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British Parliamentary Papers

CORRESPONDENCE AND OTHER PAPERS RELATING TO THE BOUNDARY BETWEEN THE BRITISH POSSESSIONS IN NORTH AMERICA AND THE UNITED STATES OF AMERICA WITH APPENDICES

1857-94

Colonies

Canadian Boundary

3

IRISH UNIVERSITY PRESS

SHANNON · IRELAND

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CANADA.

RETURN to an Address of the Honourable The House of Commons, dated 19 February 1857;—*for*,

"EXTRACT of so much of the ROYAL COMMISSION of the Governor-General of *Canada* as defines the Boundaries of that Province."

Colonial Office, 12 March 1857. H. LABOUCHERE.

SCHEDULE.

No. 1.—Extract from Instructions to James Murray, Esq., as Governor of Quebec, dated 7th December 1763.

No. 2.—Extract from Letters Patent appointing the Earl of Elgin and Kincardine to be Captain-General and Governor-in-Chief of Canada, dated 1st October 1846.

No. 3.—Extract from Commission appointing Sir Edmund Head, Bart., to be Captain-General and Governor-in-Chief of Canada, dated 20th September 1854.

No. 1.

EXTRACT from Royal Instructions to *James Murray*, Esq., as Governor of *Quebec*; dated 7th December 1763.

"WITH these Our instructions you will receive Our Commission, under Our Great Seal of Great Britain, constituting you Our Captain-General and Governor-in-Chief in and over Our province of Quebec, in America, bounded on the Labrador coast by the River St. John, and from thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nipissin, from whence the said line, crossing the River St. Lawrence and the Lake Champlain, in 45 degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the north coast of the Baye des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosieres, and from thence, crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River of St. John."

No. 2.

EXTRACT from Letters Patent, appointing the Earl of *Elgin* and *Kincardine* to be Captain-General and Governor-in-Chief of *Canada*; dated 1st October 1846.

"And further know you that We, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Earl of Elgin and Kincardine, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you, the said Earl of Elgin and Kincardine to be, during

during Our pleasure, Our Captain-General and Governor-in-Chief in and over Our said province of Canada, comprising Upper Canada and Lower Canada; the former being bounded on the east by the line dividing it from Lower Canada, commencing at a stone boundary on the north bank of the Lake St. Francis, at the Cove west of the Point au Baudet, in the limit between the township of Lancaster and the Seigneurie of New Longeuil, running along the said limit, in the direction of north, 34 degrees west, to the westernmost angle of the said Seigneurie of New Longeuil, thence along the north-western boundary of the Seigneurie of Vaudreuil, running north 25 degrees east, until it strikes the Ottawas River, to ascend the said river into the Lake Temiscaming, by a line drawn due north from the head of the said lake, until it reaches the shore of Hudson's Bay; and being bounded on the south, beginning at the said stone boundary between Lancaster and Longeuil, by the Lake St. Francis, the River St. Lawrence, the Lake of the Thousand Islands, Lake Ontario, the River Niagara, Lake Erie, and along the middle of that lake; on the west by the channel of Detroit, Lake St. Clair, up the River St. Clair, Lake Huron, the west shore of Drummond Island, that of St. Joseph and Sugar Island, thence into Lake Superior. The said province of Lower Canada being bounded by the adjacent province of Upper Canada, and the boundary line between the said two provinces, commencing at a stone boundary on the north bank of the Lake St. Francis, at the cove west of the Point au Baudet, in the limit between the township of Lancaster and the Seigneurie of New Longeuil, running along the said limit in the direction of north, 34 degrees west, to the westernmost angle of the said Seigneurie of New Longeuil, thence along the north-western boundary of the Seigneurie of Vaudreuil, running north 25 degrees east, until it strikes the Ottawas River, to ascend the said river into the Lake Temiscaming, and which said province of Lower Canada is also bounded by a line drawn due north from the head of the said lake until it strikes the shore of Hudson's Bay."

— No. 3. —

EXTRACT from Commission appointing Sir *Edmund Walker Head*, Baronet, to be Captain-General and Governor-in-Chief of the Province of *Canada*.

LETTERS PATENT, dated 20th September 1854.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to Our trusty and well-beloved Sir Edmund Walker Head, Baronet, greeting:

1. Whereas We did, by certain letters patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster, the first day of October, one thousand eight hundred and forty-six, in the tenth year of Our reign, constitute and appoint Our right trusty and right well-beloved cousin, James, Earl of Elgin and Kincardine, Knight of the Most Ancient and Most Noble Order of the Thistle, to be, during Our pleasure, Our Captain-General and Governor-in-Chief in and over Our province of Canada, as by the said recited letters patent, relation being thereunto had, may more fully and at large appear: Now know you that We have revoked and determined, and by these presents do revoke and determine the said recited letters patent, and every clause, article, and thing therein contained: And further know you that We, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Sir Edmund Walker Head, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and do by these presents constitute and appoint you, the said Sir Edmund Walker Head, to be, during Our pleasure, our Captain-General and Governor-in-Chief in and over Our said province of Canada.

2. And

2. And We do hereby authorise, empower, require, and command you, the said Sir Edmund Walker Head, in due manner to do and execute all things that shall belong to your said command, and the trust We have reposed in you, according to the several powers, provisions, and directions granted or appointed you by virtue of this Our Commission, and of a certain Act of Parliament made and passed in the fourth year of our reign, intituled "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada," and according to such instructions as are herewith given to you, or which may from time to time hereafter be given to you in respect of the said province of Canada under Our sign-manual and signet, or by Our order in Our Privy Council, or by Us through one of Our principal Secretaries of State, and according to such laws as are or shall be in force within Our former provinces of Upper and Lower Canada, or in Our province of Canada.

CANADA.

EXTRACT of so much of the ROYAL COMMISSION of the Governor-General of *Canada* as defines the Boundaries of that Province.

(*Mr. Labouchere.*)

Ordered, by The House of Commons, *to be Printed*,
13 *March* 1857.

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CANADA

RETURN to an Address of the Honourable The House of Commons, dated 18 July 1864;—*for*,

"COPY of all CORRESPONDENCE which has taken place between the Imperial and Canadian Governments respecting the NORTH-WESTERN BOUNDARY of CANADA; and of any MEMORIALS forwarded to the Colonial Office from the Inhabitants of the Red River Settlement."

[*So far as the same can be complied with.*]

Colonial Office, 26 July 1864.

FREDERIC ROGERS.

— No. 1. —

(No. 33.)

No. 1.
Right Hon. E. Cardwell, M.P., to Governor General Viscount Monck.

COPY of a DESPATCH from the Right Hon. *Edward Cardwell*, M.P., to Governor General Viscount *Monck*.

My Lord, Downing-street, 1 July 1864.

I HAVE had under my consideration your Lordship's Despatch, No. 18,* of the 19th February, enclosing to the Duke of Newcastle the Minute of your late Executive Council on the subject of the pending negotiation between Her Majesty's Government and the Hudson's Bay Company for the cession of the rights of that Company in the Hudson's Bay Territory to the Crown.

Vide H. C., No. 402, of 1864, page 15.

In that Minute the Executive Council say they "are of opinion that, in view of the recent change in the constitution and objects of the Hudson's Bay Company, which, from the correspondence laid before the House of Lords, appears to have been effected, and the claims which the new organisation have reiterated, with the apparent sanction of His Grace the Duke of Newcastle, to territorial rights over a vast region not included in their original charter, it is highly expedient that steps be taken to settle definitely the North-Western Boundary of Canada."

"The Committee therefore recommend that correspondence be opened with the Imperial Government with the view to the adoption of some speedy, inexpensive, and mutually satisfactory plan to determine this important question, and that the claim of Canada be asserted to all that portion of Central British America which can be shown to have been in the possession of the French at the period of the cession in 1763." If the proposed cession shall take place, it will be necessary to make provision for the future government of the Red River Settlement, and, prospectively, of such parts of the territory as may from time to time become the seats of settled occupation and industry.

The Committee of the House of Commons, which, in the year 1857, considered the state of the British Possessions in North America which are under the administration of the Hudson's Bay Company, expressed themselves in the following terms: "Your Committee consider that it is essential, to meet the just and reasonable wishes of Canada, to be enabled to annex to her territory such portion of the land in her neighbourhood as may be available to her, for the purposes of settlement, with which lands she is willing to open and maintain communication, and for which she will provide the means of local administration. Your Committee apprehend that the districts on the Red River

and the Saskatchewan are among those likely to be desired for early occupation. It is of great importance that the peace and good order of those districts should be effectually secured. Your Committee trust that there will be no difficulty in effecting arrangements as between Her Majesty's Government and the Hudson's Bay Company by which these districts may be ceded to Canada on equitable principles, and within the districts thus annexed to her, the authority of the Hudson's Bay Company would, of course, entirely cease.

Before taking any further step in the negotiations with the Company, I am desirous of being informed whether your Advisers are prepared to assist in these negotiations with a view of accepting the government of any portion of the territory, and undertaking the duties contemplated by the Committee in case sufficiently favourable terms can be obtained. If they are prepared to do so, it will be desirable that they should send over to this country some person duly authorised to communicate with me upon the subject, in order that the negotiations may be proceeded with during the recess, and the necessary measures prepared for obtaining the sanction of the Imperial Parliament and of the Legislature of Canada. If they are not prepared to assist in the negotiations, I shall be glad to hear from you their views upon the subject of the North Western Boundary of Canada.

I have, &c.
(signed) *Edward Cardwell.*

CANADA.

COPY of CORRESPONDENCE between the Imperial and Canadian Governments respecting the NORTH-WESTERN BOUNDARY of CANADA, &c.

(*Mr. Arthur Mills.*)

Ordered, by The House of Commons, *to be Printed*,
27 *July* 1864.

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16

NORTH AMERICA. No. 1 (1869).

CORRESPONDENCE

RESPECTING THE

NEGOTIATIONS WITH THE UNITED STATES' GOVERNMENT

ON THE QUESTIONS OF THE

"ALABAMA" AND BRITISH CLAIMS,

NATURALIZATION,

AND

SAN JUAN WATER BOUNDARY.

Presented to both Houses of Parliament by Command of Her Majesty.
1869.

LONDON:
PRINTED BY HARRISON AND SONS.

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No. 1.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, February* 15, 1868.

MR. ADAMS communicated to me on the 15th instant some parts of a despatch which he had lately received, in which Mr. Seward expresses his wish that some means may be found of arranging the differences now existing between England and the United States. The questions causing these differences Mr. Seward enumerates as follows:--

1st. The Alabama claims.
2nd. The San Juan question.
3rd. The question of Naturalized Citizens; their rights and position.
4th. The Fishery question.

I noticed that among these the question of the Reciprocity Treaty with Canada was not included.

Any one of these questions, Mr. Seward said, might at any time, from accidental causes, occupy public attention, and give rise to exciting controversy.

Mr. Seward desired not to be understood as making any new proposition; but he repeated the suggestion which he had more than once offered, that the true method of dealing with all these matters was by treating them jointly, and endeavouring, by means of a Conference, to settle them all.

I told Mr. Adams, in reply, that no one could be more anxious than I was to see these troublesome disputes at an end; and that, acting under that feeling, I should be prepared to acquiesce in any plan of settlement that held out a reasonable probability of success; at the same time, I must add that I could not well understand what was to be the nature of the Conference suggested by Mr. Seward. How was it to be constituted? with what powers? where to be held? and what advantage did Mr. Seward suppose there would be in discussing simultaneously, instead of separately, a variety of matters, each of which was sufficiently intricate and perplexing when taken by itself? I expressed a hope that Mr. Seward might be induced further to develop his idea, which I assured him should meet with full and careful consideration.

I am, &c.
(Signed) STANLEY.

No. 2.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, March* 14, 1868.

I RECEIVED on the 9th instant your telegram of the 8th, stating that Mr. Seward was desirous of concluding a Treaty between Great Britain and the United States, regulating the status and liabilities of the subjects and citizens of either country who may be naturalized in the other.

It appears from your further telegram of the 11th, that Mr. Seward, having received the Treaty recently signed on the same subject at Berlin, between Prussia

on behalf of the North German Confederation and the United States, presses for the conclusion of a similar Treaty between those States and Great Britain.

I need hardly tell you that Her Majesty's Government have received with the greatest satisfaction this overture for the settlement of a question which is beset with many difficulties; and you will assure Mr. Seward that they duly appreciate the spirit in which it has been made, and would have been most happy if they could at once have closed with it.

On examining, however, the provisions of the Treaty between the United States and the North German Confederation, and on consulting the Law Officers of the Crown as to the possibility of adopting them, Her Majesty's Government regret to find that it is impossible for them to do so.

There are legal difficulties which render the provisions of the Treaty liable to insuperable objections as they now stand, derived in a great degree from the state of uncertainty in which many important questions arising out of them would be left.

For instance, the stipulation that five years' residence with naturalization shall alter the nationality of the person naturalized, though clear enough as regards such person, leaves open very material questions which ought to be determined by express regulation. Among these may be cited:—

1. What is to be the status of a child born after naturalization, and before the expiration of five years; and what

2. Is to be the status of a child born after naturalization and after the lapse of five years, whose parent afterwards goes back to, and becomes again a citizen or subject of his own or of a third country.

The IIIrd Article of the Treaty regarding extradition would find no place in a Treaty between England and the United States, but the IVth Article is objectionable in consequence of the doubts to which it would give rise. It would be most difficult to ascertain in many cases whether a particular person at a particular period after his return to his original country "had renewed his residence without intent to return" to the country of his naturalization, and the concluding paragraph of that Article, which provides that the intent not to return may be held to exist where the person naturalized in the one country resides more than two years in the other country, by which Her Majesty's Government understand that such residence would only be *primâ facie* evidence of intent, would leave open questions most doubtful and difficult of solution in each case where a claim to, or denial of nationality was raised.

You might state to Mr. Seward the above as among many other legal difficulties which would stand in the way of the conclusion of a Treaty between England and the United States based on the Treaty with the North German Confederation.

The force of these difficulties may not have occurred to Mr. Seward, or, if it has, he may possibly be able to explain to you how it is proposed to solve them. You may assure Mr. Seward that any explanations he may give will be most fully weighed by Her Majesty's Government, and with an anxious desire to bring the question to a satisfactory settlement.

It was on these grounds generally that I have stated to you in my telegram of the 12th that Her Majesty's Government could not authorize you at once to conclude a Treaty of Naturalization, such has had been proposed to you by Mr. Seward.

I am, &c.

(Signed) STANLEY.

No. 3.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, March* 21, 1868.

I INSTRUCTED you by telegraph on the 16th instant to suspend any communication to Mr. Seward, as described to you by my despatch of the 14th, in regard to the difficulties which occurred to Her Majesty's Government as to the conclusion of a Treaty between England and the United States on the subject of Naturalization. I informed you that Her Majesty's Government would endeavour to frame a Draft of Treaty which might be acceptable to both countries, and that, in the meanwhile, you should only assure Mr. Seward that the matter was under the serious consideration of your Government.

I regret to say that the more the subject has been examined, the greater have been found to be the legal difficulties with which the whole question is surrounded.

The matter might be disposed of with comparative ease, if no other party but the one naturalized were to be affected by the renunciation or remission of natural allegiance, though even in that case it would be necessary to determine whether such renunciation or remission should be absolute, or whether readmission into the fold of original allegiance should be permitted; and if so, on what terms, and under what conditions.

But other and more complicated matters arise when questions of descent, succession, title to property, and the general bearing of municipal laws adapted to the existing state of things have to be considered, and much difficulty might arise and much litigation occur in the Courts, and many questions might come into discussion between Governments, unless such matters were duly weighed and discussed, and definite principles, by which all such difficulties should be obviated, were adopted between the countries concerned and were sanctioned by their respective Legislatures.

As regards this country, if the principles of the Prussian Treaty were to be adopted as the groundwork of a Treaty between Great Britain and the United States, it would be necessary to consider the bearing which such a Treaty would have, not only on the common and statute law, but also on the legislation of British Colonies; and, considering the close resemblance between the law and procedure of this country and those of the United States, the same process would doubtless have to be gone through there; and in both it would probably be found that a considerable revision of the law would be required to enable a Naturalization Treaty to work smoothly.

The only instruction, therefore, that Her Majesty's Government feel can now be safely given to you is, that you should assure Mr. Seward of their anxious desire to act in concert with the Government of the United States in endeavouring to devise some effectual means for setting at rest this important and intricate question. The obstacles to immediate action which they see are of a legal, not of a political character. They disclaim the idea of desiring to maintain and enforce the doctrine of indefeasible allegiance, and are quite willing to adopt the principle of expatriation, which they think ought properly to be conceded by a Government, which for many years past has sanctioned, and even encouraged, an extensive emigration of British subjects to foreign States.

It is their intention at once to institute an inquiry into the legal bearings of the question, and they hope that the result of this inquiry may be the production, without unnecessary loss of time, of a well-considered and satisfactory measure.

You are at liberty to communicate this despatch to Mr. Seward, and to give him a copy.

I am, &c.
(Signed) STANLEY.

No. 4.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, March* 21, 1868.

I RECEIVED. this morning, your telegram of yesterday, stating that Mr. Seward is prepared to sign a Naturalization Treaty between the United States and England, similar to that between the United States and Prussia, though modified in certain points which you specify.

It is with great regret that I have felt constrained by circumstances which will have been explained in my despatch of the 14th, and which are fully explained in my previous despatch of this day, to reply to you by telegraph that, although Her Majesty's Government have no objection in principle to alter the law of naturalization, yet that the legal details involved in this question require such careful consideration, that it is impossible for Her Majesty's Government, without further inquiry, to authorize you to sign any Treaty on the subject.

I am, &c.
(Signed) STANLEY.

No. 5.

Lord Stanley to Mr. Thornton.

(Extract.) *Foreign Office, March* 31, 1868.

MR. ADAMS communicated to me to-day a despatch from Mr. Seward, which was to the following effect:—

Mr. Seward says that the Naturalization question causes much uneasiness in America, and is the most urgent of any of those now pending. Till that question is settled, it is almost hopeless to attempt to remove other causes of difference. It admits of no delay compatibly with the maintenance of good understanding between the two countries. On this ground Mr. Seward disapproves of the proposal to deal with it by means of an International Commission. There now exists, he says, the possibility of an arrangement. The Prussian Treaty is supposed to be unobjectionable to Great Britain. All that would be necessary to bring it into operation as regards England would be a supplementary stipulation, to the effect that the naturalized citizen should enjoy in the country from which he comes all rights and privileges such as belong to natives.

Mr. Seward says that he is in communication with you on the subject; that he will supply a draft which he will be ready to execute immediately; and that he has suggested that you should apply by telegraph for instructions.

He adds, that he reserves his opinion on the manner of proceeding in regard to the "Alabama" question, as his decision with regard to that will be much influenced by the proceedings in the Naturalization question.

No. 6.

Mr. Thornton to Lord Stanley.—(Received April 11.)

(Extract.) *Washington, March* 30, 1868.

ON the receipt of your despatch of the 14th instant I called upon Mr. Seward, and made known to him the objections which the Law Officers of the Crown find to our concluding a Convention on Naturalization on the basis of that lately signed between this country and the North German Confederation.

After conversing upon the subject, Mr. Seward drew up a Memorandum, copy of which I have the honour to inclose, in answer to the inquiries made in that despatch.

But as your Lordship alludes to "many other legal difficulties" which would stand in the way of such a Treaty, I have the honour to suggest to your Lordship that a draft should be forwarded to me which should contain all that is desired by Her Majesty's Government upon the subject, so that I may be able to submit it to Mr. Seward or to his successor, or at least to sound him as to his disposition to agree to their requirements.

Reverting to the inquiries made in the above-mentioned despatch, I have the honour to state that naturalization cannot be obtained in this country without a residence of five years. A child born in this country of an Englishman before naturalization, would be an American in this country and an Englishman out of it; indeed, Mr. Seward's opinion seemed to be that the child would generally be a citizen of the country, native or adopted, of his father, except so far as the country in which the child is born has a right on that account to claim him as a citizen. Thus the son of an Englishman, naturalized in the United States, who might be born during the two years after the return of the father to England, would be English in England, on account of his birth there, but American elsewhere, on account of his parentage, his father being still held to be an American citizen.

With regard to these two years, Mr. Seward certainly thinks that discussions might hereafter arise upon the subject. If it were so, he considers that the two years' continuous residence should only be deemed *primâ facie* evidence of the intent of a man naturalized in the other country to return to that of his birth; and that, as in cases of domicile, the question of his real intention should be decided by the Judicial Courts.

But Mr. Seward is of opinion that it would be expedient at once to lay down the great principle of expatriation and naturalization, and to leave other details for a future Convention, in the negotiation of which both Governments would have the advantage of having studied the effect of the practice of the first principle.

Inclosure in No. 6.

Memorandum.

AS to the first objection, Mr. Seward remarks, that five years' continuous residence, by the law of the United States, is a necessary preliminary to naturalization, so that the case supposed in the first British objection cannot occur.

As to the second point, Mr. Seward remarks, that a parent going back, or becoming again a citizen or subject of his own or a third country, does not deprive the child of the citizenship acquired by birth in either country. Citizenship of the child does not necessarily change with the return of the parent to his original country.

The IIIrd Article is to be omitted in the Treaty.

There is no difficulty involved in the IVth Article, except such as is in all cases and everywhere incident to domicile.

A British subject, naturalized in America and returning to Great Britain for two years, does not necessarily renounce his American citizenship, only he may be called upon to assert or prove his purpose more explicitly.

(A new Article.) The parties agree to negotiate a further Convention if it shall be rendered necessary by reason of embarrassments experienced in the execution of the stipulations of this Treaty.

No. 7.

Mr. Thornton to Lord Stanley.—(*Received April* 18.)

(Extract.) *Washington, April* 7, 1868.

IN accordance with your Lordship's permission I have given to Mr. Seward a copy of your despatch of the 21st ultimo, leaving out the first paragraph. He has promised me a Report, drawn up by a lawyer, on the bearing of the stipulations contained in the Treaty with Prussia, upon the common and statute law of this country.

No. 8.

Mr. Thornton to Lord Stanley.—(*Received April* 25.)

(Extract.) *Washington, April* 13, 1868.

WITH reference to my despatch of the 7th instant, in which I stated that Mr. Seward had promised me a Report, drawn up by a lawyer, on the bearing of the provisions of the Treaty on Naturalization between the United States and the North German Confederation, upon the laws of this country, I have now the honour to inform your Lordship that, upon further reflection, he has confessed to me his inability to comply with my wishes on this subject. He says that the consideration of the subject in this light would bring to the surface a number of hypothetical cases on which it could not be supposed that any Government would be willing to commit itself, and which he thinks it would be impossible to decide upon at present, nor, indeed, until further experience shall show what requirements may arise out of the provisions of the Treaty as it stands.

It is on this account that Mr. Seward still urges that England and the United States should come to a simple Treaty engagement on the great principles of expatriation and naturalization, and that the discussion and negotiation of further details should be deferred to a later period when experience may have thrown more light upon the subject.

With reference to the provision in the IVth Article of the Treaty with Prussia as to the renewal of residence by a naturalized subject in his native country, I should say that this was rather a concession on the part of the United States to Prussia than a necessary part of the Treaty. It is by no means meant as a mode of insisting by the United States that a Prussian naturalized in America should be received back again into his native country, but merely as a declaration that after his having shown an intention to remain there, the United States would no longer grant him their protection, nor prevent the Prussian authorities from obliging him

to share in the burthens imposed upon other subjects whose position would be invidious as compared with that of the former.

It does not seem that such a provision would be indispensable in a Treaty with England; on the contrary, the question of repatriation had better perhaps be left to the internal legislation of each country.

No. 9.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, June* 16, 1868.

THE United States' Chargé d'Affaires has inquired of me, by direction of Mr. Seward, whether Her Majesty's Government were prepared at once to enter into a Treaty with the United States on the subject of naturalization.

I reminded Mr. Moran, in reply, of the statements which some weeks ago I made in the House of Commons, and which were received, as I believed, with general approval, that Her Majesty's Government were prepared to entertain in principle the question of a Naturalization Treaty, and no longer held to the doctrine of indefeasible allegiance.

But, I observed to Mr. Moran, that with every good disposition on their part to contribute to setting at rest a question which, as it now stood, was calculated to interfere with the maintenance of good understanding between this country and the United States, Her Majesty's Government found it was inexpedient, not to say impossible, to proceed hastily in a matter which involved points of great legal difficulty, and might affect the interests not only of persons now in being, but of persons still unborn. It was necessary, therefore, to consider how British law bore on the question, and the similarity between the laws of the two countries need scarcely be insisted upon in support of the statement that there are many legal points to be considered and determined before either a Treaty can be concluded, or legislation attempted, by this country.

Her Majesty's Government, I said, have lost no time in seeking to elucidate the questions to be considered. A Royal Commission, composed of very eminent persons, had been appointed, and were now engaged in investigating those questions; it was impossible to say how long the inquiry would take, but even apart from the question of the inexpediency of anticipating the Report of the Commissioners, I thought it right to remark that, in the actual state of public affairs in Parliament, and considering the general anxiety felt to restrict legislation to what was absolutely required with a view to an early dissolution, it would be impracticable, even if the Report of the Commission had been agreed upon and published, to introduce into the House of Commons, with any chance of its immediately becoming law, a Bill for giving effect to the recommendations of that Report. It could not be expected to pass without much discussion, and for this there was not now time.

It seemed to me, therefore, inevitable that legislation on the subject must be deferred till the meeting of the new Parliament, and, as the Treaty must be made dependent on such legislation, it was useless to conclude it at once.

I am, &c.

(Signed) STANLEY.

No. 10.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, September* 19, 1868.

THE United States' Minister called upon me this day, and stated to me that he would hold himself ready, in case Her Majesty's Government are willing to agree, to conclude a Treaty of Naturalization between the two countries, generally similar to those made by the United States with other Powers; such Treaty to be conditional on the passing by Parliament of an Act to enforce its provisions. He was not authorized, he said, to discuss with me officially the "Alabama" question until this matter had been disposed of.

I was unable to give an immediate reply to Mr. Reverdy Johnson's proposal,

as the Royal Commission appointed to inquire into the subject of naturalization and allegiance has not yet reported. I did not, however, discourage it.

I am, &c.
(Signed) STANLEY.

No. 11.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, October* 9, 1868.

SINCE my despatch of the 19th ultimo I have been in communication with Mr. Reverdy Johnson on the subject of the proposal which he had made for the conclusion of a Treaty of Naturalization, generally similar to those between the United States and other Powers, but conditional on the passing by Parliament of an Act to carry out its provisions.

Her Majesty's Government, although anxious, with a view to the promotion of good relations between the two countries, that this question, which has so long been discussed between them, should be set at rest, have found themselves unable to assent to the conclusion of a formal Convention, as originally proposed by Mr. Johnson.

They have, however, considered that they might properly place on record their desire to come to an agreement with the United States on this subject; and have, accordingly, in communication with the proper Law Advisers of the Crown, framed a Protocol which, having been previously submitted, unofficially, to Mr. Reverdy Johnson, was signed by that gentleman with me this morning.

A copy of this Protocol is inclosed. You will observe that it is not to take effect until provision can be made by Parliament, on the Report of the Royal Commission, for such a revision of the existing laws as the adoption of the principles embodied in it involves.

I am, &c.
(Signed) STANLEY.

Inclosure in No. 11.

PROTOCOL showing the Principles agreed upon by the British and the United States' Governments on the question of Naturalization.—Signed at London, October 9, 1868.

THE Undersigned, Edward Henry Lord Stanley of Bickerstaffe, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, being respectively authorized and empowered to place on record the desire of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and of the President of the United States of America to regulate the citizenship of British subjects who have emigrated or who may emigrate from the British dominions to the United States of America, and of citizens of the United States of America who have emigrated or who may emigrate to the British dominions, have agreed upon the following Protocol:—

I. Such British subjects as aforesaid who have become, or shall become, and are naturalized according to law within the United States of America as citizens thereof, shall, subject to the provisions of Articles II and IV, be held by Great Britain to be in all respects and for all purposes American citizens, and shall be treated as such by Great Britain.

Reciprocally, such citizens as aforesaid of the United States who have become, or shall become, and are naturalized according to law within the British dominions as British subjects, shall, subject to the provisions of Articles II and IV, be held by the United States to be in all respects and for all purposes British subjects, and shall be treated as such by the United States.

II. Such British subjects as aforesaid who have become and are naturalized as citizens within the United States, and such United States' citizens as aforesaid who have become and are naturalized within the British dominions as British subjects, shall be at liberty to renounce their naturalization and to resume their respective

nationalities, provided that such renunciation be publicly declared within two years after this Protocol shall have been carried into effect, as provided by Article IV.

The manner in which this renunciation may be made and publicly declared shall be hereafter agreed upon by the respective Governments.

III. If such British subject as aforesaid naturalized in the United States should renew his residence within the British dominions, the British Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of a British subject, and the United States shall not, in that case, claim him as a citizen of the United States on account of his former naturalization.

In the same manner, if such American citizen as aforesaid naturalized within the British dominions should renew his residence in the United States, the United States' Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of an American citizen, and Great Britain shall not, in that case, claim him as a British subject on account of his former naturalization.

IV. As it will not be practicable for Great Britain to carry into operation the principles laid down in this Protocol until provision has been made by the Imperial Parliament for such a revision of the existing laws as the adoption of those principles involves, it is agreed that this Protocol shall not take effect until such legislation can be accomplished.

The British Government will introduce measures into Parliament for this purpose as speedily as may be possible, having regard to the variety of public and private interests which may be affected by a change in the laws of naturalization and allegiance now under the consideration of the Royal Commission, whose Report is expected shortly to be made.

The same provision not being necessary by the Constitution and laws of the United States, this Article is not made reciprocal.

Done at London, the 9th of October, 1868.

(Signed) STANLEY.
REVERDY JOHNSON.

No. 12.

Extract from Mr. Reverdy Johnson's Instructions.—(Communicated to Lord Stanley by Mr. Reverdy Johnson, October 16, 1868.)

2ndly.—IN case Her Majesty's Government shall adopt the required measures to adjust the Naturalization question, you will next be expected to give your attention to the adjustment of the North-West Boundary Controversy, which involves the right of national dominion and property over the Island of San Juan on the frontier line between the United States and British Columbia.

It is understood that on the breaking out of the recent civil war in the United States this boundary question was on the eve of being arranged by referring it to an impartial and friendly arbiter. The question is increasing in urgency, with the growing settlement and population of the North-West, and with the multiplication of causes of litigation within the disputed territory. The United States still remain in a disposition favourable to the process of adjustment originally contemplated.

* * * * * * *

Our conclusion is, that in the event that you become convinced that an arrangement of the Naturalization question which would be satisfactory to the United States, in view of your previous instructions, can be made, then and in that case you may open concurrent negotiations upon the two questions first herein named, to wit, San Juan and the Claims question; but that those two negotiations shall not be completed or your proceedings therein be deemed obligatory until after the Naturalization question shall have been satisfactorily settled by Treaty or by Law of Parliament.

No. 13.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, October* 17, 1868.

I TRANSMIT to you herewith a copy of a Protocol which I have this day signed with Mr. Reverdy Johnson, recording the desire of Her Majesty's Government, and of that of the United States, to close the discussion respecting the Water Boundary under the Oregon Treaty.

I am, &c.
(Signed) STANLEY.

Inclosure in No. 13.

Protocol recording desire of Her Majesty's and the United States' Governments to close Discussion respecting Water Boundary.

THE Undersigned, Edward Henry Lord Stanley, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary, and Minister Plenipotentiary from the United States of America, being respectively authorized and empowered to place on record the bases on which Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are prepared to close all further discussion with regard to the true direction of the line of Water Boundary between their respective possessions, as laid down in Article I of the Treaty concluded between them on the 15th of June, 1846, have agreed upon the following Protocol:—

I. Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, that the line of boundary between the territories of Her Britannic Majesty and those of the United States, from the point on the 49th 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 Fuca's Straits, to the Pacific Ocean:"—and whereas the Commissioners appointed by the two High Contracting Parties to mark out that portion of the boundary which runs southerly through the middle of the channel aforesaid have not been able to determine which is the true line contemplated by the Treaty:

It is agreed to refer to some friendly Sovereign or State to determine the line which, according to the terms of the aforesaid Treaty, runs southerly through the middle of the channel which separates the Continent from Vancouver's Island, and of Fuca's Straits, to the Pacific Ocean; and it is further agreed, that within three months after the exchange of the ratifications of any Treaty that may hereafter be concluded for giving effect to the terms of this Protocol, the Contracting Parties shall select some friendly Sovereign or State to act as referee in the premises.

II. If such Sovereign or State should be unable to ascertain and determine the precise line intended by the words of the Treaty, it is agreed that it shall be left to such Sovereign or State to determine upon some line which, in the opinion of such Sovereign or State, will furnish an equitable solution of the difficulty, and will be the nearest approximation that can be made to an accurate construction of the words of the Treaty.

III. It is agreed that such Sovereign or State shall be at liberty to call for the production of, and to consult, all the correspondence which has taken place between the British and American Governments on the matter at issue, and to weigh the testimony of the British and American negotiators of the Treaty as recorded in that correspondence as to their intentions in framing the Article in question; and such Sovereign or State shall farther be at liberty to call for the reports and correspondence, together with any documents, maps, or surveys bearing on the same, which have emanated from, or were considered by, the Commissioners who have recently been employed by the two Governments to endeavour to ascertain the line of boundary as contemplated by the Treaty, and to consider all evidence that either party may produce. But the referee shall not depart from the true meaning of the Article as it stands, if he can deduce that meaning from the words of the Article,

those words having been agreed to by both parties, and having been inserted in a Treaty certified by both Governments.

IV. The respective parties formally engage to consider the decision of the referee, when given, as final and conclusive, whether such decision shall be a positive decision as to the line of boundary intended by the true meaning of the words of Article I of the Treaty of 1846, or whether the said referee, being unable to give such positive decision, shall give as a decision a line of boundary as the nearest approximation to an accurate construction of those words, and as furnishing an equitable solution of the difficulty; and such decision shall, without reserve, be carried into immediate effect by Commissioners to be appointed for the purpose of marking out the line of boundary in accordance with such decision of the referee.

V. It is understood that this Agreement shall not go into operation, or have any effect, until the question of naturalization now pending between the two Governments shall have been satisfactorily settled by Treaty, or by law of Parliament, or by both, unless the two parties shall in the meantime otherwise agree.

Done at London, the 17th of October, 1868.

(Signed) STANLEY.
REVERDY JOHNSON.

No. 14.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, October* 21, 1868.

THE United States' Minister called on the 20th instant to discuss with me the question of the "Alabama" claims, and much conversation passed between us on the subject, in the course of which Mr. Reverdy Johnson again put forward the proposal adverted to in Mr. Seward's former despatches, viz., that all the claims on both sides should be referred to the decision of Commissioners, who should be, in equal numbers, British subjects and American citizens, who, if they disagreed, should have power to call in an umpire, and whose decision, with such assistance, shall be final.

I pointed out to Mr. Reverdy Johnson the inapplicability of this method of proceedings as applied to the "Alabama" claims and others of the same class. I expressed my opinion that inasmuch as the question at issue was really the culpability or non-culpability of Her Majesty's Government in regard to the matter complained of, it would be in the highest degree unseemly that a British subject should be called upon to pronounce judgment on the authorities of his own country; nor would the position of the American Commissioners be much better,—for if they decided against the view taken by the United States' Government, they would in fact be condemning the policy maintained by that Government during the last four years.

Moreover, it would be hardly possible to find in either country any individual of sufficient eminence for such a duty who was not in speech or writing already committed to some view on the question; nor could impartiality be reasonably expected in a matter in which the feelings of both countries were so deeply involved.

For these reasons it seemed to me preferable that the arbitrator proposed should be the Sovereign or President of a friendly State. I named especially the President of the Swiss Republic and the King of Prussia.

Mr. Reverdy Johnson said he was not instructed to accede to the proposal I had made, but would telegraph for permission to do so. He did so accordingly before leaving the office, and has promised me an early reply.

In this conversation little was said as to the point on which the former negotiations broke off, viz., the claim made by the United States' Government to raise before the Arbiter the question of the alleged premature recognition by Her Majesty's Government of the Confederates as belligerents. I stated to Mr. Reverdy Johnson that we could not on this point depart from the position which we had taken up, but I saw no impossibility in so framing the reference as that, by mutual consent, either tacit or express, the difficulty might be avoided.

I am, &c.
(Signed) STANLEY.

No. 15.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, November* 10, 1868.

MR. REVERDY JOHNSON called at the Foreign Office on the 29th ultimo, and made a proposal on behalf of his Government, for a basis on which a settlement of the British and American claims might be arrived at by arbitration through a Mixed Commission.

This proposal was reduced to a more formal shape at a further interview between Mr. Reverdy Johnson and myself on the 3rd instant, at which Her Majesty's Attorney-General was present, and has now been adopted in a Convention, which I have this day signed with Mr. Johnson, and of which I inclose a copy for your information.

You will observe that the general claims are to be adjudicated upon by the Commissioners, who on this occasion are to be four in number, assisted by an Arbitrator, in the manner provided by the former Claims Convention of the 8th of February, 1853.

The class of claims known as the "Alabama" claims are also to be dealt with by the Commissioners, but their consideration of these claims is to be limited to the official correspondence which has already taken place between the two Governments, and, in the event of their not coming to an unanimous decision, is to be referred to some Sovereign or Head of a friendly State who is to be chosen by the two Governments as Arbitrator for the purpose, without argument or further evidence. The Commissioners unanimously, or the Arbitrator, are, however, to be at liberty to call for argument or further evidence if they or he shall deem it necessary.

I am, &c.
(Signed) STANLEY.

Inclosure in No. 15.

Convention between Great Britain and the United States of America, for the Settlement of all Outstanding Claims.—Signed at London, November 10, 1868.

WHEREAS claims have at various times since the exchange of the Ratifications of the Convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of Her Britannic Majesty on the part of citizens of the United States, and upon the Government of the United States on the part of subjects of Her Britannic Majesty: and whereas some of such claims are still pending, and remain unsettled; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Edward Henry Stanley, commonly called Lord Stanley, a Member of Her Britannic Majesty's Most Honourable Privy Council, a Member of Parliament, Her Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

ARTICLE I.

The High Contracting Parties agree that all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and all claims on the part of citizens of the United States upon the Government of Her Britannic Majesty, which may have been presented to either Government for its interposition

with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at London at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an arbitrator or umpire, to whose final decision, save as otherwise provided in Article IV of this Convention, shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be the Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named, in the same manner as the person originally named, to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as Counsel or Agent for such Government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the Arbitrator or Umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such Arbitrator or Umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.

The decision of the Commissioners, and of the Arbitrator or Umpire, shall be given upon each claim in writing, and shall be signed by them respectively and dated.

It shall be competent for each Government to name one person to attend the Commissioners as Agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The provisions of this Article shall, however, be subject to the special arrangements made by Articles IV, V, and VI of this Convention, respecting the

claims which form the subject of those Articles, and which shall be dealt with as directed in those Articles.

ARTICLE III.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire in the event of the Commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners, or for the Arbitrator or Umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

ARTICLE IV.

The Commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two Governments as the "Alabama" claims; but before any of such claims is taken into consideration by them, the two High Contracting Parties shall fix upon some Sovereign or Head of a friendly State as an Arbitrator in respect of such claims, to whom such class of claims shall be referred in case the Commissioners shall be unable to come to an unanimous decision upon the same.

ARTICLE V.

In the event of a decision on any of the claims mentioned in the next preceding Article being arrived at by the Arbitrator, involving a question of compensation to be paid, the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the arbitrator appointed by them, or who shall have been determined by lot according to the provisions of Article I.

ARTICLE VI.

With regard to the before-mentioned "Alabama" class of claims, neither Government shall make out a case in support of its position, nor shall any person be heard for or against any such claim. The official correspondence which has already taken place between the two Governments respecting the questions at issue shall alone be laid before the Commissioners; and (in the event of their not coming to an unanimous decision as provided in Article IV), then before the Arbitrator, without argument written or verbal, and without the production of any further evidence.

The Commissioners unanimously, or the Arbitrator, shall, however, be at liberty to call for argument or further evidence, if they or he shall deem it necessary.

ARTICLE VII.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the Commissioners, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by them or him respectively, and to give full effect to such decisions without any objection or delay whatsoever.

ARTICLE VIII.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the Convention of the 8th of February, 1853, shall be admissible under this Convention.

ARTICLE IX.

All sums of money which may be awarded by the Commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid in coin or its equivalent

by the one Government to the other, as the case may be, within twelve months after the date of the decision, without interest.

ARTICLE X.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled and barred.

ARTICLE XI.

The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The Secretary shall be appointed by the Principal Secretary of State for Foreign Affairs of Her Britannic Majesty, and by the Representative of the United States in London, jointly.

Each Government shall pay the salaries of its own Commissioners. All other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two Parties.

ARTICLE XII.

The present Convention 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 ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

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

Done at London, the tenth day of November, in the year of our Lord one thousand eight hundred and sixty-eight.

(L.S.) STANLEY.
(L.S.) REVERDY JOHNSON.

No. 16.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, November* 10, 1868.

WITH reference to my despatch of the 17th ultimo, I transmit, for your information, a copy of a Protocol which I have this day signed with Mr. Reverdy Johnson, recording the agreement of Her Majesty's Government and that of the United States to refer the disputed question of boundary to the decision of the President of the Swiss Confederation.

I am, &c.
(Signed) STANLEY.

Inclosure in No. 16.

Protocol recording the Agreement of Her Majesty's Government and the United States to refer the disputed Question of Boundary to the decision of the President of the Swiss Confederation.

THE Undersigned, Edward Henry Lord Stanley, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, being respectively authorized and empowered by their Governments, hereby declare that the said Governments agree to refer the disputed question of boundary which

forms the subject of the Protocol signed by them on the 17th of October last, to the decision of the President of the Federal Council of the Swiss Confederation.

Done at London, the 10th of November, 1868.

(Signed) STANLEY.
REVERDY JOHNSON.

No. 17.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, November* 24, 1868.

WITH reference to my despatch of the 10th instant, I transmit herewith, for your information, three copies of an Additional Article to the Convention which was signed on the above date, for the settlement of all outstanding claims between Great Britain and the United States.

I am, &c.
(Signed) STANLEY.

Inclosure in No. 17.

Additional Article to Claims Convention, November 23, 1868.

WHEREAS by Article I of the Convention between Her Britannic Majesty and the United States of America, signed at London on the 10th day of November, 1868, for the settlement of all outstanding claims, it was agreed that the Commission thereby stipulated to be appointed for the investigation and decision of such claims should meet at London;

And whereas it has since appeared desirable that the place of meeting of the said Commission should be Washington;

The Plenipotentiaries who signed that Convention, having met together, have agreed to substitute Washington for London as the place for the meeting and sitting of the Commission aforesaid. They have further agreed that the Secretary of the Commission shall be appointed by the Representative of Great Britain at Washington and by the Secretary of State of the United States, jointly, instead of in the manner provided by Article XI of the Convention.

The present Additional Article shall have the same force and effect as if it had been inserted, word for word, in the Convention of the 10th of November, 1868. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention.

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

Done at London, the twenty-third day of November, in the year of our Lord one thousand eight hundred and sixty-eight.

(L.S.) STANLEY.
(L.S.) REVERDY JOHNSON.

No. 18.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, November* 27, 1868.

I HAVE received your telegraphic despatch of to-day's date, informing me that difficulties have been raised by the Government of the United States in regard to the Claims Convention recently signed by Mr. Reverdy Johnson and myself, and that they are of opinion, in which you concur, that the Convention as it now stands would not be sanctioned by the Senate.

You also mention that the United States' Cabinet are anxious that the Convention should be passed, and have asked you to come home to explain their objections to it, and to endeavour to induce Her Majesty's Government to make modifications in it.

I have this day informed you by telegraph that I see no necessity for your

returning to England, and have instructed you to inform me by telegraph of the points objected to by the United States' Government, and of the grounds on which their objections have been raised.

I am, &c.
(Signed) STANLEY.

No. 19.

Mr. Reverdy Johnson's Instructions.—(Communicated to Lord Stanley by Mr. Reverdy Johnson, December 1, 1868.)

THE following amendments to British printed copy are essential in the Claims Treaty. Article 1st, line twenty, insert after "President," "by and with the advice and consent of the Senate." Same Article I, second paragraph, strike out "London," and insert "Washington." Same Article I, third page, strike out "save as otherwise provided in Article IV of this Convention."

Article IInd, strike out the last paragraph entire.

Article IV, strike out all after word "claims" in fourth line, or, if preferred, omit the whole of Article IV.

Article V. If Article IV is amended and changed as above proposed, Article V may stand without amendment. If Article IV is omitted entirely, then amend Article V, line two, by striking out the words "mentioned in the next preceding Article."

