reference to the jurisdiction of the United States over the waters of Alaska Territory, and—

6. As to the right of British subjects to the free navigation of the Yukon river in Alaska Territory.

I.—The Contention.

Whatever may have been the contention or claims of the United States and Great Britain prior to the conventions of 1824 and 1825 with Russia, in reference to their respective rights to frequent the northwest coast of America, those treaties adjusted and settled them; and it is scarcely worth while now to recur to the antecedent correspondence, which is fully set forth in the pamphlet, in order to learn the precise object of this Government at that time, but rather content ourselves with ascertaining what it actually secured. This, I presume, will be attained by a careful examination of the treaties themselves—taken as entireties, with "the restrictions "and conditions" that define and control their general terms.

Before referring to the conventions, I beg to allude to the incidents which produced them.

I need not remind you that the Imperial Ukase of 1799 conferred upon the "Russian American Company" exclusive jurisdiction of all the Russian Possessions in North America, from the extreme north to the 55th parallel of north latitude on the coast of the Pacific ocean; and on the west coast to the border of Japan.

This grant was followed by occupancy, and no objection was interposed by the United States, Great Britain, or any other power.

In 1821, a new charter was issued, by which the jurisdiction

of the company was extended four degrees further south, to latitude 51°. This was in conformity to the second article of the original charter, which directed the company "to make "new discoveries, not only north of the 55th degree of north "latitude, but further to the south, and to occupy the new "lands discovered, as Russian possessions, according to pre-"scribed rules, if they have not been previously occupied by "any other nation, or been dependent on another nation."

In the meantime, foreign traders, by the sale of spirituous liquors and firearms to the natives of the country, in exchange for furs, had come in conflict with the Russian-American Company, not only interfering with its business but demoralizing the inhabitants.

To remedy this, the Ordinance of September 16, 1821, was issued by the Emperor Alexander, defining the extent of his jurisdiction in America, and forbidding foreign vessels from approaching the coast or islands north of 51° north latitude, or "to within a distance of less than one hundred Italian miles."

To this extension of jurisdiction Mr. Adams entered a protest. The tenor of that instrument, while asserting our right to navigate the high seas, does not repel the right asserted by Russia, except as to what he terms "the assertion of a new pretension," viz., the extension of Russian jurisdiction to the 51st parallel of north latitude, and the prohibition to the vessels of other nations to approach within one hundred Italian miles of the coast. And, to the suggestion of Mr. Poletica, that "the extent of sea, of which these possessions form the "limits, comprehends all the conditions which are ordinarily "attached to shut seas (mers fermées)." Mr. Adams replied: "It may suffice to say that the distance from shore to shore "on this sea, in latitude 51° north, is not less than ninety de-"grees of longitude, or four thousand miles."

In his instructions to Mr. Middleton, Mr. Adams said: "With regard to the territorial claim, separate from the right "of traffic with the natives, and from any colonial exclusions, "we are willing to agree to the boundary line within which

"the Emperor Paul had granted exclusive privileges to the "Russian-American Company; that is to say, latitude 55°." In his despatch to Mr. Rush, of the same date (July 22, 1823), Mr. Adams said:

"The right of carrying on trade with the natives through- "out the northwest coast they (the United States) cannot re- "nounce. With the Russian settlements at Kodiak, or at New "Archangel, they may fairly claim the advantage of a free "trade, having so long enjoyed it unmolested, and because it "has been, and would continue to be, as advantageous at least "to those settlements as to them. But they will not contest "the right of Russia to prohibit the traffic, as strictly confined "to the Russian settlement itself, and not extending to the "original natives of the coast."

This, then, was the attitude of the United States prior to the treaty of 1824, and these were the questions to be adjusted by the proposed treaty.

It will be remembered that no protest or objection had been made to the claim of exclusive jurisdiction by Russia to the 55th parallel of north latitude; and, as we have just seen, the United States admitted the territorial claim to that extent, and the principal object of the negotiation was to fix by treaty a definite boundary line and settle the controversy in reference to trading with the natives inhabiting the coast of the Pacific ocean.

Now, it will be observed, that this contention related exclusively to the coast of the North Pacific ocean proper, for there is no reference to any other region of country, or coast, or sea. The debatable ground was the coast between 55° and 51° north latitude, where, in the language of Mr. Adams, "the sea is four thousand miles from shore to shore." Kodiak and New Archangle are mentioned as points at which the United States "might fairly claim the advantage of a free trade;" and while the Ukase embraced the Aleutian and Kurile islands there is no reference to them in the protest, nor in the correspondence or negotiation, nor in the treaty.

The explanation of this is, that there had been no conflict between American or English traders and the Russian-American Company except on this particular coast. The exclusive dominion of Russia over the Aleutian and Kurile islands was not disputed, and her territorial right on the coast of the North Pacific to the 55th parallel was tacitly, at least, assented to by all the powers, the United States included.

It seems clear to me, that if the protest and negotiations related to the southern belt of Russian territory, both land and water, and that the contention was not confined to the coast of the North Pacific ocean proper, there would have been some reference made to the Alaska peninsula and the group of Aleutian islands which, in their prolongation, extend far south of 55° north latitude. Yet, we look in vain for any intimation anywhere questioning Russia's title to that peninsula and group of islands which she had held in undisputed possession from the date of their discovery; and when, in his instructions to Mr. Middleton, Mr. Adams stated: "We are willing to agree "to the boundary line within which the Emperor Paul "had granted exclusive privileges to the Russian-American "Company; that is to say, latitude 55," he had reference to a locality in relation to whose title and boundary there was a dispute; or, as he stated the case to Mr. Poletica, "that, in "assuming now the latitude of 51° a new pretension is as- "serted." And it was to this new pretension that he entered his protest; yet, at the same time, and from the date of discovery until the cession of Alaska, there was a large extent of territory, both land and water, comprising a part of Russian America, extending south of the 54th parallel, that was in the undisputed possession of Russia, and which the United States in 1867 purchased from Russia and paid for.

Not only this, but, as we shall see further on, by the treaty which followed (1824), Russia stipulated that she would form no establishments on the northwest coast south of 54° 40′ north latitude. And yet her title to Alaska peninsula and the Aleutian islands, extending hundreds of miles south of that parallel, were, and always had been, undisputed.