Article VI. Either omit the whole Article, or substitute the following therefor: In case of every claim the official correspondence which has taken place between the two Governments respecting the questions at issue shall be brought before the Commissioners, and in the event of their not agreeing to have decision thereupon, then before the arbitrator. Either Government may submit further evidence and further argument thereupon written or verbal.

Article IX. Strike out "twelve," and insert "eighteen."

Article XI, second paragraph. Strike out all after the word "the," and insert "the Representative of Her Britannic Majesty at Washington and the Secretary of State of the United States jointly."

If these amendments be not assented to, let San Juan remain in Protocol. If they are accepted, sign the Claims Convention and change San Juan Protocol into Convention, and sign the same.

Full go by post; but time is important.

No. 20.

Lord Stanley to Mr. Thornton.

Sir, *Foreign Office, December* 8, 1868.

I UNDERSTAND from your telegraphic despatch of the 27th ultimo that Mr. Seward and the Cabinet of Washington disapprove of the Convention which the United States' Minister signed with me on the 10th ultimo, for the settlement of British and American claims, on the ground that it is not in accordance with the instructions sent to Mr. Johnson, and that they are confident that the Senate will refuse to sanction it. I have learnt from your further telegram received on the 30th ultimo the very important modifications which Mr. Seward wishes to be made in that agreement.*

I have received this intelligence with some surprise, as during the progress of our negotiations, Mr. Johnson at no time intimated to me that he was not acting under sufficient instructions from his Government; indeed, when framing with him the Memorandum which was the groundwork of, and is, in fact, embodied in the Convention, I distinctly understood from him that he thought their approval was certain, and subsequent to the signature of the Convention, I was further informed by him that Mr. Seward had stated in a telegraphic despatch that if the place of meeting of the Commission was Washington and not London, "all will be right." This point having been conceded, Her Majesty's Government had every reason to suppose that the Convention was in other respects accepted by the Cabinet of

* These are stated in No. 19.

Washington as it stood, with a fair hope that it would ultimately receive the sanction of the Senate of the United States.

Under these circumstances I think it right to place on record in a despatch a full narrative of the communications which have passed between Mr. Johnson and myself on the question of the claims, and which led to the signature of the Convention of the 10th of November, and of the separate Article attached to it.

In a conversation which took place at the Foreign Office on the 25th of September, Mr. Johnson, after discussing with me the subject of naturalization, passed to that of the so-called "Alabama" claims. In this conversation, of which a memorandum is inclosed, extracted from my notes of the interview, Mr. Johnson first suggested, as a means of settlement, the payment of a lump sum of money, or a cession of territory by Great Britain, both of which plans I considered inadmissible, so long as the question of the liability of Great Britain was denied by us, and remained undecided. Mr. Johnson then spoke of the manner in which arbitration, if agreed upon, might be carried out, and made a suggestion that the questions in dispute with regard to these claims might be referred to the decision of a certain number of individuals, to be selected for their acquaintance with the principles at issue. He said that these persons need not be subjects of either of the two countries directly concerned. Without committing myself to any positive decision on this point, I said that although such a proceeding would be contrary to the usual practice in such cases, I did not at the moment see any objection to it so vital as to make it *ab initio* inadmissible, provided the other points of difference were satisfactorily arranged. This conversation, so far as it related to the "Alabama" claims, was understood to be of a confidential and unofficial character, Mr. Johnson having no authority to deal with that question, till the question of naturalization had been disposed of. Nothing, therefore, passed which could be held to bind either party.

After signing the Protocol on Naturalization on the 9th of October, Mr. Johnson entered with me on the discussion of the San Juan question. During the progress of the negotiations he communicated, confidentially, an extract of his instructions, to the following effect:—"Our conclusion is, that in the event that you become convinced that an arrangement of the naturalization question, which would be satisfactory to the United States in view of your previous instructions, can be made,—then, and in that case, you may open concurrent negotiations upon the two questions first herein named, to wit, San Juan and the Claims Questions; but that those two negotiations shall not be completed, or your proceedings therein be deemed obligatory, until after the naturalization question shall have been satisfactorily settled by Treaty or by law of Parliament."

In consequence of this clause in his instructions, Mr. Johnson stipulated that the agreement on the San Juan arbitration should be embodied in a Protocol instead of a Treaty, and that a provision should be inserted making its operation dependent on the satisfactory settlement of the naturalization question by Treaty, or by Law of Parliament, or by both. To which clause the words, "unless the two Parties shall in the mean time otherwise agree," were added at my suggestion.

The Protocol on the San Juan question having been signed on the 17th of October, Mr. Johnson called, by appointment, on the 20th of the same month to discuss with me the question of the claims. In this conversation, which is placed on record in my despatch to you of the 21st, Mr. Johnson proposed that "all the claims on both sides should be referred to the decision of Commissioners who should be, in equal numbers, British subjects and American citizens; who, if they disagreed, should have power to call in an umpire, and whose decision, with such assistance, should be final."

I objected to this plan, for reasons given at length in the despatch, and said that for these reasons it seemed to me preferable that the arbitrator proposed should be the Sovereign or President of a friendly State. I named especially the King of Prussia, as likely to be acceptable to both parties. Mr. Johnson said that he was not instructed to accede to the proposal I had made, but would telegraph for permission to do so.

Mr. Johnson called on the 29th of October to convey the answer of his Government, and a Memorandum of his communication is inclosed.

From this statement it appears that Mr. Seward conceived that "there would be a prejudice on one side or the other against any Arbitrator who might be named beforehand to decide on this specific question." He proposed, therefore, that "each Government should, in the first place, name Commissioners, two on each side, to

adjudicate on all claims by the subjects or citizens of either country on the other, arising out of the late civil war in the United States." "The two Governments, in addition, to agree on an Arbitrator or Arbitrators, to whose final decision shall be referred any question connected with such claims on which the Commissioners shall be unable to come to an agreement among themselves." "In the event of this plan being adopted, it would appear expedient further to provide that neither Government should make out a case in support of its position with regard to any class of claims, but that any question on which difficulties may arise between the Commissioners should go from them to the Arbitrator as it stands."

On the 3rd of November Mr. Johnson again called on me at the Foreign Office, by appointment, for a Conference, at which the Attorney-General, at my instance and with Mr. Johnson's consent, was also invited to be present, and at this meeting a Memorandum was drawn up, of which a copy is also inclosed, embodying the result arrived at, and to which Mr. Johnson was understood to assent on behalf of his Government.

It is on the bases laid down in this Memorandum that the Convention of the 10th of November is founded.

The Memorandum was submitted by me to the Lord Chancellor and the Prime Minister, and upon their suggesting some verbal alterations for the sake of greater clearness, I sent a copy on the 4th of November, with the revisions marked, to Mr. Johnson, to ask whether he saw any objection to them.

Mr. Johnson replied the next day that he had no objection to the alterations, with one exception, in which he suggested the substitution of an English version for the Latin words "*pro hac vice*," which it was proposed to introduce. Mr. Johnson said that he did not see that these words affected the sense of the Article at all, but that others might suppose that they did, and he might be asked for an explanation, which would lead to delay. He added, "It is important, I think, that the Convention be signed at the earliest moment, and I will thank your Lordship to let me know when you can see me on the subject, as there are some matters of detail yet to be agreed upon."

I accepted at once the single modification proposed by Mr. Johnson in the Memorandum, and a Protocol was drawn up in the terms specified, and submitted to the Law Officers of the Crown for their opinion. But as Mr. Johnson had used the word "Convention" in his note of the 5th of November, I wrote to him to ask "whether he would be ready to sign an actual Convention on the subject, or whether he would still prefer to adhere to the form of a Protocol, similar to those in which the results of the former negotiations on the Naturalization and San Juan questions had been recorded."

To this Mr. Johnson replied, on the same day, in the following terms: "I will sign a Convention instead of a Protocol on the matters now unsettled, as I consider that I am authorized to do so by the cable despatch from Washington, which I showed you, taken in connection with my original instructions. But will you consider them equivalent to a formal full power? If you do, have an agreement drawn up in that form."

Upon the receipt of this note, a Draft Convention was drawn up, and I forwarded it to Mr. Johnson on the 7th of November, stating that I was ready to sign such a Convention, to be signed by Mr. Johnson *sub spe rati*, in the absence of formal powers.

Mr. Johnson called on the 9th of November, and discussed the provisions of the Convention at length, proposing various alterations. He particularly insisted on the necessity of the Commission sitting at Washington and not at London; but on being shown the inconvenience of such an arrangement, and the delay which would arise in the reference of disputed points and production of further evidence as regards the "Alabama" claims, he finally waived the point.

The Convention, with such alterations as had been adopted, was then drawn out and signed on the 10th of November.

On the 12th of November Mr. Johnson called at the Foreign Office, and, as I was then absent at Lynn, he wrote me a private note to the effect that he had "just received a telegraphic message from Mr. Seward, saying, Claims Convention entirely acceptable, except as to the place of meeting, and that it is essential to its approval by the Senate that the place be Washington and not London." After some delay, in consequence of my absence from town, a telegram was received from you in the same sense.

I then agreed to the alteration, though I still considered that it would be

productive of inconvenience, and an additional Article to carry the change into effect was signed on the 23rd of November.

Matters remained in this state until the receipt of your telegram of the 27th of November, up to which time I was under the impression, which was also shared in by Mr. Johnson, that the Convention which had been signed, being in accordance with his instructions as construed by him, would meet with the approval of the United States' Government.

I am, &c.
(Signed) STANLEY.

Inclosure 1 in No. 20.

Memorandum of Conversation between Lord Stanley and Mr. Reverdy Johnson, at the Foreign Office, September 25, 1868.

THE first subject touched upon was that of naturalization. Lord Stanley explained the difficulties which lay in the way of the signature of the Treaty, but threw out the idea of a Protocol, to recognise, subject to the passing of an Act of Parliament, the principle that subjects of either country, becoming naturalized in the other, should be released from their native allegiance. Mr. Johnson expressed himself quite favourable to such an arrangement, and seemed to think that it would be satisfactory.

As regards the San Juan boundary, Mr. Johnson said that he should be ready to agree, in the name of the United States' Government, to arbitration as soon as the Naturalization question was once disposed of.

The conversation then turned on the "Alabama" claims. Mr. Johnson adverted generally, though not in the form of distinct proposals, to various methods by which this question might be settled. His first suggestion was the payment of a lump sum of money. Lord Stanley at once declared this to be inadmissible so long as the question of our being liable at all was denied by us and undecided by any mode of reference. Mr. Johnson then talked of some cession of territory, an idea which Lord Stanley did not think more promising. Finally, in the supposition that arbitration was the only means to be resorted to, Mr. Johnson talked over the manner in which such arbitration could be arranged, and suggested that a certain number of individuals should be selected, distinguished for their acquaintance with the principles at issue, to whom the questions in dispute should be referred. It was understood that these persons should of course not belong to either of the two countries. Lord Stanley answered in general terms, and without distinctly committing himself either way, that such a proceeding would be contrary to the usual practice in such cases, but that he did not at the moment see any objection to it so vital as to make it, *ab initio*, inadmissible, provided the other points of difference were satisfactorily arranged.

It was understood on both sides that the conversation, so far as it related to the "Alabama" claims, was of a confidential and unofficial character, Mr. Johnson having no authority to deal with that question till naturalization was disposed of. Nothing therefore passed which could be held to bind either party.

Inclosure 2 in No. 20.

Memorandum of Conversation between Lord Stanley and Mr. Reverdy Johnson, October 29, 1868.

AT the last interview which Mr. Johnson had had with Lord Stanley on the 20th instant, he had agreed to telegraph to his Government to ask whether they would consent to the question of the liability of Great Britain for the so-called "Alabama" Claims being referred to the arbitration of the King of Prussia. He now called to communicate Mr. Seward's answer to that proposal.

Mr. Seward is of opinion that there would be a prejudice on one side or the other against any Arbitrator who might be named beforehand to decide on this specific question, and suggests a plan by which he thinks this difficulty may be avoided.

He proposes that the two Governments should in the first place name

Commissioners, two on each side, to adjudicate on all claims by the subjects or citizens of either country on the other arising out of the late civil war in the United States. Each Government to name its own Commissioners.

The two Governments, in addition, to agree on an arbitrator or arbitrators, to whose final decision shall be referred any question connected with such claims on which the Commissioners shall be unable to come to an agreement among themselves.

It may be presumed as a matter of course that the Commissioners will differ as to the admissibility of the Alabama and similar claims. The question will then be referred by them to the arbitrator with whom the decision will thus virtually rest.

In the event of this plan being adopted it would appear expedient further to provide that neither Government should make out a case in support of its position with regard to any class of claims, but that any question on which difference may arise between the Commissioners should go from them to the arbitrator as it stands.

Inclosure 3 in No. 20.

Memorandum of the result of a Conference between Lord Stanley, Mr. Reverdy Johnson, and the Attorney-General, at the Foreign Office, November 3, 1868.

[The alterations in red ink show the manner in which the Memorandum was revised at the meeting between Lord Stanley, the Lord Chancellor, and Mr. Disraeli, November 4, 1868. This copy was sent privately to Mr. Reverdy Johnson, to know if he concurred in those alterations, and returned by him with a suggestion, as marked, on paragraph 3.]

IT is proposed by Mr. Reverdy Johnson on behalf of the Government of the United States:

1. That the two Governments shall, in the first place, name Commissioners, two on each side, to determine all claims by subjects or citizens of either country on the other, whether or not arising out of the late civil war in the United States, subject to the qualification mentioned under Section 3.
~~other than those hereinafter mentioned.~~

2. The said Commissioners to agree on an Arbitrator to whose final decision shall be referred any claim [except as hereinafter mentioned] upon which the Commissioners differ.

shall

3. The Commissioners ~~to~~ have power to adjudicate upon the so-called "Alabama" and other similar claims; [but] before such ~~last-mentioned~~ claims are
them shall
taken into consideration by ~~the Commissioners,~~ the respective Governments ~~to~~ fix upon some Sovereign or Head of a friendly State, [as an Arbitrator *pro hâc vice**] to whom the whole of such questions shall be referred in the event of the Commissioners disagreeing upon the same.

* Alteration proposed by Mr. Reverdy Johnson, and accepted by Lord Stanley, "as to such claims."

4. In the event of a decision on any of such last-mentioned claims being arrived at, involving a question of compensation to be paid, the amount of such compensation to be referred back to the Commissioners for adjudication, and, in the event of their differing, then to the Arbitrator appointed by them under the second Section.

5. The awards of the Commissioners in all cases to be unanimous. Otherwise the matter in dispute to go to the Arbitrator.

6. In regard to the so-called "Alabama" claims, and others included under the same head, it is agreed that neither Government shall make out a case in support of its position, but that the questions at issue, as set forth in the official correspondence between the two Governments, shall be referred to the Commissioners, and, in the event of their making no award, then to the Arbitrator, without comment or the production of further evidence, unless such evidence or argument shall be called for by the Commissioners or Arbitrator as the case may be.

Inclosure 4 in No. 20.

Lord Stanley to Mr. Reverdy Johnson.

Dear Mr. Johnson, *Foreign Office, November* 4, 1868.

I HAVE been in consultation with some of my colleagues respecting the proposal for referring the British and American claims to arbitration, and some verbal alterations have been suggested in the Memorandum drawn up at our Conference yesterday.

I inclose a copy of the Memorandum, with the revisions marked in red ink, and shall be obliged by your letting me know whether you see any objection to them. They are simply introduced for the sake of greater clearness.

Believe me, &c.
(Signed) STANLEY.

Inclosure 5 in No. 20.

Mr. Reverdy Johnson to Lord Stanley.

Legation of the United States, London,
My dear Lord Stanley, *December* 5, 1868.

I HAVE just received your note of last evening, with its inclosure, and hasten to say that I have no objection to the alterations suggested in the latter. I would prefer, however, that the words *pro hâc vice* inserted in the IIIrd Article should be omitted. I do not see that they affect the sense of the Article at all, but others may suppose that they do; and I may be asked for an explanation, which would lead to delay. I would suggest, therefore, that instead of those words we substitute "as to such claims." It is important, I think, that the Convention be signed at the earliest moment; and I will thank your Lordship to let me know when you can see me on the subject, as there are some matters of detail yet to be agreed upon.

With sincere regard, &c.
(Signed) REVERDY JOHNSON.

Inclosuse 6 in No. 20.

Lord Stanley to Mr. Reverdy Johnson.

Dear Mr. Johnson, *Foreign Office, November* 6, 1868.

I SHALL be most happy to see you here on Monday at 12. I see no objection to the words *pro hâc vice* being omitted, and "as to such claims" substituted.

Very truly yours,
(Signed) STANLEY.

Inclosure 7 in No. 20.

Lord Stanley to Mr. Reverdy Johnson.

Dear Mr. Johnson, *Foreign Office, November* 6, 1868.

IN order to expedite matters, I am having the Memorandum as to the settlement of the claims put into formal shape, so that any further addition which may be adopted at our next meeting, may be inserted with the least possible delay.

For this purpose I should be glad to know whether you would be ready to sign an actual Convention on the subject, or whether you would still prefer to adhere to the form of a Protocol, similar to those in which the results of our former negotiations on the Naturalization and San Juan questions have been recorded.

I make the inquiry, as you use the word "Convention" in your note of yesterday.

Believe me, &c.
(Signed) STANLEY.

Inclosure 8 in No. 20.

Mr. Reverdy Johnson to Lord Stanley.

Legation of the United States, London,
My dear Lord Stanley, *November* 6, 1868.

I WILL sign a Convention instead of a Protocol, on the matters now unsettled, as I consider that I am authorized to do so by the cable despatch from Washington, which I showed you, taken in connection with my original instructions. But will you consider these equivalent to a formal full Power? If you do, have an agreement drawn up in that form.

I remain, &c.
(Signed) REVERDY JOHNSON.

Inclosure 9 in No. 20.

Lord Stanley to Mr. Reverdy Johnson.

Dear Mr. Johnson, *Foreign Office, November* 7, 1868.

I AM ready to sign a Convention with you on the Claims question, to be signed by you, *sub spe rati*, in the absence of formal full powers.

I accordingly inclose a draft, founded on the terms of the Memorandum, with such additions as are necessary to define the action of the Commission, &c.; these additions being principally taken from the Convention concluded between the two Governments in 1853 for the settlement of Claims, of which instrument I also send you a copy.

Believe me, &c.
(Signed) STANLEY.

Inclosure 10 in No. 20.

Mr. Reverdy Johnson to Lord Stanley.

My dear Lord Stanley 4, *Upper Portland Place, November* 12, 1868.

I HAVE just received a telegraphic despatch from Mr. Seward, saying Claims Convention entirely acceptable, except as to the place of meeting; and that it is essential to its approval by the Senate that the place be Washington and not London. I think the change will be disadvantageous to the "Alabama" claimants; but if he is right, that it is necessary to the final ratification, I hope you will not object to it.

Let me know, by telegram or mail, at your earliest convenience; if by telegram, say, "Have no objection."

Yours truly,
(Signed) REVERDY JOHNSON.

No. 21.

Mr. Thornton to Lord Stanley.—(*Received December* 12.)

(Extract.) *Washington, November* 30, 1868.

MR. SEWARD received, on the 24th instant, the Convention upon Claims signed by your Lordship and Mr. Reverdy Johnson on the 10th instant. It was taken into consideration on the same day at the meeting of the Cabinet, and rumours were current soon after that the Government were sorely disappointed at its contents, which were pronounced to be unsatisfactory.

I had the honour to receive the copy sent me by your Lordship on the following day, the 25th instant.

On the 26th, Mr. Seward called upon me, and informed me that the contents of the Convention were not in accordance with the instructions which had been given to Mr. Reverdy Johnson, that the President and his colleagues could not approve of certain of the stipulations comprised therein; and that they were unanimously of opinion that in its present form the Convention would not receive

the sanction of the Senate. Upon the latter point I could not but concur. Mr. Seward confessed that it was possible that some excuse might be made for Mr. Johnson's not having kept more closely to his instructions, because, as some of these were given by telegrams in answer to Mr. Johnson's questions sent by the same channel, Mr. Seward may have misunderstood the former, and Mr. Johnson may not have fully comprehended the instructions sent in reply.

But, wherever the fault lay, Mr. Seward proceeded to assure me that his Government earnestly desired that a good work, which had been brought so nearly to a satisfactory conclusion, should not at the last moment fail; and that, consequently, although they acknowledged that your Lordship would be justified in declining to reopen negotiations, they hoped that, in consideration of the importance of the subject, you would not do so, but would consent to some modifications of the Convention which would render it acceptable to the Senate. At the same time, he expressed his sense, and that of his colleagues, of the difficulty which would be encountered of explaining by correspondence why the Convention in its present shape is objectionable, and that they had considered the expediency of sending some one to England for the purpose of doing this verbally. It was at first proposed that either Mr. Evarts, now Attorney-General, who during the war was well known in England, or Mr. Seward himself, should undertake this mission; but upon examination it was found that, besides other reasons which rendered this step unadvisable, the President had not the power to allow either of these gentlemen to entrust to any one else, even for a short time, the duties of their offices. It was therefore proposed, and the President commissioned Mr. Seward to ask me whether I would consent to go to England for the purpose of laying the circumstances of the case before your Lordship. I at once replied that I could not do so without your Lordship's leave, but would consider whether I should ask for it by telegram. At the same time I pointed out to him that so sudden a visit to England might give rise to suppositions and rumours in this country, which might be prejudicial to the end we both had in view. It was agreed that I should again see Mr. Seward on the next day, when he would explain to me more fully the objections which were made to the Convention in its present form. But before he left me I pointed out to him that unless the Convention were finally accepted by the United States, the latter would be in a bad position in the eyes of the world if, after Her Majesty's Government had consented to all that was asked by the Representative of the United States, the Government and Senate of the latter should refuse to confirm what he had signed, and that I therefore hoped a conciliatory spirit would be shown in the fresh instructions now about to be given. Mr. Seward did not deny the truth of my observation, but replied that such a feeling would pass off, and the conviction would remain that the United States were determined to keep the question open—a state of things which, with regard to future eventualities, might be more injurious to England than to this country. He assured me, however, in the most earnest manner, that he was convinced that the Senate would sanction the Convention if it were modified in the manner which he should now propose.

Upon reflection I determined to send to your Lordship my telegram of the 27th instant.*

On the following day I had an interview with Mr. Seward, during which he read me the draft of a despatch which he intended to send to Mr. Reverdy Johnson; and, after the receipt of your Lordship's telegram of the 28th instant, I paid him another visit. I understand that a telegram was sent to Mr. Johnson on the evening of the 27th instant, and that the despatch, of which the draft had been read to me, left New York on the 28th instant. These two contained the modifications proposed by Mr. Seward, and which I proceed to detail more fully than was possible in the telegram which I had the honour of forwarding to your Lordship to-day.†

Mr. Seward has pointed out to Mr. Reverdy Johnson that he had always intended, and had so instructed him, that a Protocol, not a Convention, should be signed with regard to the "Alabama" and war claims, in the same manner, and with the same condition, as that upon the San Juan question. I have certainly always understood this to be the case, and I believe that my correspondence with your Lordship has given indications of this conviction on my part. Mr. Seward explains that he had proposed this step, not from any want of confidence that a Bill would be submitted by Her Majesty's Government to Parliament for modifying

* See No. 18. † See No. 19.

the existing laws of allegiance, but because he preferred that the Senate should be conciliated by the stipulations being submitted to them in the form of a Protocol, which would be as it were a mode of asking their advice whether a Convention might be signed in the same terms, their sanction of which would thus be insured. I now gather, however, from Mr. Seward's despatch that he has authorized Mr. Johnson, should your Lordship wish it, and should you consent to the proposed modifications, to sign Conventions on all the three questions—Naturalization, San Juan, and Claims—or on any two of them.

The first change asked by Mr. Seward is that in line 20 of the Ist Article should be inserted after the word "States" the words, "by and with the advice and consent of the Senate." Your Lordship will easily understand that this is not a *sine quâ non*, but is proposed as a mark of deference to the Senate on the part of the President, and as the more expedient on account of the recent conflict between the Congress and the President, and, therefore, more likely to disarm opposition. It is a change to which I imagine Her Majesty's Government would have no objection.

To the change of the place of meeting of the Commission from London to Washington your Lordship has already signified your willingness to assent.

The proposal to cancel in line 44 from the word "save" to the word "Convention," and the last paragraph of Article II, is a consequence of Mr. Seward's petition that the whole of Article IV should also be cancelled. The United States' Government declare that the second period of this Article contains an unjust discrimination against the "Alabama" claims as compared with other American and the British claims.

Mr. Seward asserts that he instructed Mr. Johnson to endeavour to conclude a Protocol with your Lordship as similar as possible to the Convention of 1853, and that he never contemplated such a deviation from the stipulations contained in the latter as would render the new arrangement unfair towards the "Alabama" claimants. The United States' Government consider Article IV unfair, because it stipulates that only one Umpire shall be named; that he shall be chosen by the High Contracting Parties and not by the Commissioners; and that he must be a Sovereign or Head of a State; whereas with regard to the other American and the British claims, the Commissioners are to choose the Umpire or Umpires, who may be any person or persons they may select, without respect to class.

Whilst upon this point, I should observe that I gathered from Mr. Seward that his Government would not object to a Sovereign or Head of a State being named by the Commissioners as Umpire or Umpires, and that they would even consent to give their Commissioners instructions to that effect, but that the Senate would not probably sanction its being mentioned in the Protocol, because it would be different from the Convention of 1853. I even believe that if the Commission were actually installed here, before the present Administration should leave office, the President might be induced to instruct the United States' Commissioners to consent to the choice of the King of Prussia as Umpire, should he be proposed by the English Commissioners.

The United States' Government likewise object to the unanimous decision required by Article IV for "Alabama" claims, whereas the other claims may be decided by a majority of the Commissioners. This they consider unjust, and are even more sensitive about it than upon the subject of the Umpire. They would, however, have no objection to the first sentence of Article IV as far as the semicolon, if your Lordship should wish that it should remain, although no instructions had been previously given to Mr. Johnson to make any positive declaration with regard to the "Alabama" claims, so as to distinguish them from the others.

If Article IV were cancelled, Article V would naturally have the same fate.

The United States' Government strongly object to Article VI, because it does not allow either Government to make out a case in support of its position, nor any person to be heard for or against the "Alabama" claims; whereas both these steps are allowed with regard to other claims, and they do not see why a prejudicial distinction should be stipulated in the Convention against the "Alabama" claims, which would render the sanction of the Senate more doubtful, although they acknowledge that little could be added to what is contained in the official correspondence. They also object, for the reasons already mentioned, to the decision being necessarily unanimous, both with regard to the claims themselves, or to the calling for argument or further evidence. They therefore ask that Article VI may be cancelled, or that it may be substituted by the following words:—

"In case of every claim, the official correspondence which has already taken place between the two Governments respecting the question at issue shall be laid before the Commissioners, and in the event of their not coming to a decision thereupon, then before the Arbitrator: either Government may also submit further evidence and further argument thereupon, written or verbal."

Mr. Seward further proposes that in Article IX, eighteen months may be substituted for twelve months, because circumstances may arise which may delay the assignment of the necessary sums for the payment of the claims by the House of Representatives, as happened lately with regard to the payment to Russia for the Alaska territory.

Finally, Mr. Seward asks for a change of the second paragraph of Article XI which is merely consequent upon the change of the place of meeting of the Commission from London to Washington.

Should your Lordship be able to agree to these modifications, Mr. Seward has repeatedly assured me that the Senate are committed to the acceptance of the Convention so modified, and that he is convinced they will sanction it.

No. 22.

Mr. Seward to Mr. Reverdy Johnson.—(Communicated to the Earl of Clarendon by Mr. Reverdy Johnson, December 22.)

Sir, *Department of State, Washington, November* 27, 1868.

I HAVE received your despatch of the 10th of November, which is accompanied by a Convention which you signed with Lord Stanley, at London, on the 10th instant, for the settlement of all outstanding claims. Your despatch gives your reasons for assenting to the Convention, and especially to some of its provisions.

Having submitted these papers to the President, I am now to give you his directions concerning the matters thereby presented. In order to do this with greater perspicuity, I shall take notice of the several Articles contained in the Convention in their proper order.

Article I provides for the appointment of four Commissioners for the adjustment of mutual claims; two to be named by Her Britannic Majesty, and two by the President of the United States. In the event of any Commissioner omitting or ceasing to act, Her Britannic Majesty, or the President of the United States, as the case may be, shall name another person to act as Commissioner instead of the Commissioner originally named. Article I further provides that the Commissioners shall meet at London, and make and subscribe a solemn declaration therein prescribed. This declaration shall be entered of record. The Article further provides that the Commissioners shall then, and before proceeding to any other business, name some person to act as Arbitrator or Umpire, to whose final decision, save as otherwise provided in Article IV, shall be referred any claim upon which they may not be able to come to a decision.

If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire, and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall make and subscribe the same solemn declaration which is prescribed to the Commissioners, and it is to be entered of record. In the event of the death, absence, incapacity, or failure of such Arbitrator or Umpire, another shall be named to act as Arbitrator or Umpire in the same manner as the person originally named.

In regard to this Article—

1st. I remark that we must require that it may be amended so as to provide that the Commissioners to be named on the part of the United States shall be named by the President, by and with the advice and consent of the Senate of the United States. It is not doubted that this ought to be, as it probably would be taken to be, the meaning of the Convention as it now stands. Nevertheless, with the view to avoid possible misapprehension, it is desirable that the Article should be amended so as to make the provision literally conform in this respect to the constitution of the United States. Of course Her Majesty's Government can have no objection to this amendment.

2ndly. We are advised that, in accordance with my suggestions heretofore made by cable telegram, Her Majesty's Government have consented to amend the Ist Article so as to substitute Washington instead of London for the place of the meeting of the Commissioners. This amendment will be expected to be finally made.

3rdly. We must insist upon amending this Ist Article by striking out the words "save as otherwise provided in Article IV of this Convention." Our reasons for this amendment will fully appear in my commentary upon Articles IV, V, and VI. You are authorized to say that, with these amendments, Article I would be satisfactory to the President of the United States.

I proceed to Article II.

Article II prescribes certain forms and rules for the proceedings of the Commissioners, and provides that each Government may name one person to attend the Commissioners as agent upon its behalf, to present and support claims on its behalf, to answer claims made upon it, and to represent it generally. Article II closes with the following paragraph:—"The provisions of this Article shall, however, be subject to the special arrangements made by Articles IV, V, and VI of this Convention, respecting the claims which form the subject of these Articles, which shall be dealt with as directed in those Articles."

The United States must insist on striking out this last paragraph of Article II, for the reasons which appear in the remarks hereinafter made on Articles IV, V, and VI. You are authorized to say that, with this exception, Article II would be satisfactory to the President.

I pass to Article III.

Article III fixes the periods within which claims shall be submitted, examined, and decided. This Article is unobjectionable, and is entirely approved.

I have thus come to Article IV.

Article IV specially declares that the Commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two Governments as the "Alabama" claims, but declares that before any such claims are to be taken into consideration by them, the two High Contracting Parties shall fix upon some Sovereign or Head of a friendly State as an Arbitrator in respect of such claims, to whom such class of claims shall be referred in case the Commissioners shall be unable to come to a unanimous decision upon the same.

The United States are obliged to disallow this Article IV. The United States have no objection to the first clause of the Article, which declares that the Commissioners shall have power to adjudicate upon the so-called "Alabama" claims. Indeed the United States would willingly retain this clause because of its explicitness in regard to the "Alabama" claims. They did not, in their instructions to you, insist upon such a special direction in regard to the "Alabama" claims, but only because they thought that special mention of those claims might be deemed inconvenient on the part of Her Majesty's Government; while it could not admit of doubt that these so-called "Alabama" claims were plainly included, as well as all other claims of citizens of the United States, in the comprehensive description of claims contained in Article I.

Secondly, it is to be considered by Her Majesty's Government that the "Alabama" class of claims constitute the largest and most material portion of the entire mass of claims of citizens of the United States against Great Britain, which it is the object of the Convention to adjust. Upon the "Alabama" claims, as well as all others, this Government is content to obtain, and most earnestly desires, a perfectly fair, equal, and impartial judicial trial and decision. This Government has always explicitly stated that it asks no discrimination in favour of the "Alabama" claims, and can admit of no material discrimination against them in the forms of trial or judgment, but must, on the contrary, have them placed on the same basis as all other claims. This Article IV, so far from placing them on an equal footing with the other United States' claims, and with the British claims, prejudicially discriminates against them in these respects:—

1. While the Convention provides that the other United States' claims, and the British claims shall be settled and determined by a majority of the Commissioners, this Article IV requires entire unanimity of the Commissioners for a decision upon any of the "Alabama" claims.

2. This Article IV further discriminates against the "Alabama" claims in this; that while the choice of an Arbitrator or Umpire in regard to all other than

he "Alabama" claims is left to be decided by lot in case of disagreement of the Commissioners, this Article IV provides that, in regard to the "Alabama" claims, the two Governments shall definitively agree in the appointment of an Arbitrator or Umpire.

3. This Article IV again discriminates against the "Alabama" claims in requiring, that in regard to those claims the Arbitrator or Umpire shall be some Sovereign or Head of a friendly State, while no such limitation is made in regard to any other class of claims.

The present negotiation was undertaken in the hope that the controversy about international claims, which has so long existed, and has been attended with so much national feeling on both sides, might be amicably settled and closed by adopting the very simple yet comprehensive principles and forms of reference and adjudication which were adopted with so much success under circumstances not very dissimilar, by the Convention for the adjustment of international claims of February 8, 1853. That Convention was proposed by the United States as a model which had already received the approval of both parties, and had the prestige of complete and even felicitous success. That Convention of 1853 had no reservations and no preference of, for, against, or concerning claims of any class of citizens or subjects of either nation. A judicial tribunal was constituted by it in a manner perfectly equal, just, and fair; and to that tribunal was confided the duty of hearing all claims of whatever separate classes, in only one and exactly the same manner, and deciding upon them in only one and exactly the same manner. It probably would conduce to no good end to set forth on this occasion the reasons why the "Alabama" claims, more than any other class of international claims existing between the two countries, are the very claims against which the United States cannot agree to, or admit of any prejudicial discrimination. To present those reasons now, would be simply to restate arguments which have been continually presented by this Department in all the former stages of this controversy, while it is fair to admit that those reasons have been controverted with equal perseverance by Her Majesty's Department for Foreign Affairs.

It is not to be understood by these remarks that the United States except against the possible designation of a Sovereign or Head of a friendly State as Arbitrator or Umpire in regard to the "Alabama" claims. On the contrary, the United States would not be unwilling to have so distinguished an Arbitrator or Umpire agreed upon by the Commissioners in any and, indeed, every case that shall come before them. All that is insisted upon is that the arbitrament of a Sovereign or Head of a nation, shall not be made unnecessary in regard to other United States' claims and British claims, and yet be made indispensable to the adjustment of the "Alabama" claims.

Article V provides, that in the event of a decision on any of the claims mentioned in the next preceding Article (Article IV), being arrived at by the Arbitrator, involving a question of compensation to be paid, then the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the Arbitrator appointed by them, or who shall have been determined by lot, according to Article I.

I remark upon this Article V, that no objection will be made to it if it shall be so amended as to adapt it to the general structure of the Convention, after Article IV shall have been stricken out.

Article VI provides, that with regard to the "Alabama" class of claims, neither Government shall make out a case in support of its position, nor shall any person be heard for or against any such claim. The official correspondence which has already taken place between the two Governments respecting the questions at issue shall alone be laid before the Commissioners; and in the event of their not coming to an unanimous decision, as provided in Article IV, then before the Arbitrator without argument, written or verbal, and without the production of any further evidence. But the Commissioners, unanimously, or the arbitrator shall, however, be at liberty to call for argument or further evidence, if they shall deem it necessary.

The United States are obliged to disallow this Article in its present form, upon the principle set forth in my remarks upon Article IV, and for the reasons there given. The Article is believed to be superfluous, while the precautions it contains against allowing as full a hearing and examination of the Alabama claims as is allowed to all other American claims, and to British claims, would have the

mischievous effect of exciting unnecessary distrust in the Senate, and among the people of the United States, and it is presumed even among the people of Great Britain. The President confidently hopes that upon reconsideration of the subject Her Majesty's Government will consent to amend the Convention by striking out Article VI, or at least by amending it, so that Article VI will read as follows:—"In case of every claim, the official correspondence which has already taken place between the two Governments respecting the questions at issue, shall be laid before the Commissioners; and, in the event of their not coming to a decision thereupon, then before the Arbitrator, either Government may also, in either case, submit further evidence and further argument thereupon, written or verbal."

Article VII provides, that the decision of the Commissioners, or of the Arbitrator, or Umpire, as the case may be, shall be considered by both parties as absolutely final and conclusive, and full effect shall be given to such decisions without any objection or delay whatever.

This Article VII is approved.

Article VIII provides that no claim arising out of any transaction prior to the 26th of July, 1853, the day of the exchange of the ratification of the Convention of the 8th of February, 1853, shall be admissible under the Convention.

This Article VIII is approved.

Article IX provides that all sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire, on account of any claim, shall be paid in coin or its equivalent, by the one Government to the other, as the case may be, within twelve months after the date of the decision, without interest.

In view, however, of possible delays of legislative appropriation in the two countries, the word "twelve" ought to be struck out, and the word "eighteen" inserted. Article IX, if so amended, would be accepted.

Article X provides that the High Contracting Parties engage to consider the result of the proceedings of the Commission as a full and final settlement of every claim upon either Government, arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention, and further engage that every such claim, whether it shall have been presented to the notice of, made, preferred, or laid before the Commission, shall, from and after the conclusion of the proceedings of the Convention, be considered and treated as finally settled and barred.

This Article X seems unobjectionable, and is approved.

Article XI provides that the Commissioners shall keep an accurate record, and correct minutes or notes, of all their proceedings, with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them; that the Secretary shall be appointed by the Principal Secretary of State for Foreign Affairs of Her Britannic Majesty, and by the Representative of the United States in London, jointly; that each Government shall pay the salaries of its own Commissioners, and all other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two parties.

I suggest that this Article XI shall be amended, first, by inserting after the word "Commissioners" in the first line, the words "and Arbitrator or Umpire;" and second, by striking out the second paragraph entirely, and substituting for it the words following:—"The Secretary shall be appointed by the Representative of Her Britannic Majesty in Washington, and by the Secretary of State of the United States, jointly." With these amendments, this Article XI will be satisfactory.

Article XII fixes a period within which the ratification of the Convention shall be exchanged.

The Article is unobjectionable, and is approved.

I close this despatch, as you might reasonably expect, with some remarks and directions upon the general subject of the negotiation.

It is sincerely hoped that the amendments I have proposed may be allowed by Her Majesty's Government. It is conceived that these amendments do not, in fact, change the character of the Convention, and that they do not secure to one party or deprive the other of any material advantage which the Convention allows in its present shape. All that they can accomplish is to relieve the Convention of any apparent spirit and tendency to prejudice the largest class of United States' claims before the Commission and the Arbitrator.

In assigning my reasons for requiring the amendments, I have confined myself within the narrowest possible limits, seeking to avoid all unnecessary argument or

controversy. You are authorized, however, to say I am of opinion that the amendments proposed are important to recommend the Convention to acceptance by the Senate and approval by the Congress of the United States.

The terms in which you have expressed yourself in your correspondence concerning the Convention, leave o room to doubt that you have supposed that it would be satisfactory to the United States in its present shape. It is further believed that you may have expressed that opinion to Lord Stanley. Her Majesty's Government, disappointed in the expectation thus excited, may possibly be reluctant to continue the negotiation. In that case you are authorized to say that the transaction was conducted on the part of this Government by a large use of the cable telegraph; that you were expected by this Government to adhere more closely than you have done to the Convention of 1853 as a model, and were supposed to be so adhering while my telegraphic instructions written under that misconception were liable to be misunderstood by you as approving the departures you have made from that prescribed model. To this statement you will add the expression of regret on the part of this Government that this misunderstanding, which now seems to have been unavoidable, should have been the means of leading Her Majesty's Government to suppose that Articles IV, V, and VI might be expected to obtain the constitutional assent of the Government of the United States.

If on receiving this instruction you shall be able to bring the negotiation to a satisfactory conclusion, it will be better to have that conclusion expressed in the form of a Protocol rather than of a Convention. That form would be preferable over the form of a Convention in view of the discussions which any settlement of the subject might be expected to undergo in the Senate and among the people of the United States. It is not intended, however, by this remark to indicate any distrust of the acceptance of the Convention when amended as herein proposed. On the contrary, there is good reason to believe that such a settlement would be as promptly approved as its influence upon the relations of the two countries would be immediately felt and appreciated.

It remains only to say that in view of the present situation of the Claims Convention, it is expedient to let the satisfactory settlement of the Naturalization question and the San Juan question rest in Protocol. On the other hand, should Her Majesty's Government accept the amendment of the Claims Convention herein proposed, you are authorized in that case to reduce the three or either two of these agreements to the forms of distinct Conventions, and to sign and transmit them at once to this Department to be laid before the President for ratification.

To facilitate your understanding of this despatch I give you herewith a copy of the Convention as it would stand when amended as is herein proposed.

I am, &c.

(Signed) WILLIAM H. SEWARD.

No. 23.

Memorandum communicated by Mr. Reverdy Johnson, December 24, 1868.

ARTICLE I, paragr first, amend by and with advice and consent of the Senate.

Paragraph second. Instead of "London," "Washington."

Article I, for paragraph, "The Commissioners shall then, and before proceeding to any other business, name some person to act as an Arbitrator or Umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision." In the case of any and every claim the Arbitrator or Umpire may be the head of a friendly foreign State or nation. In naming or agreeing upon an Arbitrator or Umpire the Commissioners on each side may refer themselves to their own Governments for instructions, and the Contracting Parties shall and will in such case within six months after notice of such reference shall have been given, decide upon such Arbitrator or Umpire, and instruct their Commissioners accordingly. If it shall happen, nevertheless, that at the expiration of the period of six months before-named, no person the head of a Sovereign State or otherwise has been agreed upon as Arbitrator or Umpire, then and in that case, the Commissioners on each side shall name a person the head of a Sovereign State or otherwise as Arbitrator or Umpire, and in each and every case if all the Commissioners shall not be able to come to a decision they shall determine by lot which of any two persons

so named shall be the Arbitrator or Umpire in that particular case; the person first so "drawn" by lot being regarded as the choice of the Commissioners. The person or persons so to be chosen as Arbitrator or Umpire, if not the head of a Sovereign State or nation, shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of (all) or their omitting or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named in the same manner as the person originally named to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

Article II, omit last paragraph.

Strike out Article IV, V, and VI.

Article IX, eighteen months instead of twelve.

Article XI, amend as before proposed.

No. 24.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, December* 24, 1868.

HER Majesty's Government, since their accession to office, have had before them your telegrams of the 27th and 30th of November, your despatch of the 30th of November, and your final telegram of the 21st of December, respecting the Convention for the settlement of outstanding claims, signed by my predecessor and Mr. Johnson on the 10th of November. Mr. Johnson has also placed in my hands a telegram which he received on the same day, and which, with the exception of a passage in which it is said, "in the case of any and every claim the Arbitrator or Umpire may be the head of a friendly foreign State or nation," is identical with yours of the 21st instant.

It is, therefore, with this last telegram that Her Majesty's Government are especially called upon to deal; but, before adverting to it, I must observe that Her Majesty's Government understand that Mr. Seward's objection to the Convention signed by my predecessor and Mr. Johnson turns chiefly on the distinction made in that Convention between general claims and the so-called "Alabama' claims.

Mr. Seward desires to expunge from the Convention the passages that relate to those claims, and to leave them to be dealt with on the same footing as other claims. The passages thus proposed to be expunged are the last paragraph of Article II and Articles IV, V, and VI of the Convention.

Mr. Seward, anticipating a difficulty that might be raised by Her Majesty's Government to submitting to the arbitration of any private individual who might be selected as Arbitrator or Umpire by the Commissioners, questions of principle such as would arise in the consideration of the "Alabama" claims, now proposes to insert in Article I of the Convention, passages which should admit generally of reference to a foreign Sovereign or State of any such questions arising out of any claims whatever. By such a process provision would be made, though in a more comprehensive form, for the reference of the "Alabama" claims, in case of need, to the arbitration of a foreign Sovereign or State, which was contemplated in Articles IV and VI of the signed Convention.

Mr. Seward further desires that the Convention should be made to resemble as closely as possible the Convention of 1853, as being more likely in that shape to be acceptable to the Senate of the United States.

Her Majesty's Government after full consideration of the matter, and being no less desirous than their predecessors and Mr. Seward himself to come to a settlement on the difficult and complicated question of mutual claims, are prepared to meet the wishes of the Government of the United States in the manner which I will now explain to you.