I maintain, therefore, that the contention had reference to the coast of the North Pacific ocean proper, and had no more relation to Behring Sea, or its islands, than it had to the Aleutian group, or the coast of Asia.

I cite these facts in order that we may understand precisely what the questions were which the framers of the treaties had before them for adjustment.

II.—The Treaties.

The first article of the treaty between the United States and Russia (1824) provides:

"Article I. It is agreed that, in any part of the great "ocean, commonly called the Pacific ocean or South Sea, the "respective citizens or subjects of the high contracting powers "shall be neither disturbed nor restrained, either in navigation "or in fishing, or in the power of resorting to the coasts, upon "points which may not already have been occupied, for the "purpose of trading with the natives, saving always the re-"strictions and conditions determined by the following ar-"ticles."

The "restrictions" and conditions referred to in the foregoing article are:

1. Citizens of the United States shall not resort to any point where there is a Russian establishment without permission of the Governor or commander of such establishment (*Article* 2).

2. Citizens of the United States are not to form any establishments upon the northwest coast of America, nor in the islands adjacent, to the north of 54° 40′ north latitude (*Article* 3).

3. For the term of ten years from the signature of the convention, the ships of both parties are permitted to frequent the interior seas, gulfs, harbors, and creeks upon the coast mentioned in the preceding article for the purpose of fishing and trading with the natives of the country (*Article* 4).

4. Spirituous liquors, fire-arms, and munitions of war are excepted from this commerce (*Article* 5).

The first article of the convention between Great Britain and Russia (1825) provides:

"ARTICLE I. It is agreed that the respective subjects of the "high contracting parties shall not be troubled or molested, in "any part of the ocean commonly called the Pacific ocean, either "in navigating the same, in fishing therein, or in landing at "such parts of the coast as shall not have been already occu-"pied, in order to trade with the natives, under the restric-"tions and conditions specified in the following articles."

The restrictions and conditions referred to in this article are as follows:

1. British subjects must not land at any place where there is a Russian establishment without permission of the Russian Governor or Commandant (*Article* 2).

2. No establishments are to be formed by either party within the limits assigned by the 3d and 4th articles to the possession of the others (*Article* 5).

3. English vessels, or those belonging to English subjects, may frequent "the inland seas, gulfs, havens and creeks on "the coast mentioned in article 3, for the purpose of fishing "and of trading with the natives" (*Article* 7).

4. The foregoing liberty of commerce shall not extend to trade in fire-arms or spirituous liquors with the natives of the country (*Article* 9).

While it is true that by the first article of each of these treaties, there is a stipulation that the subjects and citizens of the contracting parties are free to navigate the Pacific ocean, fish in its waters, land at such points on its coast as are not occupied, in order to trade with the natives, yet this stipulation rests upon express and distinct conditions which restrict its operation to the limits which I shall endeavor to point out.

These "restrictions and conditions" are intended to specifically define and qualify the meaning of the instrument taken

in its entirety; for by the very terms of the stipulation, and coupled with it, is the declaration that the acts permitted by it are to be performed "under the restrictions and conditions "of the following articles."

The restricting clause of the treaty of 1824, between Russia and the United States, is substantially equivalent, and is as follows: "Saving always the restrictions and conditions de- "termined by the following articles."

Now, if the succeeding articles which contain the "restric- "tions and conditions" prescribe the method by which the acts permitted by the first article are to be performed; or confine them to a particular locality or region of country; or limit their performance to a specified period of time; it must be conceded that the particular method, locality, and period thus designated were intended by the stipulation in the first article. To adopt a different rule of interpretation would convert a mortgage into a deed, and a penal bond into a contract to pay the penalty, without regard to forfeiture or performance.

Take for illustration the 5th article of the treaty (1825). This is one of the restricting articles referred to in the first article; it prohibits the sale of fire-arms and spirituous liquors to the natives of the country. Would it be claimed, that under the stipulation of the 1st article which permits trading with the natives in general terms, that such commerce is sanctioned by the treaty?

Again, by the first article our citizens are to be "neither "disturbed nor restrained, either in navigation or in fishing, or "in the power of resorting to the coasts, upon points which "may not already have been occupied, for the purpose of "trading with the natives;" but, by the second article they are not permitted "to resort to any point where there is a Rus- "sian establishment without the permission of the Governor "or Commander."

So, too, in regard to the 4th article, which provides: "It is "nevertheless understood that during a term of ten years,

"counting from the signature of the present convention, the "ships of both powers, or which belong to their citizens or "subjects respectively, may reciprocally frequent, without any "hindrance whatever, the interior seas, gulfs, harbors, and "creeks upon the coast mentioned in the preceding article, "for the purpose of fishing and trading with the natives of "the country."

Here is a limitation of time, and the period within which the acts stipulated in the first article are permitted is restricted to "a term of ten years."

Under this construction of the treaty, the privileges conferred by it, in reference to the northwest coast, ceased in April, 1834, and have not since been renewed; although urgently requested by this Government, it was peremptorily refused by Russia.

That the foregoing is the proper and settled construction of the treaty I shall endeavor to establish.

Where two or more apparently conflicting propositions are contained in the same instrument, they should be construed so as to give effect, if possible, to all; if this is not possible, then the later is preferred to the former, as the final conclusion of the maker of the instrument on the subject-matter in question.

But where the former proposition, in itself refers to the later, and adopts it, in that case, the later becomes a part of the former and governs it; thus reconciling the apparent conflict and giving effect to both.

Now, the apparent conflict between the first and fourth articles of the Convention of 1824, arises from the fact that the stipulations of the former are substantially repeated in the latter, but, by the latter, the operation of the stipulation is restricted to a specific period of duration. The first article contains a general assertion of the right of Russians and Americans to do certain acts, which Mr. Adams claimed were authorized by natural law, and Mr. Forsyth by the law of nations. Admitting that to be true, it was nevertheless competent for the United States to restrict or surrender them upon such considerations as seemed satisfactory to them.