They agree with Mr. Seward that it is desirable to adopt as closely as possible the terms of the Convention of 1853.

They also agree to expunge the last paragraph of Article II, and also Articles IV and VI of the signed Convention which relate specifically to the "Alabama" claims; but they think that with a slight alteration, to be presently

explained, it would be desirable to retain the terms of Article V, though not embodied in a distinct Article.

They further agree in the principle involved in Mr. Seward's proposed insertion in Article I, under which reference to the decision of a friendly Sovereign or State would be admissible in certain cases.

It appears, however, to Her Majesty's Government that besides involving a very wide departure from the terms of the same Article in the Convention of 1853, the proposed insertion would render the Article obscure and complicated, difficult of construction, and still more difficult in operation, and would tend to protract almost indefinitely the labours of the Commission.

Her Majesty's Government fully concur in the necessity of providing in the Convention for a more solemn arbitration where questions of principle, in which the Commissioners cannot agree, are involved, than could be expected from any private individuals selected by the Commissioners. Such questions may arise not only in regard to the "Alabama" claims, but in regard to many other classes of claims which may be brought before the Commissioners; and it seems to Her Majesty's Government highly important that such questions should be decided by the arbitration of a foreign Sovereign or State, inasmuch as they will turn on points of international law, comity, or equity, in the consideration of which a foreign Sovereign or Head of a State may call to his assistance the learning and intelligence of any of their subjects who have made such matters their especial study.

But it seems to Her Majesty's Government that it would scarcely be courteous to any Sovereign or Head of a friendly foreign State, in default of the two Governments agreeing within six months as to whom reference should be made, to leave to the Commissioners to select him. Such selection could only rightly be made by the two Governments themselves, as being co-ordinate in rank and dignity, and therefore fitting applicants for the good offices of one of their compeers; while, on the other hand, for the reasons that I have stated, the questions on which the Commissioners may be at issue can only be satisfactorily determined by a friendly foreign Sovereign or State.

Her Majesty's Government do not anticipate that any difficulty need arise between the two Governments in selecting an arbiter of that class. No such difficulty was felt in the corresponding case of the Convention of 1827, respecting the North-West Boundary, when the King of the Netherlands was agreed upon by the British Secretary of State and the United States' Minister in London.

Her Majesty's Government observe, moreover, that in Mr. Seward's proposed insertion no allusion is made to the production before the Commissioners or Arbitrator of the official correspondence which may have taken place between the two Governments respecting any claims. This they conclude to be an oversight; but if not, Her Majesty's Government would not be disposed to insist upon it.

They observe, further, that no provision is made for accepting the decision of the Arbitrator, whether chosen by the Commissioners or chosen by the Governments as ruling not only the specific claim submitted to him, but all other claims of the same class. Her Majesty's Government think it very essential that some such provision should be made, as otherwise the same principle may be submitted to arbitration over and over again, and so the sittings of the Commissioners might be indefinitely prolonged.

Bearing all these considerations in mind, Her Majesty's Government have framed a fresh draft of Convention which I now inclose, and which I have to instruct you to submit to Mr. Seward together with a copy of this despatch. This draft has been framed on the principle of adhering as closely as possible to the terms of the Convention of 1853.

Thus, the Ist Article, with the exception of the introduction of the words "by and with the advice and consent of the Senate," and the substitution of "Washington" for "London" nearly textually reproduces the same Article of the Treaty of 1853.

The IInd Article has necessarily been altered to meet the special requirements of the present case. The proposed alterations up to the end of the third paragraph, are printed in *italics* so that they may be more easily distinguished. The reasons for proposing them are already explained.

After the third paragraph, a paragraph has been introduced varying but slightly from the Vth Article of the signed Convention. It seems necessary to adopt this provision to meet the case of the principle of a claim being decided by an Arbitrator, leaving to the Commissioners and the general Arbiter named by them,

to determine, if the case arises, the amount of compensation payable to the claimant.

After the before-mentioned paragraph, is inserted the penultimate paragraph of the signed Convention as well as Articles VII and VIII of the same.

Drawn in this shape Article II will, except as regard the passages inserted in *italics* and the fourth paragraph, nearly textually reproduce the corresponding Article of the Convention of 1853.

The remaining slight alterations in Articles IX and XI of the signed Convention are adopted.

It remains for me to say that Her Majesty's Government prefer the form of Convention to that of Protocol, as calculated to lead to an earlier settlement of the preliminary discussions between the two Governments. If a Protocol were adopted in the first instance its provisions would not be operative until it were embodied in a Convention; and the arrangement would require, as Her Majesty's Government understand the matter, to be twice submitted to the Senate for assent, whereby much time would be lost, with all the inconvenience of keeping open a question which necessarily attracts much attention, and of deferring the adjudication on claims in the early settlement of which so many subjects and citizens of the two countries are deeply interested.

I have only to add that, if the inclosed draft is accepted by Mr. Seward, Mr. Johnson might be authorized by telegraph to sign it, in which case it might be returned to Washington so as to admit of its being laid before the Senate by the middle of January, and pronounced upon by that body before the rising of the Congress on the 4th of March.

Her Majesty's Government will greatly rejoice if their first interchange of communications with the Government of the United States should be attended with a settlement of the complicated matters which forms the subject of my present despatch.

I am, &c.
(Signed) CLARENDON.

Inclosure in No. 24.

Draft of Convention between Great Britain and the United States of America, for the Settlement of all Outstanding Claims.

WHEREAS claims have at various times since the exchange of the Ratifications of the Convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of Her Britannic Majesty on the part of the citizens of the United States, and upon the Government of the United States on the part of subjects of Her Britannic Majesty; and whereas some of such claims are still pending, and remain unsettled; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

ARTICLE I.

The High Contracting Parties agree that all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and all claims on the part of citizens of the United States upon the Government of Her Britannic

Majesty, which may have been presented to either Government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out of the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States, *by and with the advice and consent of the Senate.* In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at *Washington* at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection, to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an Arbitrator or Umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be the Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity, of such person or persons, or of his or their omitting, or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named, in the same manner as the person originally named, to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such Declaration as aforesaid.

ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. *The official correspondence which has taken place between the two Governments respecting any claims shall be laid before the Commissioners, and* they shall, *moreover*, be bound to receive and pursue all *other* written documents or statements which may be presented to them by or on behalf of the respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as counsel or agent for such Government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the Arbitrator or Umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such Arbitrator or Umpire, after having examined *the official correspondence which has taken place between the two Governments, and* the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.

*[*If, however, it shall appear to the Commissioners, or any two of them, that from the nature of any particular claim in regard to which they may have been unable to come to a decision, it is desirable that a Special Arbitrator or Umpire shall be named, to whose decision such claim shall be referred,] the Commissioners shall report to that effect to their respective Governments, who shall thereupon, within six months, agree upon some Sovereign or Head of*

* Subsequently altered in the signed Convention, see page 37.

a friendly State who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two Governments, and the other written documents or statements which may have been presented to the Commissioners in respect of such claims.

The decision of the Commissioners, and of the Arbitrator or Umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated. *[*The decision of the Arbitrator or Umpire on any particular claim so referred to him shall rule any other claims of the same class.*]

In the event of a decision involving a question of compensation to be paid, being arrived at by a special Arbitrator or Umpire, the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the Arbiter or Umpire appointed by them, or who shall have been determined by lot.

It shall be competent for each Government to name one person to attend the Commissioners as Agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the Commissioners, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by him or them respectively, and to give full effect to such decision without any objection or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the Convention of the 8th of February, 1853, shall be admissible under this Convention.

ARTICLE III.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire in the event of the Commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners, or for the Arbitrator or Umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

ARTICLE IV.

All sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire. on account of any claim, shall be paid in coin or its equivalent by the one Government to the other, as the case may be, within *eighteen* months after the date of the decision, without interest.

ARTICLE V.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled and barred, *and thenceforth inadmissible.*

ARTICLE VI.

The Commissioners *and the Arbitrator or Umpire appointed by them* shall keep an accurate record and correct minutes or notes of all their proceedings with the dates

* Omitted at the request of the United States' Government in the signed Convention.

thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The Secretary shall be appointed by Her Britannic Majesty's Representative at Washington, and by the Secretary of State of the United States, jointly.

Each Government shall pay the salaries of its own Commissioners. All other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two Parties.

ARTICLE VII.

The present Convention 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 ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

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

Done at London, the day of , in the year of our Lord one thousand eight hundred and sixty-

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No. 25.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, December* 26, 1868.

IN a telegram from Mr. Seward dated the 1st of December, which was communicated by Mr. Johnson to my predecessor, and in a despatch from him dated the 27th of November, which was communicated by him to myself, Mr. Seward authorized Mr. Johnson, if the amendments proposed by the United States' Government in the Claims Convention were accepted by the Government of Her Majesty, to change the Protocol of the 10th of November, respecting the Island of San Juan, into a Convention, and to sign the same.

In anticipation of the Government of the United States accepting the Claims Convention in the amended shape in which it is sent to you by this mail, and authorizing Mr. Johnson to sign it, I have to instruct you to recall to Mr. Seward's recollection the contingent authority he had previously given to Mr. Johnson to convert the San Juan Protocol into a Convention, and sign it, and suggest that Mr. Johnson should be again specifically authorized by telegraph to do so.

Mr. Johnson will probably have transmitted to Mr. Seward the San Juan Protocol adapted to the form of a Convention, and I inclose copies thereof for your information.

I am, &c.
(Signed) CLARENDON.

No. 26.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, January* 16, 1869.

HER Majesty's Government having accepted the alterations proposed by Mr. Seward in the Convention for the settlement of British and American claims, as stated in your telegraphic despatch of the 11th instant, I signed with Mr. Johnson that Convention on the 14th instant, as well as a Convention for referring to arbitration the disputed line of water-boundary under the Treaty of 1846.

Copies of these Conventions are inclosed.

I am, &c.
(Signed) CLARENDON.

Inclosure 1 in No. 26.

Convention between Great Britain and the United States of America, for the Settlement of all Outstanding Claims.—Signed at London, January 14, 1869.

WHEREAS claims have at various times since the exchange of the Ratifications of the Convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of Her Britannic Majesty on the part of citizens of the United States, and upon the Government of the United States on the part of subjects of Her Britannic Majesty; and whereas some of such claims are still pending, and remain unsettled; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentaries to confer and agree thereupon, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I.

The High Contracting Parties agree that all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and all claims on the part of citizens of the United States upon the Government of Her Britannic Majesty, including the so-called "Alabama" claims, which may have been presented to either Government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out of the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States, by and with the advice and consent of the Senate. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting, or declining, or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at Washington at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an Arbitrator or Umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be

the Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn Declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named, in the same manner as the person originally named, to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such Declaration as aforesaid.

ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. The official correspondence which has taken place between the two Governments respecting any claims shall be laid before the Commissioners, and they shall, moreover, be bound to receive and peruse all other written documents or statements which may be presented to them by or on behalf of the respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as Counsel or Agent for such Government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the Arbitrator or Umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such Arbitrator or Umpire, after having examined the official correspondence which has taken place between the two Governments, and the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.

*[Nevertheless, if the Commissioners, or any two of them, shall think desirable that a Sovereign, or Head of a friendly State, should be Arbitrator or Umpire in case of any claim,] the Commissioners shall report to that effect to their respective Governments, who shall thereupon, within six months, agree upon some Sovereign or Head of a friendly State, who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two Governments, and the other written documents or statements which may have been presented to the Commissioners in respect of such claims.

The decision of the Commissioners, and of the Arbitrator or Umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated.

In the event of a decision, involving a question of compensation to be paid, being arrived at by a special Arbitrator or Umpire, the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the Arbitrator or Umpire appointed by them, or who shall have been determined by lot.

It shall be competent for each Government to name one person to attend the Commissioners as Agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the Commissioners, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by him or them respectively, and to give full effect to such decision without any objection or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the Convention of the 8th of February, 1853, shall be admissible under this Convention.

* The words between brackets were substituted at the request of the United States' Government for the words also between brackets in the draft of the Article in page 33.

ARTICLE III.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire in the event of the Commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners, or for the Arbitrator or Umpire if they differ, to decide in eaeh case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

ARTICLE IV.

All sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire, on account of any claim, shall be paid in coin or its equivalent by the one Government to the other, as the case may be, within eighteen months after the date of the decision, without interest.

ARTICLE V.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled and barred, and thenceforth inadmissible.

ARTICLE VI.

The Commissioners, and the Arbitrator or Umpire appointed by them, shall keep an accurate record and correct minutes or notes of all their proceedings with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The Secretary shall be appointed by Her Britannic Majesty's Representative at Washington, and by the Secretary of State of the United States, jointly.

Each Government shall pay the salaries of its own Commissioners. All other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two Parties.

ARTICLE VII.

The present Convention 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 ratifications shall be exchanged in London as soon as may be within twelve months from the date hereof.

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

Done at London, the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

(L.S.) CLARENDON.
(L.S.) REVERDY JOHNSON.

Inclosure 2 in No. 26.

Convention between Her Majesty and the United States of America, for referring to Arbitration the Water Boundary under Article I of the Treaty of June 15, 1846. *Signed at London, January* 14, 1869.

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, being desirous to close all further discussion

with regard to the true direction of the line of water boundary between their respective possessions, as laid down in Article I of the Treaty concluded between them on the 15th of June, 1846, have resolved to conclude a Treaty for this purpose, and have named as their Plenipotentiaries, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Afiairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

ARTICLE I.

Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, that the line of boundary between the territories of Her Britannic Majesty and those of the United States, from the point on the 49th 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 Fuca's Straits, to the Pacific Ocean;" and whereas the Commissioners appointed by the two High Contracting Parties to mark out that portion of the boundary which runs southerly through the middle of the channel aforesaid, have not been able to determine which is the true line contemplated by the Treaty;

The two High Contracting Parties agree to refer to the President of the Swiss Confederation to determine the line which, according to the terms of the aforesaid Treaty, runs southerly through the middle of the channel which separates the Continent from Vancouver's Island, and of Fuca's Straits, to the Pacific Ocean.

ARTICLE II.

If the Referee should be unable to ascertain and determine the precise line intended by the words of the Treaty, it is agreed that it shall be left to him to determine upon some line which, in his opinion, will furnish an equitable solution of the difficulty, and will be the nearest approximation that can be made to an accurate construction of the words of the Treaty.

ARTICLE III.

It is agreed that the Referee shall be at liberty to call for the production of and to consult, all the correspondence which has taken place between the British and American Governments on the matter at issue, and to weigh the testimony of the British and American negotiators of the Treaty, as recorded in that correspondence, as to their intentions in framing the Article in question; and the Referee shall further be at liberty to call for the reports and correspondence, together with any documents, maps, or surveys bearing on the same, which have emanated from or were considered by the Commissioners who have recently been employed by the two Governments to endeavour to ascertain the line of boundary, as contemplated by the Treaty, and to consider all evidence that either of the High Contracting Parties may produce. But the Referee shall not depart from the true meaning of the Article as it stands, if he can deduce that meaning from the words of that Article, those words having been agreed to by both Parties, and having been inserted in a Treaty ratified by both Governments.

ARTICLE IV.

Should either Government deliver to the Referee a statement of its case, a copy thereof shall be at the same time communicated to the other Party, through its Representative in Switzerland, together with a copy of all papers or maps annexed to such statement. Each Government shall moreover furnish to the other, on

application, a copy of any individually specified documents or maps in its own exclusive possession, relating to the matter at issue.

Each Party shall be at liberty to draw up and lay before the Referee a final statement, if it think fit to do so, in reply to the case of the other Party, and a copy of such definitive statement shall be communicated by each Party to the other, in the same manner as aforesaid.

The two High Contracting Perties engage to use their best exertions to place the whole of their respective case before the Referee within twelve months after the exchange of the ratifications of the present Treaty.

ARTICLE V.

The Ministers or other public Agents of Great Britain and of the United States at Berne shall be considered as the Agents of their respective Governments to conduct their case before the Referee, who shall be requested to address all his communications and give all his notices to such Ministers or other public Agents, whose Acts shall bind their Governments to and before the Referee on this matter.

ARTICLE VI.

It shall be competent to the Referee 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 with closed doors or in public sitting; in the presence or absence of both Agents; and either *vivâ voce* or by written discussion or otherwise.

ARTICLE VII.

The Referee shall, if he thinks fit, appoint a Secretary, Registrar, or Clerk for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. He shall be requested to deliver, together with his award, a statement of all the costs and expenses which he may have been put to in relation to this matter; and the amount thereof shall forthwith be repaid in two equal portions, one by each of the two Parties.

ARTICLE VIII.

The Referee 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, signed by him, to each of the said Agents.

ARTICLE IX.

The respective Parties formally engage to consider the decision of the Referee, when given, as final and conclusive, whether such decision shall be a positive decision as to the line of boundary intended by the true meaning of the words of Article I of the Treaty of 1846, or whether the said Referee, being unable to give such positive decision, shall give as a decision a line of boundary as the nearest approximation to an accurate construction of those words, and as furnishing an equitable solution of the difficulty; and such decision shall, without reserve, be carried into immediate effect by Commissioners to be appointed for the purpose of marking out the line of boundary, in accordance with such decision of the Referee.

ARTICLE X.

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 Ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

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

Done at London, the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

(L.S.) CLARENDON.
(L.S.) REVERDY JOHNSON.

No. 27.

Mr. Thornton to the Earl of Clarendon.—(*Received January* 31.)

My Lord, *Washington, January* 18, 1869.

I HAVE the honour to inform your Lordship that copies of the Protocol on Naturalization, of the Convention on Claims, and of that with regard to the San Juan question, lately concluded between England and the United States, have been officially communicated to the Senate by the President of the United States. No action has as yet been taken upon them by that body.

I have, &c.

(Signed) EDWD. THORNTON.

No. 28.

Mr. Thornton to the Earl of Clarendon.—(*Received February* 6.)

My Lord, *Washington, January* 25, 1869.

I HAVE the honour to inform your Lordship that on the 19th instant Mr. Corbett, one of the Senators from Oregon, submitted to the Senate a Memorial from certain citizens of Washington territory relative to the San Juan question. I have not yet been able to obtain a copy of this memorial, but I understand that it protests against submitting the question of the claims of Great Britain to the Haro Archipelago and the channel between San Juan and Vancouver's Islands to the arbitration of any foreign Power. The Memorialists set forth that, the United States having already conceded from the line of 54° 40′ to that of 49° for the sake of peace, neither their honour nor their interests will admit of further surrender of right.

Mr. Corbett stated that these views coincided with his own; he was satisfied, he said, that the United States' Government only deviated from the line of the 49th parallel in order that Vancouver's Island might not be divided, and that in his opinion Great Britain had no right to the Island of San Juan. He added that the deepest channel running between the two islands was the boundary line.

The Memorial was ordered to be printed and referred to the Committee on foreign relations.

I have, &c.

(Signed) EDWD. THORNTON.

No. 29.

Mr. Thornton to the Earl of Clarendon.—(*Received February* 15.)

My Lord, *Washington, February* 1, 1869,

WITH reference to my despatch of the 25th ultimo, I have the honour to inclose three printed copies of the Memorial therein alluded to, signed by certain citizens of Washington territory, entreating the Senate not to consent that the question of the water boundary of British Columbia should be submitted to arbitration.

Your Lordship will observe that the statements upon which the Memorialists found their objections, are for the most part incorrect.

I have, &c.

(Signed) EDWD. THORNTON

Inclosure in No. 29.

Memorial of Marshall F. Moore, Governor of Washington Territory, and other Citizens of said Territory, remonstrating against any Recognition of the Claims of Great Britain to the Haro Archipelago and to San Juan Island.

Olympia, Washington Territory, December 7, 1868.

To the Honourable the Senate of the United States:

YOUR Memorialists, having learned that a proposition had been made to submit the unfounded claims of Great Britain to the Haro Archipelago, and especially to San Juan Island, to the arbitration of some foreign Power, respectfully protest against any recognition of those claims whatever. The terms of the Treaty of 1846 fix the boundary line along the Canal de Haro. The object of the deflection of the line from the 49th parallel, being simply to give the whole of Vancouver's Island to Great Britain, can be exactly accomplished by this channel alone. The officers who negotiated and adopted the Treaty, and the Senate by which it was ratified, acted with the full understanding that the Canal de Haro was the boundary. Having already conceded from the line of 54° 40′ to that of 49°, for the sake of peace, neither the honour nor the interests of the United States will admit of further surrender of right.

We, therefore, entreat your Honourable Body to consent to no Protocol nor Convention that admits a doubt of our right to the line of the Canal de Haro, or renders possible a surrender of these islands.

And your Memorialists will ever pray, &c.

(Signed) MARSHALL F. MOORE, *Governor of Washington Territory.*
HAZARD STEVENS, *Collector, &c.*
S. D. HOWE, *Assessor Internal Revenue, Washington Territory.*
JOS. CUSHMAN, *Receiver, &c.*
E. MARSH, *Register of the Land Office.*
FRANK CLARK.
H. G. STEINER.
J. E. WYCHE, *United States' Judge of Washington Territory.*
ELWOOD EVANS.
LEANDER HOLMES, *United States' Attorney.*
S. GARFIELD, *Surveyor-General, Washington Territory.*
PHILIP D. MOORE, *Late Collector of Internal Revenue.*
T. M. REED, *Chief Clerk, Surveyor-General's Office, Washington Territory.*
E. L. SMITH, *Secretary, Washington Territory.*
CHAS. A. WHITE, *Surveyor.*
C. H. HALL, *Late Superintendent Indian Affairs.*
E. GIELELING, *Late Acting Surveyor-General.*
BENJ. HARNED, *Territorial Treasurer, Washington Territory.*
C. S. KING, *United States' Indian Agent.*
LEVI SHELTON, *Territorial Librarian.*
WM. HUNTINGTON, *United States' Marshal.*
B. F. DENNISON, *District Judge.*
O. B. Mc FADDEN, *Late Chief Justice of Washington Territory.*
W. W. MILLER, *Late Superintendent Indian Affairs.*

No. 30.

Mr. Thornton to the Earl of Clarendon.—(*Received February* 15.)

My Lord, *Washington, February* 1, 1869.

I HAVE the honour to inform your Lordship that on the 29th ultimo Mr. Sumner presented a petition to the Senate signed by George B. Upton, a merchant of Boston, relative to the Claims Convention lately signed by your Lordship and Mr. Reverdy Johnson.

I have been unable as yet to obtain a copy of this petition, but I understand that Mr. Upton remonstrates against the ratification of the Convention on account of the injustice which he asserts would thereby be done to himself and other

claimants. He adds that he has higher objections to its confirmation: "That the so-called Treaty proposes to put upon the same footing claims by British subjects which have arisen under a disagreement in regard to the ordinary forms of neutrality, and claims of our own citizens upon the British Government for piracies committed by British-built, British-manned, and British-armed vessels; by vessels and armaments which left British ports under the protection of the British flag, and burned American ships, and your Memorialist's among the number, upon the high seas, without taking them into port for condemnation, and without any action being taken on the part of the British Government when these atrocities were laid before it to prevent the same."

I should observe that although the whole petition was not read to the Senate, Mr. Sumner quoted that part of it which I have transcribed, stating that that presented its substance.

He then moved that it should be referred to the Committee on Foreign Relations, which was agreed to.

I have, &c.
(Signed) EDWD. THORNTON.

P.S.—*February* 2.—I have just received a single copy of the above-mentioned petition from Boston, and have the honour to inclose it for your Lordship's information.

E. T.

Inclosure in No. 30.

Petition.

To the Honourable the Senate of the United States:

THE Undersigned, a citizen of the United States, respectfully memorializes and presents that he has read what purports to be a copy of a Treaty between this country and Great Britain for the settlement of claims, and among others, for a settlement of the so-called "Alabama" Claims.

He respectfully remonstrates against the confirmation of the Treaty on account of the injustice which would thereby be done to himself and other claimants. It is therein proposed to allow each nation twelve months' time for a confirmation, and two years thereafter for the Commission to sit, and after closing their labours, then, if anything is found to be due, that a further period of eighteen months longer is allowed for payment, without interest. The mere statement of these points ought, perhaps, to settle the question of rejection. He, however, respectfully represents that he has higher objections to its confirmation.

This so-called Treaty proposes to put upon the same footing claims by British subjects, which have arisen under a disagreement in regard to the ordinary forms of neutrality, and claims of our own citizens upon the British Government for piracies committed by British-built, British-manned, and British-armed vessels; by vessels and armaments which left British ports under the protection of the British flag, and burned American ships, and your Memorialist's among the number, upon the high seas, without taking them into port for condemnation, and without any action being taken, upon the part of said British Government, when these atrocities were laid before it to prevent the same; but on the contrary, these pirates were everywhere received with rejoicing when visiting British ports, and when the notorious builder of one of them boasted of the same in the British Parliament, of which he was a member, he was received with cheers and expressions of satisfaction. This shows, in the opinion of your Memorialist, the animus of the British Government towards the Government of the United States. He therefore respectfully protests, as an American citizen, against the confirmation of the Treaty, and prays that this Government will demand redress for its citizens, apart from all other claims, for the insults and injuries thus inflicted upon them and the country, through the wilful negligence, or with the open approval, of the British Government.

(Signed) GEO. B. UPTON.

Boston, January 27, 1869.

No. 31.

Mr. Thornton to the Earl of Clarendon.—(Received March 7.)

(Extract.) *Washington, February* 22, 1869.

I HAVE already had the honour to inform your Lordship that the Convention for the settlement of outstanding claims signed by your Lordship and Mr. Reverdy Johnson on the 14th ultimo had been sent by the President to the Senate for their approval.

I now learn that on the 18th instant at the meeting of the Senate Committee on Foreign Relations, its Chairman, Mr. Sumner, brought forward the above-mentioned Convention, and, after making a short comment upon its contents, and stating that it covered none of the principles for which the United States had always contended, recommended that the Committee should advise the Senate to refuse their sanction to its ratification.

Six out of seven members of the Committee were present, Mr. Bayard, Senator from Delaware, being absent; but his six colleagues, as I was told, voted, without any discussion or observations, adversely to the Convention. It has consequently been represented as a unanimous vote of the Committee, though it was not really so.

Mr. Sumner was accordingly authorized to report in that sense to the Senate.

I have the honour also to inclose copy of a Resolution adopted by the Legislature of Massachusetts protesting against the ratification of any Convention which does not admit the liability of England for the acts of the "Alabama" and her consorts.

Inclosure in No. 31.

Resolution of Massachusetts Legislature respecting Claims Convention.

Boston, February 19.—THE following Resolution, in reference to the Treaty with Great Britain, was introduced in the Massachusetts Legislation to-day and referred :—

Resolved,—That the Massachusetts Legislature, in General Court assembled, firmly believe that any Treaty between England and America touching the premises aforesaid, which may be submitted now or at any future time for ratification, which does not, by its terms, concede the liabilitiy of the English Government for acts of her protégés, the "Alabama" and her consorts will be spurned with contempt by the American people, and that a ratification thereof would be dishonourable to our nation, and unjust to our citizens.

No. 32.

Mr. Thornton to the Earl of Clarendon.—(Received March 7.)

My Lord, *Washington, February* 22, 1869.

I HAVE already had the honour to inform your Lordship that the Convention signed on the 14th ultimo by your Lordship and Mr. Reverdy Johnson, for referring to arbitration the Water Boundary under Article I of the Treaty of 15th June, 1846, was submitted to the Senate some time ago for their approval.

I have now learnt that the Committee of that Body on foreign relations have authorized their Chairman, Mr. Sumner, to make a Report upon the Convention to the Senate, and to recommend that they should sanction its ratification by the President.

I can hardly hope that time will be found to make the Report, or to take it into consideration during the present Session; but there is no reason why it should not be in that which will be held after the 4th of next month.

I have, &c.

(Signed) EDWD. THORNTON.

No. 33.

Mr. Thornton to the Earl of Clarendon.—(Received March 7.)

My Lord, *Washington, February* 22, 1869.

WHEN the Protocol upon Naturalization, signed by Lord Stanley and Mr. Reverdy Johnson, was sent to the Senate by the President, it was accompanied by a request that that Body would express their opinion whether it would be expedient that a Treaty should be concluded with Great Britain, founded upon the principles laid down in that Protocol.

I understand that the Senate Committee on Foreign Affairs have charged their Chairman, Mr. Sumner, to make a Report to the Senate upon the Protocol, and to recommend that the Executive Power be authorized to negotiate such a Treaty with England.

The press of business is, however, now so great that it is not likely that this Report will be made, or taken into consideration during the present Session, although it may be during that which will be held after the 4th of March.

I have, &c.

(Signed) EDWD. THORNTON.

No. 34.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, March* 22, 1869.

MR. REVERDY JOHNSON called upon me to-day to propose that an amendment, of which I inclose a copy, should be made to Article I of the Convention, as he thought it would satisfactorily meet the objections entertained by the Senate to the Convention, and would secure its ratification by that body.

I remarked to Mr. Johnson that his proposal would introduce an entirely new feature into the Convention, which was for the settlement of claims between the subjects and citizens of Great Britain and the United States; but that the two Governments not having put forward any claims on each other, I could only suppose that his object was to favour the introduction of some claim by the Government of the United States for injury sustained on account of the policy pursued by Her Majesty's Government.

Mr. Reverdy Johnson did not object to this interpretation of his amendment, but said that if claims to compensation on account of the recognition by the British Government of the belligerent rights of the Confederates were brought forward by the Government of the United States, the British Government might, on its part, bring forward claims to compensation for damages done to British subjects by American blockades, which, if the Confederates were not belligerents, were illegally enforced against them.

I replied that amendments had repeatedly been made during the negotiations in order to meet the wishes of the United States' Government, and to secure, as it was said, the assent of the Senate, but that our course of proceeding had not been met in a corresponding spirit; and we only knew that, contrary to custom, the Convention had at once been published, not only before it was ratified, but before it had been taken into consideration by the Senate; and that, to this day, we had not been informed of the objections made to the Convention by the Committee of the Senate or whether the Senate would come to a decision upon it or not.

Under all these circumstances, I said that it did not seem proper for Her Majesty's Government to take any further step in the matter, or to adopt any amendment of the Convention, even if it had been free from objection.

Mr. Johnson requested me to take it into consideration, and I assured him that I would bring his proposal to the knowledge of my colleagues, but that I did not think their view of it would differ from my own.

I am, &c.

(Signed) CLARENDON.

Inclosure in No. 34.

Amendment to Article I of Claims Convention.

Article I. THE High Contracting Parties agree that all claims on the part of Her Britannic Majesty's Government upon the Government of the United States, and all claims on the part of the Government of the United States upon the Government of Her Britannic Majesty, and all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States . . . . . .

No. 35.

Mr. Reverdy Johnson to the Earl of Clarendon.—(*Received March* 25.)

My Lord, *Legation of the United States, London, March* 25, 1869.

I KNOW you fully concur with me, that it is important to the interest and tranquillity of both our countries that the Convention signed by us on the 14th of January last should go into operation. As this cannot be effected without the ratification of the Convention by the Senate of the United States, it is necessary to remove the objection which that Body is supposed to entertain to it. I have reason to believe that the objection consists in the fact that the Convention provides only for the settlement by arbitration of the individual claims of British subjects and American citizens upon our respective Governments, and not for any claims which either Government as such may have upon the other. If I am right in this, as I think I am, the principle of arbitration is not disapproved of. On the contrary, all that the Senate desires is, that the entire controversy as to claims, shall be included within it, so as thereby to be finally settled.

My Government believe, as I am now advised, that it has a claim of its own upon Her Majesty's Government, because of the consequences resulting from a premature recognition of the Confederates during our late war, and from the fitting-out of the "Alabama" and other similar vessels in Her Majesty's ports, and from their permitted entrance into other ports to be refitted and provisioned during their piratical cruize.

The existence of such a claim makes it as necessary that its ascertainment and adjustment shall be provided for, as the individual claims growing out of the same circumstances.

As I explained to your Lordship, at the interview which I had the honour to have with you on Monday the 22nd instant, the decision of the arbitration upon the claim in question, may be such as to give to Her Majesty's Government a claim upon the United States. I therefore now officially propose to your Lordship, that we sign a Supplemental Convention which shall only so far alter the one of the 14th of January as to provide that the claims which either Government may have upon the other shall be included within it, and be settled in the same way. This can be done by inserting in the 1st Article after the word "agree" in the first line, these words:—"That all claims on the part of Her Majesty's Government upon the Government of the United States, and all claims of the Government of the United States upon Her Majesty's Government," and leaving the rest of the Article unchanged.

Such a provision as this would, I have every reason to believe, at once result in the ratification of the Convention by the Senate. And as it would in no degree compromise the rights or honour of either Government, but merely carry out the principle of arbitration upon which the Convention of the 14th of January rests, I earnestly hope that Her Majesty's Government will consent to it.

If this is done, and the Convention is ratified, every existing controversy between our two countries will soon be amicably settled, as it is certain that the Naturalization Protocol and the San Juan Convention meet with no opposition.

Soliciting as early a reply as your Lordship can conveniently give me, I have, &c.

(Signed) REVERDY JOHNSON.

No. 36.

The Earl of Clarendon to Mr. Reverdy Johnson.

Sir, *Foreign Office, March* 27, 1869.

I HAVE the honour to acknowledge the receipt your letter of the 25th instant, proposing the signature of a Convention supplementary to that of the 14th of January, by which provision would be made that the claims which either Government may have upon the other shall be included within the Convention of the 14th of January, and settled in the same way; and I beg leave to acquaint you, in reply, that immediately on the return of my colleagues to London, several of whom are absent during the short Easter recess, your letter shall have their attentive consideration.

In the meantime, however, I request you will have the goodness to inform me whether the proposal contained in your letter is made in pursuance of express instructions from the Government of the United States, as I do not clearly understand from your letter that such is the case.

I am, &c.
(Signed) CLARENDON.

No. 37.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, March* 27, 1869.

WITH reference to my despatch of the 22nd instant, giving an account of a conversation with Mr. Johnson respecting the Claims Convention, I now inclose a copy of a letter which I have since received from him,* formally proposing the signature of a Supplemental Convention, by which the previous Convention would be made applicable to claims that might be preferred by the respective Governments on each other.

I also inclose a copy of a letter which I have addressed to Mr. Johnson† acknowledging his letter, and acquainting him that it would be considered on the re-assembling of the Cabinet after the Easter recess.

You will consider the matter referred to in this correspondence as confidential for the present, at least so far as not to initiate any communication upon it.

I am, &c.
(Signed) CLARENDON.

No. 38.

Mr. Reverdy Johnson to the Earl of Clarendon.—(Received March 29.)

My Lord, *United States' Legation, London, March* 29, 1869.

I HAVE the honour to receive your note of the 27th instant, and shall look with solicitude to the determination of your Government upon the proposition contained in my official note to you of the 25th.

That proposition was not made in pursuance of any express instructions of my Government, but under the ample authority conferred upon me when I came to this country and since; an authority which has never been revoked, or in any particular modified.

Repeating my opinion that the acceptance of the proposition would result in the ratification by the Senate of the Claims Convention of the 14th of January last, I have, &c.

(Signed) REVERDY JOHNSON.

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* No. 35.

† No. 36.

No. 39.

Mr. Thornton to the Earl of Clarendon.—(*Received April* 4.)

My Lord, *Washington, March* 23, 1869.

I HAVE been informed by Mr. Sumner, the Chairman of the Committee on Foreign Relations, that the Convention on Claims signed by your Lordship on the 14th of January last will be submitted to the Senate in Executive Session as soon as an opportunity shall offer. But all other business has been delayed by the prolonged discussion on the Tenure of Office Act.

It has been reported by the newspapers and elsewhere that Mr. Sumner has prepared a lengthy exposition which will be submitted with the Committee's adverse Report on the Convention, and that its tone would tend to excite a warlike feeling against England. When I last saw Mr. Sumner, a few days ago, he of his own accord alluded to these reports, and declared in an earnest manner that his statement on the Convention would in no way display a hostile spirit against us, but would merely set forth and support, by strong arguments, the views held by the people of the United States with respect to the course pursued by England during the late civil war with regard to the Southern States.

As far as it is possible to form an opinion of so numerous a Body as the Senate, voting in secret Session upon the Convention in question, my belief is that it will fail to obtain in its favour the necessary two-thirds of their votes.

I have, &c.

(Signed) EDWD. THORNTON.

No. 40.

The Earl of Clarendon to Mr. Reverdy Johnson.

Sir, *Foreign Office, April* 8, 1869.

IN my letter of the 27th ultimo I had the honour to inform you that Her Majesty's Government would attentively consider the proposal respecting the Claims Convention contained in your letter of the 25th ultimo, which has for its object, by the insertion of a few words in Article I, to include in the Convention the claims that either Government might have on the other, as well as private claims.

Her Majesty's Government could not fail to observe that this proposal involved a wide departure from the tenor and terms of the Convention of 1853, to which, in compliance with your instructions, you have constantly pressed Her Majesty's Government to adhere, as necessary to insure the ratification of a new Convention by the Senate of the United States.

No undue importance is attached to this deviation, but I beg leave to inform you that in the opinion of Her Majesty's Government it would serve no useful purpose now to consider any amendment to a Convention which gave full effect to the wishes of the United States' Government, and was approved by the late President and Secretary of State, who referred it for ratification to the Senate, where it appears to have encountered objections, the nature of which has not been officially made known to Her Majesty's Government.

I am, &c.

(Signed) CLARENDON.

No. 41.

Mr. Reverdy Johnson to the Earl of Clarendon.—(*Received April* 9.)

My Lord, *Legation of the United States, London, April* 9, 1869.

I HAVE the honour to acknowledge the receipt of your Lordship's note of yesterday.

It is not my present purpose to renew the proposition contained in my letter of the 25th of March, nor to withdraw it. I felt myself entirely justified in making it by my instructions from the late Administration of my Government.

My sole object in addressing your Lordship now is to meet the difficulty,

which your Lordship suggests, to Her Majesty's Government agreeing to the proposition in question, "that it would involve a wide departure from the tenor and terms of the Convention of 1853." In this I think your Lordship is mistaken. The design of the Convention of 1853 was to settle all claims which either Government, in behalf of its own citizens or subjects, might have upon the other, the mode of settlement being the submission of them to a joint Commission, with the authority in case the Commissioners differed upon any claim to call in the assistance of an Umpire. At that time, neither Government, as such, made a demand upon the other. But that, as my proposition assumes, is not the case now. The Government of the United States believes that it has in its own right a claim upon the Government of Her Majesty. In order, therefore, to a full settlement of all existing claims, it is necessary that the one which my Government makes, and any corresponding claim which Her Majesty's Government may have upon the United States, should be included within the Convention of the 14th of January, 1869.

My instructions, to which your Lordship refers, were to provide for the settlement of the claims mentioned in such instructions by a Convention upon the model of the one of the 8th of February, 1853. That I did not suggest in the negotiations which led to the Convention of January the including within it any Governmental claims, was because my instructions only referred to the individual claims of citizens and subjects.

I forbear to speculate as to the grounds upon which my instructions were so limited. I make the proposition contained in my note of the 25th of March, because I have reason to believe that the omission in the Convention of January which would be supplied by the modification suggested, is the principal, if not the only, objection to the ratification of the Convention by the Senate of the United States.

I am gratified to be able to infer from your Lordship's note that "no undue importance is attached to this deviation," which your Lordship supposes would be the effect of the suggested change; that if it had been made, or should hereafter be made, under positive instructions from my Government, and Her Majesty's Government had reason to think that it would terminate the entire controversy, that it would be acceded to.

I shall, at the earliest moment, forward this correspondence to my Government, with the hope that it may have a satisfactory result.

I have, &c.

(Signed) REVERDY JOHNSON.

No. 42.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, April* 9, 1869.

I HAD a conversation with Mr. Reverdy Johnson on the 5th instant, when I told him that Her Majesty's confidential advisers had not yet considered the proposal respecting a Supplemental Claims Convention contained in his letter of the 25th of March, of which a copy was transmitted to you in my confidential despatch of the 27th of that month, but that I had spoken of it to some of my colleagues.

It appeared to them, I said, as it did to me, that by the adoption of his proposal an entirely new principle would be admitted, at variance with the Convention of 1853, which Her Majesty's Government were all along told was to be the model of a new Claims Convention. Her Majesty's Government, I said, had made various concessions in order to meet the wishes of the Government of the United States, and those which the Senate were supposed to entertain. Two months and more had elapsed without action being taken by the Senate beyond the publication of the Convention. Her Majesty's Government, I added, did not know what were the objections of the Senate; and although General Grant had been installed for a month, they had had no communications either through yourself or through Mr. Johnson as to the views of the Government of the United States, though rumours were not wanting as to the feeling being hostile.

Mr. Johnson, I said, was no doubt acting on his instructions, but they were the instructions given to him by the last Government, and Her Majesty's Government

could not consider a communication not made by the authority of the present Government. He had had experience enough of the hearty desire of Her Majesty's past and present Government, and of the people of England, to efface all cause of misunderstanding, and to establish the most friendly relations with the United States; but it would not be consistent with the honour and dignity of England now to amend a Treaty already signed, in the possibly fallacious hope that we should thereby meet objections, of the real character of which we were wholly ignorant.

I am, &c.
(Signed) CLARENDON.

No. 43.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, April* 10, 1869.

WITH reference to my despatches of the 27th ultimo and of yesterday's date, I inclose, for your information, copies of a further correspondence with Mr. Reverdy Johnson on the subject of the Claims Convention.*

I am, &c.
(Signed) CLARENDON.

No. 44.

Mr. Thornton to the Earl of Clarendon.—(*Received April* 13.)

(Extract.) *Washington, March* 29, 1869.

I HAVE the honour to inform your Lordship that the Convention on Claims lately signed by your Lordship has not yet been submitted to the Senate in Executive Session by the Chairman of the Committee on Foreign Affairs; it is even whispered that no decision will be taken upon it, but that it will be allowed to lie dormant.

I have not thought it expedient to refer to the subject at all with the Secretary of State during the last few days; but at an interview which I had with him yesterday, I spoke to him upon the subject of the Convention for submitting the question of the Island of San Juan to arbitration, and expressed my hope that, as the Committee on Foreign Affairs had authorized their Chairman to report favourably upon it, the Senate would proceed to give it their sanction; for that a joint occupation of the island, although it had been amicably carried out for several years, was at best a delicate business, and might at any moment give rise to a collision.

Mr. Fish merely expressed a hope that the question would be settled, without giving an opinion whether the Senate would take the San Juan Convention into consideration during the present Session.

No. 45.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, April* 14, 1869.

HER Majesty's Government approve your proceedings respecting the Claims and San Juan Boundary Conventions, as reported in your despatch of the 29th ultimo.

I am, &c.
(Signed) CLARENDON.

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* Nos. 38, 40, and 41.

No. 46.

The Earl of Clarendon to Mr. Reverdy Johnson.

Sir, *Foreign Office, April* 15, 1869.

I HAVE had the honour to receive your letter of the 9th instant, explaining the grounds on which you felt warranted in proposing the amendment in the Claims Convention, which, in your letter of the 25th ultimo, you had submitted for the consideration of Her Majesty's Government.

In order to prevent future misunderstanding, I feel it my duty to refer to one passage in your letter.

You say "that you are gratified to be able to infer from your Lordship's note, that no undue importance is attached to this deviation, which your Lordship supposes would be the effect of the suggested change; that if it had been made, or should hereafter be made, under positive instructions from my Government, and Her Majesty's Government had reason to think that it would terminate the entire controversy, that it would be acceded to."

In saying that "no undue importance is attached to this deviation," I intended to convey that Her Majesty's Government did not think that a rigid adherence to the terms and tenor of the Convention of 1853 was of material consequence. Beyond this my meaning did not go, and consequently I did not intend to imply that your proposed alteration of Article I of the Convention of January 14 would be acceptable to Her Majesty's Government.

I am, &c.
(Signed) CLARENDON.

No. 47.

Mr. Reverdy Johnson to the Earl of Clarendon.—(*Received April* 16.)

My Lord, *Legation of the United States, London, April* 16, 1869.

I HAVE the honour to acknowledge the receipt of your note of yesterday relating to the Claims Convention. The inference which I drew from that part of your reply to my letter of the 25th of March, which I quoted, was not only the one which I supposed could be deduced from it, but under the circumstances was the only one to be drawn from it. Your Lordship's note, however, of yesterday is conclusive that you did not design the meaning I attached to your note of the 8th instant, and I will lose no time in so informing my Government.

I have, &c.
(Signed) REVERDY JOHNSON.

No. 48.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, April* 17, 1869.

WITH reference to my despatch of the 10th instant, I inclose, for your information, copies of further correspondence with Mr. Johnson respecting the Claims Convention.*

I am, &c.
(Signed) CLARENDON.

No. 49.

Mr. Thornton to the Earl of Clarendon.—(*Received May* 3.)

(Extract.) *Washington, April* 19, 1869.

I HAVE the honour to inform your Lordship that the Claims Convention signed by your Lordship on the 14th of January last was submitted to the Senate in Executive Session on the 13th instant, with the adverse report which had

* Nos. 46 and 47.

previously been decided upon by the Committee on Foreign Relations. Mr. Sumner availed himself of the occasion to make a long speech on the subject, and as the Senate subsequently ordered that this speech should be made public it has been inserted in all the newspapers in the country. It was followed by a few more, all in the same sense, of which that of Mr. Chandler, Senator from Michigan, seems to have been the most violent against England, and in it he plainly indicated his desire that Great Britain should possess no territory upon this continent.

A vote was taken on the same day, fifty-four Senators voting against it, and only one in its favour.

Your Lordship will perceive that the sum of Mr. Sumner's assertions is that England insulted the United States by the premature, unfriendly, and unnecessary Proclamation of the Queen, enjoining neutrality on Her Majesty's subjects; that she owes them an apology for this step; that she is responsible for the property destroyed by the "Alabama" and other Confederate cruizers, and even for the remote damage to American shipping interests, including the increase of the rate of insurance; that the Confederates were so much assisted by being able to get arms and ammunition from England, and so much encouraged by the Queen's Proclamation, that the war lasted much longer than it would otherwise have done, and that we ought therefore to pay imaginary additional expenses imposed upon the United States by the prolongation of the war.

Mr. Sumner lays stress upon the umpire or two umpires being selected by the Commissioners, and in the latter case on one of them being chosen by lot to decide upon any particular case; and adds that the subsequent provision for naming a Sovereign or Head of a friendly State is not sufficient to remedy the evil of which he complains; while he altogether omits to allude to the fact that at the will of the two Commissioners on the one side or the other, any matter in dispute, from the highest international question to the lowest consideration of pecuniary compensation, may be referred to the single umpire agreed upon by the two Governments.

Mr. Sumner asserts that the Confederate bonds rose in price on the announcement of the signature of the Convention, and he insinuates that the claims of the bondholders would be submitted to the Commission; but he can hardly suppose the English Commissioners to admit such claims, and I can therefore only look upon this insinuation as an endeavour to excite an unfair opposition to the contents of the Convention.

It is not worth while to discuss the nice distinction which Mr. Sumner makes between belligerency by land and that on the ocean. But even if it be possible to separate the two, his argument is chiefly supported by "belittling" (to use his own phrase) the important right of blockade which was asserted by the United States, and which imposed upon neutrals the obligation of providing for the rights of their own subjects. The alternative of closing the ports of the Southern States is alluded to as if there would be no question that such a measure would have been acquiesced in by neutral Powers.

It is needless to follow Mr. Sumner in his history of the building and escape of the "Alabama," and of her subsequent reception; for these are the points which the Convention virtually consents should be submitted to arbitration; and I may here observe that although Mr. Sumner brings forward, as grounds of complaint against England, administrative measures which Her Majesty's Government would probably never agree should be submitted to the judgment of any umpire, his speech does not contain any protest against the principle of arbitration.

In speaking of the reparation which it is claimed is due by Great Britain to the United States on account of Her Majesty's Proclamation of Neutrality, Mr. Sumner brings forward as precedents the case of the "Chesapeake" boarded by the "Leopard," and that of the "Caroline" destroyed in American waters in 1837, in the former of which the act was disavowed by His Majesty's Government, and compensation was made, and, in the other, though the circumstances fully warranted the act, regret was expressed that necessity should have compelled a violation of American jurisdiction; but to compare with these two cases Her Majesty's Proclamation, issued by the deliberate advice of Her Majesty's Government, which they were called upon to give in consequence of the President's Declaration of Blockade, seriously affecting all neutrals, seems an incomprehensible display of unfair argument.

Mr. Sumner proceeds to consider the losses, individual and national, originating from our conduct. He states that the former amount to about 3,000,000*l.* sterling being the value of the ships and cargoes destroyed by the "Alabama" and other

Confederate cruizers. I can hardly believe, however, that any reasonable American, even including Mr. Sumner, can conscientiously assert that there is the slightest ground for remonstrance against England with regard to the conduct of any of the other cruizers, whatever there may be with regard to the "Alabama." I understand further that some of the claims presented on account of these losses could not be sustained by the necessary proofs.

Mr. Sumner claims that American shipping suffered an immense loss on account of the Confederate cruizers, and cites as a proof of this loss the decrease in American and the increase in British tonnage during the war; but he ignores the fact that the transfer of American vessels to the English flag was almost entirely fictitious, and that the owners, capital, masters, and crews were really the same and American, although under English names and flag. There was consequently very little actual but only an apparent loss. That since the war shipbuilding has gradually decreased, and is still decreasing in an extraordinary manner, must be traced to some other causes than the former proceedings of the Confederate cruisers.

The idea of England being responsible for a certain portion of the expenses of the American Civil War on account of its prolongation due to the policy of Great Britain and the presence on the seas of Confederate cruizers, seems almost too preposterous to entertain; but the absurdity of it appears at once by the consideration that if the pretension were to be admitted, a nice examination would have to be made, what proportion of the losses on shipping interests and by increased insurance would be due by us on account of the "Alabama," and what proportion should be assigned to the other Confederate cruisers, two of which, the "Sumter" and "Nashville," actually sailed from Confederate ports with commissions from the Confederate Government; and further if we are to be responsible for a part of the expenses of the war on account of its prolongation, we should have a right to know how far the United States' Government are responsible for it, and to insist upon an impartial jury to examine into and decide upon the general conduct of the naval and military operations during the war.

Your Lordship will observe that Mr. Sumner claims to be animated with an anxious desire that peace should be maintained with Great Britain; yet I know of no arguments more calculated than those contained in his speech to excite the passions of his countrymen, and to inflame that animosity which, unhappily, it is but too apparent they still feel against England.

The speech has been vehemently applauded by the whole of the Republican portion of the press that has as yet reached this city, and most of them openly proclaim that the only satisfaction the United States' Government can accept will be the cession of our possessions on this continent, as well as the Bahama Islands: a mode of settlement which has frequently been hinted at to me.

Your Lordship will doubtless have observed that, with reference to the Claims Convention, there have been two violations of the rules which are supposed to be in force with regard to all Treaties negotiated with this country. The first is that the Claims Convention was published in the newspapers of this country before any action had been taken upon it by the Senate; and the second that, contrary to custom, the Senate authorized the publication of Mr. Sumner's speech made in Executive Session. Both these acts seem to have been done in a spirit unfriendly to England, though they are probably of little importance.

No. 50.

Mr. Thornton to the Earl of Clarendon.—(*Received May* 2.)

My Lord, *Washington, April* 19, 1869.

THE Secretary of State has verbally informed me that the Protocol on the subject of Naturalization, signed by Lord Stanley on the 9th of October last, has been taken into consideration by the Senate, and approved by that body. A Resolution, of the exact tenor of which Mr. Fish was unable to inform me, was adopted, that the President should be authorized to enter into negotiations with Her Majesty's Government for a Treaty founded on the contents of the above-mentioned Protocol.

I have, &c.

(Signed) EDWD. THORNTON.

No. 51.

Mr. Reverdy Johnson to the Earl of Clarendon.—(*Received May* 3.)

My Lord, *Legation of the United States, London, May* 3, 1869.

I HAND you herewith a copy of the Resolution of the Senate of the United States, that that body does "not advise and consent to the ratification of the Convention" signed by your Lordship and myself on the 14th of January last, for the adjustment of outstanding claims on the part of citizens and subjects of the two Governments.

Notwithstanding this action of the Senate, I hope your Lordship will not infer that it is the determination of that body, or of the President of the United States, not to settle the causes of difference upon the same subjects as were embraced in the Convention of January, upon terms perfectly consistent with the rights and honour of both nations.

I think you will see conclusive evidence of this in the concluding paragraph of the despatch from my Government, inclosing the Senate's Resolution to me, which is as follows:—"The President, however, is not without hope that upon a further consideration by the two Governments of the questions involved in the negotiation, they may still be found to be susceptible of an amicable and satisfactory adjustment."

Your Lordship is herewith furnished with a copy of the despatch referred to.

In the hope thus expressed by the President, all the good men of both countries must unite.

It is, indeed, impossible to suppose that Governments as enlightened as ours can fail at any time to adjust all differences which may arise between them, in an amicable way; and so as not only to remove controversies which may disturb their peaceful relations, but so to remove them that such relations will not only be continued but strengthened.

I pray, &c.

(Signed) REVERDY JOHNSON.

Inclosure 1 in No. 51.

Mr. Fish to Mr. Reverdy Johnson.

Sir, *Department of State, Washington, April* 19, 1869.

AFTER having had under consideration for a period of three months, the Convention between the United States and Great Britain for the Adjustment of Claims, signed by Lord Stanley and yourself, at London, on the 14th of January last, the Senate of the United States on the 13th instant adopted a Resolution, a copy of which is inclosed, declining to give its advice and consent to the ratification of that instrument.

The vote of the Senate in opposition to the ratification was practically unanimous, there being only one in favour of it, and fifty-four against it.

The President, however, is not without hope that upon a further consideration by the two Governments of the questions involved in the negotiation, they may still be found to be susceptible of an amicable and satisfactory adjustment.

I am, &c.

(Signed) HAMILTON FISH.

Inclosure 2 in No. 51.

Resolution of the Senate of the United States.

In Executive Session, Senate of the United States, April 13, 1869.

Resolved,—THAT the Senate do not advise and consent to the ratification of the Convention between the United States and Great Britain, signed at London, January 14, 1869, providing for the adjustment of all outstanding claims of citizens and subjects of the parties respectively, two-thirds of the Senators present not agreeing to the ratification thereof.

Attest:

(Signed) GEO. C. GORHAM, *Secretary.*

No. 52.

Mr. Reverdy Johnson to the Earl of Clarendon.—(Received May 3.)

My Lord, *Legation of the United States, London, May 3, 1869.*

I HAVE the honour to inclose to you a copy of the Resolution of the Senate of the United States, ratifying the Protocol on the subject of Naturalization signed by Lord Stanley and myself on the 9th of October last, and stating that "the Senate advise and consent to the negotiation of a Convention between the two Governments founded upon the terms of the Protocol.

In a despatch, dated the 19th of April, inclosing the Resolution, I am instructed to inform Her Majesty's Government "that the Government of the United States stand ready, whenever it shall be the pleasure of Her Majesty's Government, to conclude a Convention upon that basis." A copy of the despatch accompanies this note.

Renewing, &c.
(Signed) REVERDY JOHNSON.

Inclosure 1 in No. 52.

Mr. Fish to Mr. Reverdy Johnson.

Sir, *Department of State, Washington, April 19, 1869.*

I HAVE to inform you that by a Resolution of the 13th instant, a copy of which is inclosed, the Senate of the United States advised and consented to the negotiation of a Convention between the United States and Great Britain, regulating the citizenship of persons who emigrate to and from the two countries, based upon the Protocol signed by yourself and Lord Stanley at London on the 9th of October last.

You will inform Lord Clarendon of this action of the Senate, and state to him that the Government of the United States stand ready, whenever it shall be the pleasure of Her Majesty's Government, to conclude a Convention upon that basis.

I am, &c.
(Signed) HAMILTON FISH.

Inclosure 2 in No. 52.

Resolution of the Senate of the United States.

In Executive Session, Senate of the United States, April 13, 1869.

Resolved,—THAT in reply to the Message of the President of the United States of the 15th of January, 1869, transmitting a Protocol for a Convention between the United States and Great Britain, regulating the citizenship of persons who emigrate to and from the two countries, the Senate advise and consent to the negotiation of a Convention between the two Powers, based on the Protocol above mentioned.

Attest:
(Signed) GEO. C. GORHAM, *Secretary.*

No. 53.

The Earl of Clarendon to Mr. Reverdy Johnson.

Sir, *Foreign Office, May 4, 1869.*

I HAVE the honour to acknowledge the receipt of your letter of the 3rd instant, inclosing a copy of a despatch from the Secretary of State of the United States, dated the 19th of April, with a Resolution of the Senate dated the 13th of that month, stating "that the Senate do not advise and consent to the ratification of the Convention between the United States and Great Britain signed at London, January 14, 1869, providing for the adjustment of all outstanding claims of citizens and subjects of the parties respectively, two-thirds of the Senators present not agreeing to the ratification thereof."

Mr. Fish, in the last paragraph of his despatch, says that "the President, however, is not without hope that upon a further consideration by the two Governments of the questions involved in the negotiation, they may still be found to be susceptible of an amicable and satisfactory adjustment."

In the hope thus expressed by the President. I have the honour to state to you that Her Majesty's Government cordially concur. During your residence in this country you must have had abundant evidence that it was the desire of the Government and people of England that all differences between the two countries should be honourably settled, and that their relations with the United States should be of a most friendly character.

I am, &c.
(Signed) CLARENDON.

No. 54.

The Earl of Clarendon to Mr. Reverdy Johnson.

Sir, *Foreign Office, May* 4, 1869.

I HAVE the honour to acknowledge the receipt of your letter of the 3rd instant, inclosing a copy of a despatch from the Secretary of State of the United States, dated the 19th of April, with a Resolution of the same dated the 13th of that month, stating "that in reply to the Message of the President of the United States of the 15th of January, 1869, transmitting a Protocol for a Convention between the United States and Great Britain, regulating the citizenship of persons who emigrate to and from the two countries, the Senate advise and consent to the negotiation of a Convention between the two Powers based on the Protocol abovementioned."

Mr. Fish instructs you to state to me "that the Government of the United States' stand ready, whenever it shall be the pleasure of Her Majesty's Government, to conclude a Convention on that basis."

I have the honour to state to you, in reply, that, notwithstanding the great pressure of business in Parliament, Her Majesty's Government propose, if possible, during the present session, to submit to Parliament a Bill which, if passed into law, will admit of their negotiating and concluding with the Government of the United States a Convention on this important matter.

I am, &c.
(Signed) CLARENDON.

No. 55.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, May* 5, 1869.

I TRANSMIT to you herewith, for your information, a copy of a note I have addressed to Mr. Reverdy Johnson* in reply to one I received from him, forwarding to me a copy of a despatch from Mr. Fish, with a copy of the Resolution of the Senate ratifying the Protocol on Naturalization signed by Lord Stanley and Mr. Reverdy Johnson on the 9th of October last, a copy of which was sent to you in Lord Stanley's despatch of the same date.

I am, &c.
(Signed) CLARENDON.

No. 56.

The Earl of Clarendon to Mr. Thornton.

Sir, *Foreign Office, May* 5, 1869.

I TRANSMIT to you herewith, for your information, a copy of a note I have addressed to Mr. Reverdy Johnson,† in reply to one I received from him, inclosing

* No. 54. † No. 53.

a copy of a despatch from Mr. Fish with a copy of the Resolution of the Senate, declining to ratify the Convention signed between the United States and this country on January 14, providing for the adjustment of all outstanding claims of citizens and subjects of the two countries, a copy of which was inclosed in my despatch No. 16 of January 16.

I am, &c.
(Signed) CLARENDON.

No. 57.

Mr. Thornton to the Earl of Clarendon.—(*Received May* 10.)

(Extract.) *Washington, April* 26, 1869.

I HAVE the honour to inform your Lordship that the Convention lately signed relative to the Island of San Juan has been brought before the Senate, and a long speech, recommending that it should not be approved, was made by Mr. Garrett Davis, a Senator from Kentucky. The principal argument used was, that the right of the United States to the possession of the island was so extremely clear that the question was not one which ought to be submitted to arbitration. It was, however, finally decided by the Senate that the further consideration of the Convention should be deferred until the next session of that body, which will open in December.

NORTH AMERICA. No. 1 (1869).

CORRESPONDENCE respecting the Negotiations with the United States' Government on the Questions of the "Alabama" and British Claims, Naturalization, and San Juan Water Boundary. 1868–69.

Presented to both Houses of Parliament by Command of Her Majesty. 1869.

[*Price* 8*d.*]

LONDON:
PRINTED BY HARRISON AND SONS.

NORTH AMERICA. No. 2 (1869).

DESPATCH

FROM

LORD JOHN RUSSELL TO LORD LYONS,

DATED

NOVEMBER 22, 1860,

RESPECTING THE

SAN JUAN WATER BOUNDARY.

Presented to the House of Lords by Command of Her Majesty, in pursuance of their Address dated June 4, 1869.

LONDON:
PRINTED BY HARRISON AND SONS.

RETURN to an Address of the House of Lords, dated June 4, 1869;
for—

"Copy or Extract of a Despatch from Lord John Russell to Lord Lyons, dated November 22, 1860, respecting the San Juan Water Boundary."

Lord J. Russell to Lord Lyons.

(Extract.) *Foreign Office, November* 22, 1860.

IN reference to the line of water boundary intended by the Treaty, with respect to which Her Majesty's Government have been invited by the United States' Government to make a proposition for its adjustment, your Lordship will inform General Cass that Her Majesty's Government are glad to reciprocate the friendly sentiments contained in his note of the 25th of June, and will not hesitate to respond to the invitation which has been made to them.

It appears to Her Majesty's Government that the argument on both sides being nearly exhausted, and neither party having succeeded in producing conviction in the other, the question can only be settled by arbitration.

Three questions would arise thereupon :—

1. What is to be the subject matter of arbitration?
2. Who is to be the arbiter?
3. What is to be the result of the decision of the arbiter?

With regard to the first point, Her Majesty's Government are of opinion that the question or questions to be referred should be: What is the true meaning of the words relating to the water boundary contained in Article I of the Treaty of June 15, 1846? Or, if the precise line intended cannot be ascertained, is there any line which will furnish an equitable solution of the difficulty, and is the nearest approximation that can be made to an accurate construction of the words of the Treaty?

In considering these questions the arbiter might fairly consult all the correspondence on the subject, and weigh the testimony of the British and American negotiators of the Treaty as to their intentions in framing the Article. But he should not depart from the true meaning of the Article as it stands if he can deduce it from the words agreed to by both parties, and consigned in a Treaty ratified by both Governments.

Secondly. Her Majesty's Government are of opinion that a reigning Prince or sovereign State should be the arbiter; Her Majesty's Government propose with this view that the King of the Netherlands, or the King of Sweden and Norway, or the President of the Federal Council of Switzerland, should be invited to be the arbiter.

With regard to the third point, Her Majesty's Government are desirous that this long controversy should not be again thrown loose for dispute. They therefore propose that both Governments should bind themselves to accept the decision of the Arbiter, whether he shall give a positive decision or whether he should declare that he cannot fix the precise meaning of the Article in question, but that he has laid down on the chart a line which will furnish an equitable solution of the difficulty, and is the nearest approximation he can make to an accurate construction of the words of the Treaty.

Should these proposals be accepted, Her Majesty's Government flatter themselves that an equitable decision may be arrived at, and a long and dangerous controversy terminated in a manner consistent with the honour and the interests of both Governments.

NORTH AMERICA. No. 2 (1869).

Despatch from Lord John Russell to Lord Lyons, dated November 22, 1860, respecting the San Juan Water Boundary.

Presented to the House of Lords, by Command of Her Majesty, in pursuance of their Address dated June 4, 1869.

[*Price* 1*d.*]

LONDON:
PRINTED BY HARRISON AND SONS.

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NORTH AMERICA. No. 3 (1873).

(A.)

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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North America, West Coast.—Haro and Rosario Straits, surveyed by Captain G. H. Richards and the officers of Her Majesty's ship "Plumper," 1858-59; and the shores of Juan de Fuca Strait to Admiralty Inlet. (From Captain H. Kellett's Survey, 1847.)

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

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 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.

Charts Nos. 3 and 4.

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

Appendix No. 2.

Treaty of June 15, 1846 (*Article I*).

Treaty of June 15, 1846.

"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 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."

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:—

Appendix No. 1.

Treaty of May 8, 1871.

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 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 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."

It will be observed by His Imperial Majesty, that whereas the Treaty of June 1846 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.

The Strait of Georgia.

Chart No. 4.*

The 49th parallel of north latitude continued westwardly, according to the provisions of the Treaty of June 15, 1846, strikes the upper waters of the ancient Gulf of Georgia, designated by the Spaniards El Canal del Rosario, in Semiahmoo 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 $1\frac{3}{4}$ 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, 1846, 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 40 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.

The Rosario Strait.

Chart No. 4.*

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 Lummi 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 $1\frac{1}{3}$ 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.

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 $1\frac{1}{3}$ 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 $1\frac{3}{4}$ 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 $1\frac{3}{4}$ 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.

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.

Chart No. 1.

Appendix No. 4.

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.

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 del 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 Esquimalt 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 "Seno de Gaston," now Bellingham Bay, and thence along the passage which separates the Island of Pacheco (now Lummi Island) from the Continent, into the upper waters now known as the Strait of Georgia. The two vessels continued their voyage onwards in those waters past the Promontory of Cepeda, afterwards called Point Roberts by Vancouver, and were employed in reconnoitering the Boca de Florida Blanca, 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 Fuca up to its head-waters, had also passed onward through the Channel between the north-east point of Lopez Island and the Continent; but instead of directing its course eastward, like the "Sutil" and "Mexicana," on reaching Guemes Island, it continued its course northward along the main channel, which separates Blakely Island from Cypress Island, and anchored in Strawberry Bay.

Chart No. 2.

Thence it pursued its course between Orcas Island and Lummi (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 present Rosario Strait, and soundings are given at the entrance and in various parts of that 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 on the west and north shores of these waters are not shaded, intimating that Vancouver derived 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."

Chart No. 2.

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.

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 our 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."

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° 5′ of longitude, equal in that latitude to about 80 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 these 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* can 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. Having 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.

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 to be 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 jurists 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 the 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 were commonly used at the time when the Treaty was entered into.*

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

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 section 272, "The usage we here speak of is that of the time when the Treaty or the Deed, of whatever kind, was drawn up and concluded. Languages incessantly vary, and the signification and force of words changes with time."

* 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 :— Vattel, l. ii, chap. 17, sec. 285.

"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: 'Incivile est, nisi totâ lege perspectâ, unâ aliquâ particulâ ejus propositâ, judicare vel respondere.' (Digest, l. i, tit. iii, De Legibus, leg. 24.)"

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 :— Vattel, ibid., sec. 286.

"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 appear that, 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 :— Vattel, ibid., sec. 287.

"The reason of the law or of the Treaty—that is to say, the motive which led to the 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 any 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 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 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 travel out of the words of the Treaty itself, for the purpose of ascertaining the reason 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 :— Vattel, ibid., sec. 301.

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

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. 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, 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 onerates only one of the parties, or that onerates 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 Confederacy, 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 onerate 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 that well-known rule—'Incommoda vitantis melior, quam commoda petentis, est causa.' (Quinctilian, 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."

6. *Whatever interpretation tends to change the existing state of things at the time the 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 own neglect, than to strip the just possessor of what lawfully belongs to him. In the 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. 301), 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.

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.

Chart No. 2.

The general use of the Rosario Strait before 1846.

(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 Lopez Island from what was then believed to be the Continent, and followed those waters in their course 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 Gulf. Vancouver did not explore, nor does he give any soundings of the Canal de Haro. It is not mentioned in his narrative; the name of it, however, appears on the face of his Chart, distinguishing waters without soundings from the Channel through which Vancouver passed.

Appendix No. 4.

Chart No. 1.

(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, into

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.

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.

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 Ist 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 Ist Article, which is the operative part of the Treaty as regards the settlement of the line of boundary. Appendix No. 2.

The Ist 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. 20), 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.

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

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.

Chart No. 4.

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 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.

Reasons of the third paragraph.

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 Ist Article of the Treaty of 1846 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 continue 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."

The motive of the Treaty.

Now the motive of the Treaty, as recited in the Preamble of it, was to terminate a 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.

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 Ist 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.

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.

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

A favourable interpretation to be preferred to an odious interpretation.

"We are not to presume," says Vattel (sec. 30), "without any 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. 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."

The Charts in use in 1846.

Chart No. 2.

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 use by those, who navigated the interior sea between the Continent and Vancouver's Island, 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 in 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. In 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 to 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 line is to be carried, would be to declare that Her Britannic Majesty's Government when it concluded 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 it knew to 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 Sixth Rule of Interpretation.

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.

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

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.

Chart No. 2.

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 of 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, it 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 of 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—amongst 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 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.

Appendix No. 2.

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.

3. That the proviso in the third paragraph of Article I, which secures to either Party the free navigation of *the whole of Fuca'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, has, for the convenience of His Imperial Majesty, been collected in an Appendix, which is annexed thereto.

APPENDIX.

APPENDIX.

No. I.

Articles XXXIV to XLII 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 I 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 he 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.

Appendix.

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 II.

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 Untied 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 to 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 portages 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

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 ratifications 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.

A Narrative of the Passage of His Britannic Majesty's ships "Discovery" and "Chatham," under the Command of Captain Vancouver, through the Straits of Juan de Fuca, and through the Channel known at the present day as the Rosario Strait, to Birch Bay, situated in the ancient Gulf of Georgia, 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.

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. May 19, 1792.

On the 30th May Captain Vancouver quitted Restoration Point and directed his course to the opening under examination by Mr. Broughton, who commanded the "Chatham," the entrance to which lies 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 vessels, in 50 fathoms water, in a branch of the Admiralty Inlet, which he called Possession Sound, distinguishing 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, finding 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 east point of Protection Island, S. 15 W.; the west point of Admiralty Inlet, which, after my much esteemed 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 island, 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

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

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."

June 7, 1792.

June 7, 1792, page 293.

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° 29′, longitude 237° 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.

June 8, 1792.

"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, fine 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."

June 11, 1792, page 296.

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. On 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 oozing through the beach. It is situated in latitude 48° 36½′, longitude 237° 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° 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, we 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 very necessary duties on shore; of which the business of the observatory was my chief object, as I much 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-

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 Nutka, y siguió calmoso hasta las once de la manaña, 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 estabamos diez y seis millas al O. 10° N. de la entrada de Nitinat, y cinco millas de un islotillo que teniamos por nuestro traves.

Debiamos segun las circunstancias dirigirnos 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 teniamos 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 todo vela al E. 5° S., con viento fresco por el O.S.O., en la confianza 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 respaldáron para dentro del Estrecho como una legua. . . . .

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

A las quatro de la tarde avistamos el Puerto de Nuñez Gaona, y poco despues una corbeta en su fondeadero, 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 sargazo: la dexamos perdiendo barlovento, y á costa de algunos bordos 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 exâminado 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 as 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. 10° 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. 5° 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 "Princess." 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 "Princess." . . . .

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 Caamaño,

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 conseqüencia. 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 Península de Cepeda y Lángara. El canal, segun habian comprehendido á los Indios, internaba mucho. . . . .

Con tales noticias tratamos de internarnos para acabar de exâminar el Seno de Gaston, y proceder al reconocimiento del Canal de Floridablanca, dexando los de Caamaño y Flon como de menos entidad, y mas propios para ser reconocidos en el caso, que creiamos probable, de haber de retroceder. La direccion del Canal de Caamaño hácia el Sur, y la probabilidad de que fuese á salir á la boca de Ezeta próxîma á los 46° 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 exîja la necesidad, ó se vea en ello una ventaja decidida. A nosotros nos pareció que adelantábamos la navegacion, pues pensábamos 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 intentábamos seguir reynaba una perfecta calma. Quando vimos el oleage 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 íbamos 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.

Amanecimos 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 Chachimutupusas. 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 é 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° 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 launch 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 Chachimutupusas. 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 after

eran escasos y el agua de mal sabor. Comia con aseo de quanto le daban, imitando en todo nuestras acciones, que observaba siempre cuidadosamente. Se acordaba de los nombres de todos los capitanes Ingleses y Españoles que han visitado la costa de tierra-firme y archipiélagos de Claucuad y Nutka, y aun nos dió noticia de que habia dos embarcaciones grandes dentro del Estrecho.

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

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

Por la tarde estuvimos en tierra visitando las rancherias de Tetacus, donde habia como cincuenta Indios . . . . Tetacus mostraba la mayor amistad á sus huespedes . . . . y nos retiramos á bordo muy satisfechos. Por la noche hubo suma quietud en el puerto, y nosostros tuvimos la vigilancia que pedia el evitar una ocasion de desgracia. . . . .

El puerto de Córdoba es hermoso. . . . . En este puerto fue donde la goleta "Saturnina" tuvo que cañonear las canoas de los habitantes para defender la lancha del paquebot San Cárlos, que venia en su conserva, y de la que obstinadamente querian apoderarse.

Como el tiempo nos habia favorecido para que determinasemos en el dia la latitud y longitud del puerto, nos levamos á las tres de la madrugada con la marea saliente. Desde las ocho de la mañana empezamos á gozar de la virazon, que entró bonancible por el S.S.O. Nos dirigimos á la mediania del canal para tener el viento en toda su fuerza y buscar las Islas de Bonilla, que son una buena marca para la derrota. Pasamos algunos escarceos muy fuertes de las corrientes, y avistadas las islas nos dirigimos á ellas, dexándolas por estribor. A las cinco de la tarde, que empezó á quedarse el viento, atracamos la punta S.E. de la Isla de San Juan para dar fondo á la parte E. de ella, lo que conseguimos á las nueve de la noche.

El objeto principal de tomar este ancladero era para observer en él una emersion del primer satelite de Jupiter. . . . .

Al fondear estaba la marea parada; se exâminó su fuerza, y nunca pasó de una milla y media por hora en direccion al S.S.E. hasta las tres y media, y á esta hora cambió para adentro. Subió el agua de ocho á nueve pies.

A las siete de la mañana se dexó sentir una ventolina por el S.S.E.; con ella dimos la vela para aprovechar lo restante de la marea favorable; el cielo estaba nublado, y el horizonte apenas era de una milla. Ceñimos el viento para atravesar á la costa del E., no solo para seguirla y no perder la boca del Canal de Güemes, que va por entre la isla de este nombre y la costa, sino tambien para montar los islotes que hay á la mediania del canal en que estábamos, y sobre los que nos respaldaba la corriente con rapidez. A proporcion que fuimos saliendo á la mediania fue tesando y alargándose la ventolina: arribamos al paso que nos acercábamos á la costa del E., y costeamos las dos Islas Morros con el auxîlio de la virazon que apuntó por el S. desde las ocho de la mañana despejando el cielo. Llegamos á la punta S.O. del Canal de Güemes, y entramos 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 Claucuad and Nootka, and he also informed us that there were two large vessels within the Strait.

When we were near the roadstead 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 huts 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 races, 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-

freu para libertarnos de la calma de la costa; pero ya dentro tomó el viento su direccion, y nos acercamos á la del Sur para libertarnos de la fuerza de la corriente contraria, que sempre contrarestamos con mucha ventaja, pues aunque el viento estaba floxo andábamos 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 rancheria próxima á la punta N.O., que examinada con el anteojo se halló consistir en dos casas grandes; varios Indios corriéron á la playa, se embarcáron en una canoa, y se dirigiéron á las goletas, dándoles caza con tanto acierto como pudiera hacerlo el mas 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 punto tajada del N.E., de la que pasamos á muy corta distancia para seguir la costa de la Isla de Güemes, y por ella y las "Tres Hermanas" dirigirnos 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 ceñimos abiertos por babor 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 viente y nueve grados y medio, y aun hubiera subido mas si no hubiéramos salida 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 dirigirnos 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 rio pequeño en su parte interior. La costa que lo formaba era de tierra baxa y anegadiza 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 caimos en cinco greda dura, por lo que se prefirió fondear contando como hasta entonces habiamos 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 popa y las aletas; á dos cables de distancia si halláron 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. Habiamos visto claridades al S.E. de la montaña del Carmelo, y aun á veces algunas llamaradas, señales que no dexáron duda que hay volcanos 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 inmediatemante con su lancha, 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 neared 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 an hour. The navigation was very pleasant from the woodiness 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 a telescope was seen to consist of two large houses; several Indians ran to the beach, embarked in a canoe and made for the schooners, giving them chase with as much skill as the most expert seaman. . . . . Meanwhile we followed the south coast of the channel in five fathoms of water, sandy 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 Güemes, 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 scanty breezes 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 temperate degree, when exposed to the sun it rose to 29½ degrees, and would even have risen higher if we had not gone out to meet the current of the wind.

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 make for its extremity, and to see if there was any channel in it. The wind still freshened, and favoured thereby, we were by night-fall satisfied that it could have at most but a small river in its inner part. The coast which formed it was of low inundated land, which ran between two hillocks, and at some distance they appeared to be a channel. The depth was from 6 to 7 fathoms, stony, and we were about to tack to get out when we fell into 5 fathoms hard chalk, wherefore it was thought best 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 for examining more carefully the inner part of the inlet on the following morning. We made all fast, the steersman of the "Sutil" notified 4 fathoms depth, and the anchor was dropped, but after paying out 30 fathoms of cable, the schooner was found to be in 2 and a-half fathoms of water.

The Commander immediately ordered soundings at the stern and the quarters; at two cables distance two fathoms were found, and it was ascertained that the anchor had fallen in three. This mistake of the steersman placed us in a very awkward situation. The night was passed with anxiety, and during the whole of it the water decreased, so that at daybreak we were in a fathom and-a-half. We had seen illuminations to the S.E. of the mountain of Carmelo, and even some 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 half a fathom less water; the wind which had blown pretty freshly in the night from S.S.E., had raised a swell, with which it began to touch at the stern. She immediately gave out a warp with her

Entre tanto la "Sutil" se llamó á pique del ancla, y se halló en dos brazas de agua; se estaba metiendo el bote para dar la vela quando avertimos que la "Mexicana" habia varado, por lo que se volvió á échar fuera, y se le envió para auxîliarla. Habia tenedo aquella goleta la desgracia de venirsele el anclote, que habia dado con la espia, y se hallaba muy expuesta á dar un bandazo, siendo preciso á la gente hacer palanca con los remos para evitar este desastre. A la "Sutil" tambien se le vino el ancla en el instante de dar la vela, y por pronto que se acudió con el aparejo, varó en seis pies escasos de agua; pero tomadas las debidas providencias, al cabo de una hora saliéron las dos á flote.

launch, and upon that set about hoisting sail without loosing 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.

Inmediatamente se procedió á disponer los buques para dar la vela y continuar la navegacion, y á las ocho y media de la mañana ya estaban bordeando con el viento fresco del S. S. E. para echarse fuera del Seno de Gaston, sin experimentar que hiciesen agua alguna, aunque habian dado muchos golpes en el fondo.

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.

Despues de varios bordos montáron las puntas S. y O. del Seno de Gaston á las quatro de la tarde, y entráron por el Canal de Pacheco; siguiéron por medio freu, cediendo algo el viento, y tomando la direccion del mismo canal, luego que entráron en él. Despues de salir del canal, en la Ensenada de Lara, vimos dos embarcaciones menores, la una con aparejo de mistico, y la otra con vela redonda, que seguian la costa hácia el N. No dudamos que perteneceran á los dos buques Ingleses que estaban en el Estrecho, segun las noticias de nuestro amigo Tetacus. Seguimos sin variar de rumbo, pensando navegar toda la noche con poca vela, y amanecer sobre la Punta de San Rafael para estar al principio del dia en la boca de Floridablanca, é internarnos en ella á verificar desde luego su reconocimiento que, como se ha dicho, teniamos motivo para creer fuese muy interesante. Atravesamos de diez á doce de la noche la Ensenada del Garzon, viendo luces dentro de ella, que nos indicáron que los buques á que pertenecian las embarcaciones menores estaban en aquel fondeadero.

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 Tetacus. 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.

El viento, que veló fresco toda la noche, hizo cumplieramos la distancia hasta cerca de la Punta de San Rafael á la una de ella. Ceñimos con las gavias arriadas de la vuelta de fuera, y á las dos de la mañana viramos de la de dentro, sondando á poco tiempo en siete brazas de fondo; volvimos á tomar la vuelta de fuera, y continuó disminuyendo el fondo hasta cinco brazas arena. En esta situacion pareció oportuno dexar caer el ancla por no empeñarse de noche en buscar la salida, ni ser prudente el continuar hácia la boca sin tener de ella mas seguro conocimiento.

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.

Fondeamos, y con las primeras luces del dia vimos que estábamos á medio canal, en la enfilacion de Punta de San Rafael con la punta E. de la Península de Cepeda.

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.

Appendix.

Relacion del Viage hecho por las Goletas "Sutil" 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 teniamos hasta el año de 1789. Hallándose en Nutka el Alférez de Navío Don Estéban Martinez, 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 exîstia 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.

Pasadas estas noticias á la superioridad, tuvo órden 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 Cárlos" y goleta "Horcasitas," con la intencion de elevarse á los 60° de latitud, y descender exâminando 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 hiza levantar planos de algunos puertos, y exâminar 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 reflexîones dice:—"Asegurando á V. E. que el paso al Océano que con tanto anhelo buscan sobre esta costa las naciones extrangeras, 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 "Sutil" and "Mexicana," in* 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 Martinez, being at 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 Fuco, 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," for 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 for 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 for 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 results 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."

No. V.

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 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, 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, Clerk to the Attorney-General, do solemnly and sincerely declare as follows:—

That the following are the interrogatories submitted to Herbert G. Lewis, Alexander Caulfield Anderson, John Swanson, William H. McNeil, 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 Anderson, 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 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's Island?
5. If to secure access to the possessions to the northward of 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?

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

Appendix.

Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and forthe 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 hereunto 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 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 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 A, 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.

(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 1863 on the said coast.

From 1832 till 1837 I was employed by the Hudson's Bay Company, in the command of the ship "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, and 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; 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 Nisqually-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 shipmasters trading on the said waters.

In 1843 I went to England, and continued absent from this North-west Pacific Coast for twelve months, and returning in 1844, I was still in the Hudson's Bay Company's service at Stekin, Fort 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 1846. 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 the

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 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 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 from 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, 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) WILLIAM H. McNEILL.

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.

Appendix.

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, intitule l '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's 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 to Honolulu and Sitka, and other between ports on the North-west Pacific Coast. And whenever the 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 then 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 Strait 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 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, 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 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'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 barque "Vancouver," and on these occasions she passed and repassed through Rosario Straits.

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

In A.D. 1842, I made a voyage from Columbia River to Fraser River in the "Cadboro" 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 "Cadboro" 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 by virtue of the provisions of an Act 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.'"

(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, 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 John Swanson, 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 John Swanson 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 seal of office this 4th day of October, A.D. 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 his Declaration, and therein referred to, on the 29th day of September, 1871.

Before me:

(Signed) M. W. Tyrwhitt 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 to 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 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 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 was thence towed through Rosario Straits by the Hudson's Bay Company's steamer "Beaver," and thence sailed through Gulf of Georgia and Johnston Strait to Sitka, and returned therefrom through Johnston 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 to Victoria through Rosario Strait. I was 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 Strait 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 had, 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 then 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 are contained in the paper writing marked Z 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 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 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 hereunto 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 hereunto 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 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 D, 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.

(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:—

I am an ex-chief trader, 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 an office 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 Archipelago, and Straits of Fuca, and during the greater portion of the said period, resided on, or was in constant communication with the North-west Pacific Coast.

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

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 of the Columbia River or its neighbourhood, by the Straits of Fuca, 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, through the Straits of Fuca to the Pacific, instead of cutting through Vancouver Island, was to secure access to her possessions to the northward of the 49th parallel.

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 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 our dominions north of the 49th parallel, was the Straits 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 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 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 to 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 of 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 detaching 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's steamer "Beaver," was sent on board. This pilot (whose name I think was Wade) was acquainted only with the Rosario Channel.

In June, or early in July 1848, having conducted for the first time the brigade with the returns 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 Plumper, or Active Pass, and then by the Strait of Haro. This was at that time known as the canoe route, as distinguished from the established ship route by the Rosario Strait.

In July 1850, the schooner "Cadboro," Captain Scarborough, arrived at Langley during my visit 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 Brotchie, at that time master, but I understood 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 the adverse position then suddenly advanced, no doubt was entertained by me, or any one that I know of in this quarter acquainted with the facts, as to that interpretation of the Treaty which refers the water 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 and 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.

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 hereunto 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 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 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 nautically 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 ebbed 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 possession 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.

Appendix.

No. VI.

No. VI.

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 Courses.	Leeway Points.	Wind. Direction.	Wind. Force.	Weather.	Deviation of Stand. Comp.	Height of Bar.	Height of Ther.	Temperature of the Sea.	Remarks.
	1	..	..	..		S.W. ..	1	o.g.c.					A.M.
	2												5.—Lighted fire under after boilers.
	3	At anchor in Fisgard Har-											6·20.—Steam up, unmoored ship; hove into 12 fathoms on B.B.
	4	bour.											
	5												6·30.—Weighed and proceeded out of harbour working expansively, cutting off at 1/5 stroke.
	6	..	..	..		Calm ..	0	o.c.m.					
	7	Proceeding to the eastward,											8.—Trial Island West, 1½ m. Employed clearing deck and ship below.
	8	north of Smith's Island,				East ..	1	c.m.					
	9	for passage east of Saddle				E.N.E.							Noon.—Saddle Island, N.W. by N. 2 m.
	10	Island and Rocks for west				..	2	g.c.m.					Tons. cwt.
	11	point of Strawberry Bay.				..	3						Expended—Coals 2 19
	Noon	..	..	..		..	2						Wood 3 16
	1												P.M.
	2	Proceeding to the northward,				E.N.E.	1	b.c.m.					5.—Sounded off Point Roberts, 50 fms.
	3	west of Strawberry Island,				Calm ..	0						5·30.—Eased, stopped and came to with B.B. in 11 fms. Veered to 48 fms. Banked up fires. Point Roberts, S. 55° E. South Point Frazer's River, N. 48° W.
	4	for Birch Bay and Point				..	..	c.m.					
	5	Roberts.				..	..	g.c.m.					
	6	..	..	..		N.E. ..	1	o.c.d.					
	7	..	..	..		..	2						
	8					N.N.E.	3						
	9	At anchor under Point				..	2	o.c.					
	10	Roberts.				..	1	c.r.					
	11												
	Midnt.	..	..	..		..	..	c.r.					

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

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

6th day of October, 1846.

Initials of the Officer of the Watch.	Hours.	Knots.	Tenths.	Standard Compass Courses.	Leeway Points.	Wind. Direction.	Wind. Force.	Weather.	Deviation of Stand. Comp.	Height of Bar.	Height of Ther.	Temperature of the Sea.	Remarks.
	1												A.M.
	2			At anchor in Birch Bay.									4 ·30.—Drew the fires forward.
	3												4 ·45.—Steam up. 4 ·50.—Weighed and proceeded out to the southward working expansively, cutting off at 1/5 of stroke.
	4	..	..	..		..	2	o.c.					7 ·25.—Passed eastward of Quinlan's Rocks, named after the 2nd Lieutenant of this ship. 7 ·45.—Off the north end of Cyprus Island, called the New Point, Scarborough Bluff, after the Master of the "Cadboro."
	5	Proceeding out westward of Cyprus Island towards				South.							8.—Saddle Island 5½ E. 8 ·20.—Passed 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.
	6												
	7	Saddle Island, towards				S.S.W.	..	c.					
	8	Smith's and Trial Island.				Vble.	1						
	9												Noon.—Point Gonzalo, N. 39° W. Clover Point, N. 89° W.
	10	..	..	..		Calm ..	0	b.c.					
	11												Tons. cwt.
	Noon												Expended—Coal 9 4
	1												Wood 1 8
	2	Proceeding for Port Victoria.				E.N.E.	2	b.c.					P.M.
	3												Opened tea, 13 ·44; beef, 136 ·3; pork, 30 ·80.
	4												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.
	5	..	..	..		N.E.							
	6	At anchor in Port Victoria.											2.—Furled sails, unbent maintopsail.
	7												
	8												
	9												
	10												
	11	..	..	..		North ..	1						Ship's Draught—Forward 14 feet.
	Midnt.												Aft 15 „
													Remaining Water, 29 tons.

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

(Signed) A. SCOTT.

Admiralty, Somerset House, November 16, 1871.

NORTH AMERICA. No. 4 (1873).

(B.)

NORTH-WEST AMERICAN WATER BOUNDARY.

MEMORIAL ON THE CANAL DE HARO

AS THE

BOUNDARY LINE

OF THE

UNITED STATES OF AMERICA.

PRESENTED IN THE NAME OF THE AMERICAN GOVERNMENT

TO

HIS MAJESTY

WILLIAM I,

GERMAN EMPEROR AND KING OF PRUSSIA,

AS ARBITRATOR,

BY THE AMERICAN PLENIPOTENTIARY,

GEORGE BANCROFT.

[For Maps and Charts referred to in this Memorial, see North America, No. 8.]

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

LONDON:
PRINTED BY HARRISON AND SONS.

MEMORIAL.

[This Memorial is printed in a different form from the copy laid before the Arbitrator, and it has therefore been necessary to change the original Marginal References.]