In the same article that asserts this right, and coupled with that assertion, there is a proviso or stipulation prescribing the manner in which the right shall be exercised; the particular acts permitted by the first article are to be performed "under "the restrictions and conditions of the following articles," one of which, the 4th article, restricts that performance to the period of ten years from the signature of the convention.

By this construction, we reconcile the apparent conflict between the first and fourth articles, and give effect to both; while a different interpretation would destroy them both, because, if the stipulations of the first are not limited to ten years by the 4th, then the latter is surplusage and void; while the former being, as claimed, but the assertion of a natural right confers nothing, restricts nothing, and is without force or effect.

Mr. Dallas, in his dispatch to Secretary Forsyth, August 16, 1837, said: "My conviction, however, arising from the lan- "guage of the Russian precautionary record or protocol "(which Mr. Middleton rather avoided than rejected) is that "Count Neselrode will deem himself and Mr. Poletica to have "attained by this fourth article, through the use of other "words, the substance of the clause to which Mr. Middleton "objected, and that he will consider both Governments to "have buried all controversy about the rights incident to the "prior discovery of savage and unoccupied lands, and to have "consented that, at the expiration of ten years, the United "States should be esteemed to possess in full domain the "coast and islands to the south, and Russia the coast and "islands to the north, of 54° 40′ north latitude. He may ask, "and with some plausibility, with what other object the fourth "article was framed. It uses no phraseology tantamount to "'*establishments*' or 'settlements' or 'points already occu- "pied;' but protects from any hindrance for ten years only "the power to frequent the interior seas, gulfs, harbors, and "creeks upon the coast, for the purpose of fishing and trading "with the natives, a power already duly enunciated, *without*

"*limit of time*, for both countries by the first article; and, if "it was not intended mutually to yield the power in relation "to the sections divided by the parallel of latitude at the ex- "piration of the term, why disturb the operation of the first "article at all?"

In the case of the American brig *Loriot*, which sailed from the Sandwich islands Aug. 22, 1836, bound for the northwest coast to procure provisions and Indians for hunting sea otter, and anchored in Tuckessan harbor, latitude 54° 55′, at which point there was no Russian settlement, and was boarded by the officers of an armed brig of the Russian navy, by whom her captain was ordered to leave the dominions of Russia, and compelled to get under way and abandon her voyage; the United States protested and presented a claim for indemnity, which was peremptorily denied by the Russian government, on the ground that, by the expiration of the ten years' limit, of the operations of the first article, as expressed in article four, the right of the citizens of the United States to frequent the seas, gulfs, &c., north of 54° 40′ had ceased to exist.

In his note of February 23, 1838, Count Neselrode informed Mr. Dallas that:

"It is true, indeed, that the first article of the convention of "1824, to which the proprietors of the *Loriot* appeal, se- "cures to the citizens of the United States entire liberty of "navigation in the Pacific ocean, as well as the right of land- "ing without disturbance upon all points on the northwest "coast of America, not already occupied, and to trade with "the natives. *But this liberty of navigation* is subject to "certain conditions and restrictions, and one of these restric- "tions is that stipulated by the fourth article, which has "specially limited to the period of ten years the right on the "part of the citizens of the United States to frequent without "disturbance, the interior seas, the gulfs, harbors, and creeks, "north of the latitude of 54 degrees 40 minutes. Now this "period had expired more than two years before the *Loriot* "anchored in the harbor of Tuckessan."

In communicating to his government the refusal of Russia

" other party, freely where it is freely granted to such other " nation, on yielding the same compensation, when the grant " is conditional."

Upon this state of facts, the writer of the note above referred to concludes that, by the operation of the section just recited, the renewal by England and Russia of their treaty of 1825 revived the 4th article of the treaty of 1824 between Russia and the United States; and, therefore, that the said 4th article is still in force.

It is a fact worthy of notice that, from July, 1835, to April, 1838, the United States persistently urged the renewal of this article, and that the Russian government peremptorily refused.

I do not forget that by the hypothesis stated in the note I am considering, the 11th article of the treaty of 1832 did not take effect until the renewal of the English treaty of 1825 by the convention of 1843, and after the refusal of the Russian Cabinet to renew the 4th article; but I mention the fact of refusal, and the reasons for it as stated by Count Nesselrode, in order to rebut the presumption that the imperial government esteemed it to be the office of the 11th article to accomplish by indirection or implication that which it had so persistently refused to sanction.

The treaty of 1843, which revived the convention of 1825, was a treaty between Great Britain and Russia; the United States was not a party thereto, and, of course, could not be bound by its stipulations.

The stipulations of the treaty of 1825, which had expired and were revived by the treaty of 1843, were:

1. The privileges enumerated in the 7th article in reference to the frequenting the inland seas, gulfs, havens, &c., mentioned in article three.

2. That for the space of ten years the port of Sitka was to be open to British commerce.

Now, it will be observed that the 7th article of the British treaty (1825) and the 4th article of our treaty (1824) are

similar in their terms; their difference consists in the fact, that, by the 4th article, the stipulated privileges extend to the entire northwest coast of the Pacific ocean; while, by the 7th article, British subjects are restricted to "the coast mentioned "in article 3," which is the coast of the continent bordering on the Pacific ocean, between 54° 40′ north latitude and its intersection with the 141st parallel of west longitude; so that the privileges granted to Great Britain were not those to which the United States were entitled, and the renewal of the treaty of 1825 could not possibly revive the 4th article of the treaty of 1824.

If we concede that the renewal of the English treaty affected the 4th article at all, it could only renew to the United States the same privileges that it restored to England; which, as we have seen, refer only to a comparatively small section of the eastern coast of the Pacific ocean, more than a thousand miles remote from Behring Sea. Therefore, the question as to the jurisdiction of the United States over "our part of Behring "Sea," as the eastern half of that sea is described by Mr. Sumner in the speech referred to in the pamphlet, would not be affected one way or the other.

IV.—The Seventh Article.

The remaining question is in respect to the present right of British subjects to frequent the inland seas, gulfs, havens, and creeks of the northwest coast by virtue of the provisions of the treaty of 1825 between England and Russia.

1. The 7th article of that treaty provides:

"It is also understood that for the space of ten years from "the signature of the present convention the vessels of the "two powers, or those belonging to their respective subjects, "shall mutually be at liberty to frequent, without any hin- "drance whatever, all the inland seas, the gulfs, havens, and "creeks on the coast mentioned in article 3 for the purpose "of fishing and of trading with the natives."