THE Treaty of which the interpretation is referred to Your Majesty's arbitrament was ratified more than a quarter of a century ago. Of the sixteen members of the British Cabinet which framed and presented it for the acceptance of the United States, Sir Robert Peel, Lord Aberdeen, and all the rest but one, are no more. The British Minister at Washington who signed it is dead; of American statesmen concerned in it, the Minister at London, the President and Vice-President, the Secretary of State, and every one of the President's constitutional advisers, except one, have passed away. I alone remain, and, after finishing the threescore years and ten that are the days of our years, am selected by my country to uphold its rights.

Six times the United States had received the offer of arbitration on their North-Western Boundary, and six times had refused to refer a point where the importance was so great, and the right so clear; but when consent was obtained to bring the question before Your Majesty, my country resolved to change its policy, and in the heart of Europe, before a tribunal from which no judgment but a just one can emanate, to explain the solid foundation of our demand, and the principles of moderation and justice by which we have been governed.

The case involves questions of geography, of history, and of international law; and we are glad that the discussion should be held in the midst of a nation whose sons have been trained in those sciences by a Carl Ritter, a Ranke, and a Heffter.

The long-continued controversy has tended to estrange from each other two of the greatest powers in the world, and even menaced, though remotely, a conflict in arms. A want of confidence in the disposition of the British Government has been sinking into the mind of the States of the Union now rising on the Pacific, and might grow into a popular conviction, not easy to be eradicated. After having secured union and tranquillity to the people of Germany, and attained a happiness never before allotted by Providence to German warrior or statesman, will it not be to Your Majesty a crowning glory now, in the fulness of years, and in the quiet which follows the mighty struggles of a most eventful life, to reconcile the two younger branches of the great Germanic family.

The Point for Arbitration.

The point submitted for arbitration is limited with exactness. By Article I of the Treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, it was stipulated 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 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 Fuca's Straits, to the Pacific Ocean." The British Government claim that the water-line here referred to should run through a passage which they have thought proper to name the Straits of Rosario, and which the United States, for the purpose of this reference, permit to go by that name. The United States claim that the water-line runs through the Canal de Haro. The Arbitrator is to say finally, and without appeal, which of those claims is *most in accordance* with the true interpretation of the Treaty of June 15, 1846. That is the point submitted, and that alone; nothing more and nothing less.

Appendix No. 1, p. 15.

Appendix No. 2, p. 15.

If the United States can but prove their claim to be most in accordance with the

true interpretation of the Treaty, it is agreed that the award shall be in their favour; how much more then, if they prove that their interpretation is the only one which the Treaty admits!

How this Discussion will be conducted.

In conducting this discussion I shall keep in mind that the restoration of friendship between the two Powers which are at variance is the object of the arbitration. Nothing that has been written since the ratifications of the Treaty were exchanged, can alter its words, or affect its interpretation. I shall, therefore, for the present at least, decline to examine all communications that may have taken place since that epoch, except so far as is necessary to explain why there is an arbitration, and shall thus gain the advantage of treating the subject as simply an investigation for the ascertainment of truth.

Since the intention of the negotiators must rest on the knowledge in their possession at the time when the Treaty was made, I shall use the charts and explorations which have advanced, or profess to have advanced, our knowledge of the country in question, and which are anterior to that date. Of such charts I have found six, and six only; and though they are of very unequal value, yet for the sake of impartiality and completeness I present photographic copies or extracts of every one of them. Of charts of explorations of a later date, it was my desire to make no use whatever; but then, as will appear in the sequel, there would be not one map on which the channel claimed by the British Government would be found with the name of "the Straits of Rosario;" I am therefore compelled to add a later chart, on which the name is placed, as required for the arbitration. This chart also shows the length and breadth and depth of the respective channels.

My task is an easy one; for I have only to deduce the intentions of the negotiators of the Treaty from its history, and to interpret its words according to the acknowledged principles of international law.

Parallels of Latitude the Customary Boundaries of English Colonies in North America.

Appendix No. 3, p. 16. A parallel of latitude, extending from the Atlantic to the Pacific, was a usual boundary established by England for its Colonies in North America. The Charter granted in 1620 by James I to the Company of Plymouth for New England, bounded its territory by the parallels of 48° and of 40° north latitude "in length and breadth
Appendix No. 3, p. 16. throughout the mainland from sea to sea." The Charter granted by Charles I to Massachusetts in 1628 had in like manner for its northern and southern boundaries parallels of latitude running from sea to sea. So, too, had the old Patent of Connec-
Appendix No. 3, p. 16. ticut: so, too, had the Charter to Connecticut, granted by Charles II in 1662. The
Appendix No. 3, p. 16. Charter granted in 1663 by Charles II to the Lords Proprietors of Carolina adopted as their northern boundary the parallel of 36°, and as their southern boundary the parallel of "31° of northern latitude, and so west in a direct line as far as the South seas." The precedent was followed by George II in the charter granted in 1732 for
Appendix No. 3, p. 16. Georgia; and in 1761 George III officially described that colony as extending by parallels of latitude "westward in direct lines" to the Pacific.

The same Rule continued in the Treaty of Peace of 1782.

Appendix No. 4, p. 17. In the first Convention between the United States of America and Great Britain, signed at Paris on the 30th of November, 1782, the Northern Boundary Line of the United States was carried by the two Powers through the great Upper lakes to the most north-western point of the Lake of the Woods. If from that point the line was to be continued, the Treaty, adopting the precedent of the past century of colonization and foreshadowing the rule of the future, prescribed "a due west course."

The same Rule applied to the Boundary of Louisiana.

Appendix No. 5, p. 17. By the Treaty of April 30, 1803, between the United States of America and the French Republic, the United States came into possession "for ever and in full sovereignty" of the colony and territory of Louisiana.

No sooner had the United States made this acquisition, than they sent out an exploring expedition, which made known to the world the Rocky Mountains and the branches of the river of Oregon, the mouth of which an American navigator had been the first to enter.

By the acquisition of Louisiana the Republic of America and Great Britain, as Sovereign over the territory of Hudson's Bay, became neighbours still further to the west; and the two Powers took an early opportunity to consider their dividing line, west of the Lake of the Woods. The United States might have demanded, perhaps should have demanded, under the Treaty of 1782, that the line "due west" should proceed from "the most north-west point of the Lake of the Woods." That point is near the parallel of 50°; the United States consented to the parallel of 49°. But with regard to the continuation of the line, while Mr. Madison, the American Secretary of State, was desirous not to advance claims that could be "offensive to Spain," both parties adopting the words of the Treaty of 1782, agreed as between themselves that the line should proceed on that parallel "in a due west course" to the Rocky Mountains. In 1807 this agreement would have been ratified; but the maritime decrees of the Emperor Napoleon, dated at Berlin and at Milan, disturbed the peace of the oceans; and Orders in Council of Great Britain, which finally provoked war with the United States, interposed delay.

Appendix No. 6, p. 17.

Appendix No. 7, p. 17.

Appendix No. 6, p. 17.

When in 1815 the terms of peace were to be adjusted, the American Plenipotentiaries were instructed by their Government as to the north-western boundary, to consent to no claim on the part of Great Britain to territory in that quarter south of the 49th parallel of latitude; and they implicitly adhered to their instructions.

Appendix No. 50, p. 36.

In due time the negotiations, which had effected an agreement in 1807, were renewed; and on the 20th of October, 1818, the parallel of 49° was adopted as the boundary line between the two countries as far as the Stony, or as we now more commonly call them, the Rocky Mountains. From that range of mountains to the Pacific, America, partly from respect to the claims of Spain, was willing to delay for ten years the continuance of the boundary line.

Convention with Great Britain, October 20, 1816. Articles 1, 2, 3.

The United States acquire the Claims of Spain north of 42°.

The ocean chivalry of Spain were the first to explore the northern coast of the Pacific. Hernando Cortes began the work. The Straits of Fuca take their name from a Greek navigator who was in the Spanish service in 1592. Perez, a Spaniard, whose explorations extended as far to the north as 54°, discovered Nootka Sound in 1774. In the next year Bodega y Quadra reached the 58th degree, and Heceta, on the 15th of August, 1775, returning from Nootka, noticed, though he did not enter, the mouth of the River Oregon. In 1789, 1790, 1791, before a British keel had entered the Straits of Fuca, a succession of Spanish navigators, Martinez, and de Haro, Eliza, Fidalgo, Quimper, and others, had explored and draughted charts of the island which is now called Vancouver, and the waters which lie to the east of it. When Vancouver, on the 29th of April, 1792, passed through the Straits of Fuca and entered those waters, he encountered to his mortification Spanish navigators who had already explored them, and who produced before him a chart of that region, made by Spanish officers the year before.

Appendix No. 12, p. 19.

By the Treaty of Spain with the United States, of the 22nd of February, 1819, "His Catholic Majesty ceded to the United States all his rights, claims, and pretensions to any territories north of the parallel of latitude 42°, from the Arkansas River to the Pacific."

Tratado de Limites entre S. M. Ca. y los Estados Unidos de America. Article 3.

Thus did the custom of boundaries by a parallel of latitude receive a new confirmation; and thus did the United States become sole heir to all the pretensions and rights which Spain had acquired in North America, north of the parallel of 42°, and beyond that of 49°.

Mr. Huskisson objects to the Division of Vancouver Island.

When the ten years' limitation of the Treaty of 1818 drew near, Mr. Canning, Secretary of State for Foreign Affairs in Great Britain, on the 20th of April, 1826, invited the American Government to resume negotiations (attempted in vain in 1824) for settling the boundary upon the north-west coast of America.

Appendix No. 8, p. 18.

At that time John Quincy Adams was President of the United States, with Henry Clay for Secretary of State, and the negotiation on the American side was conducted in London by Albert Gallatin. Reinforced as were the United States of America by the titles of both France and Spain in addition to their own claims from contiguity and discovery, they remained true to their principle of moderation, and again it was resolved not to insist on the territory to the north of 49° which Spain had ceded; and on the 19th of June, 1826, "in the spirit of concession and compromise, which he hoped Great Britain would recognize and reciprocate," Mr. Clay authorized

Appendix No. 9, p. 18.

Mr. Gallatin to propose "the extension of the line on the parallel of 49° from the Stony Mountains to the Pacific Ocean." "This," he wrote, "is our ultimatum, and you may so announce it. We can consent to no line more favourable to Great Britain." In the following August Mr. Clay repeated to Mr. Gallatin: "The President cannot consent that the boundary on the north-west coast shall be south of 49°."

Appendix No. 9, p. 18.

Appendix No. 10, p. 18.

On the 22nd of November, 1826, Mr. Huskisson, one of the British Plenipotentiaries, remarked on the straight line proposed by the United States, that its cutting off the lower part of Vancouver Island was quite inadmissible. Here is the first intimation of the boundary line of 49° to the Pacific, with just so much deflection as to leave the southern extremity of Vancouver Island to Great Britain.

Appendix No. 11, p. 19.

To this Mr. Gallatin, nine days later, replied that, "to the 49th parallel the United States would adhere as a basis." Yet as it seemed to cut Vancouver Island in an inconvenient manner, he had in view the exchange of that southern extremity for an equivalent north of 49° on the mainland. Here is the first intimation of the possibility, on the part of the United States, to vary from the line of 49°, but only so far as to yield to Great Britain the southern extremity of Vancouver Island, in return for a full equivalent.

But the interest of the Hudson Bay Company was better subserved by leaving the whole region open to the fur trade, and the United States, on their part, had no motive for hastening an adjustment. The American Envoy, therefore, in 1827, consented to prolong the Treaty of 1818, yet with the proviso that either party might abrogate it, on giving notice of twelve months to the other Contracting Party. Under this Convention the question of jurisdiction and boundary remained in abeyance for nearly sixteen years.

Convention with Great Britain, August 6, 1827.

Lord Aberdeen and Mr. Everett discuss the North Western Boundary.

Appendix No. 13, p. 19.
Appendix Nos. 14-15, p. 20.

In October 1842, the British Foreign Secretary, the Earl of Aberdeen, who through the agency of Lord Ashburton had just settled out north-eastern boundary from the Lake of the Woods to the Atlantic, expressed to Mr. Everett, then American Minister at London, a strong wish that he might receive instructions to settle the boundary between the two countries on the Pacific Ocean.

American emigrants had already begun to find their way on foot across the continent. In 1843 1,000 emigrants, armed men, women, and children, with waggons and cattle, having assembled on the western frontier of Missouri, marched across the plains and through the mountain passes to the fertile valley of the Willamette in Oregon. The ability of America to enforce its rights by occupation grew with every year. But its increasing power did not change its policy of moderation, and, to meet the wish of Lord Aberdeen, on the 9th of October, 1843, the Government of the United States sent to Mr. Everett the necessary powers, with this instruction: "The offer of the 49th parallel may be again tendered, with the right of navigating the Columbia on equal terms."

Appendix No. 16, p. 20.

Appendix No. 19, p. 21.

On the 29th of November, 1843, soon after Mr. Everett's full powers had arrived, he and Lord Aberdeen had a very long and important conversation on the Oregon Question; and the concessions of Lord Aberdeen appearing to invite an expression of the extremest modification which the United States could admit to their former proposal, Mr. Everett reports that he said: "I thought the President might be induced so far to depart from the 49th parallel as to leave the whole of Quadra and Vancouver's Island to England, whereas that line of latitude would give us the southern extremity of that island, and consequently the command of the Straits of Fuca on both sides. I then *pointed out on a map the extent of this concession;* and Lord Aberdeen said he would take it into consideration."

The next day Mr. Everett more formally referred to the subject in a note to the British Secretary:—

"My dear Lord Aberdeen, "46, *Grosvenor Place, November* 30, 1843.

* * * "It appears from Mr. Gallatin's correspondence that * * * Mr. Huskisson had especially objected to the extension of the 49° to the Pacific, on the ground that it would cut off the southern extremity of Quadra and Vancouver's Island. My suggestion yesterday would obviate this objection. * * * *A glance at the map shows its importance as a modification of the 49th degree.* * * *

"EDWARD EVERETT."

Appendix No. 20, p. 23.

On the 2nd of February and on the 1st of April, 1844, Mr. Everett reports that he continuously insisted with Lord Aberdeen that the only modification which the

United States could, in his opinion, be brought to agree to, was that they should waive their claim to the southern extremity of Vancouver Island, and that Lord Aberdeen uniformly answered "he did not think there would be much difficulty in settling the question." Appendix, No. 20, p. 23.

During the following months Mr. Everett and Lord Aberdeen, both wishing sincerely to settle the controversy, had further frequent conversations, and, as the result of them all, Mr. Everett reported that England would not accept the naked parallel of 49° to the ocean, but would consent to the line of the 49th degree, provided it could be so modified as to leave to Great Britain the southern extremity of Vancouver Island. "I have spared no pains," wrote Mr. Everett on the 28th of February, 1845, "to impress upon Lord Aberdeen's mind the persuasion that the utmost which the United States can concede is the 49th parallel with the modification suggested, taking always care to add that I had no authority for saying that even that modification would be agreed to." Appendix No. 22, p. 24.

To one fact I particularly invoke the attention of the Imperial Arbitrator: not the least room for doubt was left by Mr. Everett with regard to the extent of the modification proposed. *He had pointed it out to Lord Aberdeen on the map*, and had so often and so carefully directed his attention to it, that there could be no misapprehension on the limit of the proposed concession. Mr. Everett retired from office in the full persuasion that the north-western boundary would be settled, whenever the United States would consent so far to depart from the parallel of 49° as to leave the whole of Vancouver Island to Great Britain.

The Pamphlet of Mr. Sturgis.

The subject attracted public attention. On the 22nd of January, 1845, Mr. William Sturgis, a distinguished citizen of the United States, who had passed several years on the north-west coast of America, delivered in Boston a lecture on what was now generally called the Oregon Question, in which, hitting exactly the idea of Mr. Everett, he proposed as the boundary: "a continuation of the parallel of 49° across the Rocky Mountains to tide-water, say to the middle of the Gulf of Georgia; thence by the northernmost navigable passage (not north of 49°) to the Straits of Juan de Fuca, and down the middle of these straits to the Pacific Ocean; the navigation of the Gulf of Georgia and the Straits of Fuca to be for ever free to both parties; all the islands and other territory lying south and east of this line to belong to the United States, and all north and west to Great Britain. By this arrangement we should yield to Great Britain the portion of Quadra and Vancouver's Island that lies south of latitude 49°. * * Will Great Britain accede to this? I think she will." Appendix No. 21, p. 23.

The pamphlet of Mr. Sturgis, accompanied by a map on which the proposed boundary is marked, was read by Lord Ashburton and by Lord Aberdeen. To one who eminently enjoyed the confidence of both Governments Lord Aberdeen pronounced it "a clear and sensible view of the matter." Lord Ashburton, whose opinion on the subject carried the greatest weight, wrote to Mr. Sturgis: "Your treatise enables me every day to answer satisfactorily the question put to me so often, where is the Oregon, and what is this dispute about? You have stated the case distinctly in a few pages, and what is indeed uncommon, with great impartiality." Appendix No. 26, p. 25. Appendix No. 25, p. 25.

Mr. Buchanan negotiates with Mr. Pakenham.

Meantime the negotiation on the Oregon Question had been transferred to the new British Minister at Washington. Offers of arbitration had been rejected; emigration across the plains gave promise of founding states on the Pacific; and the Congress of the United States teemed with propositions to prepare for establishing a territorial Government in Oregon. When the administration of Mr. Polk entered upon office, all parties in America were unanimous in insisting on a boundary at the least as favourable as the parallel of 49°; while a very large number, and seemingly the largest number, thought the time had come for America, as the heir of Spain, to carry its claims beyond the parallel of 49°. But the new administration would not swerve from the moderation which had marked the policy of the country.

Meantime both parties had received more accurate information on the geography of that district. In July 1841, Captain Wilkes had made a survey of the waters south of 49°, especially of the Channel of Haro; and in the early part of 1845 his narrative and accompanying map had been published both in America and England. Believing now that Great Britain would accept the line of 49°, with the small modification for the southern end of Vancouver Island, the American Administration, on the 12th of Appen x No. 27. p. 26.

Appendix No. 28, p. 26.

July, 1845, made to the British Minister at Washington the proposal, "that the Oregon territory shall be divided between the two countries by the 49th parallel of north latitude from the Rocky Mountains to the Pacific Ocean: offering at the same time to make free to Great Britain any port or ports on Vancouver's Island south of this parallel, which the British Government may desire." A friendly spirit dictated the proposition, which it was sincerely hoped and expected might "prove the foundation of lasting peace and harmony between the two countries."

Appendix No. 29, p. 26.

The proposition, which excited surprise by its moderation, was rejected by the British Plenipotentiary at Washington, who, without even waiting to refer the subject to the Ministry in England, suffered the negotiation on his part to drop, expressing his trust that the United States would offer "some further proposal for the settlement of the Oregon Question. In consequence of receiving such an answer, the American Secretary of State withdrew the offer that he had made.

Appendix No. 30, p. 27.

Appendix No. 31, p. 27.

On hearing of this abrupt rejection of the American proposal, Lord Aberdeen invited Mr. MacLane, the new American Minister at London, to an interview of which Mr. MacLane made report:—"Lord Aberdeen not only lamented but censured the rejection of our proposition by Mr. Pakenham, without referring it to his Government. He stated that, if Mr. Pakenham had communicated the American proposition to the Government here, as he was expected to have done, he, Lord Aberdeen, would have taken it up as the basis of his action, and entertained little doubt that he would have been enabled to propose modifications which might have resulted in an adjustment mutually satisfactory to both Governments."

The conduct of Mr. Pakenham was not censured in private only, Lord Aberdeen censured it in the House of Lords. In the House of Commons, on the night of Friday,

Appendix No. 34, p. 28.

the 23rd of January, 1846, Lord John Russell condemned it as "a hasty proceeding." Sir Robert Peel was cheered, when on the same evening he observed:—"It would have been better, had he transmitted that proposal to the Home Government for their consideration; and, if found in itself unsatisfactory, it might possibly have formed the foundation for a further proposal." And now that the reopening of the negotiation was thrown upon his Ministry, he was loudly applauded by the House, as he gave a pledge for his own future conduct in these words: "I think it would be the greatest misfortune, if a contest about the Oregon between two such Powers as England and the United States, could not, by the exercise of moderation and good sense, be brought to a perfectly honourable and satisfactory conclusion."

Final Proposal of the Earl of Aberdeen.

Lord Aberdeen confessed that it now fell to him to propose a peaceful solution of the long controversy. Mr. Everett had left him no doubt as to the utmost departure from the parallel of 49, which the United States, under the late Administration, could have conceded. The only doubt was now: if the United States would still be willing to yield so much. The rude rejection of Mr. Buchanan's proposal had roused and

Appendix No. 35, p. 29.

united their people. Mr. Calhoun, the late Secretary of State, and the ablest Senator from one section of the country, declared himself in the Senate for the 49th degree as the boundary line. Mr. Webster, the former Secretary of State, who had settled with Lord Ashburton the north-eastern boundary, repeatedly "said as plainly as he could speak, or put down words in writing, that England must not expect any thing

Appendix No. 35, p. 29.

south of 49°." All those Members of Congress who were of a different mind, Mr. John Quincy Adams, a late President of the United States, Mr. Cass, afterwards Secretary of State, Mr. Sevier, then the Chairman of the Committee on Foreign Affairs, contended, not for less than the line of 49°, but, under the heirship from Spain, for

Appendix No. 36, p. 30.

very much more. The voice of England became loud for the line of the 49th parallel.

Appendix No. 33, p. 28.

Mr. Bates, an American naturalized in Great Britain by Act of Parliament, and much trusted by both Governments, wrote from London: "The 49°, to the strait, giving Vancouver's Island to Great Britain, is as much as any American, be he Bostonian or Carolinian, will I think consent to give up. If Great Britain is not satisfied with that, let them have war if they want it."

Appendix No. 32, p. 28.

The British Government sought anxiously to know what proposition the American Government would consent to receive, and the American Government proved its firmness by its moderation. To protect the rights of the country Congress voted to give to Great Britain the twelve months' notice required by Treaty for terminating the Convention of 1827, and thus open the region of the north-west to the progress of

Appendix No. 37, p. 31.

American colonization. Meanwhile, on the 26th of February, 1846, Mr. Buchanan answered that the President would consent to consult the Senate on the proposition to

divide the territory between the two countries "by the 49th parallel and the Straits of Fuca," so that "the Cape of Vancouver's Island would be surrendered to Great Britain." This was exactly the proposition of Mr. Everett.

On the 15th of May, 1846, information of the notice for terminating the Convention of 1827 was received by the British Ministry in London. For four years Lord Aberdeen had been striving to close this question of boundary. He had privately and publicly censured his subordinate, Mr. Pakenham, at Washington, for rejecting the parallel of 49. He had taken pains to learn what deviation from that parallel the United States might accept. The Secretary of State for the United States, after minute inquiry concerning the probable vote of the Senate, had promised not at once to reject the offer of the line proposed by Mr. Everett, and not to listen to any demand for a larger concession. This had been formally communicated to the British Government by Mr. MacLane, the American Minister at London. And now, within two days after receiving news of the termination of the Convention of 1827, Lord Aberdeen held a lengthened conference with Mr. MacLane, in which the nature of the proposition he contemplated submitting for an amicable settlement of the Oregon Question "formed the subject of a full and free conversation." Mr. MacLane was a calm and experienced statesman, trained in business, exact in his use of words, careful especially in reporting what was said by others. Lord Aberdeen in the House of Lords publicly expressed his esteem for him, founded on an acquaintance which dated from fifteen or sixteen years before.

Appendix No. 42, p. 32.

Appendix No. 42, p. 32.

Appendix No. 42, p. 32.

Appendix No. 45, p. 34.

With this knowledge of Mr. MacLane's character and of the confidence reposed in him by Lord Aberdeen, I request the Imperial Arbitrator to take in hand the map of the Oregon territory by Wilkes, which had been published in England as well as in America in 1845, and which was the latest, most authentic, and best map of the territory, as well as the only one recognized by the American Senate; and, with this map, in hand to read the following extract from Mr. MacLane's official Report of the interview made on the 18th of May, 1846:—

Map F.

Appendix No. 41, p. 32.

"I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow to submit a new and further proposition on the part of this Government for a partition of the territory in dispute.

Appendix No. 42, p. 32.

"The proposition, most probably, will offer substantially:—

"First. To divide the territory by the extension of the line on the parallel of 49 to the sea: that is to say, to the arm of the sea called Birch's Bay, thence *by the Canal de Arro and Straits of Fuca to the Ocean.*"

* * * * * *

Here follow other clauses conceding to the Hudson's Bay Company a temporary use of the Oregon River for navigation, with other advantages, and protection to British subjects who would suddenly come under the jurisdiction of the United States. To these clauses the phrase "most probably" applies, for they were not precisely ascertained; but not to the boundary. On that point the further statement of Mr. MacLane in the same dispatch leaves no room for a doubt. His words are: "During the preceding Administration of our Government, the extension of the line on the 49th parallel to the Straits of Fuca, *as now proposed by Lord Aberdeen, was actually suggested by my immediate predecessor* (*Mr. Everett*), as one he thought his Government might accept."

Appendix No. 42, p. 32.

Appendix No. 42, p. 32.

Now what the proposal of Mr. Everett had been we know from the citations which I have made from his despatches; and I have already referred to the fact that he had drawn the line of demarcation upon the map, and specially directed the attention of Lord Aberdeen to it.

On the same day Lord Aberdeen sent the Treaty which Mr. Pakenham was to invite Mr. Buchanan to sign. In the accompanying Instruction to Mr. Pakenham he accepted the parallel of 49° as the radical principle of the boundary, and described the line as a line of demarcation "leaving the *whole of Vancouver Island with its ports and harbours in the possession of Great Britain.*"

Appendix No. 43, p. 33.

Appendix No. 45, p. 34.

Appendix No. 43, p. 33.

A suspicion of ambiguity could not lurk in the mind of any one. Mr. Benton found the language so clear that he adopted it as his own. In his speech in the Senate on the day of the ratification of the Treaty, he said:—

"The 1st Article of the Treaty is *in the very words* which I myself would have used, if the two Governments had left it to me to draw the boundary line between them. * * * The line established by the 1st Article follows the parallel of 49° to the sea, with a slight deflection, through the Straits of Fuca, *to avoid cutting off the south end of Vancouver's Island.* * * When the line reaches the channel which separates Vancouver's Island from the continent, it proceeds to the middle of

Appendix No. 44, p. 34.

the channel, and thence, turning south *through the Channel de Haro* (wrongly written Arro on the maps), to the Straits of Fuca, and then west, through the middle of that Strait, to the sea. This gives us * * * the *cluster of islands*, between *de Haro's Channel and the continent*."

The language of the Treaty seemed perfectly clear to the Senate, to the President, to his Secretary of State, and to every one of his constitutional advisers, as departing from the line of the parallel of 49° only so far as to yield the southern extremity of Vancouver's Island, and no more. And so it was signed on the 15th of June, 1846, and returned to England for the exchange of ratifications.

Appendix No. 46, p. 34.

In the House of Commons Lord Palmerston welcomed it as honourable to both countries; Sir Robert Peel quoted from a despatch which proved that he was aware of the three days' debate in the American Senate on the Treaty before its approval. He cited every word of the Article on the boundary, and interpreted it thus:—

"Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca; that that parallel should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island, but that the middle of the channel shall be the future boundary, thus *leaving us in possession of the whole of Vancouver's Island*, with equal right to the navigation of the Straits."

Mr. Buchanan and Sir Robert Peel believed they had closed every cause of Dissension.

Appendix No. 46, p. 34.

It had been the special object of Mr. Buchanan to leave nothing in the Treaty which could give occasion to future controversy. And on the night before Sir Robert Peel retired from office, never again to resume it, he spoke of the Treaty as having averted the dreadful calamity of a war between two nations of kindred origin and common language, and having at length "closed every cause of dissension between the two countries." All Great Britain, all the United States, were gladdened by the belief that at last every controversy between the two nations had come to a happy end.

The Ministry of Lord John Russell renews Dissension.

And yet it was not so. My country has had no serious difficulties on its limits with any Power but Great Britain. When its boundary on the south with Spain was adjusted by Treaty, not a difference arose, though the line extended from sea to sea. When afterwards the southern boundary was regulated with Mexico under a Treaty most imperfect in its descriptions, Commissioners unrestrained by instructions promptly settled the line. It is with Great Britain alone that obstinate dissensions on boundaries, extending from the Gulf of St. Lawrence to the Pacific, have exercised disturbing influences for sixty-four years. At last we thought ourselves assured of quiet on that side also by the Treaty of 1846; and though its terms were not altogether satisfactory, the country, in expectation of rest, accepted cheerfully and unanimously the action of its Government. Yet, after a pause of hardly two years, the strife was reopened by the Ministry which succeeded that of Sir Robert Peel. Under instructions from Lord Palmerston, the British Minister at Washington, on the 13th of January, 1848, in a proposed draft of instructions to Commissioners for settling the boundary, indirectly insinuated a claim that the line of boundary should be drawn on the channel through which Vancouver, in 1792, had sailed from Admiralty Inlet to Birch's Bay.

This insinuation took the American Government by surprise. The history of the negotiation shows that no such line was suggested by either side to the other. Vancouver was an explorer, who examined every inlet and bay and passage, not a merchant seeking the shortest, most natural, and best passage. Nothing justifies a reference to his course of sailing from one interior bay to another, as the line of the Treaty. The suggestion is in open conflict with the law of nations. The draft of the Treaty was made entirely, even to the minutest word, by the British Ministry, and was signed by both parties without change. The British Government cannot, therefore, take advantage of an ambiguity of their own, otherwise the draft of the Treaty would have been a snare. Such is the principle of natural right, such the established law of nations. Hugo Grotius lays down the rule that the interpretation must be made against the party which drafted the conditions: "Ut contra eum fiat interpretatio, qui conditiones elocutus est." But no one has expressed this more clearly than Vattel, who writes:—

Appendix No. 45, p. 34, Appendix No. 46, p. 34. Appendix No. 46, p. 34.

H. Grotius, "De jure belli et pacis," iii, 20, § 26.

Vattel, liv. ii, § 264.

"Voici une règle qui coupe court à toute chicane: *Si celui qui pouvoit et devoit s'expliquer nettement et pleinement ne l'a pas fait, tant pis pour lui: il ne peut être reçu à*

apporter subséquemment des restrictions qu'il n'a pas exprimés. C'est la maxime du droit Romain : *Pactionem obscuram iis nocere, in quorum fuit potestate legem apertius conscribere.* L'équité de cette règle saute aux yeux ; sa nécessité n'est pas moins évidente. Nulle convention assurée, nulle concession ferme et solide, si on peut les rendre vaines par des limitations subséquentes, qui devoient être énoncées dans l'acte, si elles étoient dans la volonté des contractans."

"Here is a rule which cuts short all chicanery: If he who could and should express himself plainly and fully has not done so, so much the worse for him; he cannot be permitted subsequently to introduce restrictions which he has not expressed. It is the maxim of Roman law: An obscure contract harms those in whose power it was to lay down the law more clearly. The equity of this rule is self-evident; its necessity is not less obvious. There can be no assured Convention, no firm and solid concession, if they can be rendered vain by subsequent limitations, which ought to have been enounced in the Act, if they existed in the intention of the Contracting Parties."

Plea for the Integrity of Sir Robert Peel's Ministry.

And can it be true, that Sir Robert Peel and Lord Aberdeen were insincere in their professions of an earnest desire to settle the boundary question in North-West America? Did they put into the core of the Treaty which they themselves framed, words interpreted in one way by all Americans and by themselves in public, and secretly interpreted by themselves in another? When Sir Robert Peel, on the last night of his official life, in the face of political enemies and friends, cast up the account of his Ministry for the judgment of posterity and declared in the most public and solemn manner that he had closed every cause of dissension between Great Britain and the United States," had he indeed planted the seed of embittered discord in the instrument that he and his associate Minister claimed as their own work, and extolled as a Convention of peace?

Appendix No. 46, p. 34.

My respect for Sir Robert Peel and his administration forbids the thought that they put any ambiguity into the Treaty which they themselves draughted. There attaches to human language such imperfection that an acute caviller may dispute about the meaning of any proposition. But the words of the present Treaty are so singularly clear that they may claim protection under the first general maxim of international law on the subject of interpretation: "qu'il n'est pas permis d'interpréter ce qui n'a pas besoin d'interprétation."

Vattel, liv. ii, 17, § 263.

The Words of the Treaty.

The words of the Treaty are as follows:—

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

Appendix No. 1, p. 15.

The Words of the Treaty, taken together.

The language of the Treaty, taken as a whole, admits no interpretation but the American. The radical principle of the boundary is the forty-ninth parallel of north latitude, and the only reason for departing from that parallel was to yield the whole of Vancouver Island and no more, to the power which would already possess the greater part of that island. To express this line concisely, in both countries it was described as the line of the "forty-ninth parallel and Fuca's Straits." This short form of expression occurs many times in the despatches of Mr. MacLane; in the instructions of Mr. Buchanan; in the letters of Mr. Bates from London; in an article in the London "Quarterly Review," written in February 1846, and published in March; and finally in the speech of Sir Robert Peel on the 29th of June, 1846, which I have already quoted. The description of the line as that "of the forty-ninth parallel and Fuca's Straits" was not only the usage of the day; it was also well chosen for all time. The 49th parallel can be found as long as the sun shall continue in the heavens;

Fuca's Straits end at the south-east cape of Vancouver Island, and will end there till nature shall heave with a convulsion. If the name of Haro does not specially appear in the Treaty, let it be borne in mind that neither does the name of the Gulf of Georgia.

The Channel.

The words of the description considered collectively, establish the American interpretation of the Treaty, and exclude every other; the same result follows from the consideration of each separate word. When the Treaty speaks of "*the channel*," for that part south and west of Birch's Bay, it must mean the Channel of Haro, for no other "channel" was known to the negotiators. The Channel of Haro was on the map of Vancouver, the highest English authority, and on the map of Wilkes, the highest American authority, at the time when the Treaty was signed, and no other channel is named on either of these maps, or on any map used by the negotiators. On the chart of those waters by Duflot de Mofras, published in 1844 under the auspices of Louis Philippe and the French Ministry, the Channel of Haro is named, and no other. In the collection of maps in the Royal Library at Berlin, not a single German or other map, anterior to June, 1846, names any other channel than that of Haro. How is it possible then, that any other channel could have been intended, when no other was named on any map which it can be pretended was known to Lord Aberdeen or Mr. MacLane, to Mr. Buchanan, or Mr. Pakenham?

Map C.
Map F.
Map E.

Again, the word "*channel*," when employed in Treaties, means a deep and navigable channel, and where there are two navigable channels, by the rule of international law preference is to be given to the largest column of water. Now, compared with any other channel through which a ship could pass from the sea at the 49th parallel to the Straits of Fuca, the Channel of Haro is the broadest and the deepest, the shortest, and the best. Its maximum width is six and a half English miles, and there is no other channel of which the maximum width exceeds four miles. The narrowest part of the Channel of Haro is about two and a quarter English miles, and there is no other channel of which the minimum width exceeds about one and a quarter English miles. With regard to the depth the contrast is still more striking. A cross section on the parallel of 48° 45′ shows the Canal de Haro to be about 120 fathoms deep, about twice as deep as any other; on the parallel of 48° 35′ the Canal de Haro is nearly 150 fathoms deep, against 30 fathoms for any competitor; on the parallel of 48° 25′ the Canal de Haro has nearly 110 fathoms, while no other passage has more than 40.

Map H.

Not only is the volume of water in the Canal de Haro vastly greater than that in any other passage; a single glance at any map shows that it is the shortest and most direct way between the parallel of 49° and Fuca Straits. Duflot de Mofras describes it as notoriously the best.

Appendix No. 48, p. 36.

If the Channel of Haro excelled all others only on one point, if it were the widest, not the deepest, or the reverse, or if, being the widest and deepest, it were not the shortest and best, there might be some degree of colour for cavil; but, since the Channel of Haro is the broadest and the deepest, and the shortest and the best, how can any one venture to pretend that any other is "the channel" of the Treaty?

"*The Channel which separates the Continent from Vancouver's Island.*"

The next words of the Treaty are: "the channel which separates the Continent from Vancouver's Island," and this from latitude about 48° 46′ can be no other than the Canal de Haro. It is the only one which from that latitude to "Fuca's Straits" separates the Continent from Vancouver Island. There are other passages which divide islands from islands, but none other separates the Continent from Vancouver Island. In the statement the Continent is properly named first, because it is far away in the interior of the Continent that the line begins, and it is the Continent that the line leaves in going towards Vancouver. But when a great continent like North America is spoken of as distinguished from a large island lying near it, the intervening cluster of smaller islands would, according to all geographical usage, be taken as included with the Continent, and thus the Channel of Haro divides the Continent from Vancouver. But we will not waste words. Nobody can dispute that the Canal de Haro washes the eastern shore of Vancouver Island, and separates that island from the Continent.

"And thence Southerly."

The next words in the Treaty are: "and thence southerly." The southerly deflection from the 49th parallel is made to avoid cutting Vancouver Island, and must be limited to that object. The movement of the boundary line is steadily west to the Pacific. The Treaty knows only two points of compass: "*westward*," and this "*southerly*" deviation from the due west course. The southern deflection, therefore, must always be accompanied with the idea of a western direction, and of two channels going in a "southerly" direction, that which least interrupts the general "westward" direction of the line, must be chosen as the channel of the Treaty.

"Through the middle of the said Channel and of Fuca's Straits to the Pacific Ocean."

The next words of the Treaty are: "through the middle of the said channel and of Fuca's Straits to the Pacific Ocean." The Treaty contemplates a continuous channel to the Pacific; the channel of Haro and Fuca's Straits form such a continuous channel, and a glance at the map will show that no other channel can pretend to do so.

So then the description of the Treaty as a whole applies to no channel but that of Haro; and every single phrase taken separately, points also to that channel, and to that channel alone.

"The Straits of Rosario."

And yet the British Government ask the Imperial Arbitrator to find the channel of the Treaty in a passage for which in January 1848 they had no name and no other description than "the wide channel to the east of numerous islands, which is laid down by Vancouver," and which now in 1871 they call by the name of "the Rosario Straits."

My first request is that the Imperial Arbitrator will ascertain where, on the 15th of June, 1846, the day when the Treaty was signed, the negotiators supposed Rosario Straits to lie. On that day the name "Straits of Rosario" was *on every map used by the negotiators*, placed upon the waters which divide the Island of Texada from the Continent, far north of the parallel of 49°. There it lies fast anchored on the map of Vancouver, published in 1798; it holds the same place in the atlas of the French translation of Vancouver. There too it is found on the French map of Duflot de Mofras, published in 1844; and also on the map of Wilkes, published in 1845; and there too on the British map of Vancouver Island, published by the geographer to the Queen, so late as 1848. Then since all British and all American maps, which in 1846 had on them the name "Straits of Rosario," located those straits far to the north of 49°, how can the British Government invite your Majesty to say that the Straits of Rosario form the line of boundary established by British and American negotiators in that year, between the United States and the British territory?

Map C. Map E. Map F.

How and why the British unmoored the name from the waters to which they themselves had consigned it, and where it remained for just half a century, I leave to them to explain and to justify. I remark only that they cannot produce a map, English, French, Spanish, or German, older than 1848, on which the passage which they now call the Straits of Rosario bears that name. On Spanish maps the name is applied only to the very broad channel lying north of the Canal de Haro and of the 49th parallel of latitude.

Map B. Map D.

Further, the so-called Straits of Rosario are not straits at all. It is the track of Vancouver, on his way from Admiralty Inlet to the north, as his map shows, but it received from him no name whatever. On British maps it never bore a name till after the British Government introduced a new interpretation of the Treaty of June 1846.

Again, and this remark is of conclusive importance, by itself alone sufficient to decide the question; the line of the Treaty must run from the middle of the channel which separates the continent from Vancouver's Island." Now the so-called Straits of Rosario neither touch the continent nor Vancouver Island. They divide small islands from small islands, and nothing else; they have no pretension to divide Vancouver from the continent, or the continent from Vancouver.

Moreover the water-line of the Treaty must be a channel which makes a continuous line with Fuca's Straits, for the words of the Treaty are "through the middle of the said channel and of Fuca's Straits." Now the so-called Straits of Rosario lead only to a sound, which Spanish voyagers called the Bay of Santa Rosa, they do not connect with Fuca's Straits, which cease at the south-eastern promontory of Vancouver Island. Reversing the track of Vancouver, and following the so-called

Map A.

Straits of Rosario southerly, the mariner would enter Admiralty Inlet, he never would reach the Straits of Fuca.

Then, too, compared with the Canal de Haro, the so-called Strait of Rosario is, as we have seen, a narrower passage, a shallower passage, and a roundabout passage.

Conclusion.

But enough; the rights of America cannot be darkened except by an excess of words. The intention of the parties to the Treaty is made plain by its history, and the boundary which we claim is clearly set forth in its words, taken collectively and taken separately. I will close by citing general principles of interpretation established by international law.

A party offering the draught of a Treaty is bound by the interpretation which it knew at the time that the other party gave to it. Lord Aberdeen cannot have doubted how the Treaty was understood by Mr. MacLane, by Mr. Buchanan, and by the Senate of the United States. "Where the terms of promise," writes Paley, whose work was long a text book at Oxford, "admit of more senses than one, the promise is to be performed in the sense 'in which the promiser apprehended at the time that the promisee received it.'

Appendix No. 49, p. 36.

"This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve; but we put the rule in the above form to exclude evasion, wherever the promiser attempts to make his escape through some ambiguity in the expressions which he used."

Again, "Where a right admits of different degrees, it is only the smallest degree which may be taken for granted."—"Ist ein Recht verschiedener Abstufungen fähig, so darf zunächst nur die geringste Stufe als zugestanden angenommen werden." This rule of Heffter fits the present case so aptly, that it seems made for it. There being degrees in the departure from the parallel of 49°, it must be taken that only the smallest degree was conceded.

Heffter's Völkerrecht, § 95, p. 176. Ed. 1867.

Finally and above all: there is a principle which not only controls the interpretation of Treaties, but the results of investigation in every branch of human knowledge. A theory which implies confusion and contradiction is at once to be rejected; of two rival theories, that which most nearly reconciles all phenomena is to be preferred; the theory that reconciles all appearances and all circumstances is to be received as true.

The British interpretation of the Treaty implies that the British who exclusively draughted it, sowed the seeds of future dissensions in the very instrument by which they proposed to settle every boundary question for ever; that among the negotiators of the Treaty there were those who duped, and those who were dupes. Lord Aberdeen ceases to be the "straightforward" man of Mr. MacLane's report. On the American side the statesmen appear void of spirit and of common sense, and easily circumvented.

The historical process by which the Treaty was arrived at becomes incomprehensible. The names on maps must be changed; the conformation of islands and continents and the highways of the great deep are made to expand and contract so as to suit the cavils of a Government which does not profess exactly to understand the true meaning of the Treaty, for every word of which it is itself responsible. Take the other theory: interpret the Treaty as the Americans accepted it, and there are no statesmen on the British side who attempted to dupe, and no dupes on the American side. The history of the negotiation becomes clear, and is consistent with its result. Mr. MacLane retains the reputation for prudence and clear perception and careful statement which has always been attributed to him. All words that fell from the pen or lips of every one concerned in framing, accepting, or approving the Treaty, agree together and bear the stamp of good intention and uprightness. Everything that was uttered by Mr. Everett, Mr. MacLane, and Mr. Buchanan, by Lord Aberdeen, Mr. Benton, or Sir Robert Peel, is perfectly reconciled, without even the semblance of contradiction. The straits and channels may rest where nature has set them, and old names may be restored to their rightful places. The completion of the Treaty does honour to the labours of honest and able statesmen, bent on establishing friendship and peace between "kindred nations." Persons and history and reports of conversations and the words of the Treaty, all chime together in the most perfect harmony; inviting an award which will command ready acquiescence, and leave nothing to rankle in the wound which it heals.

APPENDIX.

APPENDIX.

No. 1.

Extract from the Treaty of Washington of June 15, 1846.

ARTICLE I. From the point on the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the Continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean: Provided, however, that the navigation of the whole of the said channel and straits south of the 49th parallel of north latitude remain free and open to both parties.

Boundary established in 1846.

No. 2.

Extract from the Treaty of Washington of May 6, 1871.

THE NORTHERN BOUNDARY.

ARTICLE 34. Whereas it was stipulated by Article 1 of the Treaty concluded at Washington on the 15th of June, 1846, between the United States of America and Her Britannic Majesty, that the line of boundary between the territory of the United States and those of Her Britannic Majesty, from the point on the 49th 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 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 to the above-mentioned Article of the said Treaty, shall decide thereupon finally and without appeal which of these claims is most in accordance with the true interpretation of the Treaty of June 15, 1846.

Matter and form of arbitration.

ART. 35. 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 the United States and Great Britain respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ART. 36. 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 ratification of this Treaty, and a copy of such case and evidence shall be communicated by each party to the other through their respected 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.

ART. 37. 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 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.

ART. 38. The representatives or public agents of the United States and Great Britain 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.

ART. 39. 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, and either orally or by written discussion, or otherwise. 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, said arbitration, shall be provided for as hereinafter stipulated.

ART. 41. 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 paid by the two Governments in equal moieties.

ART. 42. The arbitrator shall be requested to deliver his award in writing, as early as convenient after the whole case on each side shall be laid before him, and to deliver one copy thereof to each of the said agents.

No. 3.

Extract from the Patent granted by James I of England, November 3, in the eighteenth year of his reign, to the Council of Plymouth.

English Colonial charters bounded English Colonies by parallels of latitude.

* * * * "Wee therefore, of our especiall Grace, mere Motion, and certaine Knowledge, by the Aduice of the Lords and others of our Priuy Councell, have for Us, our Heyrs and Successors, graunted, ordained, and established, and in and by these Presents, Do for Us, our Heirs and Successors, grant, ordaine, and establish, that all that Circuit, Continent, Precincts, and Limitts in America, lying and being in Breadth from Fourty Degrees of Northerly Latitude from the Equinoctiall Line to Fourty-eight Degrees of the said Northerly Latitude, and in Length by all the Breadth aforesaid throughout the Maine Land, from Sea to Sea." * * * *

Extract from the Charter of Massachusetts Bay, granted by Charles I of England, March 4, 1628.

* * * * "We do give and grant all the Landes and Hereditaments within the Space of Three English Miles to the southward of Massachusetts Bay: and all those Landes and Hereditaments within the Space of Three English Miles to the Northward of the River called Merrimack, all Landes and Hereditaments whatsoever, lying within the Lymitts aforesaide, North and South in Latitude and Bredth, and in Length and Longitude, of and within all the Bredth aforesaide, throughout the mayne Landes there, from the Atlantick and Westerne Sea and Ocean on the East Parte to the South Sea on the West Parte:" * * * *

Extract from the old Patent for Connecticut.

* * * * "Robert, Earl of Warwick" * * "doth give" * * "the Space of forty Leagues upon a straight Line *near* the Sea Shore, toward the *South-West, West-and-by-South* or *West* as the Coast lieth towards Virginia, accounting three English Miles to the League, and also all and singular the Lands and Hereditaments whatsoever, lying and being within the *Lands* aforesaid, North and South in Latitude and Breadth, and in Length and Longitude, *of*, and *within*, all the Breadth aforesaid, throughout the main Lands there, from the Western Ocean to the South Sea," * * * *

Extract from the Charter granted by Charles II of England to the Lords Proprietors of Carolina, March 24, 1663.

* * * * "all that territory or tract of ground" * * * "extending from the North end of the Island called Lucke Island, which lieth in the Southern Virginia Seas, and within six-and-thirty degrees of the Northern Latitude, and to the West as far as the South Seas, and so Southerly as far as the River St. Matthias, which bordereth upon the coast of Florida, and within one-and-thirty degrees of Northern Latitude, and so West in a direct line as far as the South Seas aforesaid;" * * * *

Extract from the Commission of Governor Wright, of Georgia, of the 20th of January, 1764.

"George III, by the grace of God of Great Britain, France and Ireland, King, Defender of the Faith, and so forth, to our trusty and well-beloved James Wright, Esquire, greeting:

* * "We did, by our Letters Patent, under our Great Seal of Great Britain, bearing date at Westminster the 4th day of May, in the first year of Our Reign, constitute and appoint you, James Wright, Esquire, to be our Captain-General and Governor-in-Chief in and over our Colony of Georgia in America, lying from the most northern stream of a river there most commonly called Savannah, all along the seacoast to the southward, unto the most southern stream of a certain other great water or river called Altamaha, and westward from the heads of the said rivers, respectively, in direct lines to the South Seas." * * * *

No. 4.

Articles between the United States of America and His Britannic Majesty, November 30, 1782.

ARTICLE II.—"From the north-west angle of Nova Scotia" * * * "through Lake Superior" * * * "to the Long Lake, thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course." * * * *

First Treaty between the United States and Great Britain adopts for boundary a due west course.

No. 5.

Extract from the Treaty between the United States of America and the French Republic, April 30, 1803.

ARTICLE I.—Whereas, by the Article the third of the Treaty concluded at St. Ildefonso, the 9th Vendémiaire, an 9 (1st October, 1800) between the First Consul of the French and His Catholic Majesty, it was agreed as follows:—"His Catholic Majesty promises and engages on His part to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to His Royal Highness the Duke of Parma, the Colony or Province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the Treaties subsequently entered into between Spain and other States."

The United States acquire Louisiana.

And whereas, in pursuance of the Treaty, and particularly of the third Article, the French Republic has an incontestable title to the domain and to the possession of the said territory: The First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, forever and in full sovereignty, the said territory with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic, in virtue of the above-mentioned Treaty, concluded with His Catholic Majesty.

No. 6.

Additional and Explanatory Articles, signed the day of , 1807, *to be added to the Treaty of Amity, Commerce, and Navigation between His Britannic Majesty and the United States of America, signed at London, the 31st day of December,* 1806.

[Inclosed in Messrs. Monroe and Pinckney's letter of the 25th April, 1807, from London.]

ARTICLE V.—It is agreed that a line drawn due west from the Lake of the Woods along the 49th parallel of north latitude, shall be the line of demarcation (division line) between His Majesty's territories and those of the United States to the westward of the said lake, as far as the territories of the United States extend in that quarter: and that the said line shall, to that extent, form the southern boundary of His Majesty's said territories and the northern boundary of the said territories of the United States: Provided that nothing in the present Article shall be construed to extend to the north-west coast of America, or to the territories belonging to or claimed by either Party on the continent of America, to the westward of the Stony Mountains.

The United States and Great Britain agree on the 49th parallel as a division line.

No. 7.

Mr. Madison to Mr. Monroe and Mr. Pinckney.

(Extract.)

Gentlemen, *Department of State, July* 30, 1807.

* * * * * *

1st. THE modification of the Vth Article (noted as one which the British Commissioners would have agreed to) may be admitted in case that proposed by you to them be not attainable. But it is much to be wished and pressed, though not made an ultimatum, that the proviso to both should be omitted. This is in no view whatever necessary, and can have little other effect than as an offensive intimation to Spain that our claims extend to the Pacific Ocean. However reasonable such claims may

The United States respect the claims of Spain on the Pacific.

be compared with those of others, it is impolitic, especially at the present moment, to strengthen Spanish jealousies of the United States, which it is probably an object with Great Britain to excite by the clause in question.

No. 8.

Mr. Canning to Mr. King.

Foreign Office, April 20, 1826.

The British Government invite negotiations on the N.W. boundary.

THE Undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honour to request Mr. Rufus King, Envoy Extraordinary and Minister Plenipotentiary of the United States, to have the goodness to inform the Undersigned whether Mr. King is provided with instructions for the resumption of the negotiations of last year, with respect to a settlement of boundaries upon the north-west coast of America.

The Undersigned is particularly induced to make this inquiry by having received from Mr. Vaughan a copy of the communication, lately addressed by the President of the United States to the House of Representatives, of that part of Mr. Rush's correspondence of last year which relates to this important subject.

The Undersigned has to add that the British Plenipotentiaries, Mr. Huskisson and Mr. Addington, are perfectly prepared to enter into conferences with Mr. King thereupon; and either to renew the proposal brought forward by Mr. Huskisson and Mr. Stratford Canning in their conference of the 13th of July, 1824, and unanswered, or to bring forward another; or to discuss any new proposal on the same subject which may be suggested on the part of the Plenipotentiary of the United States.

The Undersigned, &c. (Signed) GEORGE CANNING.

Rufus King, Esq.,
&c. &c. &c.

No. 9.

Mr. Clay to Mr. Gallatin.

(Extract.) *June* 19, 1826.

The parallel of 49° the ultimatum of the United States.

AS by the Convention of 1818 the 49th parallel of north latitude has been agreed to be the line of boundary between the territories of the United States and Great Britain, east of the Stony Mountains, there would seem to arise, from that stipulation, a strong consideration for the extension of the line along the same parallel, west of them, to the Pacific Ocean. In bringing themselves to consent to this boundary the Government of the United States feel that they are animated by a spirit of concession and compromise which, they persuade themselves, that of Great Britain cannot but recognise, and ought not to hesitate in reciprocating. You are then authorized to propose the annulment of the third Article of the Convention of 1818, and the extension of the line on the parallel of 49 from the eastern side of the Stony Mountains, where it now terminates, to the Pacific Ocean, as the permanent boundary between the territories of the two Powers in that quarter. This is our ultimatum, and you may so announce it. We can consent to no other line more favourable to Great Britain.

Mr. Clay to Mr. Gallatin.

(Extract.) *Lexington, August* 9, 1826.

* * * * * *

"He [the President] is very desirous of an amicable settlement of all the points of difference between Great Britain and the United States on just principles. Such a settlement alone would be satisfactory to the people of the United States or would command the concurrence of their Senate. In stating in your instructions the terms on which the President was willing that the several questions pending between the two Governments might be arranged, he yielded as much to a spirit of concession as he thought he could consistently with the interests of this country. He is especially not now prepared to authorize any stipulations involving a cession of territory belonging to any State in the Union, or the abandonment, express or implied, of the right to navigate the St. Lawrence, or the surrender of any territory south of latitude 49 on the north-west coast." * * * *

"2. The President cannot consent that the boundary between the territories of the two Powers on the north-west coast should be south of 49. The British Government has not been committed by a positive rejection of a line on the parallel of 49; but if it had been, its pride may take refuge in the offer which, for the first time, you are to propose, of a right in common with us to the navigation of the Columbia River. There is no objection to an extension of the time to be allowed to British settlers to remove from south of 49 to a period of fifteen years, if you should find that it would facilitate an arrangement."

No. 10.

Mr. Gallatin to Mr. Clay.

Sir, *London, November* 25, 1826.

* * * * * *

Mr. Huskisson objects to dividing Vancouver Island.

THE latter part of our conversation was of a more conciliatory nature. Mr. Huskisson said that it would be lamentable that, in this age, two such nations as the United States and Great Britain

should be drawn to a rupture on such a subject as the uncultivated wilds of the North-West Coast. But the honour and dignity of both countries must be respected, and the mutual convenience of both parties should also be consulted. He then objected to the straight line which we proposed as having no regard to such convenience, and observed particularly that its cutting off the southern portion of Quadra and Vancouver's Island (that on which Nootka Sound is situated) was quite inadmissible. I told him that, taking only convenience into consideration, their proposal was far more objectionable.* * *

(Signed) ALBERT GALLATIN.

Hon. Henry Clay,
Secretary of State.

No. 11.

Mr. Gallatin to Mr. Clay.

Sir, *London, December* 2, 1826.

* * * * * *

MR. HUSKISSON then asked me whether I was authorized to deviate from the 49th parallel of latitude as a boundary. I did not think that he had any right to ask the question; but, as it was only from courtesy, and to avoid, at the opening of the negotiation, expressions at all savouring of harshness, that I had used the word "whilst insisting on the 49th degree," instead of the word "ultimatum;" and as in in fact the United States had nothing to conceal, I answered the question. To the 49th parallel of latitude the United States would adhere as a basis. If, on account of the geographical features of the country, a deviation founded on mutual convenience was found expedient, a proposal to that effect might be entertained, provided it was consistent with that basis, that is to say, that any deviation in one place to the south of the 49th parallel should be compensated by an equivalent in another place to the north of that parallel. I must observe that what I had in view was the exchange of the southern extremity of Nootka's Island (Quadra and Vancouver's), which the 49th parallel cuts in an incouvenient manner, for the whole or part of the upper branches of the Columbia river north of that parallel.

Mr. Gallatin proposes to exchange Vancouver south of 49° for an equivalent on the mainland.

(Signed) ALBERT GALLATIN.

Hon. Henry Clay,
Secretary of State.

No. 12.

Extract from Vancouver's "Voyage," vol. i, page 312.

"AS we were rowing on Friday morning (June 22nd, 1792) for Point Grey * * * we discovered two vessels at anchor under the land. * * * These vessels proved to be a detachment from the Commission of Señor Melaspina, who was himself employed in the Philippine islands; that Señor Melaspina had, the preceding year, visited the coast, and that the vessels, His Catholic Majesty's brig the "Sutil," under the command of Señor Don D. Galiano, with the schooner "Mexicana," commanded by Señor Don C. Valdes, both Captains of frigates in the Spanish navy, had sailed from Acapulco on the 8th of March, in order to prosecute discoveries on this coast. Señor Galiano, who spoke a little English, informed me that they had arrived at Nootka on the 11th of April, from whence they had sailed on the 5th of this month, in order to complete the examination of this inlet, which had in the preceding year been partly surveyed by some Spanish officers, whose chart they produced.

Spanish explorers preceded Vancouver.

I cannot avoid acknowledging that, on this occasion, I experienced no small degree of mortification in finding the external shores of the gulph had been visited, and already examined a few miles beyond where my researches during the excursion had extended. * * * *

No. 13.

Mr. Everett to Mr. Webster.

Sir, *London, October* 19, 1842.

* * * * * *

LORD ABERDEEN, in the conference which ensued after the exchange of the ratifications, observed that his only subject of regret in connection with the Treaty was, that the boundary between the two countries on the Pacific Ocean had not been provided for, and expressed a strong wish that I might receive instructions on that subject. * * * *

Lord Aberdeen wishes to settle the Oregon boundary.

(Signed) EDWARD EVERETT.

Daniel Webster, Esq.,
Secretary of State.

No. 14.

Mr. Everett to Mr. Webster.

Sir, *London, November* 18, 1842.

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Lord Aberdeen wishes to negotiate on the boundary without delay.

ON arriving at the Foreign Office I was told that Lord Aberdeen wished to see me, and was conducted to his room. He informed me that he wished to read me a copy of a despatch which he had addressed to Mr. Fox, directing him to make known to the President the strong desire of Her Majesty's Government to engage, without delay, in a negotiation for the settlement of the boundary between the two countries on the Pacific Ocean, and his wish that instructions should be sent to me for that purpose. * * * In the conversation which ensued, he dwelt with great earnestness on the danger to the good understanding between the two countries, so happily established by the Treaty of Washington, to be apprehended from leaving this question in its present unsettled state.

* * * * * *

(Signed) EDWARD EVERETT.

Daniel Webster, Esq.,
Secretary of State.

No. 15.

Mr. Everett to Mr. Upshur.

(Confidential.)
Dear Sir, *London, August* 17, 1843.

* * * * * *

Mr. Everett thinks the negotiation can be best carried on at Washington.

WHEN Lord Aberdeen spoke of instructing Mr. Fox on the Oregon question, he added an expression of his regret that the negotiation should fall into *his* hands. He has, on many occasions, expressed a wish that I should be charged with the negotiation. Could I hope to bring it to a successful issue, it would, of course, be very agreeable; but it seems to me out of the question to carry on such a negotiation anywhere but at Washington. * * * *

(Signed) EDWARD EVERETT.

Hon. A. P. Upshur.

No. 16.

Mr. Upshur to Mr. Everett.

Sir, *Department of State, Washington, October* 9, 1843.

Full powers are sent to Mr. Everett to negotiate on the Oregon boundary.

THE President directs that you take an early occasion to bring again to the attention of Her Majesty's Government the subject of the claims of the two countries respectively to the territory west of the Rocky Mountains. The difficulties which the conflicting claims of Russia to a portion of this territory have heretofore interposed, are now happily removed by the Treaty of April, 1824, which defines the limits within which that Power engages to restrict its settlements; so that the questions now to be settled rest exclusively between Great Britain and the United States. * * *

The offer of the 49th parallel of latitude, although it has once been rejected, may be again tendered, together with the right of navigating the Columbia upon equitable terms. Beyond this, the President is not now prepared to go. * * * *

You will receive herewith the necessary powers to negotiate upon the subject. If, however, the British Government prefers that the negotiation shall be conducted in Washington, that arrangement will be perfectly agreeable to the President. * * * *

(Signed) A. P. UPSHUR.

Edward Everett, Esq.

No. 17.

Mr. Everett to Mr. Upshur.

(Confidential.)
Sir, *London, November* 2, 1843.

The negotiation transferred to Washington.

BY the steamer of the 16th October I had the honour to receive your despatch No. 62, inclosing a full power from the President to treat with this Government for the adjustment of the Oregon boundary, and containing your instructions on that subject. I lost no time in applying for an interview with Lord Aberdeen, and saw him the first day of his return to town. On apprising him of the disposition of the President to open a negotiation on this subject at London, Lord Aberdeen informed me that such an arrangement would have been altogether agreeable to him if somewhat earlier made, and reminded me that he had very often, in the course of the last winter, expressed the wish that the President would authorize me to treat on the subject. He had, however, lately come to a conclusion and taken a step that made it necessary to treat upon the subject at Washington; this was the recall of Mr. Fox, and the appointment of a successor. Among the grounds for adopting this measure was the belief that there would be decided advantage in putting the management of this subject into new

hands, and consequently that had been and would be assigned as a leading reason for the contemplated change. This course, he said, had not been resolved upon till they had entirely given up the expectation that I should be authorized to treat on this subject. * * * *

(Signed) EDWARD EVERETT.

A. P. Upshur, Esq.,
Secretary of State.

No. 18.

Mr. Everett to Mr. Upshur.

(Private and Confidential.)

Sir, *London, November* 14, 1843.

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Mr. Everett argues for the parallel of 49°.

I HAD a long and upon the whole quite a satisfactory conversation with Lord Aberdeen at his dwelling-house on the 6th instant. He was on a visit to Windsor Castle, from which he wrote me a note, requesting me to call upon him at Argyll House (his town residence), and I believe he came to London principally for the purpose of holding this interview. He returned to the Castle to dinner. He told me that he had communicated to Mr. Fox, by the steamer of the 4th, that his successor was appointed. * * He then led the way to a free and desultory but general and comprehensive conversation on the Oregon question, observing in the outset that it was chiefly in the hope of putting this question in a favourable train of adjustment that Mr. Fox had been recalled and Mr. Pakenham appointed. * * * Lord Aberdeen assented also to my remark, that the numerous stations which the Hudson's Bay Company had established south of the 49th degree of north latitude since the year 1818, though they might and unquestionably would embarrass the British Government in reference to that Company, and through them in reference to public opinion, ought not to prejudice the claims of the United States. This I think a very important point, to be firmly kept in view. * * * In offering the 49th degree of latitude as the boundary we make a very fair, equitable, and liberal offer, an offer founded on the obvious and natural principles of distribution; while they, in refusing this offer and insisting on the Columbia River, proceed upon no such principle, but simply insist upon a boundary very favourable to themselves. Our offer, I said, proceeded on the old principle of the English Charters of running northern and southern boundaries from sea to sea. If it be objected by Lord A. (as it was) that lines of latitude were arbitrary, and might be very unnatural and inconvenient boundaries, I told him that this circumstance was as likely to be in their favour as ours; that lines of latitude had the advantage that they could always be ascertained by men of science; and that, in point of fact, the 49th degree had proved a very convenient line for 1,000 miles. In fact, the part of the boundary running on the parallel is the only part in reference to which no controversy has arisen, or is to be feared. Another natural and obvious principle I observed connected with this, but not identical, was the extension of contiguous territory. * * * *

This train of remark produced an obvious effect upon Lord Aberdeen, and after making some inquiry as to the course which things would probably take in Congress, during the approaching session, in reference to this subject, and expressing a strong hope that no step would be taken by either House to embarrass the two Governments in the negotiation, he said, if this can be avoided, "I do not think we shall have much difficulty;" and this remark he repeated. As not a syllable fell from me authorizing the expectation that the United States would be induced to run the line below the 49th degree, I considered that remark, twice made, coupled with the tenour of my own observation on the reasonableness of that boundary, as authorizing the inference that Mr. Pakenham would be instructed to assent to it. The main difficulty in the way of this will be that the 49th degree has twice been offered by the United States, or rather thrice, and declined by England. Lord Aberdeen on former occasions has admitted as much. To meet this difficulty, it may deserve the President's consideration whether he would not agree to give up the southern extremity of Quadra and Vancouver's Island (which the 49th degree would leave within our boundary), on condition that the entrance of the Straits of Juan de Fuca should at all times be left open and free to the United States, with a free navigation between that island and the main land, and a free outlet to the north. * * * *

Lord Aberdeen thinks there will be not much difficulty in settling the boundary.

Mr. Everett suggests a deflection from 49° would leave to Great Britain the whole of Vancouver Island.

If there is any reliance in appearance and professions, Mr. Pakenham will go to America with the best feelings for an honourable adjustment of the matter in discussion.

(Signed) EDWARD EVERETT.

A. P. Upshur, Esq.
Secretary of State.

No. 19.

Mr. Everett to Mr. Upshur.

(Confidential.)

Sir, *London, December* 2, 1843.

Mr. Everett and Lord Aberdeen discuss the boundary.

I HAD a long and important conversation with Lord Aberdeen on the 29th ultimo, which I now beg leave to report to you confidentially for the information of the President.

I have observed to you in a former communication that, though the negotiation relative to the Oregon boundary had, in consequence of the recall of Mr. Fox and the appointment of Mr. Pakenham, been transferred to Washington, I should use my best efforts to produce such an impression on Lord Aberdeen's mind, as to the prominent points of the question, as might have a favourable influence in the preparation of the instructions to be given to Mr. Pakenham. With this end in view I had in a former interview, as I have already informed you, gone over the ground generally in support of our

claim, particularly urging, and as I thought with some effect, the reasonableness of the terms on which the United States have uniformly offered to adjust the boundary. In my interview with Lord Aberdeen on the 29th I pursued the same line of argument. * * * *

I first made some remarks on the claim of the United States, as the representatives of Spain, to an extension on the north-western coast of America, originally indefinite, and limited only by the compacts with Russia, to which Spain and the United States are parties. * * * *

Passing from this topic, I urged, with all the force in my power, the extreme reasonableness of the proposal of the United States to run the line on the 49th parallel to the sea, on the grounds of extension of contiguous territory; of giving to each Power the tract due west of its acknowledged territory; and on the ground that in a final appropriation of a region at present unappropriated (assuming, for the sake of argument, that Oregon territory is in that condition) that the United States certainly were entitled, besides their own share, to two other shares, in the right of France and Spain, whose title they had combined with their own. * * * *

After considerable discussion of these points, Lord Aberdeen finally said that these were grounds which, in the main result, had been long ago taken by the United States, and rejected by England; that the question was quite different from what it would have been if now presented for the first time; and that it was impossible for the present Ministry to accept what had been rejected in 1824 and 1826; that they did not suppose that we, any more than themselves, could now agree to terms which we had declined then, and that consequently there must be concession on both sides; that they were willing to act on this principle, and that we must do the same.

I regarded this observation, now made to me for the first time, although the Oregon boundary since my residence in England has been the subject of very frequent conversation between Lord Aberdeen and myself, as very important. I told Lord Aberdeen that I thought it would be very difficult for the United States to make any modification of their former proposal, except in one point, which I did certainly regard as very important to England, if she entertained any views to the future settlement of the country. I thought the President might be induced so far to depart from the 49th parallel as to leave the whole of Quadra and Vancouver's Island to England, whereas that line of latitude would give us the southern extremity of that island, and consequently the command of the Straits of Fuca on both sides. If the country is to be occupied by a dense population, as there is no reason to doubt would one day be the case, this would be a valuable concession to England, without implying a great sacrifice on our part. I observed I was not authorized to say this would be agreed to; I could only say I thought and wished it might be. I then pointed out on a map the extent of this concession, and Lord Aberdeen said he would take it into consideration.

Mr. Everett points out on a map the deflection from 49° that would leave Vancouver to Great Britain.

He then asked me if I was confident of the accuracy of the statement which I had made relative to the offer in 1826 on the part of Great Britain to give us a port within the Straits of Fuca, with an adjacent territory. * * * *

I accordingly considered his inquiry to proceed from some anxiety lest I should be mistaken, and a wish to have the fact established that they had then offered us a territory north of Columbia, in order now to facilitate the way for an abandonment of the Columbia as the boundary.

I may be in an error in this view of the subject; but it is the result of the closest consideration I have been able to give it, that the present Government, though of course determined not to make any discreditable sacrifice of what they consider their rights, are really willing to agree to reasonable terms of settlement. * * * *

I spoke with considerable earnestness in reprobation of the conduct of the Hudson's Bay Company in multiplying and pushing their posts far to the south of the Columbia, and said I trusted that the Government would not allow itself to be embarrassed by this circumstance. Fair warning had been given to the Company, in 1818, that no settlements after that date should prejudice the rights of either party. He said he did not consider the existence of those settlements as a very serious matter, but the navigation of the Columbia was a serious one. * * * *

(Signed) EDWARD EVERETT.

A. P. Upshur, Esq.,
Secretary of State.

Mr. Everett to Lord Aberdeen.

(Inclosure B to the above.)

(Private.)

My dear Lord Aberdeen, 46, *Grosvenor Place, November* 30, 1843.

Mr. Everett presents his proposition to Lord Aberdeen in writing.

THE proposition relative to a port within the Straits of Fuca and an adjacent tract of country was made by Mr. Huskisson and Mr. Addington to Mr. Gallatin, on the 1st December, 1826, and will be found recorded in the Protocol of the third Conference, which was held on that day.

It appears from Mr. Gallatin's correspondence that at a former conference Mr. Huskisson had especially objected to the extension of the 49th degree to the Pacific, on the ground that it would cut off the southern extremity of Quadra and Vancouver's Island.

My suggestion yesterday would obviate this objection. I ought, however, to repeat, in thus alluding to that suggestion in writing, that though it would have been within my competence to propose it (subject to the approbation of my Government), had the negotiation remained in my hands, it would have been so only under the general authority to propose and receive terms of compromise. The suggestion itself is not specifically alluded to in my instructions.

A glance at the map shows its importance as a modification of the 49th degree, and I should be

truly rejoiced if, in regarding it in that light, your Lordship would permit it to become the basis of a final settlement of this serious difficulty.

(Signed) EDWARD EVERETT.

The Earl of Aberdeen,
&c. &c. &c.

No. 20.

Mr. Everett to Mr. Nelson.

Sir, *London, April* 1, 1844.

* * * * * *

THE principle of running the 49° of latitude to the sea and leaving to each party west of the Rocky Mountains the continuation of its territory east was, in all other respects, the most natural and equitable basis of settlement.

Mr. Everett and Lord Aberdeen continue the discussion.

I had on previous occasions pursued substantially this line of argument with Lord Aberdeen, and I received from him now the same answer to it as formerly, viz., that Great Britain could not now accept terms which she had distinctly refused before; that he felt that we were under the same necessity; that he did not expect the United States to agree to what they had already rejected; and that consequently it must, he thought, be assumed as the basis of negotiation that something must be yielded on each side. To this I replied that, though as a general principle of negotiation under such circumstances this might be admitted, it was impossible to leave out of view the substantial character of the former propositions on either side; and that in proportion as he, Lord Aberdeen, should, on reconsidering the subject, be inclined to think that the offer formerly made by the United States to continue the 49th parallel to the sea was an equitable offer, and one founded on natural and reasonable principles of adjustment, he ought to be satisfied with but a moderate departure from that proposal; particularly if such a modification, without involving a great sacrifice to us, were eminently advantageous to them. In fact, such a modification was the only one which the United States could, in my opinion, be brought to agree to. The modification which I had formerly suggested, viz., that the United States would waive their claim to the southern extremity of Quadra and Vancouver's Island, which would be cut off by the 49th degree of latitude, was precisely of this kind.

It could be of no great importance to us to hold the southern extremity of an island of which the main portion belonged to England; while the entire possession of the island, and consequently the free entrance of the Straits of Fuca would be a very important object to Great Britain. I repeated what I had often observed before, that I had no authority to say that this modification would be agreed to by the United States, but that I thought it might.

Lord Aberdeen did not commit himself on the point, whether or not this proposal, if made by the Government of the United States, would be accepted. He however stated (as I understood him) that he had caused a map to be coloured as I suggested; that he was desirous to go as far as possible for the sake of settling the controversy; that Mr. Pakenham's original instructions were drawn up in this spirit; and that since he left home, he (Lord Aberdeen) had enlarged his discretionary powers. I confess from these facts, viz., that Lord Aberdeen does not expect us to agree to the Columbia as the boundary, not even with the addition of Port Discovery and an adjacent tract of country within the Straits of Fuca (which we refused in 1826); that he has never negatived the idea of the 49th degree with the suggested modification; that he has uniformly said that he did not think there would be great difficulty in settling the question; and this, although I have as uniformly assured him that, in my opinion, the United States would not stop short of the 49th degree, except in the point above stated, I draw the inference that this proposal would in the last resort be accepted. I am satisfied that the Ministry sincerely wish to settle the controversy, and are willing to go as far as their views of consistency and the national honour will permit to effect that object.

Mr. Everett thinks that Great Britain will accept the line of 49° with the proposed deflection.

They do not, therefore, I imagine, much regret the agitation of the subject in the United States, and are willing we should advance a claim to the 54° 40′; such a course on our part will make it easier for them to agree to stop at 49°. * * * *

(Signed) EDWARD EVERETT.

John Nelson, Esq.,
Secretary of State *ad interim*.

No. 21.

Extract of a Lecture delivered by Mr. William Sturgis before the Mercantile Library Association of Boston, January 22, 1845.

* * * I DEEM it very desirable that the question of boundary should be speedily adjusted, and that the limits and the rights of each party be so clearly established and defined as to prevent all danger of collision hereafter.

Views of Mr. Sturgis.

In this opinion I doubt not that the distinguished statesmen, Messrs. Pakenham and Calhoun, who now have charge of the negotiation, will cordially concur; and it seems to me that each party will attain their object, and justice be done to both, by adopting as the boundary a continuation of the parallel of 49° across the Rocky Mountains, to tide-water, say to the middle of the "Gulf of Georgia;" thence by the northernmost navigable passage (not north of 49°) to the Straits of Juan de Fuca, and down the middle of those Straits to the Pacific Ocean; the navigation of the Gulf of Georgia and the Straits of Juan de Fuca to be forever free to both parties—all the islands and other territory lying

south and east of this line to belong to the United States, and all north and west to Great Britain. By this arrangement we should yield to Great Britain the portion of Quadra and Vancouver's Island that lies south of latitude 49°, which in a territorial point of view, is of too little importance to deserve a moment's consideration; and both parties would secure, for a considerable extent, a well-defined natural boundary, about which there could hereafter be no doubt or dispute. Will Great Britain accede to this? I think she will. Up to the close of the last negotiation, in 1827, the free navigation of the Columbia was declared to be indispensable to Great Britain by the British Commissioners; but subsequent developments will probably render the British less pertinacious upon this point. The "summary" presented by the Commissioners in 1827, shows that the Columbia was then supposed to be the most convenient—in fact, the only—navigable channel of communication between the Ocean and most of the numerous establishments of the Hudson's Bay Company, west of the Rocky Mountains. Within a few years past, however, several rivers of considerable magnitude have been explored from the interior to the seas into which they empty, north of latitude 49°. These are "Frazer's River," which disembogues about that parallel; the river called by Harmon the "Nachaottatain," in about the latitude 53°; "Simpson's River," a little north of latitude 55°; and "Stickene River," in 55° 50'. All these would be within the British territory, or are so situated that the British, by their Convention with Russia, would have the right of navigating them; and they would afford convenient communication with most of their establishments north of 49th°: and if this adjustment should be made they would retain none south of that line. I should be reluctant to cede to Great Britain the free navigation of the Columbia, for there are serious objections to giving to any nation the unlimited right of using a stream where it flows wholly through the territories of another. For obvious reasons, the exercise of such a right must endanger the harmony and peace of the parties: and, especially at such a remote point, would be a fruitful cause of jealousy, and very likely to occasion collision. But Great Britain will not relinquish the right to the free navigation and use of the Straits of Juan de Fuca, if she retains the territory north of 49°. The use of these Straits would, in fact, be indispensable to her, for through them is the only convenient access to a considerable portion of this territory. * * * *

No. 22.

Mr. Everett to Mr. Calhoun.

Sir, *London, February* 28, 1845.

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Mr. Everett thinks that the line of 49° deflected so as to give the whole of Vancouver to Great Britain, is all that either party will concede.

I HAVE anticipated in some degree another point, to which Lord Aberdeen has given great prominence in all our conversations, viz., the entire impossibility that England should accept terms which she has already refused. I do not think I can be mistaken in saying that, unless it comes in the form of an award, she will never agree to the naked proposition of the forty-ninth degree. I have, however, a pretty confident belief that she would accept that line with the modification alluded to in my despatches above-mentioned; viz., the southern extremity of Quadra and Vancouver's Island, though cut off by the 49th parallel, to be theirs. Lord Aberdeen has never told me they would agree to this; but I am still of the opinion expressed in my former despatches, and for the reasons therein stated, that they would do so, and I am confident that this is the best boundary which we can get by negotiation. The concession of the southern end of the island, while of little importance to us, would be a great boon to them, as giving them a passage through the Straits of Fuca; and on the ground of this advantage I am of opinion that they would consider themselves justified in acceding in other respects to the 49th°; but if the expectation prevails that they can be led by negotiation to agree to a boundary which we should regard as more favourable than this, I am confident that expectation will prove delusive. At the same time I have spared no pains to impress upon Lord Aberdeen's mind the persuasion, that the utmost which the United States can concede is the 49th parallel with the modification suggested, taking care always to add, that I had no authority for saying that even that modification would be agreed to. * * * *

(Signed) EDWARD EVERETT.

John C. Calhoun, Esq.,
Secretary of State.

No. 23.

Mr. Everett to Mr. Calhoun.

Sir, *London, March* 7, 1845.

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I TOOK an opportunity a few days since to explain to the Comte de St. Aulaire, the French Ambassador, at his request, the merits of the claim of the United States, and the present state of the controversy. I have since done the same thing in conversation with the Chevalier Bunsen, the Prussian Minister, who, at my recommendation, has made himself acquainted with Mr. Greenhow's work.

Lord Ashburton thinks there will be not much difficulty in coming to an adjustment.

A day or two since I had a good deal of conversation with Lord Ashburton on the general question. Knowing that he is habitually consulted by the Government on American subjects, I thought it of some importance to endeavour to impress his mind with the reasonableness of the American pretensions. Having done this I stated to him my confident opinion that the Government of the United States would never accept a boundary materially less favourable than the 49° of latitude. He said he did not think there would be much difficulty in coming to an adjustment, unless steps were taken on our side which wore the appearance of defiance and menace. Any such step would put it out of the power of

England, as a similar step on her part would put it out of the power of the United States, to compromise on any terms. I attach the greater importance to these remarks, because Lord Ashburton has lately conferred with Lord Aberdeen on the subject. * * * *

(Signed) EDWARD EVERETT.

John C. Calhoun, Esq.,
Secretary of State.

No. 24.

Mr. Everett to Mr. Calhoun.

(Confidential.)

Sir, *London, April* 2, 1845.

* * * * * *

A PERSON very high in the confidence of the Government, but not belonging to it, informed me a day or two since that he considered the view of the Oregon question lately delivered on the subject in Boston by Mr. William Sturgis, as fair and candid.

Mr. Sturgis' pamphlet regarded by a friend of the British Ministry as fair and candid.

(Signed) EDWARD EVERETT.

John C. Calhoun, Esq.,
Secretary of State.

No. 25.

Lord Ashburton to Mr. Sturgis.

Sir, *London, April* 2, 1846.

YOUR lecture on the Oregon question reached me last week, and as the subject itself interests me, and still more so everything connected with the maintenance of peace and friendly intercourse between our countries, I lost no time in reading it. I beg you will accept my very best thanks for your obliging attention. Your treatise enables me every day to answer satisfactorily the question put to me so often, where is the Oregon and what is this dispute about? You have stated the case distinctly in a few pages, and what is indeed uncommon, you have stated it with great impartiality. Your leaning is perhaps to the side of the American argument, but if those who have to settle the subject by negotiation, treat it with the same fairness and candour you have done, there can be no danger of its leading to consequences which all honest men would deprecate. I have personally a high opinion of the future destinies of that portion of the coast of the Pacific. The Northern Pacific Ocean, and in the course of time probably the Eastern shores of Asia will find their masters in the country North of California. But I have a very low opinion of any interest either your country or mine are likely to have in any division of the territory: from the moment it becomes of any real importance, it will not be, and should not be governed from either Washington or from Westminster. You do not, or should not want land, and we certainly do not want colonies, and least of all such as would be unmanageable from their distance, and only serve to embroil us with our neighbours. I am not without a wish that this new Pacific Republic should be founded by our own race, which, with all their defects, are likely to spread the best description of Christian civilization; but to say the truth I care little whether this be done from Old England directly, or intermediately through New England. What I do care about is that we should not quarrel about this or any other measure, and I really believe that we should all be better by leaving this question to sleep again for another half century.

Lord Ashburton regards Mr. Sturgis' pamphlet as distinct and impartial.

Repeating my thanks for your obliging attention, &c.

I have, &c.
(Signed) ASHBURTON.

The Hon. Wm. Sturgis.

No. 26.

Mr. Bates to Mr. Sturgis.

(Strictly Confidential.)

My dear Sir, *London, May* 1, 1845.

I WROTE you some weeks since to thank you for the pamphlets you were so kind as to send me on the Oregon question. Since the date of my letter the few copies of your address sent over have circulated pretty rapidly, and have been read by all the Ministers, I have no doubt. I now inclose you an article cut from the "Examiner" of last week. It was written by my friend Senior, the political economist, as you will see with your paper before him. He showed it to me before it was printed, as he frequently does his articles for reviews (I suppose for the purpose of getting a common-sense opinion), and I advised him to send it to Lord Aberdeen, with a note to say, if he found anything amiss in it that it should not be published. Lord Aberdeen answered that it was all right, except an unimportant omission in regard to the negotiations of 1818-19. A few days since Lord Aberdeen, amongst others, dined with Mr. Van der Weyer. After dinner Lord Aberdeen came to me, and, talking on various matters, got to America and the Oregon question. I carefully avoided leading the conversation, but he seemed desirous to talk Oregon. The sum of what he said was this: he complimented your paper as a clear and sensible view of the matter; that the declaration [of] the President required to be met by a declaration of some sort from this Government; that what had been said he hoped would be

Lord Aberdeen pronounces Mr. Sturgis' pamphlet clear and sensible.

taken in the sense it was given, as meaning simply that the British Government do not admit that the United States have a right to *the whole* of Oregon. I told him that the declaration of the President appeared to have excited very little attention in the United States. He seemed anxious to impress on my mind that this country was disposed for peace and an amicable settlement of the question.

* * * * * *

(Signed) JOSHUA BATES.

The Hon. Wm. Sturgis.

Extract from an Article by Mr. , Senior, in the London "Examiner," No. 1943, *Saturday, April* 26, 1845.

The only rea. claim of the British rests on contiguity.

"IF arbitration be unobtainable, the only mode of accommodation is mutual concession; and the terms which we suggest for that mutual concession are those which, if we were arbitrators, we should award, namely, that the boundary should be the 49th parallel until it meets the Pacific, and then the sea. Our only real claim rests on contiguity, and this would give us more than mere contiguity entitles us to. *This would give us the whole of Vancouver's Island,* and it would give us an abundance of good harbours. It would also give us the country which is best for the purposes for which we use it, the fur trade. * * * Whatever be Lord Aberdeen's policy, the Opposition will, we trust, not add to its difficulties. * * * * We trust that the English negotiators will not deny every principle of law, however sacred, which they find opposed to them, and every fact, however notorious, that makes against them."

No. 27.

Narrative of the United States' Exploring Expedition, during the Years 1838, 1839, 1840, 1841, *and* 1842, *by Charles Wilkes, U.S.N., Commander of the Expedition. In five Volumes, and an Atlas. Philadelphia,* 1845.

Volume IV, Chapter XIV, 1841, page 484.

Wilkes surveys Canal de Haro in July 1841.

"A LARGE boat expedition was also fitted out, of which I took charge in person, to proceed across the Straits of the Fuca, to complete the survey of the Canal de Arro, with the adjacent bays and harbours, and thence to the mouth of Fraser's River. * * * *

"On the morning of the 25th (July, 1841), the brig parted company; and in the afternoon I set out, with seven boats, to cross the strait. * * * *

"On the 26th, we began the survey of this labyrinth of islands, which was continued the next day, 27th. * * * *

* * * On the 28th, the duties of our surveys were again resumed, and a finish made of those of the Canal de Arro. This was effected through the strenuous exertions of both officers and men. and the same night we reached the Vincennes. * * * We had completed that was essential for the navigation of the Canal de Arro." * * *

No. 28.

Mr. Buchanan to Mr. Pakenham.

(Extract.) *Department of State, Washington, July* 12, 1845.

Mr. Buchanan offers the line of 49° with free ports on Vancouver.

* * * HE (the President), has, therefore, instructed the Undersigned again to propose to the Government of Great Britain, that the Oregon territory shall be divided between the two countries by the 49th parallel of north latitude, from the Rocky Mountains to the Pacific Ocean; offering at the same time to make free to Great Britain, any port or ports on Vancouver's Island, south of this parallel, which the British Government may desire. * * * *

(Signed) JAMES BUCHANAN.

The Right Hon. R. Pakenham,
&c. &c. &c.

No. 29.

Mr. Pakenham to Mr. Buchanan.

(Extract.) *Washington, July* 29, 1845.

Mr. Pakenham rejects Mr. Buchanan's offer.

* * * THE Undersigned, therefore, trusts that the American Plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon question, more consistent with fairness and equity, and with the reasonable expectations of the British Government, as defined in the statement marked D, which the Undersigned had the honour to present to the American Plenipotentiary at the early part of the present negotiation. * * * *

(Signed) R. PAKENHAM.

Hon. James Buchanan,
&c. &c. &c.

No. 30.

Mr. Buchanan to Mr. Pakenham.

(Extract.) *Department of State, Washington, August* 30, 1845.

* * * "SUCH a proposition as that which has been made, never would have been authorized by the President, had this been a new question

Mr. Buchanan withdraws his offer.

"Upon his accession to office, he found the present negotiation pending. It had been instituted in the spirit and upon the principle of compromise. Its object, as avowed by the negotiators, was not to demand the whole territory in dispute for either country; but, in the language of the first Protocol, 'to treat of the respective claims of the two countries to the Oregon territory, with a view to establish a permanent boundary between them westward of the Rocky Mountains to the Pacific Ocean."

Placed in this position, and considering that Presidents Monroe and Adams had, on former occasions, offered to divide the territory in dispute by the 49th parallel of latitude, he felt it his duty not at once abruptly to arrest the negotiation, but so far to yield his own opinion as once more to make a similar offer.

Not only respect for the conduct of his predecessors, but a sincere and anxious desire to promote peace and harmony between the two countries, influenced him to pursue this course. The Oregon question presents the only intervening cloud which intercepts the prospect of a long career of mutual friendship and beneficial commerce between the two nations, and this cloud he desired to remove.

These are the reasons which actuated the President to offer a proposition so liberal to Great Britain.

And how has this proposition been received by the British plenipotentiary? It has been rejected without even a reference to his own Government. Nay, more: the British plenipotentiary, to use his own language, "trusts that the American plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon question, more consistent with fairness and equity, and with the reasonable expectations of the British Government."

Under such circumstances, the undersigned is instructed by the President to say that he owes it to his own country and a just appreciation of her title to the Oregon territory to withdraw the proposition to the British Government which had been made under his direction; and it is hereby accordingly withdrawn.

In taking this necessary step, the President still cherishes the hope that this long-pending controversy may yet be finally adjusted in such a manner as not to disturb the peace or interrupt the harmony now so happily subsisting between the two nations.

* * * * * *

(Signed) JAMES BUCHANAN.

The Right Hon. Richard Pakenham,
&c. &c. &c.

No. 31.

Mr. MacLane to Mr. Buchanan.

Sir, *London, October* 3, 1845.

I RECEIVED on the 29th ultimo your despatch No. 9, dated the 13th September, transmitting a copy of your last note (30th of August, 1845) to Mr. Pakenham, relative to the Oregon question.

Lord Aberdeen censures the rejection of the American proposition by Mr. Pakenham.

On the day following I was invited by Lord Aberdeen, in the note hereto appended, to an interview at his house in Argyll Street, which I granted accordingly. The object of the interview, as I had anticipated, related exclusively to the posture in which the negotiations between the two Governments had been placed by your note of the 30th August to Mr. Pakenham, and the withdrawal of the proposition, which the President had previously directed.

Lord Aberdeen not only lamented but censured the rejection of our proposition by Mr. Pakenham, without referring it to his Government.