It will be observed that this article restricts the operation of the first article to the period of ten years, precisely as the 4th article of the treaty of 1824 restricts the first article of that treaty.

By the 12th and 20th articles of the treaty of 1843 between England and Russia, the treaty of 1825 was renewed for a period of ten years, "and further, until the expiration of "twelve months after either of the high contracting parties "shall have given notice to the other of its intention to put "an end thereto."

Again, by the convention of January 12, 1859, there was a similar renewal, with the same right reserved to either party, to put an end to the treaty after twelve months' notice.

In 1867, the territory was ceded to the United States.

By the sixth article of the treaty of cession it is declared:

"The cession of territory and dominion herein made is "hereby declared to be free and unencumbered by any reser- "vations, *privileges*, franchises, grants or possessions, by any "associated companies, whether corporate or incorporate, "Russian or any other, *or by any other parties*, except merely "private individual property holders."

The question now arises: "Did the stipulations of the "revived treaty of 1825 between Great Britain and Russia "survive the transfer of the territory by Russia to the "United States?"

Russia, having parted with her title to the territory, had deprived herself of the right to give the notice required by the renewal treaty; and the United States, not being a party to the treaty, was not required to give such notice; but I am inclined to the opinion that the transfer of title by Russia constituted a notice within the meaning of the renewal treaties; and, if so, the privileges conferred on British subjects by the treaty of 1825 ceased to exist at the expiration of twelve months from the treaty of cession.

I am the more inclined to this view for the reason that the

privileges conferred by the treaty were reciprocally given to the subjects of Russia and Great Britain. It was a joint right, common to the subjects of both powers; and when Russia divested herself of her title and interest in the territory in which these privileges were to be exercised, and it became impossible for her, for that reason, to continue to discharge her treaty obligations, it is difficult to see how England, alone, could maintain the integrity of the treaty, or enforce the stipulations against a power who was not a party to the treaty, and who had assumed no liability or obligation in reference to it. And, whether the termination of the treaty were brought about by the transfer of the territory by which it became impossible for Russia to continue it, or by means of a formal notice that she would not continue it, the result would be the same.

2. The seventh article of the English treaty (1825) not only restricts the operation of the first article to the space of ten years, but it also restricts the privileges of British subjects to the section of coast mentioned in article three (which article is omitted from the pamphlet).

Articles 3 and 4 define the boundary line running north and south between the British and Russian possessions.

"Commencing from the southernmost point of the island "called Prince of Wales Island" (says the 3d article), "which "point lies in the parallel of 54 degrees 40 minutes north "latitude, and between the 131st and the 133d degree of "west longitude" (meridian of Greenwich), "the said line "shall ascend to the north along the channel called Portland "channel, as far as the point of the continent where it strikes "the 56th degree of north latitude; from this last-mentioned "point the line of demarcation shall follow the summit of the "mountains situated parallel to the coast as far as the point of "intersection of the 141st degree of west longitude (of the "same meridian); and, finally, from the said point of intersec- "tion, the said meridian line of the 141st degree, in its pro- "longation as far as the frozen ocean."

"ARTICLE IV. With reference to the line of demarcation "laid down in the preceding article, it is understood—

"1st. That the island called Prince of Wales Island shall "belong wholly to Russia.

"2d. That whenever the summit of the mountains, which "extend in a direction parallel to the coast from the 56th de- "gree of north latitude to the point of intersection of the "141st degree of west longitude shall prove to be at the dis- "tance of more than ten marine leagues from the ocean, the "limit between the British possessions and the line of coast "which is to belong to Russia as above mentioned shall be "formed by a line parallel to the winding of the coast, and "which shall never exceed the distance of ten marine leagues "therefrom."

It is to the above-mentioned coast, therefore, that the privileges enumerated in the seventh section apply, to-wit: beginning at 54° 40′ north latitude and ending at the 141st degree of west longitude; so that, whether the treaty of 1825 remains in force or not, its provisions are restricted to the section of coast above mentioned, and have no reference to any other, and, of course, bear no relation to the general question as to the jurisdiction of the United States over Behring Sea.

Furthermore, an examination of this treaty will disclose the fact, that the claim of Russian dominion westward of the 141st degree of west longitude was not referred to nor questioned. On the eastern coast of the North Pacific ocean, Russia relinquished her claim to that section between the 51st parallel and 54° 40′ north latitude. There was no question as to Russia's right to the Alaska peninsula or the Aleutian islands south of 54° 40′. The convention deals with subjects pertaining to the section of coast I have mentioned, and to those only.

By the 5th article it is provided that neither party shall make settlements on the coast or on the border of the continent within the territory assigned to the other, by the boundary laid down in articles three and four.

By the 6th article British subjects are permitted to navigate the rivers and streams, which, in their course towards the Pacific ocean, may cross this particular section of the coast;

and, by article 8, the port of Sitka is opened to British commerce for the space of ten years, and, by the section we are considering, the privileges it enumerates are restricted to the same locality, and there is nowhere in the treaty any reference to any locality which is not embraced in this line of coast between the 51st parallel of north latitude and Mount St. Elias.

V.—The Position of the Treasury Department.

On page 124 of the pamphlet there is the following statement:

"The following correspondence shows the position assumed "in 1872 by the Treasury Department in relation to the ex- "tent of jurisdiction of the United States in Alaskan waters."

Upon a careful reading of this correspondence it will be plainly manifest, that both the inquiry and the answer bore reference, not to the territorial waters of the United States, but to the high seas beyond our southern boundary as fixed by the treaty of cession.

The route of the fur-seals to their homes in Alaska traverses the North Pacific ocean, and enters Behring Sea through the channels which separate the Aleutian Islands; and the suggestion of Collector Phelps raised the question as to the right of the United States to intercept marauding expeditions from Honolulu and elsewhere *en route* for Ounimak Pass, and other straits, leading from the North Pacific ocean into Behring Sea; and it was to that question that the attention of the Secretary was invited, for, when we consider that the extent of our own territorial jurisdiction over Alaska and its waters had been fixed and determined by specific boundary lines by the treaty of purchase and that Congress had extended the laws of the United States over all the territory included within that boundary, we could scarcely presume that an executive or administrative officer would question, or his superior deny, the

right of his government to exercise the power expressly conferred by act of Congress.