* * * He stated that if Mr. Pakenham had communicated the American proposition to the Government here, as he was expected to have done, he, Lord Aberdeen, would have taken it up as the basis of his action, and entertained little doubt that he would have been enabled to propose modifications which might ultimately have resulted in an adjustment mutually satisfactory to both Governments. * * * *

I did not fail, however, to take the occasion to press upon Lord Aberdeen the great difficulties with which, in the present state of public sentiment in the United States, the President could concede even that which he had done in the proposition he had authorized. * * * *

It was quite obvious to me that Lord Aberdeen had become convinced in his own mind, though in what way I do not pretend to conjecture, that the terms which it was his intention ultimately to propose or assent to would be accepted by the President, and that, on this account, he particularly regretted the interruption in the negotiation without affording an opportunity for that purpose.

(Signed) LOUIS MAC LANE.

Hon. James Buchanan,
Secretary of State.

No. 32.

Mr. MacLane to Mr. Buchanan.

Sir, *London, December* 1, 1845.

Lord Aberdeen would have taken Mr. Buchanan's offer as the basis of negotiations.

ALTHOUGH it is well understood here that, in the present posture of the Oregon question, my connection with it must be in a great degree informal, the Earl of Aberdeen occasionally makes it a subject of conversation.

At his request I have recently had an interview with him, when he put into my hand, to read, two despatches from Mr. Pakenham, one in explanation of his rejection without reference to his Government of the President's proposition; the other containing a statement of his subsequent attempts to induce you to allow the President's proposition to stand ,as the basis of further negotiation, or to have some assurance of the answer which a new proposition from the British Government would receive * * The principal object of Lord Aberdeen, in seeking the interview appeared to me to be, to point out the embarrassment in which he thought the President's withdrawal of his proposition had placed this Government. It was quite evident, indeed he expressly said that he was not prepared to accept the the President's proposition, but desired only to make it the basis of further negotiation and modified propositions from this Government, which he would have done, notwithstanding the rejection of it by Mr. Pakenham, if it had not been withdrawn by direction of the President.

* * * * Although I am quite sure that the Earl of Aberdeen has no idea at present of accepting the compromise contained in the President's proposition, it would not surprise me if an arrangement upon that basis should prove acceptable to large and important classes in this country, indeed, complained of principally by the Hudson's Bay Company and those in its interest.

That the Ministry would find it difficult and hazardous to prefer war to such a settlement may well be imagined, although you may assume it to be certain that when war becomes inevitable it will receive the undivided support of the British people.

I believe the Government and people here are quite prepared for the reassertion in the Message of the President's opinions expressed in his inaugural address, and, perhaps, for a recommendation by him to terminate the joint occupation in the manner provided by the existing Treaty.

And I also think that unless the recommendation in the Message should be such as to discourage further negotiation, and to manifest a determination to insist upon our whole right, they would not lead to any immediate measures upon the part of this Government, or materially add to the embarrassment in which the relations between the two countries appear to be at present involved.

* * * * * *

(Signed) LOUIS MAC LANE.

James Buchanan, Esq.,
Secretary of State.

No. 33.

Mr. Bates to Mr. Sturgis.

(Private.)

Sir, *London, December* 2, 1845.

* * * * * *

Hudson's Bay Company prevent settlement. No American will concede more than the line of 49° and Fuca's straits.

OUR RELATIONS WITH THE UNITED STATES.—WHEN I last wrote to you on this subject I gave you to understand that the negotiations were going well, but I soon after learned that there had been a hitch at Washington, and a very awkward one it is; for the British Government must now make the first move, and whether they will make that move remains to be seen. One thing is consolatory, viz., that after the publication of Mr. Webster's speech here yesterday consols improved. The stockjobbers say that "the 49° is about right and there can be no difficulty." That will be the feeling of nine-tenths of the people of G. B., but this has been refused by so many Ministers previously that Lord Aberdeen may hesitate; the western members of Congress will rail, and merchants will be kept in hot water another year. The Hudson's Bay Company prevent a settlement I have no doubt; they might have twenty years' occupation and the right of pre-emption to their lands under cultivation, and to become Americans or not at the expiration of the time, as they may choose, always conforming to any laws the United States may establish for the Government of the territory. This with the 49° to the Strait, giving Vancouver's Island to G. B. is as much as any American, be he Bostonian or Carolinian, will, I think, consent to give up. If G. B. is not satisfied with that, let them have war if they want it.

(Signed) JOSHUA BATES.

Hon. Wm. Sturgis.

No. 34.

Mr. MacLane to Mr. Buchanan.

Sir, *London, February* 3, 1846.

* * * * * *

Mr. Pakenham's conduct strongly disapproved in England.

IT will be preceived from the remarks of Lord John Russell, and Sir Robert Peel more particularly, that the observations I have heretofore made of the effect upon public opinion in this country, of the President's proposition for compromise are fully confirmed, and that the rejection of the proposition by Mr. Pakenham, without sending it to his Government, at least as the basis of negotiation, is strongly

disapproved by both parties. I have reason to know also, that there is an expectation with all classes here, that this disapprobation should have its influence in disposing our Government to give a favourable and amicable reception to any future overtures which may be made for resuming the negotiation. * *

On the subsequent night, Friday the 23rd of January, the subject was again introduced to the notice of the House of Commons by Lord John Russell. He said:—"It would appear, that a proposition for a compromise had been made from the President to Her Majesty's Government, and he (Lord John Russell) conceived that that proposition had changed the state of the question. The proposition itself might be satisfactory, or not satisfactory; but having been made, it did appear to him to require a statement from those in authority in this country of the terms on which they would be satisfied to settle this question. That proposition, he understood, had not been received by Her Majesty's Government, but had been declared to be wholly inadmissible by our Minister in America. He (Lord John Russell) confessed he thought that was a hasty proceeding on the part of the representative of Her Majesty in the United States, but what he wished to ask was, whether the negotiations had recommenced, or were going on." * * * *

Lord John Russell calls Mr. Pakenham's rejection of the American offer a hasty proceeding.

Sir Robert Peel observed:—"On the subject of the Oregon Territory, I have to state that a proposition was made by Mr. Buchanan, with the authority of the President of the United States, to Mr. Pakenham, and that the proposal so made suggested a division of the territory. Whether or not that proposal ought to have been accepted, I cannot say. Mr. Pakenham thought that the terms proposed were so little likely to be acceptable, that he did not feel himself warranted in transmitting the proposal to the Government at home; and on signifying this to Mr. Buchanan, the latter immediately stated that the proposal was withdrawn. This is the state of the negotiation at present, so far as I am informed, respecting the proposal submitted by Mr. Buchanan. I have the highest opinion of Mr. Pakenham, I have the greatest respect for his talents, and the greatest confidence in his judgment; yet I must say, that it would have been better had he transmitted that proposal to the Home Government, for their consideration, and if found in itself unsatisfactory, it might possibly have formed the foundation for a further proposal." (Hear!) * * * *

Sir Robert Peel says that Mr. Pakenham ought to have referred the American offer to his Government.

"We have no hesitation in announcing our sincere desire for the interests of this country, for the interests of the United States, and for the interests of the civilized world, in continuing to strain every effort, which is consistent with national honour, for the purpose of amicably terminating those disputes." (Hear!) * * * *

Sir Robert Peel for a peaceable settlement of the Oregon question.

"I think it would be the greatest misfortune, if a contest about the Oregon between two such powers as England and the United States, could not, by the exercise of moderation and good sense, be brought to a perfectly honourable and satisfactory conclusion." (Cheers.) * * * *

After these observations, I owe it more particularly to myself to state that, believing from the history of our previous negotiations, as to the Oregon question, that it may now be settled upon the basis of a compromise, and with reference to interests which have grown up during the joint occupation of the territory, without a violation of any duty which a public man owes to the rights and honour of his country, I would not be unwilling, taking the President's proposition of the 12th July, as a basis, to urge a final adjustment of the question according to that proposition, but conceding to the Hudson's Bay Company a continuance of the privileges of joint occupation, including the navigation of the Columbia, for a period of seven or ten years longer; and I hope I may be allowed to add that, I would be willing to assume the responsibility of assenting to an adjustment by extending the boundary to the Pacific by the 49th parallel and the Strait of Fuca with free ports to both nations; or by extending the free navigation of the Columbia River for a longer period, provided similar advantages upon the St. Lawrence could thereby be secured to the United States.

Mr. MacLane reports that the British Government will accept the line of 49° and the Straits o. Fuca.

I believe that upon one of these grounds, perhaps upon either, an adjustment may be concluded, and I have a strong conviction lhat the first indicated is entirely practicable.

I am, however, constrained at the same time to state, from all that has come to my knowledge here, that I have no reason to believe that more favourable terms than those I have above adverted to, would under any circumstances be consented to by this Government. * * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 35.

Extract from the Speech of Mr. Calhoun, of South Carolina, in the Senate, March 16, 1846.

* * * THE past history of the affair, the fact that it had been frequently offered by us substantially as an ultimatum, added to the fact that 49° was the boundary on this side of the Rocky Mountains, left no doubt on my mind that, if settled by compromise, it must be on that basis. * * * *

The line of 49° the only line admissible.

Extract from the Speech of Mr. Webster, of Massachusetts, in the Senate, March 30, 1846.

* * * I WAS not very far out when I took the precaution of reducing what I intended to say to writing. What I said was (and I presumed not to dictate, or to speak as *ex cathedrâ*), that in my judgment public opinion in both countries tended to a union on the general basis of the proposal made by this Government to that of England in 1826. * *

* * * What I meant, and what I said, was, that if 49° should be agreed on as a general basis, I was satisfied to negotiate about all the rest. But the gentleman from Ohio and

Great Britain cannot expect anything south of 49°.

the Senate will do me the justice to allow that I said, as plainly as I could speak or put down words in writing, that England *must not expect anything south of* 49°. I said so in so many words. * *

Extract from the Debate on the Oregon Question, in the House of Representatives, February 9, 1846.

John Quincy Adams regards America's title as clear to all territory on the Pacific south of 54° 40′.

Mr. T. B. King: * * * I SHOULD like, with all respect and deference to the learned and venerable gentlemen from Massachusetts (Mr. Adams), to ask whether, in his judgment, our title to the entirety of the Oregon Territory is "clear and unquestionable?"

Mr. John Quincy Adams: * * * According to the construction we give to "clear and indisputable," in relation to the question of right and wrong, I say that our title is clear and unquestionable. * * * *

Extract from the Speech of Mr. J. Q. Adams, in the House of Representatives, April 13, 1846.

* * * I AM not for settling the question at the line of 49°. * * If this House pass this Bill, and instead of putting down "south of the line of 49°," as is proposed by this amendment, will say "south of latitude 54° 40′," I will vote for it. * * * * Great Britain had no claim whatever. I believe she has no pretensions to any now. * *

Extract from the Speech of Mr. Cass, of Michigan, in the Senate, June 1846.

To accept the line of 49° regarded as a sacrifice.

* * * WE are seeking a doubtful good, at the certainty of a great sacrifice. * * * Those who believe that our title to all Oregon is so "clear and unquestionable" that no portion of it ought to be relinquished, may well contend for its whole extent, and risk the consequences. * * * *

Extract from the Speech of Mr. Sevier, of Arkansas, Chairman of the Committee on Foreign Relations, in the Senate, March 25, 1846.

Many Americans claim 54° 40′ as the boundary, and would fight for 49°.

* * * SIR,—I am not sure but that a majority of the people of the United States would rather fight Great Britain to-morrow than yield up to her *any part of Oregon south of* 54° 40′. I am not sure but that a majority of the people of the United States are now ready to *assert the title of the United States* to the whole of Oregon, believing, as that majority do, that the title of their country to the whole of it is unquestionable; and with this assertion of their title, I am not sure but that this majority are not now ready, upon the slightest intimation from those who have control of our public affairs, to maintain it at all hazards. * * * * These people, with these impressions, are now looking and reading about Gregon, and are quietly and firmly forming their resolves upon the subject. 54° 40′ are chalked upon doors and windows, and upon walls, pillar, and post, everywhere. * * * * These people are in no temper for unjust concessions in the form of compromises. Is there, Sir, a man in America, of any party or of any sect, that would not sooner fight Great Britain to-morrow than yield up any part of Oregon *south of* 49°? In support of our title up to that line and for everything south of it, we should find even our Quaker friends in uniform, with arms in their hands, crying aloud, in the highways and byways, "To your tents, O Israel?"

No. 36.

Extract from the London "Quarterly Review" for March, 1846, *vol.* LXXVII, *page* 603.

The "Quarterly" in favour of the line of 49° and Fuca Straits.

* * * WE believe that the proposition for a division by the 49° and the Straits of Fuca—which we have hitherto called *Mr. Dargan's*, but of which we hear no more under that name—would have been, at any time and under any circumstances, received with as much satisfaction as now. We are more and more convinced by the advices which we have lately received, that the American Cabinet will not and—if it would—*could* not make any larger concession. It is, we believe, all that any American statesman could hope to carry, and we are equally satisfied that, on our part, after so much delay and complication, and considering it in its future effect on the tranquillity of the district itself, it is the best for our interests and sufficient for our honour.

No. 37.

Mr. Buchanan to Mr. MacLane.

Sir, *Department of State, Washington, February* 26, 1846.

* * * * * *

THE President, since the date of his Message, has seen no cause to change his opinion, either in regard to our title to Oregon, or to the manner in which it ought to be asserted. But the Federal Constitution has made the Senate, to a certain extent, a co-ordinate branch of the Treaty-making power. Without their advice and consent no Treaty can be concluded. This power could not be entrusted to wiser or better hands. Besides, in their legislative character, they constitute a portion of the war-making, as in their executive capacity they compose a part of the Treaty-making Power. They are the representatives of the Sovereign States of this Union and are regarded as the best index of the opinion of their constituents. A rejection of the British ultimatum might probably lead to war; and, as a branch of the legislative power, it would be incumbent upon them to authorize the necessary preparations to render this war successful. Under these considerations, the President, in deference to the Senate, and to the true theory of the constitutional responsibilities of the different branches of the Government, will forego his own opinions so far as to submit to that body any proposition which may be made by the British Government not, in his judgment, wholly inconsistent with the right and honour of the country. Neither is the fact to be disguised that, from the speeches and proceedings in the Senate, it is probable that a proposition to adjust the Oregon question on the parallel of 49 would receive their favourable consideration.

The President may consent to consult the Senate on any British proposition.

The President is desirous so to adjust the Oregon question as not to leave open any source from which might proceed new difficulties and new dangers, again to threaten the peace of the two countries. * * * *

The President wishes not to leave open any source of new difficulties.

The President would also consent, though with reluctance, to submit to the Senate the second proposition suggested by you, dividing the territory in dispute between the two countries "by extending the boundary to the Pacific by the 49th parallel and the Straits of Fuca;" but without the superadded words "with free ports to both nations." These words are indefinite and he cannot infer from them the extent of your meaning. In case the first proposition to which you refer should be made by the British Government, the President would not object to the terms of his offer of the 12th July last "to make free to Great Britan any port or ports on Vancouver's Island south of this parallel, which the British Government may desire." If the cape of this island should, however, be surrendered to Great Britain, as would be the case under the second proposition, then he would consider the question in regard to free ports as terminated. I need not enlarge to you upon the inconvenience, not to say impossibility under our system of government, after one or more States shall have been established in Oregon, (an event not far distant) of making any of their ports free to Great Britain or any other nation. Besides, our system of drawbacks secures to other nations the material advantages of free ports without their inconveniences.

The President would submit to the Senate the line of 49° and the Straits of Fuca.

There is one point which it is necessary to guard, whether the first or the second proposition should be submitted by the British Government. The Straits of Fuca is an arm of the sea, and under the public law all nations would possess the same right to navigate it, throughout its whole extent, as they now have to the navigation of the British Channel. Still, to prevent future difficulties, this ought to be clearly and distinctly understood. * * * *

(Signed) JAMES BUCHANAN.

Louis MacLane, Esq.,
&c. &c. &c.

No. 38.

Mr. MacLane to Mr. Buchanan.

Sir, *London, March* 3, 1846.

* * * * * *

I SOUGHT and obtained an interview with Lord Aberdeen on the 25th February. * *

I have little or no expectation that this Government will offer, or assent to, a better partition, than the extension of a line on the 49th parallel to the Straits of Fuca, and thence down the middle of the strait to the Pacific; and, if the line of the 49th parallel should intersect the Columbia, according to Mr. Gallatin's proposition, at a point from which it is navigable to the ocean, with the free navigation of that river, at least for such a period as may be necessary for the trade of the Hudson's Bay Company. They will also, I am quite sure, expect some arrangements for the protection of the present agricultural settlements of British subjects south of the 49° of latitude, and north of the Columbia. If the Columbia River be not navigable from the point at which it would be intersected by the extension of a line along the 49th parallel, I believe it quite certain that the navigation of the river would not be insisted on. * * * *

Mr. MacLane reports that Great Britain will assent to no better partition than the line of 49° and Fuca's Straits.

I must, however, repeat the opinion that, whatever may be the result of any present expectation, and according to any view it may take of the question, this Government will not be likely to propose, or assent to a basis of partition, different from that I have already stated in the foregoing part of this dispatch. If there be a disposition on the part of our Government to treat upon the basis, I have great confidence that the negotiation would result in an amicable settlement of the question. * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 39.

Mr. Bates to Mr. Sturgis.

My dear Sir, *London, April* 3, 1846.

The Oregon question sure to be settled on the American basis.

THE Oregon question is now as good as settled, provided the Senate by a good majority pass their pacific resolutions. Your pamphlet, by fixing public attention on a reasonable mode of settlement, on both sides of the water has done more than all the diplomatic notes. I claim the merit of suggesting the mode of getting rid of the question of the Hudson's Bay Company, and the navigation of the Columbia by allowing the Company to enjoy it for a fixed number of years. Mr. MacLane and the Governor had not thought of it. In the "Quarterly" is an article written by Crocker, which adopts completely these views. * * * *

(Signed) JOSHUA BATES.

No. 40.

Mr. MacLane to Mr. Buchanan.

Sir, *London, April* 17, 1846.

The British Government wait for Congress to give notice of the abolition of the Treaty for the non-occupation of Oregon.

MY despatch of the 17th of March, after an opportunity had been afforded of seeing and reflecting upon your final answer to Mr. Pakenham's proposal to arbitrate, acquainted you that very soon after the date of the last note of the Earl of Aberdeen to Mr. Pakenham, I had positively ascertained that this Government would take no further step towards renewing the negotiation until after Congress had finally acted upon the question of notice. * * * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 41.

Extracts from the Speech of Mr. Dix, of New York, in the Senate, February 19, 1846.

Wilkes' map of Oregon the map used by the American Senate.

* * * THE historical facts are too well authenticated to be permanently misunderstood. They were so well known at the time, that even the rivalry—not to say the detraction—of the day conceded to Gray the merit of the discovery by designating the river by the name he gave it—the name of the vessel that first entered its waters." * * * * * *

"Look at the map of Oregon on your table by Captain Wilkes, and you will find Gray's Bay, so named by Broughton (see 'Vancouver's Journal,' vol. iii., page 92), on the north side of the Columbia and higher up than Astoria. According to Gray's own log, he anchored the day he discovered and entered the river, ten miles above the entrance, and three days after he sailed twelve or fifteen miles higher up. He must therefore have been from six to fifteen miles above the site of the settlement at Astoria." * * * *

No. 42.

Mr. MacLane to Mr. Buchanan.

Sir, *London, May* 18, 1846.

* * * * * *

Mr. MacLane and Lord Aberdeen discuss the Oregon question.

IN my last despatch dated on the 3rd instant, after an interview with Lord Aberdeen, I informed you that, as soon as he received official intelligence of the Senate's vote upon the resolution of notice, he would proceed finally to consider the subject of Oregon, and directed Mr. Pakenham to submit a further proposition upon the part of this Government, and also that it was understood that he would not be prevented from taking this course by any disagreement between the two Houses as to the form of the notice.

I have now to acquaint you that after the receipt of your despatches on the 15th instant by the "Caledonia," I had a lengthened conference with Lord Aberdeen, on which occasion the resumption of the negotiation for an amicable settlement of the Oregon question, and the nature of the proposition he contemplated submitting for that purpose formed the subject of a full and free conversation.

I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow, to submit a new and further proposition on the part of this Government, for a partition of the territory in dispute.

The proposition, most probably, will offer substantially:—

The British Government will offer to divide the territory by the parallel of 49°, Birch's Bay, Canal de Haro, and Fuca's Straits.

First. To divide the territory by the extension of the line on the parallel of 49 to the sea; that is to say, to the arm of the sea called Birch's Bay, thence by the Canal de Arro and Straits of Fuca to the Ocean, and confirming to the United States, what indeed they would possess without any special confirmation, the right freely to use and navigate the Strait throughout its extent.

Second. To secure to the British subjects occupying lands, forts, and stations anywhere in the region north of the Columbia and south of the 49th parallel, a perpetual title to all their lands and stations of which they may be in actual occupation; liable, however, in all respects, as I understand, to the jurisdiction and sovereignty or the United States as citizens of the United States. Similar privileges will be offered to be extended to citizens of the United States who may have settlements north of the 49th parallel; though I presume it is pretty well understood that there are no settlements upon which this nominal mutuality could operate; I have no means of accurately ascertaining the extent of the

present British settlements between the Columbia and the 49th parallel. They are not believed by Lord Aberdeen to be numerous, however; consisting, as he supposes, of a few private farms and two or three forts and stations. I have already, in a previous despatch, taken the liberty to remind you that by their Charter the Hudson's Bay Company are prohibited from acquiring title to lands, and that the occupations to be affected by this reservation have been made either by the squatters of that Company, or by the Puget's Sound Land Company, for the purpose of evading the prohibition of the Hudson's Bay Charter.

They are in point of fact also, according to Captain Wilkes' account, cultivated and used chiefly by the persons employed in the service of the former Company, and as auxiliary to their general business of hunting and trapping, rather than with a view, as it has been generally supposed, of colonizing or of permanent settlement.

Lastly. The proposition will demand for the Hudson's Bay Company the right of freely navigating the Columbia River.

It will, however, as I understand, disclaim the idea of sovereignty or of the right of exercising any jurisdiction or police whatever on the part of this Government or of the Company, and will contemplate only the right of navigating the river upon the same footing and according to the same regulations as may be applicable to the citizens of the United States.

It is scarcely necessary for me to state that the proposition as now submitted has not received my countenance.

Although it has been no easy task, under all the circumstances, to lead to a reopening of the negotiations by any proposition from this Government, and to induce it to adopt the parallel of 49 as the basis of a boundary, nevertheless I hoped it would have been in my power to give the present proposition a less objectionable shape, and I most deeply lament my inability to accomplish it. I have, therefore, felt it my duty to discourage any expectation that it would be accepted by the President; or, if submitted to that body, approved by the Senate.

I do not think there can be much doubt, however, that an impression has been produced here that the Senate would accept the proposition now offered, at least without material modification, and that the President would not take the responsibility of rejecting it without consulting the Senate. * *

It must not escape observation that, during the preceding administration of our Government, the extension of the line on the 49th parallel to the Strait of Fuca, as now proposed by Lord Aberdeen, was actually suggested by my immediate predecessor (Mr. Everett), as one he thought his Government might accept. * * * *

The above proposed boundary line is that suggested by Mr. Everett.

I have myself always believed, if the extension of the line of boundary on the 49th parallel by the Straits of Fuca to the sea would be acceptable to our Government, that the demand of a right freely to navigate the Columbia River could be compromised upon a point of time, by conceding it for such period as might be necessary for the trade of the Hudson's Bay Company, north or south of the 49th parallel. * * * *

I have not the least reason to suppose it would be possible to obtain the extension of the 49th parallel to the sea, so as to give the Southern Cape of Vancouver's Island to the United States.

* * * * * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 43.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *May* 18, 1846.

THE boundary (said Lord Aberdeen) having been fixed by the Convention of 1818, between the possessions of Great Britain and the United States, and the line of demarcation having been carried along the 49th parallel of latitude, for a distance of 800 or 1,000 miles, through an unfrequented and unknown country, from the Lake of the Woods to the Rocky Mountains, it appeared to the Government of the United States that it was a natural and reasonable suggestion that this line should be continued along the same parallel for about half this distance, and through a country as little known or frequented, from the Rocky Mountains to the sea. And indeed, with reference to such a country, the extension of any line of boundary already fixed might equally have been suggested, whether it had been carried along the 49th or any other parallel of latitude.

Lord Aberdeen offers the 49th parallel, retaining the whole o Vancouver Island for England.

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

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

No. 44.

Extract from the Speech of Mr. Benton, of Missouri, in the Senate, June 18, 1846.

(Debate on the Ratification of the Oregan Treaty. Appendix to the Congressional Globe, 1st Sess., 29th Cong., 1845—46, page 867.)

Mr. Benton finds that the boundary line passes through the Canal de Haro.

THE Ist Article of the Treaty—and it is the main one, and almost the whole Treaty—is in the very words which I myself would have used if the two Governments had left it to me to draw the boundary line between them. The line established by that Article—the prolongation of the boundary on the east side of the Rocky Mountains—follows the parallel of 49th degree to the sea, with a slight deflection through the Straits of Fuca to avoid cutting the south end of Vancouver's Island. * *

When the line reaches the channel which separates Vancouver's Island from the Continent (which it does within sight of the mouth of Fraser's River), it proceeds to the middle of the channel, and thence turning south, through the Channel De Haro (wrongly written Arro on the maps), to the Straits of Fuca; and then west, through the middle of that strait to the sea. * * *

No. 45.

Extract from the Speech of the Earl of Aberdeen, in the House of Lords, Monday June 29, 1846.

(Hansard's Debates, 87, 1038.)

Lord Aberdeen and Parliament are aware of the interpretation given to the Treaty by the United States' Senate.

WHEN I saw that the Senate and the House of Representatives had adopted resolutions of such a conciliatory and friendly disposition, I did not delay for a moment putting aside all ideas of diplomatic etiquette, which might have led me to expect that some steps would be taken on the other side; but, without waiting a moment, I prepared the draft of a Convention, which was sent by the packet of the 18th of May to Mr. Pakenham, to be proposed for the acceptance of the United States' Government. I have brought with me a letter from Mr. Pakenham, which I received this morning, and from which I shall read an extract. The letter is dated the 13th of June; and Mr. Pakenham says:—

"In conformity with what I had the honour to state in my despatch No. 68 of the 7th instant, the President sent a message on Wednesday last to the Senate, submitting for the opinion of that Body the draught of a Convention for the settlement of the Oregon Question, which I was instructed by your Lordship's despatch No. 19 of the 18th May, to propose for the acceptance of the United States' Government. After a few hours deliberation on each of the three days, Wednesday, Thursday, and Friday, the Senate, by a majority of thirty-eight votes to twelve, adopted yesterday evening a resolution advising the President to accept the terms proposed by Her Majesty's Government. The President did not hesitate to act on this advice; and Mr. Buchanan accordingly sent for me this morning, and informed me that the conditions offered by Her Majesty's Government were accepted by the Government of the United States, without the addition or alteration of a single word,"

Lord Aberdeen's regard for Mr. MacLane.

Gratifying as this intelligence is, I feel it is but an act of justice, as well as a pleasure, that I should bear the tribute of my testimony to the most friendly and conciliatory course which has been adopted by the United States' Minister in this country. That gentleman I have long known, and long had reason to esteem in official intercourse fifteen or sixteen years ago; and I am perfectly certain that, by every means in his power, he has contributed to this result. I am well assured that there is no person in this House, or in this country, who more cordially participates in the feeling of satisfaction which it is fitted to produce than Mr. MacLane.

No. 46.

Extract from the Speech of Sir Robert Peel in the House of Commons, Monday, June 29, 1846.

* * * SIR,—If anything could have induced me to regret that decision on the part of the House which terminates the Government, it would have been the wish that we should survive the day when intelligence might be received from the United States as to the result of our last attempt to adjust the differences with that country: differences which, unless speedily terminated, must probably involve both countries in the necessity of an appeal to arms. The House will probably recollect that, after we had offered to leave the dispute respecting the territory of the Oregon to arbitration, and that offer had been rejected, the President of the United States sent a message to Congress, which led to discussions with regard to the termination of the Convention entered into several years since, which provided for a temporary adjustment of our differences—at least, for a temporary avoidance of quarrel—and enabled the two countries jointly to occupy the territory of the Oregon. The two Houses of the American Congress advised the President to use his unquestionable power, and to signify to this country the desire of the United States to terminate after the lapse of a year the existing Convention. They, however, added to that advice, which might, perhaps, otherwise have been considered of an unsatisfactory or hostile character, the declaration that they desired the notice for the termination of the Convention to be given, in order that an amicable adjustment of the dispute between the two countries might thereby be facilitated. It appeared to us that the addition of that conciliatory declaration; the expression of the hope that the termination of the Convention might the more strongly impress upon the two countries the necessity of amicable adjustment—removed any barrier which diplomatic

punctilios might have raised to a renewal by this country of the attempt to settle our differences with the United States. We did not hesitate, therefore, within two days after the receipt of that intelligence —we did not hesitate, although the offer of arbitration made by us had been rejected, to do that which, in the present state of the protracted dispute, it became necessary to do—namely, not to propose renewed and lengthy negotiations, but to specify frankly and without reserve, what were the terms on which we could consent to a partition of the country of the Oregon. Sir, the President of the United States met us in a corresponding spirit. Whatever might have been the expressions heretofore used by him, however strongly he might have been personally committed to the adoption of a different course, he most wisely and patriotically determined at once to refer our proposals to the Senate—that authority of the United States whose consent is requisite for the conclusion of any negotiation of this kind; and the Senate, acting also in the same pacific spirit, has, I have the heartfelt satisfaction to state, at once advised acquiescence in the terms we offered. From the importance of the subject, and considering that this is the last day I shall have to address the House as a Minister of the Crown, I may, perhaps, be allowed to state what are the proposals we made to the United States for the final settlement of the Oregon question. In order to prevent the necessity for renewed diplomatic negotiations we prepared and sent out the form of a Convention, which we trusted the United States would accept. The 1st Article of that Convention was to this effect, that—

The words of the Treaty were chosen by the British Ministry.

"From the point on the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca's Straits to the Pacific Ocean: Provided, however, that the navigation of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both Parties."

Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca; that that parallel should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island, but that the middle of the channel shall be the future boundary, thus leaving us in possession of the whole of Vancouver's Island, with equal right to the navigation of the straits. * * * * Sir, I will not occupy the attention of the House with the mere details of this Convention. I have read the important Articles. On this very day, on my return from my mission to Her Majesty, to offer the resignation of Her Majesty's servants, I had the satisfaction of finding an official letter from Mr. Pakenham intimating in the following terms the acceptance of our proposals, and giving an assurance of the immediate termination of our differences with the United States:—

Sir Robert Peel's interpretation of the Treaty.

"My Lord, "*Washington, June* 13, 1846.

"In conformity with what I had the honour to state in my despatch No. 68 of the 7th instant, the President sent a Message on Wednesday last to the the Senate, submitting, for the opinion of that Body, the Draft of a Convention for the settlement of the Oregon Question, which I was instructed, by your Lordship's despatch No. 19 of the 18th of May, to propose for the acceptance of the United States.

"After a few hours' deliberation on each of the three days, Wednesday, Thursday, and Friday, the Senate, by a majority of 38 votes to 12, adopted yesterday evening a Resolution advising the President to accept the terms proposed by Her Majesty's Government. The President did not hesitate to act on this advice, and Mr. Buchanan accordingly sent for me this morning and informed me that the conditions offered by Her Majesty's Government were accepted by the Government of the United States, without the addition or alteration of a single word.

"I have, &c.

"The Right Hon. the Earl of Aberdeen, K.T., &c. (Signed) "R. PAKENHAM."

Thus, Sir, the Governments of two great nations, impelled, I believe, by the public opinion of each country in favour of peace—by that opinion which ought to guide and influence statesmen—have, by moderation, by mutual compromise, averted the dreadful calamity of a war between two nations of kindred origin and common language, the breaking out of which might have involved the civilized world in general conflict. A single year, perhaps a single month, of such a war would have been more costly than the value of the whole territory that was the object of dispute. But this evil has been averted, consistently with perfect honour on the part of the American Government, and on the part of those who have at length closed, I trust, every cause of dissension between the two countries. * * Sir, I do cordially rejoice that, in surrendering power at the feet of a majority of this House, I have the opportunity of giving them the *official assurance* that every cause of quarrel with that great country on the other side of the Atlantic is amicably terminated.

Sir Robert Peel declares every cause of dissension between Britain and America at an end.

No. 47.

Mr. MacLane to Lord Palmerston.

38, *Harley Street, July* 13, 1846.

* * * THE Treaty, as concluded and ratified by the President, appearing to be in all respects identical with the project admitted of Her Majesty's Government, the ratification on the part of Her Majesty may be anticipated as not likely to occasion any hesitation; and the Undersigned has been instructed to express a desire on the part of the President that he should be able, before

The American President regards the Treaty of June, 1846, as establishing amity.

the adjournment of Congress, to acquaint that body with the final consummation of an act which, he cherishes the hope, may be regarded as establishing the foundation of a cordial and lasting amity between the two countries. * * * *

(Signed) LOUIS MACLANE.

No. 48.

Extract from "Exploration du Territoire de l'Orégon, &c., exécutée pendant les années 1840, 1841, *et* 1842," *par M. Duflot de Mofras, Attaché à la Légation de France à Mexico; ouvrage publié par ordre du Roi, sous les auspices de M. le Maréchal Soult, Duc de Dalmatie, Président du Conseil, et de M. le Ministre des Affaires Etrangères. Paris,* 1844. (Tome ii, page 135.)

Mofras describes the channel of Haro as the best.

DANS l'espace qui s'étend de la terre ferme jusqu'à la partie est de la grande île de Quadra, il existe une foule de petites îles qui, malgré les abris sûrs qu'elles offrent aux navires, présentent à la navigation de grandes difficultés. Le passage le plus facile est par le canal de Haro, entre l'île de Quadra et Vancouver et celle de San Juan.

No. 49.

Paley's Works, Edition of 1825, *Vol. IV, page* 85.

II.—IN WHAT SENSE PROMISES ARE TO BE INTERPRETED.

Ambiguity no escape from the proper sense of a promise.

WHERE the terms of promise admit of more senses than one, the promise is to be performed "in that sense in which the promiser apprehended, at the time, that the promisee received it."

* * * * * *

This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve; but we put the rule in the above form to exclude evasion in cases in which the popular meaning of a phrase, and the strict grammatical signification of the words, differ; or, in general, wherever the promiser attempts to make his escape through some ambiguity in the expressions which he used. * * * *

No. 50.

Secretary Monroe to the American Commissioners for Treating for Peace with Great Britain.

Gentlemen, *Department of State, March* 22, 1814.

American Commissioners instructed in 1814 to yield nothing south of 49°.

SHOULD a Treaty be concluded with Great Britain, and a reciprocal restitution of territory be agreed on, you will have it in recollection that the United States had in their possession, at the commencement of the war, a post at the mouth of the River Columbia, which commanded the river, which ought to be comprised in the stipulation, should the possession have been wrested from us during the war. On no pretext can the British Government set up a claim to territory south of the northern boundary of the United States. It is not believed that they have any claim whatever to territory on the Pacific Ocean. You will, however, be careful, should a definition of boundary be attempted, not to countenance, in any manner or in any quarter, a pretension in the British Government to territory south of that line.

(Signed) JAMES MONROE.

NORTH AMERICA. No. 5 (1873).

(C.)

NORTH-WEST AMERICAN WATER BOUNDARY.

SECOND AND DEFINITIVE

STATEMENT

ON BEHALF OF THE

GOVERNMENT OF HER BRITANNIC MAJESTY,

SUBMITTED TO

HIS MAJESTY THE EMPEROR OF GERMANY

UNDER THE TREATY OF WASHINGTON OF
MAY 8, 1871.

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

LONDON:
PRINTED BY HARRISON AND SONS.

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NORTH-WEST AMERICAN WATER BOUNDARY.

Second and Definitive Statement on behalf of the Government of Her Britannic Majesty.

Statement.

1. THE Government of Her Britannic Majesty, in pursuance of Article XXXVI of the Treaty of Washington of 1871, have drawn up and now lay before His Majesty the Emperor of Germany, as Arbitrator, this their second and definitive Statement, in reply to the Memorial or Case presented in the name of the United States' Government by Mr. Bancroft.

2. The matter of Mr. Bancroft's Memorial (as far as it is of an argumentative character) may, for the purposes of the examination to which Her Majesty's Government propose here to subject it, be ranged in the following divisions :—

I. Mr. Bancroft assumes that at the date of the Treaty of 1846 the United States had a clear title to the whole Oregon district, up to the 49th parallel of latitude at least; represents the arrangement embodied in the Treaty as a pure concession on the part of the United States; and contends that the concession should consequently be confined within the narrowest limits.

II. He maintains that the object of the arrangement embodied in the Treaty was to secure to Her Majesty the whole of Vancouver's Island, and no more.

III. He adduces what he considers evidence to show that the construction now contended for by the United States was the admitted construction at the time of the making of the Treaty.

IV. He represents the Treaty as specially the work of Her Majesty's Government, and seems to suggest that they are consequently precluded from maintaining any construction of the Treaty not admitted by the other side.

V. He maintains that the language of the Treaty admits no interpretation but the American, and that it points to the Canal de Haro, and to that channel alone.

3. An examination of the arguments on these points, to be intelligible, must be accompanied by an historical explanation of the circumstances attendant on the Treaty. For that purpose many documents must be set out at length. It is, therefore, more convenient to present the explanation in the form of a separate paper. It is accordingly subjoined to this Statement as an Historical Note; and Her Majesty's Government beg that the Note, with the other papers appended to this Statement, may be taken as part thereof.

Statement.

4. The Note shews the relative positions of the principal actors in the matter of the Treaty: in London, the Earl of Aberdeen, Her Majesty's Principal Secretary of State for Foreign Affairs, and Mr. MacLane, the United States' Minister Plenipotentiary; at Washington, Mr. Pakenham, Her Majesty's Minister Plenipotentiary, and Mr. Buchanan, the United States' Secretary of State.* It is designed to bring out the facts which will be seen in the course of this Statement to be of cardinal importance, namely,—that the Treaty was formally negotiated at Washington between Mr. Pakenham and Mr. Buchanan; that it was on two distinct occasions discussed and approved by the Senate of the United States, in their capacity, under the Constitution, of a co-ordinate branch of the treaty-making power; that the project or draft of the Treaty was prepared in London by Lord Aberdeen, and sent to Mr. Pakenham, as embodying the proposal which Mr. Pakenham was instructed to make to the Government of the United States; that this project was, as regards the words now in discussion, identical with the Treaty as signed and ratified; and that, although Mr. MacLane was not formally empowered to conduct negotiations in the matter on behalf of his Government, yet Lord Aberdeen discussed with him the nature of the proposal which Her Majesty's Government contemplated making to the United States, and even shewed him the project of the Treaty before it was sent to Mr. Pakenham.†

I.

5. Mr. Bancroft's assumption that the United States were clearly entitled to the whole Oregon district up to the 49th parallel is not warranted by the facts of the case. Territorial rights in the whole district were claimed by both parties with equal persistency, and their respective contentions were supported by arguments drawn from like sources, such as the history of discovery and the terms of international engagements. In the official documents on both sides the alternative of war was shadowed forth. In the end there was a compromise; each party yielded a portion of what it had contended in argument was its right.

6. When, on one occasion in the course of this long controversy between the two Governments, Mr. Cass, the United States' Secretary of State, had put forward an assumption like this of Mr. Bancroft, Lord John Russell, then Her Majesty's Principal Secretary of State for Foreign Affairs, said:—‡

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

It is plain that when this was written Her Majesty's Government had not adopted the notion that in 1846 the concession had been all on the side of the United States; nor have they ever changed their position.

7. Mr. Bancroft further assumes that the United States had, before the Treaty, the 49th parallel as an admitted boundary line on the Continent. Such an admission had never been made by Her Majesty's Government. That boundary would not (it is plain) have been conceded on the Continent without a concurrent arrangement satisfactory to Her Majesty's Government respecting Vancouver's Island and the navigation of the adjacent waters.

8. The passage in Mr. Bancroft's Memorial in which his assumptions under this head are most strongly put is the following (page 12):—

"Again, 'where a right admits of different degrees, it is only the smallest degree which may be taken for granted' ('Ist ein Recht verschiedener Abstufungen fähig, so darf zunächst nur die geringste

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* For the convenience of the Arbitrator, there are appended to the Historical Note (1) a Chronological List, shewing the names and dates of appointment of the various Principal Secretaries of State for Foreign Affairs in Great Britain and British Ministers at Washington, and of the various Presidents and Secretaries of State of the United States and United States' Ministers at London, from 1818 to 1872; and (2) a Memorandum relative to the origin and privileges of the Hudson's Bay Company, a Corporation frequently named in this discussion.

† Historical Note, p. xv.

‡ Lord John Russell to Lord Lyons, December 16, 1859; read, and copy given, to United States' Secretary of State.

Stufe als zugestanden angenommen werden'). This rule of Heffter fits the present case so aptly, that it seems made for it. There being degrees in the departure from the parallel of 49°, it must be taken that only the smallest degree was conceded."

Statement.

The rule cited from Dr. Heffter's work does not touch the present case. This is not the case of a party making a concession in derogation of a clear and admitted right. It is the case of one concession set off against another; of a give-and-take arrangement.*

9. The preamble of the Treaty is express on this point. The two Powers (it says)—

"Deeming it 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."

II.

10. Closely connected in character with the arguments of Mr. Bancroft under the first head, and equally inconclusive, as Her Majesty's Government submit, are his arguments under the second.

11. Mr. Bancroft alleges in effect that the intention of the Contracting Parties was only to avoid cutting off the end of Vancouver's Island, and he infers that the line is to be strictly so drawn as to effect this object, and no more. Her Majesty's Government dispute both the allegation and the inference.

12. There is no evidence that the prevention of the severance of Vancouver's Island was the sole object of the arrangement. There is nothing to support the allegation, either in the preamble of the Treaty, or in the Article describing the boundary; nor can it be sustained on the ground of anything contained in any of the contemporaneous documents exchanged between the Contracting Parties. It is true that the severance of Vancouver's Island by a boundary line drawn continuously on the 49th parallel was the salient objection raised on the part of Her Majesty's Government to the United States' proposal for continuing the boundary on that parallel from the Rocky Mountains to the Pacific. That proposal disregarded the physical conditions of the tract through which the line would run. It is true also that a deflection of the line so as not to sever Vancouver's Island was made in effect a condition, *sine quâ non*, on the part of Her Majesty. It may even be admitted that the prevention of this severance was the motive for Article I of the Treaty. The nature of the motive is not necessarily a measure of the scope of the stipulation.

13. It is plain on the face of the Article that the Contracting Parties had further and other aims. If the sole object of the stipulation had been to keep Vancouver's Island one, a very simple provision would have sufficed. It would have been enough to say: the whole of Vancouver's Island shall belong to Her Britannic Majesty. The Article in effect says this. But it says more, in two respects. First, it in effect vests in Her Majesty, as against the United States, the whole territorial sovereignty and property over and in all land and sea adjacent to the island, on its eastern and southern sides, lying within the mid-channel line (wherever drawn), although lying beyond the ordinary territorial three-mile limit. Secondly, it secures to Her Majesty's subjects freedom of navigation throughout the whole extent of the boundary channel and of the Straits of Fuca. These two provisions in combination effect what was plainly one of Lord Aberdeen's main objects in the arrangement, namely, the preservation to Her Majesty's subjects of unquestionable and abundant facilities of access to the British coasts and harbours north of the 49th parallel. Had the boundary line been continued on the 49th parallel to the ocean, the navigation of the Gulf of Georgia from the southward would have been sealed to British subjects.

14. The Article speaks for itself. The preservation of the unity of Vancouver's Island was of the essence of the arrangement, but there were collateral arrangements. The difference now referred to arbitration presupposes the existence of such arrangements; the controversy is as to their extent.

* Historical Note, p. vi.

Statement.

15. Lord Aberdeen's instructions to Mr. Pakenham cannot be read so as to cut down the effect of the Treaty. They must be interpreted so as to correspond in scope with the project of the Treaty prepared and sent contemporaneously by Lord Aberdeen. The words quoted by Mr. Bancroft (page 7) from Lord Aberdeen's instructions are:—

"Leaving the *whole of Vancouver's Island with its ports and harbours in the possession of Great Britain.*"*

The form of expression requires little explanation. Lord Aberdeen naturally dwelt on the most prominent part of the arrangement which Mr. Pakenham was to propose, namely, the securing the possession to this country of the whole of Vancouver's Island. He referred only to the broad geographical features, the mention of which was supposed to be sufficient for the matter under discussion. There is nothing in his words to exclude any additional advantage which the terms of the project of the Treaty would give to this country, and more (it is plain) the project did give.

16. Mr. Bancroft further cites (page 8) a passage from a report of a speech of Sir Robert Peel in the House of Commons:—

"Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca; that that parallel should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island, but that the middle of the channel shall be the future boundary, thus *leaving us in possession of the whole of Vancouver's Island*, with equal right to the navigation of the Straits."