The question presented by the Phelps letter, therefore, was not whether the Secretary had power to employ revenue cutters to protect seal life in Behring Sea—for that power was undisputed, and up to the present day no officer or agent of any department of the government has questioned it; on the other hand it has been expressly affirmed by the Secretary of the Treasury, as I will presently show.

The question presented to Secretary Boutwell was, whether or not the Secretary of the Treasury could send revenue cutters to Ounimak Pass, to prevent seal-killing by foreigners and others at that point, and at the narrow straits separating certain Alentian islands.

The fact that the President of the United States and the Senate had determined the boundary of Alaska, and that Congress had extended the laws of the United States over said territory, and had prohibited the killing of fur-seals "within "the Territory of Alaska or the waters thereof" (except by authorized persons on the Pribolov islands), left no discretion as to the right and duty of the Secretary to protect seal life in Alaska, by every means and at all times; and it would be unjust to assume that Secretary Boutwell intended to defy an act of Congress, destroy the seal rookeries and the millions of revenue they yield, change the boundary line of the United States, and surrender hundreds of miles of territory for which Congress had appropriated and expended the public money.

I assume, therefore, that neither he nor Collector Phelps, in this correspondence, had any reference to the interior of Alaska or its waters, so far as related to the jurisdiction of the United States. The object of Collector Phelps was to prevent the marauding expeditions from killing fur-seals before they entered Behring Sea, viz., at Ounimak Pass.

Secretary Boutwell, in considering that subject, replied that he had learned that the seals did not approach these passes in droves, but scattered over "a large region of water;" he then

adds that he "does not see that the United States would have "the jurisdiction or power to drive off parties *going up there* "for that purpose, unless they made such attempt within a ma- "rine league of the shore."

It seems clear, therefore, that all that Secretary Bontwell intended to decide, and all that he did decide was, that our revenue cutters could not intercept or drive off marauding parties so long as they remained in the North Pacific ocean, outside of the three-mile limit. His language was: "I do not see "that the United States would have the jurisdiction or power to "drive off parties going up there" (that is, parties going up to Ounimak Pass through the North Pacific ocean), for that purpose "unless they made such attempt within a marine league "of the shore."

The question of jurisdiction within the treaty boundary, was not presented to Secretary Bontwell by this correspondence, and was not decided. But later on, that question came before the Treasury Department, on the application of D. A. D'Ancona, of San Francisco, California in 1881.

In reply, dated March 12, 1881, the Department said:

"The law prohibits the killing of any fur-bearing animals, "except as otherwise therein provided, within the limits of "Alaska Territory, or the waters thereof, and also prohibits "the killing of any fur-seals on the islands of St. Paul and "St. George, or in the waters adjacent thereto, except during "certain months.

"You inquire in regard to the interpretation of the terms "'waters thereof' and 'waters adjacent thereto,' as used in "the law, and how far the jurisdiction of the United States is "to be understood as extending.

"Presuming your inquiry to relate more especially to the "waters of Western Alaska, you are informed that the treaty "with Russia of March 30, 1867, by which the Territory of "Alaska was ceded to the United States, defines the boundary "of the territory so ceded. This treaty is found on pages "671 to 673 of the volume of treaties of the Revised Statutes. "It will be seen, therefore, that the limit of the cession ex- "tends from a line starting from the Arctic ocean and run-

" ning through Behring's Strait to the north of St. Lawrence
" islands.

" The line runs thence in a southwesterly direction, so as to
" pass midway between the island of Atton and Copper island
" of the Kormmandorski conplet or gronp in the North Pacific
" ocean to meridian of 173 degrees west longitude. All the
" waters within that boundary to the western end of the Aleu-
" tian Archipelago and chain of islands are considered as com-
" prised within the waters of Alaska Territory.

" All the penalties prescribed by law against the killing of
" fur-bearing animals would therefore attach against any viola-
" tion of law within the limits before described.

" Very respectfully,

" H. F. FRENCH,

" *Acting Secretary.*"

On the 16th day of March, 1886, the following communication was addressed to the collector of customs at San Francisco:

" TREASURY DEPARTMENT, *March* 16, 1886.

" COLLECTOR OF CUSTOMS,

" *San Francisco.*

" SIR: I transmit herewith for your information a copy of
" a letter addressed by the Department on March 12, 1881,
" to D. A. D'Ancona, concerning the jnrisdiction of the
" United States in the waters of the Territory of Alaska and
" the prevention of the killing of fur-seals and other fur-bearing
" animals within such areas, as prescribed by chapter 3, title
" 23 of the Revised Statutes. The attention of your predeces-
" sor in office was called to this subject on April 4, 1881. This
" communication is addressed to you, inasmuch as it is under-
" stood that certain parties at your port contemplate the fitting
" ont of expeditions to kill fur-seals in these waters. You are
" requested to give dne publicity to such letters in order that
" such parties may be informed of the construction placed by
" this Department upon the provision of law referred to.

" Respectfully yours,

" D. MANNING,

" *Secretary.*"

While the above decisions of the Treasnry Department are not referred to in the " Papers relating to Behring Sea Fish-

eries," compiled by the State Department, I deem it proper to cite them in support of my construction of the Boutwell-Phelps correspondence; for if Acting-Secretary French and Secretary Manning had construed the Boutwell letter as a decision adverse to the claim of the United States to exclusive dominion over Behring Sea, it is not to be supposed that they would reverse that decision without referring to it.

Since writing the foregoing my views in reference to the interpretation of the Boutwell letter have been confirmed by the following correspondence:

"WASHINGTON, D. C., *January* 16, 1888.

"Hon. GEO. S. BOUTWELL,

"*Washington, D. C.*

"SIR: In a pamphlet recently issued by the Department of "State, entitled 'Papers relating to Behring Sea Fisheries,' ap- "pears a letter from the Collector of Customs of San Francisco, "Mr. Phelps, and a reply thereto by yourself, while Secretary of "the Treasury in 1872. I am advised that your letter is relied "on by the Dominion government, and quoted in its brief as "a decision of the Treasury Department adverse to the claim "of exclusive jurisdiction of the United States over Behring "Sea, and a note in the pamphlet of the Department of State, "indicates that Mr. Bayard is inclined to the same view."

"As a citizen of New England and on behalf of friends resi- "dent there who have large interests dependent on a proper "settlement of the various questions relating to the seal fisheries, "may I ask you at your early convenience to express to me in "writing your understanding of the proper meaning to be at- "tached to that letter.

"Respectfully yours,

"W. W. EATON."

"WASHINGTON, *January* 18, 1888.

"SIR: Since the receipt of your letter of the 16th instant I "have examined with care the letter addressed to me as Secre- "tary of the Treasury by T. G. Phelps, Esquire, then Collector "of Customs at the port of San Francisco, dated March 25, "1872, and also my official reply thereto, dated April 19, 1872, "in relation to the purpose of certain parties to capture fur-

" seal on their annual migration to the islands of St. Paul and St. " George through the Ounimak Pass and through the neighbor- " ing approaches to the islands. Upon the examination of " the correspondence my recollection is in a degree refreshed " and my knowledge of the circumstances revived.

" The fourth sentence of Mr. Phelps' letter appears to pro- " ceed upon the idea that it was the purpose of the hunters, as " their purpose was then understood by him, to take the seals " upon the Pacific ocean side of the Aleutian range of islands " and near the passes mentioned and through which the animals " were destined to move; and such was the view taken by me " and on which my reply was based.

" Nor can I now see that there is ground for any other reason- " able construction of the correspondence.

" Mr. Phelps appears to have apprehended a diversion of the " seals from the Ounimak Pass and the narrow straits near that " pass, and his suggestion of a remedy was limited to the same " field. Therefore, neither upon my recollection of facts as " they were understood by me in 1872, nor upon the present " reading of the correspondence, do I admit the claim of Great " Britain that my letter is an admission of any right adverse to " the claims of the United States in the waters known as " Behring's Sea. My letter had reference solely to the waters of " the Pacific ocean south of the Aleutian Islands.

" Very respectfully,

" GEORGE S. BOUTWELL.

" To the Honorable W. W. Eaton,

" *Washington, D. C.*"

VI.—The Yukon River.

On page 127 of the pamphlet, the following is stated:

" It is to be observed that under article six of the conven- " tion of 1825, between Great Britain and Russia (*supra*, p. " 64), British subjects have the right of access to, and free " navigation of, the Yukon river."

On this question the following is quoted from Mr. Sumner's speech, in the Senate, April 9, 1867.

The sixth article of the treaty referred to is as follows:

"It is understood that the subjects of His Britannic Majesty, "from whatever quarter they may arrive, whether from the "ocean or from the interior of the continent, shall forever "enjoy the right of navigating freely, and without any hind- "rance whatever, all the rivers and streams which, in their "course towards the Pacific ocean, may cross the line of "demarcation upon the line of coast described in article three "of the present convention."

I have already had occasion to point out "the line of coast "described in article three." Beginning at 54° 40′ on the border of the continent, it extends to and ends at its intersection with the 141st degree of west longitude, a few miles directly south of Mount St. Elias.

The Yukon river does not "cross the line of demarcation "upon this 'line of coast;'" it has its source in the British possessions north of British Columbia, and north of the Pacific ocean, and proceeds in a northerly direction, towards the Arctic ocean, until it reaches Fort Selkirk, in latitude 63°, thence northwesterly, to Fort Yukon, at the Arctic circle; from there it bears in a southwesterly direction and empties into Norton Sound, an estuary of Behring Sea, and thence into the Arctic ocean.

It crosses the "line of demarcation" at Fort Reliance, nearly five degrees north of the Pacific ocean, in a course that would strike the Arctic ocean at 152° west longitude. Instead of crossing the boundary "upon the line of coast described in "article three, it pursues an entirely different direction, and "crosses 'the line of demarcation,' the boundary line dividing "the main land, at a point nearly midway between the Pacific "and Frozen oceans." Therefore, not being a river or stream, which in its course towards the Pacific ocean crosses the line of demarcation upon the line of coast described in article three of the treaty of 1825, the Yukon river is not open to free navigation by British subjects.

The remarks of Mr. Sumner, cited in the pamphlet, do not controvert this conclusion.

Conclusion.

1. The treaty of 1824, between Russia and the United States, and the treaties of 1825 and 1843, between Great Britain and Russia, are an admission of the exclusive right of Russia to the control of these waters and coasts to which the treaties relate; and that it was then legally competent for Russia by virtue of the facts of discovery, and of long and undisputed possession and jurisdiction, to grant or to withhold the privileges conceded by these treaties.

2. That the grants made by those treaties are to be construed strictly against the grantees, coupled with the doctrine, that all rights and privileges not specifically granted are retained by the grantors.

In conclusion, I respectfully submit that the correspondence, "papers and extracts," compiled by the State Department, sustain to the fullest extent the right of exclusive jurisdiction in the United States over the waters of Alaska, as decided by the Treasury Department, and by the U. S. district court for that Territory—extending westward to the limit fixed by the treaty of cession, or, as it is designated by the Imperial Regulations (see pamphlet, p. 106), the "sea boundary line."

With the exception of the right to navigate "the great "ocean, commonly called the Pacific ocean," the operation of the treaty stipulations between Great Britain and Russia ceased at the 141st degree of west longitude; and instead of contesting the assertion of absolute dominion by Russia over all the territory described in the imperial ukase of 1821, her right was tacitly conceded, saving only as to the section of coast on the north Pacific between latitude 51° and 54° 40'.

The right to navigate the Pacific ocean belonged to each of the powers by the law of nations; but "Behring Sea" was not and never has been "commonly called" the Pacific ocean, but is, and always from the time of its discovery has been, distinctly identified and regarded as a separate body of water, as distinct and as individual as the Mediterranean or the Baltic. As such

it is laid down in all the maps and charts; in shipping articles, and the instructions to naval commanders and officers of the revenue and merchant marine, and can no more be regarded in a proper or legal sense as the Pacific ocean than is the Gulf of Mexico to be considered the Atlantic ocean.

In closing this communication I beg to submit that, if it be true, as I maintain it is true, that the protest, negotiation and treaties relate to the section of the coast of the North Pacific ocean east of the 141st degree of west longitude, it must be equally true that the entire territory, both land and water, west of that meridian remains precisely in respect to title and dominion as though there had been no protest, negotiation or treaty, saving only, that by the transfer of Alaska, the United States acquired Russia's title to that portion of the Russian possessions. So that, in 1867, Russia's dominion as proclaimed in the Ukase of 1821 over all the region now in question, was absolute and undisputed.

Respectfully submitted.

N. L. JEFFRIES.

NOTE.—In reference to the destruction of seal life in Alaskan waters by English subjects and others, I herewith submit an extract from the Report of Thomas Monat, Inspector of Fisheries for British Colum bia for the year 1887 (Sessional Papers, vol. 15, No. 16, p. 68):

"There were killed this year, so far, from 40,000 to 50,000 "fur-seals, which have been taken by schooners from San "Francisco and Victoria. The greater number were killed in "Behring Sea, and were nearly all cows or female seals. This "enormous catch, with the increase which will take place when "other vessels, fitting up every year, are ready, will, I am "afraid, soon deplete our fur-seal fishery, and it is a great pity "that such a valuable industry could not in some way be pro-"tected." * * *

Over

WASHINGTON, D. C., *February* 22, 1888.

The Honorable THOS. F. BAYARD,
Secretary of State.

SIR: In the event that the English or Dominion government should attempt to justify the invasion of Behring Sea by English or Canadian seal hunters, in violation of the laws of the United States and the regulations of the Treasury Department, by virtue of the privileges stipulated in the first article of the treaty of 1825, between England and Russia, I beg to submit the following for your consideration:

I.

The contention between England and Russia and between the United States and Russia had reference to that section of the North Pacific coast situate between parallel 51° N. latitude and the 141st meridian.

On the 51st parallel the ocean, according to Mr. Adams, is four thousand miles wide, and the claim of *mare clausum* was for that reason repelled by Mr. Adams. The right of trading on that coast was claimed by the United States and England and denied by Russia, and to settle this contention was the object of the conventions of 1824 and 1825.

Russia's jurisdiction as far south as the 55th parallel, however, was conceded, and her title to the chain of Aleutian islands was not then and never has been questioned, notwithstanding the fact that this chain of islands is situated far south of the 55th parallel.

There had been no conflict or controversy in reference to any part of the Russian possessions west of the 141st meridian; and in the treaties of 1824 and 1825 there is no reference to any portion of the territory claimed by Russia, west of said meridian or north of Mount St. Elias; so that, after these treaties had been ratified and the contention adjusted, the juris-

diction of Russia over Behring Sea, its islands and coasts on both continents, remained undisputed and unquestioned.

In the first article of the treaty of 1825, between England and Russia, there is a stipulation which permits English subjects to navigate any part of the ocean, commonly called the Pacific ocean, fish in its waters, land at such parts of the coast as shall not have been occupied, in order to trade with the natives, under the conditions and restrictions of the succeeding articles of the treaty. The effect of these "conditions and restrictions" I have already pointed out in my former "Letter to the Secretary of State."

Before considering the question as to what was intended by the phrase "any part of the ocean commonly called the Pacific "ocean," I shall proceed to point out the privileges conferred as expressed in the first article, without reference to the "conditions and restrictions" of the following articles which limit and govern them.

1*st*. English subjects are permitted to navigate said waters.

2*d*. English subjects may fish in said waters; and

3*d*. They may land at such parts of the coast as shall not already have been occupied, in order to trade with the natives.

These are the privileges conferred by the 1st article without reference to the "conditions and restrictions" which control and limit their exercise, and to which I have already referred, and heretofore fully discussed.

Now conceding for the sake of illustration, that these privileges were intended to be extended to Behring Sea, the question naturally presents itself, "do these privileges confer upon English subjects the right to kill fur-seal in Behring Sea?"

Bearing in mind that it was legally competent for Russia, by virtue of the facts of discovery and of long and undisputed possession and jurisdiction, to grant or withhold these privileges, and that the grant is to be construed strictly against the grantees, coupled with the doctrine that all rights and privileges not specifically granted are retained by the grantors.

1st. As to the privilege of *Navigation.* It will not be claimed that the right to navigate Behring Sea included the right to kill fur-seal, or to engage in fishing for the latter is excluded from the right of navigation by specifically granting the right to *fish* as a separate and distinct privilege.

2d. The right of *Fishing.*

This clause of the stipulation conceded to British subjects the right to engage in fishing, but did not confer the right to take fur-bearing animals either in the water, on the islands, or on the coast.

A fur-seal is not a fish, and capturing or killing fur-seals is not fishing; and, therefore, the privilege of fishing would not include the right to take fur-seal, and, conceding for the sake of argument the right of British subjects to navigate and fish in Behring Sea by virtue of the article I am considering, there is no authority, expressed or implied, to take fur-seal.

When this treaty article was framed, there were millions of fur-seals whose homes were the seal rookeries of Behring Sea. Born on Russian soil and protected by the Russian government, they were regarded as Russian property, and the right to take fur-seals for their skins was, by the Government, conferred upon the Russian-American Company on the payment of a royalty into the Imperial treasury.

All other seal rookeries of the world had been destroyed by indiscriminate slaughter, until Russia, by a wise foresight, adopted measures for the protection and preservation of these animals, not only on the islands but in the waters of Behring Sea.

Now it will not be presumed, that under a stipulation permitting British subjects to fish in Behring Sea, that it was intended that British subjects were to be permitted to destroy seal life in Behring Sea which Russia was endeavoring to preserve, and for which purpose she had placed at the disposal of the Russian American Company her army and navy "to protect them with all their power from loss or injury, and to render them, upon application of the Company's authorities, all necessary aid, assistance, and protection" (see charter Dec. 27, 1799, last section).

II.

But I do not admit that the privileges conferred by the first article of the English treaty were extended to the waters of Behring Sea. If it be asserted that Behring Sea is "a part of the Pacific ocean," I answer, it is not a part that is "commonly called the Pacific ocean," and it is only to such parts of that ocean that the privileges are extended.

The language of the treaty is, "in any part of the ocean "commonly called the Pacific ocean."

Now, it seems to me, that if it were intended that this definition embraced the entire Pacific ocean, and also included Behring Sea, the restricting words "commonly called" would have been omitted.

If the privileges were to be exercised in the Pacific ocean and not restricted to such parts as are commonly called the Pacific ocean, the framers of the clause would have written the words "Pacific ocean," which have a fixed and well-known signification.

But the framers of the treaty, for reasons which will readily suggest themselves, and which I will presently notice, saw fit to restrict the limits, within which the privileges were to be exercised, to such parts of the ocean as were *commonly called* the Pacific ocean, thereby interdicting their exercise in any of the waters which might be claimed to be a part of that ocean, unless such waters were commonly called the Pacific ocean.

They knew that traders and fishermen would have no accurate knowledge as to the actual boundary of the Pacific ocean in relation to connecting bodies of water, such as the Yellow Sea, the Sea of Okhotsk, and Behring Sea; but there could be no excuse for trespassing across the boundary of what is commonly called the Pacific ocean, within the limits of which, and not beyond, these privileges were to be exercised.

Surely there was some reason for restriction or limitation, or the words "commonly called" would have been omitted. The framers of the treaty evidently assumed that, there were waters which were commonly called the Pacific ocean, and

others that were not so called, waters which were connected with that ocean, and which might, or might not, be a part of it, but which were commonly called by a different name. If this were not so, for what purpose were the words "commonly "called," used at all?

Take, for example, the Yellow Sea, the Sea of Japan, the Sea of Okhotsk, and Behring Sea, all these connect with the Pacific ocean, and whether or not they are parts of that ocean, they are not commonly called the Pacific ocean, but are "called" by their own proper names, and are mapped and laid down in the charts as separate and distinct bodies of water under their individual names.

It is true that the phrase "any part of the ocean" is used, but at the same time this phraseology limits it to "some part" of that ocean, and not only that, but to a part that is "com- "monly called the Pacific ocean," and cannot by any rule of interpretation extend its application to other bodies of water, which, by common acceptation, have a distinct individuality, characteristics, and designation of their own.

That the words "commonly called" were used for a purpose is apparent from the fact that they are adhered to and applied by its framers in the first article of the treaty of 1824 between Russia and the United States. In that case the phraseology is: "In any part of the great ocean, commonly "called the Pacific ocean, or South sea." Is it not, therefore, evident that in both instances the words were used to limit the exercise of the privileges to what was by general acceptation regarded as the Pacific ocean proper, and about which there was no question or doubt as to whether it was the Pacific ocean, or something else?

It is worthy of notice that the phrase "commonly called "the Pacific ocean," was suggested by Russia (and accepted by the United States) in the Projet submitted by Count Nesselrode, dated March 22, at the formation of the treaty of 1824, and for reasons that are now clearly apparent.

In defining the western boundary of the ceded territory by the treaty of 1867 between the United States and Russia, it is

stated: "the line proceeds in a course nearly southwest, *through* " Behring Straits and *Behring Sea*," * * * " so as to pass " midway between the islands of Attou and the Copper island " of the Kormandorski couplet, or group, *in the North Pacific* " *ocean.*"

From this it is plain that Russia in 1867 distinguished Behring Sea from the Pacific ocean, just as she had by the treaty of 1825 restricted the privileges of English subjects to the waters "commonly called" the Pacific ocean, or the Pacific ocean proper.

This distinction was recognized by the United States—they being a party to said treaty—and the declaration that the boundary line "passes through Behring Sea into the North " Pacific ocean" is the declaration of Russia and the United States. How is that declaration to be construed if, in a treaty sense, Behring Sea is the Pacific ocean; and if Behring Sea is a myth, what has become of our western boundary?

I understand that in the claim of the British and Dominion governments it is alleged that their vessels were seized by our revenue cutters—not in the Pacific ocean but *in Behring Sea*—more than three miles from the shore, and that the same was set up as a defence in the United States district court at Sitka.

In 1799, the Emperor of Russia conferred upon the Russian-American Company the exclusive right and control of his Russian-American possessions for a period of twenty years; at its expiration it was renewed for a like period. For this privilege a royalty was paid by said Company to the Russian government, which, in return, guaranteed to the Company complete protection. Foreign traders and navigators were excluded from the Russian dominions by imperial decrees.

The jurisdiction of the Company originally extended to the 55th parallel of north latitude on the coast of North America and to latitude 45° 50′ on the continent of Asia.

In 1821, on the application of the Company and for its better protection against foreign traders, the Emperor Alexander issued the famous Ukase with which we are all familiar

and in which, in addition to prescribing the penalties for its violation by foreign traders and navigators, he extended the jurisdiction of Russia to the parallel of 51° north latitude. Then followed the treaties of 1824 and 1825.

An examination of those treaties and the correspondence which preceded them—the correspondence between Russia and the United States with reference to the renewal of the 4th article of the American treaty—the facts in the case of the American brig *Loriot*, seized in 1836 on the northwest coast lat. 54° 55′, and the decision of the imperial cabinet in that case; the restrictions and conditions imposed upon such privileges and concessions as Russia chose to confer by the treaties of 1824 and 1825, will disclose the fidelity with which Russia protected her rights and the chartered privileges of the Russian-American Company in her Russian-American possessions. And when we reflect that the contentions and the treaties which adjusted them had reference to a comparatively small section of the North Pacific coast, and consider how vigorously the Russian government asserted and maintained its rights and the rights of the Company it had agreed to protect, and that the privileges conferred by the treaties, with a few unimportant exceptions, expired in the space of ten years, it would require more than a strained implication, or a forced construction of a treaty clause, to establish the fact that Russia, regardless of her fur-seal interest and the rights of the Company she was pledged to protect, had opened the waters, islands, and coasts of Behring Sea on both the Asiatic and American continent to foreign navigators and traders, with full permission to navigate the waters, to engage in fishing, and to land at such parts of the coast as had not already been occupied in order to trade with the natives.

Respectfully submitted.

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