It can scarcely be seriously contended that, because Sir Robert Peel, describing in a popular way the effect of the Treaty, spoke of it as leaving us in possession of the whole of Vancouver's Island, this amounts to a declaration by him that the effect of the Treaty is to exclude us from any possession other than Vancouver's Island, although lying within the future boundary, which he in the same breath specifies accurately as the middle of the channel.

17. In connection with the reference to Sir Robert Peel's speech, Mr. Bancroft (page 8) says:—

"Sir Robert Peel quoted from a despatch which proved that he was aware of the three days' debate in the American Senate on the Treaty before its approval."

Here, as in some other parts of Mr. Bancroft's Memorial, it is difficult to discover the object of statements made by him, but not put into an argumentative form. The object of this statement would seem, from the context, to be to suggest that Sir Robert Peel was at this time cognisant of the particulars of a speech of Mr. Benton, a Senator of the United States, made in the Senate (referred to just before by Mr. Bancroft and to be particularly considered hereafter in this Statement). If this is the suggestion meant, there are three answers to it:—

(i.) The deliberation of the Senate, reported in Mr. Pakenham's despatch, read in part by Sir Robert Peel, was not the debate in which Mr. Benton's speech was made. The despatch relates to the deliberation consequent on the preliminary Message of the President, asking the advice of the Senate, not to the debate on the ratification. It was the latter debate in the course of which Mr. Benton's speech was made.

(ii.) Even if Mr. Benton's speech had been spoken before Mr. Pakenham's despatch, and the fact had been mentioned therein, there would still be no force in Mr. Bancroft's suggestion, inasmuch as the debates in the Senate were secret, and the injunction of secresy was not removed until after the date of the exchange of ratifications in London.†

(iii.) The despatch of Mr. Pakenham (of which the part relating to this matter is printed by Mr. Bancroft in the extract from Sir Robert Peel's speech in Appendix No. 46 to the Memorial) gives no information as to the name of any speaker, or the particulars of any speech, in the Senate. It simply says:—‡

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* In this passage the words in italics are in Mr. Bancroft's Memorial printed with widened spaces between the letters, the mode of printing used in German to show emphasis, corresponding to the use of italics in the printing of English. The like observation applies to other passages cited in this Statement from Mr. Bancroft's Memorial.

† Ratifications exchanged, July 17. Resolution of Senate removing injunction of secresy, August 6. Earliest publication of Mr. Benton's speech known to Her Majesty's Government, August 29 (in Niles' National Register, a weekly newspaper published at Baltimore).

‡ Historical Note, p. xv.

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"After a few hours' deliberation on each of the three days, Wednesday, Thursday, and Friday, the Senate, by a majority of 38 votes to 12, adopted yesterday evening a resolution advising the President to accept the terms proposed by Her Majesty's Government."

It is clear, therefore, that Sir Robert Peel had not at the time of speaking (if he ever had) any knowledge of what was said by Mr. Benton in the Senate. If this is not the point of Mr. Bancroft's reference to the debate in the Senate, Her Majesty's Government do not know why the reference is made.

III.

18. The third division of Mr. Bancroft's arguments comprises his endeavours to shew that there is evidence, contemporaneous with the making of the Treaty, in support of the contention of the United States. Mr. Bancroft says (page 7):—

"With this knowledge of Mr. MacLane's character, and of the confidence reposed in him by Lord Aberdeen, I request the Imperial Arbitrator to take in hand the map of the Oregon Territory by Wilkes, which had been published in England as well as in America in 1845, and which was the latest, most authentic, and best map of the territory, as well as the only one recognized by the American Senate, and, with this map in hand, to read the following extract from Mr. MacLane's official report of the interview, made on the 18th of May, 1846:—

"'I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow to submit a new and further proposition on the part of this Government, for a partition of the territory in dispute.

"'The proposition, most probably, will offer substantially:

"'First. To divide the territory by the extension of the line on the parallel of forty-nine to the sea, that is to say, to the arm of the sea called Birch's Bay, thence *by the Canal de Arro and Straits of Fuca to the ocean.*' . . . . . .

"Here follow other clauses, conceding to the Hudson's Bay Company a temporary use of the Oregon River for navigation, with other advantages, and protection to British subjects who would suddenly come under the jurisdiction of the United States. To these clauses the phrase 'most probably' applies, for they were not precisely ascertained; but not to the boundary: on that point the further statement of Mr. MacLane in the same despatch leaves no room for a doubt. His words are: 'During the preceding Administration of our Government, the extension of the line on the 49th parallel to the Straits of Fuca, *as now proposed by Lord Aberdeen, was actually suggested by my immediate predecessor* (*Mr. Everett*) as one he thought his Government might accept.'

"Now what the proposal of Mr. Everett had been we know from the citations which I have made from his despatches; and I have actually referred to the fact that he had drawn the line of demarcation upon the map, and specially directed the attention of Lord Aberdeen to it."

19. In this passage Mr. Bancroft puts forward prominently Mr. MacLane's letter, but he nowhere deduces distinctly the inference he wishes the Arbitrator to draw from it. In whatever light, however, the letter is regarded, it will appear that, when all the circumstances are candidly considered, the letter furnishes no ground for any inference favourable to the United States in the present discussion.

(i.) Mr. MacLane does not profess in his letter to report the words of the contemplated Treaty. He had seen the words, and knew that the Canal de Haro was not specified. He must then (it would seem) have considered the words he saw as amounting substantially (according to his own expression) to the proposal of a line by the Canal de Haro. He applied (whether accurately or not is not the question) his geographical information to the words shewn to him, and inferred, in his own mind, that a line such as he saw described would run through the Canal de Haro. Under this impression he wrote to his Government. If this is the true explanation of the facts (and no other explanation is apparent), his statement is of no weight on the question, what is the channel of the Treaty? That question, which is the question now under arbitration, remains unaffected by his letter.

(ii.) One circumstance in Mr. MacLane's letter tends to support this explanation, that is, his mention of Birch Bay (incorrectly called by him Birch's Bay), which he treats as being on the 49th parallel. This geographical error (which is peculiar in this controversy to Mr. MacLane) has been accounted for thus, by Mr. Archibald Campbell:—*

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* Mr. Archibald Campbell was Commissioner on behalf of the United States, when Commissioners were appointed (as mentioned in the preamble of Article XXXIV of the Treaty of Washington of 1871) on behalf of the two Governments in 1856, to determine the water boundary under the Treaty of 1846. The document of Mr. Campbell's quoted or referred to here and elsewhere in this Statement is a report made by him to Mr. Cass, the United States' Secretary of State, dated 20th January, 1859.

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"Mr. MacLane, in tracing on the map the 49th parallel 'to the sea, that is to say, *the arm of the sea* called Birch's Bay,' evidently supposed that the space between the Continent and Vancouver's Island at the 49th parallel was designated as Birch Bay. And from the conspicuous position given to the name of Birch Bay on Wilkes's map, and even on Vancouver's chart, such an error might very naturally occur. In reality, however, Birch Bay is only the small indentation on the mainland at the extreme right of the name, and is a few miles south of the 49th parallel. The name of the *Gulf of Georgia* is intended by Wilkes to extend from the parallel of 50° as far south as the northern extremity of the Canal de Haro, including the space supposed by Mr. MacLane to be Birch Bay."

This explanation is simple and reasonable. And it strongly confirms the suggestion of Her Majesty's Government that Mr. MacLane was merely interpreting, according to his own lights, the words of the project which Lord Aberdeen had shewn him, and was not reporting to his Government Lord Aberdeen's interpretation, or an agreed interpretation. There is no suggestion, and no ground for a suggestion, that Lord Aberdeen ever spoke of Birch Bay. If, then, it is probable that Mr. MacLane did not derive from Lord Aberdeen his mention of Birch Bay, in just the same degree is it probable that he did not derive from Lord Aberdeen his mention of the Canal de Haro.*

(iii.) The use by Mr. MacLane of Wilkes's map (which is thus made almost certain) goes far to account for his mention of the Canal de Haro (or Arro, as it is written on Wilkes's map, and by Mr. MacLane): for that passage is so conspicuously marked on Wilkes's map as to seem to be the only direct channel between the Continent and Vancouver's Island leading into the Straits of Fuca. But however it is to be accounted for, there is no ground whatever for the suggestion that Mr. MacLane's mention of the Canal de Haro was authorized by anything said to him by Lord Aberdeen.

(iv.) In 1859, Lord Aberdeen, on being referred to by Lord John Russell, then Her Majesty's Principal Secretary of State for Foreign Affairs, informed Lord John Russell that he (Lord Aberdeen) distinctly remembered the general tenour of his conversations with Mr. MacLane on the subject of the Oregon boundary, and he had no recollection of any mention having been made, during the discussion, of the Canal de Haro, or, indeed, any other channel than those described in the Treaty itself.†

(v.) Mr. MacLane was not negotiating with Lord Aberdeen. His connection with the question was (as he himself says) "in a great degree informal."‡ The negotiations were being carried on at Washington by Mr. Pakenham (acting immediately under Lord Aberdeen's instructions) on the one hand, and Mr. Buchanan on the other hand.§ Lord Aberdeen was at liberty to inform Mr. MacLane of his views and intentions; he was at liberty to refrain from doing so. Anything that passed between Lord Aberdeen and Mr. MacLane was not negotiation in a proper sense; and no binding compact can be extracted from it, taken alone.

(vi.) Mr. MacLane perfectly understood this position. Lord Aberdeen's project of Treaty was so far from being the result of a bargain made between him and Mr. MacLane, that Mr. MacLane in reporting it to his Government disapproved of it, and (it would appear) tried to induce his Government to reject it.‖ He says (among other things):—¶

"It is scarcely necessary for me to state that the proposition as now submitted has not received my countenance. Although it has been no easy task, under all the circumstances, to lead to a reopening of the negotiations by any proposition from this Government, and to induce it to adopt the parallel of 49 as the basis of a boundary, nevertheless I hoped it would have been in my power to give the present proposition a less objectionable shape, and I most deeply lament my inability to accomplish it. I have, therefore, felt it my duty to discourage any expectation that it would be accepted by the President; or, if submitted to that body, approved by the Senate."

(vii.) If Mr. MacLane had been in a position to enter into a contract with Lord Aberdeen it is plain he never would have used the qualification "most probably." Mr. Bancroft, seeing the force of this consideration, endeavours to get over the difficulty by alleging that the phrase "most probably" applies, not to the boundary, but to the

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* There is nothing in the explanation here given of Mr. MacLane's words inconsistent with the character of him drawn by Mr. Bancroft (page 7):—"Mr. MacLane was a calm and experienced statesman, trained in business, exact in his use of words, careful especially in reporting what was said by others."

† Lord John Russell to Lord Lyons, 24th August, 1859; read, and copy given, to United States' Secretary of State. Extract, Appendix, No. 1.

‡ Appendix No. 32 to Mr. Bancroft's Memorial.

§ Mr. Bancroft correctly says (page 5), with reference to the time just before the Treaty:—"Meantime the negotiation on the Oregon question had been transferred to the new British Minister at Washington." And again (page 5):—"Lord Aberdeen confessed that it now fell to him to propose a peaceful solution of the long controversy."

‖ The character of the letter in this respect is brought out by Mr. Pakenham's comments in his despatch of the 29th July, 1846, Historical Note, p. xvi.

¶ Historical Note, p. xi.

other parts of Lord Aberdeen's proposal: for, he says, those other parts "were not precisely ascertained." Mr. MacLane's letter (as far as it relates to the Oregon question) is printed in the Historical Note, and is open to the judgment of the Arbitrator. It appears to Her Majesty's Government to afford no ground to justify this limited application of the phrase "most probably." This phrase is in immediate connection, grammatically, and in the arrangement of the matter, with the passage relating to the boundary. The three subjects—(1), boundary: (2), possessory rights of British subjects: (3), navigation of the Columbia,—are discussed throughout the letter on the same footing. The proposal on any one subject is treated in the letter as being quite as much settled and definitive as the proposal on any other. Moreover, in point of fact, the exact proposal was as much ascertained on any one point as on any other, and this must have been so in Mr. MacLane's apprehension, as Lord Aberdeen had shewn him the project of the Treaty.

(viii.) The boundary, however, it is argued by Mr. Bancroft, was precisely ascertained, because Mr. MacLane states that the line as proposed by Lord Aberdeen had been suggested by Mr. Everett, and what the proposal of Mr. Everett was (he says) is known from the citations in the Memorial from his (Mr. Everett's) despatches. The passage in Mr. Bancroft's Memorial, relating to Mr. Everett's suggestion, is as follows (page 4):—

"On the 29th of November, 1843, soon after Mr. Everett's full powers had arrived, he and Lord Aberdeen had a very long and important conversation on the Oregon question; and the concessions of Lord Aberdeen appearing to invite an expression of the extremest modification which the United States could admit to their former proposal, Mr. Everett reports that he said: 'I thought the President might be induced so far to depart from the 49th parallel as to leave the whole of Quadra and Vancouver's Island to England, whereas that line of latitude would give us the southern extremity of that island, and consequently the command of the Straits of Fuca on both sides. I then *pointed out on a map the extent of this concession;* and Lord Aberdeen said he would take it into consideration.'

"The next day Mr. Everett more formally referred to the subject in a note to the British Secretary:—

"'My dear Lord Aberdeen, "'46, *Grosvenor Place, 30th November*, 1843.

. . . . . "'It appears from Mr. Gallatin's correspondence that . . . . Mr. Huskisson had especially objected to the extension of the 49th degree to the Pacific, on the ground that it would cut off the southern extremity of Quadra and Vancouver's Island. My suggestion yesterday would obviate this objection. . . . *A glance at the map shows its importance* as a modification of the 49th degree. . . . .

'EDWARD EVERETT.'

"On the 2nd of February and on the 1st of April, 1844, Mr. Everett reports that he continuously insisted with Lord Aberdeen that the only modification which the United States could, in his opinion, be brought to agree to, was that they should waive their claim to the southern extremity of Vancouver's Island, and that Lord Aberdeen uniformly answered 'he did not think there would be much difficulty in settling the question.'

"During the following months Mr. Everett and Lord Aberdeen, both wishing sincerely to settle the controversy, had further frequent conversations, and, as the result of them all, Mr. Everett reported that England would not accept the naked parallel of 49° to the ocean, but would consent to the line of the 49th degree, provided it could be so modified as to leave to Great Britain the southern extremity of Vancouver Island. 'I have spared no pains,' wrote Mr. Everett on the 28th of February, 1845, 'to impress upon Lord Aberdeen's mind the persuasion that the utmost which the United States can concede is the 49th parallel with the modification suggested, taking always care to add that I had no authority for saying that even that modification would be agreed to.'

"To one fact I particularly invoke the attention of the Imperial Arbitrator; not the least room for doubt was left by Mr. Everett with regard to the extent of the modification proposed. *He had pointed it out to Lord Aberdeen on the map*, and had so often and so carefully directed his attention to it, that there could be no misapprehension on the limit of the proposed concession."

It is difficult to see the force of this reference from the letter of Mr. MacLane to the writings and acts of Mr. Everett. It seems to Her Majesty's Government to be a process of ascertaining a thing uncertain in itself by means of something still more uncertain. It does not appear that Mr. Everett pointed out on a map, or referred in any manner to, the Canal de Haro; yet this is the whole question. The fair inference from Mr. Everett's statements is that he did not speak of the water boundary at all, but only pointed out on a map how much of Vancouver's Island would be cut off by the 49th parallel. Mr. Bancroft appears to overstrain Mr. Everett's words. Mr. Everett says he "pointed out on a map the extent of the concession," as regards the southern extremity of Vancouver's Island; Mr. Bancroft says (page 7) Mr. Everett "had drawn the line of demarcation upon the map," which seems to be a very different thing. If this had been stated by Mr. Everett, and if it also appeared that the line of demarcation drawn by him on the map passed down the Canal de Haro, then Mr. Bancroft's inference that Lord Aberdeen was proposing a line through the Canal de Haro, from the fact that

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Mr. MacLane says that the line proposed by Lord Aberdeen had been suggested by Mr. Everett, would not be so remote or so weak as it is.

(ix.) The statements of Mr. MacLane to his own Government can in no way bind Her Majesty's Government. Mr. MacLane does not say that he did, and there is no evidence that he did, ever specify any channel in his conversations with Lord Aberdeen. There is no evidence that he ever told Lord Aberdeen what he was going to report to his Government. The presumption to be drawn from Lord Aberdeen's despatch of 29 June 1846, to Mr. Pakenham, is to the contrary.* Mr. MacLane's letter was not published even in the United States until after the exchange of ratifications in London.* It could not, therefore, have reached Lord Aberdeen's knowledge before the transaction was closed.

(x.) Nor is there anything to affect Her Majesty's Government through Mr. Pakenham. There is no suggestion that Mr. Buchanan communicated to Mr. Pakenham Mr. MacLane's letter. On the contrary, it is evident, from Mr. Pakenham's despatch of the 29th July, 1846, that the letter was unknown to him till its unauthorized publication, as mentioned in that despatch.* Nor did Mr. Buchanan in any manner inform Mr. Pakenham of Mr. MacLane's view. In a Memorandum,† written in 1858, Sir Richard (formerly Mr.) Pakenham, states that Mr. Buchanan on the occasion of the Treaty "made no mention whatever of the Canal de Haro as that through which the line of boundary should run, as understood by the United States' Government." If, indeed, Mr. Buchanan had done so, that mere fact would be of no importance as against Her Majesty's Government. Mr. Pakenham was acting under strict instructions. If Mr. Buchanan had indicated the Canal de Haro as the boundary channel, Mr. Pakenham could only have answered as he did on the question of the effect of Article II, namely,—the Article speaks for itself.‡ He had no power to modify the project of Treaty in substance, and no power to bind his Government by assenting to or acquiescing in an interpretation which would have been equivalent to a serious modification.

20. It appears to Her Majesty's Government that this examination of Mr. MacLane's letter justifies them in submitting to the Arbitrator that the letter affords no support to the contention of the United States.

21. In addition to Mr. MacLane's letter, Mr. Bancroft refers to the speech of Mr. Benton in the Senate before mentioned. The passage in Mr. Bancroft's Memorial is as follows (page 7):—

"A suspicion of ambiguity could not lurk in the mind of any one. Mr. Benton found the language so clear that he adopted it as his own. In his Speech in the Senate on the day of the ratification of the Treaty, he said:—

"'The first Article of the Treaty is *in the very words* which I myself would have used if the two Governments had left it to me to draw the boundary line between them . . . . . .

"'The line established by the first Article follows the parallel of 49° to the sea, with a slight deflection through the Straits of Fuca *to avoid cutting off the south end of Vancouver's Island* . . . . When the line reaches the channel which separates Vancouver's Island from the Continent, it proceeds to the middle of the channel, and thence turning south *through the Channel de Haro* (wrongly written Arro on the maps) to the Straits of Fuca, and then west through the middle of that Strait to the sea. This gives us . . . . . the *cluster of islands* between *de Haro's Channel and the Continent.*'"

22. Her Majesty's Government submit that the speech of Mr. Benton is even of less value, as evidence in support of the contention of the United States, than is Mr. MacLane's letter.

(i.) It seems probable that Mr. Benton founded his exposition of the draft Treaty on Mr. MacLane's letter,§ extracts from which had been communicated by the President of the United States to the Senate. If so, Mr. Benton's interpretation is only a reflection of Mr. MacLane's.

(ii.) Mr. Benton may indeed have formed his opinion not directly on Mr. MacLane's letter, but on the same sort of ground on which it would appear Mr. MacLane's statement was made, namely, a knowledge (whether complete, or accurate, or not) of the local

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* Historical Note, p. xvi.

† Inclosed in Lord John Russell's despatch to Lord Lyons, 24th August, 1859; read, and copy given, to United States' Secretary of State. Appendix, No. 1.

‡ Historical Note, p. xvi.

§ This was Sir Richard Pakenham's view, as expressed in his Memorandum, Appendix, No. 1

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conditions.* In that case his statement would amount to no more than a declaration of his opinion that, on the true construction of the words of the Treaty, the line described would run down the Canal de Haro. But Mr. Benton's opinion on this question of construction is not alleged to be of any special value, and its authority in the present discussion is not admitted. The question whether or not the line runs down the Canal de Haro, according to the construction of the Treaty, is the question before the Arbitrator.

(iii.) But whatever was the foundation of Mr. Benton's observations, and whatever title they have to consideration, Her Majesty's Government cannot be affected either through Mr. Pakenham or through Lord Aberdeen by anything that was said on this occasion in the Senate. The debates in the Senate were in Secret Session. No publication of them was permitted or made until after the time when the ratifications had been exchanged in London.†

23. Mr. Bancroft adduces no further evidence whatever on this point, yet he goes so far as to say (page 8):—

"The language of the Treaty seemed perfectly clear to the Senate, to the President, to his Secretary of State, and to every one of his constitutional advisers, as departing from the line of the parallel of 49° only so far as to yield the southern extremity of Vancouver's Island, and no more."

With respect to the view of the language of the Treaty formed at the time by the Senate (as a body), or by the President, or by any one of the President's constitutional advisers other than his Secretary of State, Mr. Buchanan, Her Majesty's Government have no information, either from Mr. Bancroft's Memorial or otherwise. The exception of Mr. Buchanan is here made, not on account of anything in Mr. Bancroft's Memorial, but because in the course of the controversy between the two Governments, a statement respecting Mr. Buchanan's opinion has been made on behalf of the United States. It has been said‡ that, in a letter to Mr. MacLane, dated 6th June, 1846, the day on which the draft Treaty was presented to Mr. Buchanan by Mr. Pakenham, Mr. Buchanan mentions the Canal de Haro as the channel intended by the Treaty. This letter has not been seen by Her Majesty's Government. It may be supposed that it is simply (so to speak) an echo of Mr. MacLane's conjectures as to what would be found to be the substantial effect of Lord Aberdeen's proposal, when it came to be worked out. But whether that is so or not, statements passing between Mr. Buchanan and Mr. MacLane, not communicated to Mr. Pakenham or to Lord Aberdeen, are not admissible as against Her Majesty's Government. Sir Richard Pakenham, in his Memorandum before cited, says:—

"It is certain that Mr. Buchanan signed the Treaty with Mr. MacLane's despatch before him, and yet that he made no mention whatever of the Canal de Haro as that through which the line of boundary should run, as understood by the United States' Government."

And this, after Mr. Buchanan had had read to him by Mr. Pakenham such an extract from Lord Aberdeen's instructions as comprised the paragraph containing the description of the line of demarcation to be proposed, and had himself read over the extract again in Mr. Pakenham's presence;§ which two readings must have shown Mr. Buchanan the erroneousness of any expectation that the Canal de Haro would be specified.

25. The examination has now been completed of everything that can reasonably be regarded as contemporaneous evidence in favour of the United States of the intention of their Government in concluding the Treaty. Her Majesty's Government submit to the Arbitrator that it is of little, if any, weight. All that it amounts to is this, that some of the persons concerned on the part of the United States on the occasion of the Treaty anticipated that the Treaty, couched in the words proposed on one side and adopted on the other, would have a certain effect. These anticipations were not communicated at the time to Her Majesty's Government, or to any representative of that Government, and are, therefore, in no degree binding on them to their detriment.

25. But, before parting from this branch of the subject, Her Majesty's Government

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* Mr. Cass describes Mr. Benton as being "better acquainted, perhaps, than any other member [of the Senate] with the geography of the region in dispute."—To Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

† Page 4, above, and note * there.

‡ Mr. Cass to Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

§ Historical Note, p. xiii.

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will advert to two other pieces of evidence which have been in the course of the controversy adduced as "personal testimony contemporaneous with the Treaty,"* and which it is possible may be brought up again as such in the present discussion.

(1.) It is stated* that, on 28th December, 1846, Mr. Bancroft (who was then the United States' Minister at London) having written to Mr. Buchanan on the subject from London, Mr. Buchanan inclosed, in a letter to Mr. Bancroft, a traced copy of Wilkes' chart of the Straits of Arro (that is, the Canal de Haro), and added:—

"It is not probable, however, that any claim of this character will be seriously preferred by Her Majesty's Government to any island lying to the eastward of the Canal de Arro, as marked in Captain Wilkes' map of the Oregon Territory."

The correspondence at this time between Mr. Bancroft and Mr. Buchanan, as far as the same is known to Her Majesty's Government, is set forth in the Appendix to this Statement.† Her Majesty's Government submit to the Arbitrator that if this correspondence is proposed to be used on the present occasion as evidence on behalf of the United States, it ought to be rejected. First, it was from its nature entirely unknown at its dates to Her Majesty's Government; secondly, any declarations it contains were made *post litem motam*. Even if admitted, it would be of little value, as it cannot carry the case further than it is carried by Mr. MacLane's letter, on which Mr. Buchanan's statements in this correspondence explicitly rest. Mr. Buchanan does not use a word that can fairly be considered as conveying his personal testimony as to the intention of himself or his Government at the time of the making of the Treaty. Finally, if this correspondence is admitted as evidence, then Her Majesty's Government would ask that there be taken into consideration along with it the report of Mr. Buchanan's views in 1848, made by Mr. Crampton, Her Majesty's Minister at Washington, and the subsequent communication thereon made to the United States' Government.‡

(2.) The other piece of evidence referred to by Her Majesty's Government as having been adduced on behalf of the United States is the following:—§

"Mr. Bancroft, who was a member of President Polk's Cabinet when the Treaty was concluded, wrote repeatedly to Lord Palmerston after receiving this chart [the traced copy of Wilkes' chart above mentioned], and uniformly described the Straits of Arro 'as the channel through the middle of which the boundary is to be continued.'"

The communications between Mr. Bancroft and Viscount Palmerston here referred to were in July and November 1848. The letters are set forth in the Appendix,‖ together with the published extract of a letter from Mr. Bancroft to Mr. Buchanan, describing a conversation which he (Mr. Bancroft) had had with Lord Palmerston. No statement of Mr. Bancroft made more than two years after the exchange of ratifications can be reasonably regarded as "personal testimony contemporaneous with the Treaty," in which category it is placed in the paper of Mr. Cass adducing it. The only use to which these documents could now be fairly applied would be to shew that Lord Palmerston had then made to Mr. Bancroft admissions now binding on Her Majesty's Government. But the documents afford no ground for such a suggestion.¶ The course taken by Lord Palmerston on Mr. Bancroft's second letter (in which he for the second time intimated his view that the boundary was to pass through the Canal de Haro) is conclusive as to Lord Palmerston's view of the position. It is plain, on the face of Lord Palmerston's answer to that letter, that the answer was deliberately framed so as not to amount to an admission of the claim put forward by Mr. Bancroft. If there could be any doubt of this, on the words of the letter, the doubt would be put an end to by a reference to the minutes on Mr. Bancroft's letter which preceded the preparation of the draft of Lord Palmerston's answer. On Mr. Bancroft's letter the Under-Secretary of State made the following minute for Lord Palmerston:—

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* Mr. Cass to Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

† Appendix, No. 2.

‡ Appendix, No. 3.

§ Mr. Cass to Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

‖ Appendix, No. 4.

¶ "If I notice General Cass' allusion to the letters which he says Mr. Bancroft repeatedly wrote to Lord Palmerston in 1848 it is only for the purpose of placing on record what, no doubt, Mr. Bancroft duly reported to his Government at the time, namely, that Lord Palmerston gave Mr. Bancroft distinctly to understand that the British Government did not acquiesce in the pretensions of the United States that the boundary line should be run down the Haro Channel."—Lord John Russell to Lord Lyons, 16th December, 1859; read, and copy given, to United States' Secretary of State.

"Shall this letter be acknowledged and Mr. Bancroft be thanked for it?
"And if so, shall the underlined assumption of Mr. Bancroft be passed over without observation?"

The underlined words were:—"through the middle of which our boundary line passes." Lord Palmerston's minute in answer was as follows:—

"Thank him, and say that the information contained in these charts as to soundings will no doubt be of great service to the Commissioners to be appointed, by assisting them in determining where the line of boundary described by the Treaty ought to run."*

IV.

26. The next class of Mr. Bancroft's arguments is to be found in those passages in which he contends, in effect, that Her Majesty's Government are precluded from disputing the interpretation put on the Treaty by the United States, on the ground that the framing of the Treaty was (as he represents) the work of Her Majesty's Government.

27. He says (page 8):—

"The draft of the Treaty was made entirely, even to the minutest word, by the British Ministry, and was signed by both parties without change. The British Government cannot, therefore, take advantage of an ambiguity of their own, otherwise the draft of the Treaty would have been a snare. Such is the principle of natural right, such the established law of nations. Hugo Grotius lays down the rule that the interpretation must be made against the party which drafted the conditions: 'ut contra eum fiat interpretatio, qui conditiones elocutus est.' But no one has expressed this more clearly than Vattel, who writes" . . . .

28. Her Majesty's Government submit that the fact that the project of the Treaty emanated from them can be in no way used to their disadvantage. The Treaty, as it comes before the Arbitrator, must be regarded as the work of both parties. It was in the power of the President or of the Senate of the United States to insist on any alteration of the terms. They had abundant opportunity for considering the terms. The project was delivered by Mr. Pakenham to Mr. Buchanan, and considered by them in conference, on the 6th of June. It was sent by the President to the Senate on the 10th of June. It was considered by the Senate on the 10th, 11th, and 12th of June. The Treaty was signed on the 15th of June. It was sent to the Senate for ratification on the 16th of June. The Treaty, with various incidental motions, was before the Senate on the 16th, 17th, and 18th of June. Mr. Buchanan intimated to Mr. Pakenham that the President's Message sending the project to the Senate might, and probably would, suggest some modifications in it. An entire counter-proposal was made and divided on in the Senate; in the preliminary deliberation a formal motion was divided on for adding a proviso to Article II; and Mr. Buchanan made representations to Mr. Pakenham respecting the effect of that Article.† Some of the reasons that prevailed with the Senate to induce them to adopt the project as it stood may be gathered from Mr. Benton's speech. He objected to any alteration (first) on the ground of the delay that would be caused, which would be injurious to the interests, particularly the commercial interests, of the United States; and (secondly) because of the importance to the United States of closing the question, as they were then engaged in war with the Republic of Mexico. In all these circumstances, the words of the Treaty must be taken to be, as they in fact are, the words not of Lord Aberdeen and Mr. Pakenham only, but the words also of Mr. Buchanan and of the President and Senate of the United States.

29. The words cited by Mr. Bancroft from Grotius' book are not applicable to the present case. The passage from which they are extracted relates to the case of dictation of conditions of peace. The whole chapter to which they belong is on that and cognate subjects. The sentence from which Mr. Bancroft's citation is taken reads in a more complete form thus:—

"In dubio autem sensu magis est ut contra eum fiat interpretatio, qui conditiones elocutus est, quod esse solet potentioris: est ejus qui dat non qui petit conditiones pacis dare [dicere], ait Annibal" . . . .

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* These observations may not be thought too minute when it is stated that Lord Palmerston's letter has been ed by Mr. Archibald Campbell as a virtual admission of the Canal de Haro as the Treaty channel.

† Appendix No. 5, and Historical Note, p. xv.

Statement

The passage produced by Mr. Bancroft from Vattel's work appears to Her Majesty's Government to be as capable of an application favourable to them as of one unfavourable to them.

30. In another place (page 12) Mr. Bancroft says:—

"A party offering the draft of a Treaty is bound by the interpretation which it knew at the time that the other party gave it. Lord Aberdeen cannot have doubted how the Treaty was understood by Mr. MacLane, by Mr. Buchanan, and by the Senate of the United States. 'Where the terms of promise,' writes Paley, whose work was long a text-book at Oxford, 'admit of more senses than one, the promise is to be performed in the sense in which the promiser apprehended at the time that the promisee received it. This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve; but we put the rule in the above form to exclude evasion, wherever the promiser attempts to make his escape through some ambiguity in the expressions which he used.'"

Her Majesty's Government are not here concerned to dispute the general proposition that a party offering to another the draft of a Treaty is bound by the interpretation which it (the party offering) knew at the time the other party gave to the draft. But they do dispute, and submit they have disproved, Mr. Bancroft's particular proposition. Lord Aberdeen (he says) cannot have doubted how the Treaty was understood by Mr. MacLane, by Mr. Buchanan, and by the Senate of the United States. Her Majesty's Government have proved that Lord Aberdeen did not know until after the exchange of ratifications (if personally he ever knew) of Mr. MacLane's letter to Mr. Buchanan, of Mr. Buchanan's letter to Mr. MacLane,* or of Mr. Benton's speech (the views expressed in which Mr. Bancroft seems to ascribe to the Senate, as a body).

31. The doctrine contained in the passage cited by Mr. Bancroft from Dr. Paley's treatise on Moral and Political Philosophy appears to Her Majesty's Government generally true,† but here irrelevant. That doctrine applies to a promise in the ordinary sense, a unilateral promise, or an engagement taken by one party, wholly or mainly. It is not appropriate to the case of a contract, which the same treatise defines as a mutual promise. A few pages further in that treatise, the following is stated as "a rule which governs the construction of all contracts":—

"Whatever is expected by one side, and known to be so expected by the other, is to be deemed a part or condition of the contract."

This rule Her Majesty's Government submit to be judged by. Even if it were admitted (as it is not) that Mr. Bancroft has shewn what amounts (in the phraseology of Dr. Paley) to an expectation on the side of the United States, he has entirely failed to shew on the other side (that of Her Majesty's Government) a knowledge of the existence of that expectation. On the contrary, Her Majesty's Government have demonstrated their necessary ignorance on the point.

32. Sir Richard Pakenham (in his Memorandum before cited) says (he is writing some twelve years after the Treaty, and he speaks therefore in guarded phrase, but his testimony is clear):—

"I think I can safely assert that the Treaty of 15th June, 1846, was signed and ratified without any intimation to us whatever on the part of the United States' Government as to the particular direction to be given to the line of boundary contemplated by Article I of that Treaty."

V.

33. It remains to examine the arguments by which Mr. Bancroft endeavours to shew that the language of the Treaty points to the Canal de Haro and to that channel alone.

(i.) Mr. Bancroft refers (page 9) to the concise form of expression by which, he says, in both countries the line was described as the line of the "49th parallel and Fuca's Straits." Two observations occur: (1) Many persons, including Mr. Greenhow, used the name Fuca's Straits to embrace the waters, or at least the southern waters, of the Gulf of

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* Above, paragraph 23.

† It is, however, not altogether unimpeachable, as will appear from the criticisms of another English author, Austin, Lectures on Jurisprudence, vol. ii, p. 122.

Georgia: (2) If, in this phrase, the name is not so understood, then the use of this expression (the 49th parallel and Fuca's Straits) is of no weight in favour of Mr. Bancroft's argument; for the whole question is where the line is to run, which is required to form a connecting link between the 49th parallel and Fuca's Straits (that name being used in the modern sense). Statement.

(ii.) Mr. Bancroft says (page 10) :—

"When the Treaty speaks of 'the channel,' for that part south and west of Birch's Bay, it must mean the Channel of Haro, for no other 'channel' was known to the negotiators."

And he proceeds to instance maps on which the Canal de Haro and no other channel is named. This argument assumes that the reference in the Treaty is necessarily to some named channel. Her Majesty's Government, on the contrary, have submitted that the absence of any name in the Treaty is strong evidence in favour of their contention. The fact that the Rosario Straits had no name specially fits that passage to be the nameless channel of the Treaty. The Canal de Haro was conspicuously named on Vancouver's chart and Wilkes's map. If it had been intended to be the channel of the Treaty, it would have been obvious and easy to name it. Mr. Bancroft can scarcely mean to contend that the Rosario Straits are not a channel, because they do not bear a name of which the word channel is part.

(iii.) Mr. Bancroft proceeds (page 10):—

"Again, the word 'channel,' when employed in Treaties, means a deep and navigable channel, and when there are two navigable channels, by the rule of international law, preference is to be given to the largest column of water."

That the word channel means a navigable channel in Treaties generally, and in the Treaty under consideration in particular, is maintained also by Her Majesty's Government. But they do not admit the existence of such a rule as is here alleged. If navigability is of the essence of a channel, then as between two channels preference should be given to the one which is the better fitted for navigation. Now, at the time when the Treaty was made, at which time it must be read as speaking, the Canal de Haro was almost unknown to and unused by practical navigators. It can scarcely, in the true sense of language, regarded as used at that day, be called a navigable channel. Even at the present day when thoroughly explored and surveyed, it is found to be of difficult and dangerous navigation, especially for sailing-vessels, and only one steamer had penetrated into those waters at the date of the Treaty.*

(iv.) Then Mr. Bancroft says (page 26) :—

"Now, compared with any other channel through which a ship could pass from the sea at the 49th parallel, to the Straits of Fuca, the Channel of Haro is the broadest and the deepest, the shortest and the best. . . . . With regard to depth, the contrast is still more striking." . . . .

But, although depth of channel may be an advantage in river navigation, and may therefore well weigh in the choice of one channel as a boundary in preference to one or another less deep, yet depth beyond a certain limit—a limit perhaps never reached in river navigation—becomes a disadvantage in navigation of every kind, as it lessens the facilities for anchoring, and thus increases the dangers of navigation. The Canal de Haro is an instance. Its depth is so great, that there are but few anchorages in it, and there are none in the main channel; and with this defect, and its rapid and variable currents, it becomes an unsafe passage for sailing-vessels. The Rosario Straits, on the other hand, while they are deep enough for vessels of the very largest class, have many anchorages, conveniently and securely situated; and at the same time the regularity of the currents in them makes them comparatively easy of navigation.

(v.) Mr. Bancroft further says (page 26) that the Canal de Haro is "the shortest and most direct way between the parallel of 49° and Fuca Straits." But there is nothing in the Treaty to show that the line between the 49th parallel and the Straits of Fuca is to be run by what may now be held to be the shortest and most direct way. The line is to be drawn by the channel of the day, the ordinary and frequented navigable channel.

(vi.) Mr. Bancroft, in favour of the Canal de Haro, says (page 10) "Duflot de Mofras describes it as notoriously the best." From this and other references in the Memorial to this writer, it might be supposed that he was entitled to high respect as an authority on the hydrography and navigation of the region. The fact is, he was attached to a European Legation in Mexico in 1840-42, and was sent thence to report on the Oregon

* On these points Her Majesty's Government refer to the evidence in the Appendix to their Case, presented to the Arbitrator in December 1871.

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district and neighbouring countries. In his account he says, with regard to the difficulty of navigation of these waters, that the Canal de Haro is "le passage le plus facile." He was not a naval officer, and appears to have been employed solely in a civil capacity. Mr. Archibald Campbell, after quoting the passage in which the observation referred to by Mr. Bancroft is made, says:—

"And this opinion he [Duflot de Mofras] must have derived from the general report of those engaged in the navigation of these waters, as his own explorations are considered very superficial."

It is plain that he has no personal authority on a question of navigation.

(vii.) Mr. Bancroft contends (pages 10 and 11), that the Canal de Haro is the only channel which separates the Continent from Vancouver's Island; that there are other passages which divide islands from islands, but none other separates the Continent from Vancouver's Island; and that the Rosario Straits touch neither the Continent nor Vancouver's Island. But Her Majesty's Government submit that, even if the present state of knowledge is to be taken into account, the distinctions here attempted are not tenable, as the map attached to Mr. Bancroft's Memorial shews. The Rosario Straits are, by the evidence of that map, in the respects here mentioned, as much entitled as the Canal de Haro to be regarded as the dividing channel between the Continent and the Island. But the question must be referred back to the time of the Treaty, and then the Rosario Straits will be the dividing channel, as being the ordinary track of vessels passing up and down on the waters lying between the island and the main land.

(viii.) Mr. Bancroft (page 11) founds an argument on the word southerly; but as to this expression, there seems little room for discussion. It is evidently used in a large and loose sense, as contrasted with a line carried westwards to the Pacific, or deflected northwards up the Gulf of Georgia. This is the more evident when it is observed that, on a strict construction, the word is applied to the continuation of the line through the Straits of Fuca, where its direction would in fact be westerly, or even in part north-westerly.

(ix.) Mr. Bancroft further says (page 11):—

"The Treaty contemplates a continuous channel to the Pacific; the channel of Haro and Fuca's Straits form such a continuous channel, and a glance at the map will show that no other channel can pretend to do so."

Mr. Bancroft's map speaks for itself; it is difficult to see on it a higher degree of continuity in the Canal de Haro than in Rosario Straits. In fact, the waters passing southerly through the Rosario Straits are derived from the Gulf of Georgia alone and uninterruptedly, while the Canal de Haro is in the southerly direction supplied only partly and indirectly by the waters from the southern termination of the Gulf of Georgia, and partly and more directly from the waters flowing through the passages between Vancouver's Island and the archipelago off its eastern coast. This is obvious on the map, and is confirmed by observation. The flow of an uninterrupted body of water from the Gulf of Georgia through the Rosario Straits causes a marked regularity of current in that passage; while in the Canal de Haro, on the contrary, the currents are irregular, the waters flowing into it being broken and dispersed by the islands in and near its northern entrance.

(x.) Mr. Bancroft labours the point (page 11) that the name Rosario Straits was not given till of late to the channel through which Vancouver sailed. Her Majesty's Government are not concerned to dispute this. But they have not invented the name of Rosario Straits (as Mr. Bancroft seems to think) for the purposes of the present discussion. Mr. Archibald Campbell gives a history of the names borne at different times by the channel, ending thus:—"It is now [1859] universally called Rosario Straits." It is, in fact, called so over and over again in United States' official documents, and it had been named Rosario Strait on the map of the United States' Coast Survey (by Lieut. Alden, U.S.N.), published in 1854.

(xi.) Lastly, Mr. Bancroft says (page 11):—

"Now the so-called straits of Rosario lead only to a Sound, which Spanish voyagers called the bay of Santa Rosa; they do not connect with Fuca's straits, which cease at the south-eastern promontory of Vancouver island."

Her Majesty's Government submit that it is plain that Fuca's Straits, even in the more modern and restricted sense of that name, extend to the western coast of Whidbey Island. Formerly, they used to be considered, at least by many persons, including Mr. Greenhow, as sweeping round to the north and north-west, through the archipelago which lies between the Canal de Haro and Rosario Straits, and as including in their waters both those passages. On Quimper's map, indeed, the easternmost part of the Straits is marked Seno de Santa Rosa. But that map (the earliest extant) is a very

imperfect representation of the land and water of the district, and the name of the Bay of Santa Rosa never appears again on any map known to Her Majesty's Government. Statement.

34. In connection with this branch of the subject Her Majesty's Government desire to guard against an error that might be caused by the map attached to Mr. Bancroft's Memorial (which may be taken as a sample of the most modern maps). This map represents a state of geographical and hydrographical knowledge, very different from that which existed at the date of the Treaty. In one respect this consideration is of great importance. The islands shewn on this map, forming a chain along the eastern coast of Vancouver's Island, named Galiano Island, Mayne Island, Samuel Island, and Saturna Island, were at the date of the Treaty supposed by both the Contracting Parties to be parts of Vancouver's Island. A comparison of maps of the date of the Treaty with maps of the present day will shew this conclusively. Her Majesty's Government adopt the words of Mr. Archibald Campbell:—

"None of the maps extant at that day [the date of the Treaty] present a perfectly correct idea of the space between the continent and Vancouver's Island, at, and immediately south of, the 49th parallel. The Straits of Fuca and the Archipelago east of the Canal de Haro are fairly enough represented; but between the Haro Archipelago and the 49th parallel, the space is inaccurately represented as free from islands, and, consequently, with but a single channel between the continent and Vancouver's Island. The surveys made subsequently to the conclusion of the Treaty shew that what was laid down by the early Spanish navigators, by Vancouver, and by Wilkes, as the eastern coast of Vancouver's Island, is in fact the coast of an extensive archipelago skirting the shore of the main island between latitude 48° 47′ and 49° 10′."

Now Her Majesty's Government submit it to the Arbitrator as a clear proposition that the Treaty is to be interpreted according to the common knowledge and understanding of the Contracting Parties at the time.* Therefore, in prolonging the 49th parallel to the middle of the channel between the Continent and Vancouver's Island, and in drawing the mid-channel line southerly therefrom to Fuca's Straits, the Arbitrator will have to consider the channel, at and immediately to the southward of the 49th parallel, as bounded on the west, not by the eastern coast of Vancouver's Island, as now ascertained, but by the broken line of coast, which is in fact formed by the eastern shores of Galiano Island and the other islands of that chain.

35. With reference to maps, another distinction requires notice. The map spoken of as Wilkes's Map of the Oregon Territory (an extract of which is Mr. Bancroft's Map F) is merely a map, in the ordinary sense, and is not a chart with soundings marked or otherwise adapted for purposes of navigation.†

36. Mr. Bancroft speaks (page 11) of the place of a particular name "*on every map used by the negotiators.*" Who are meant by the negotiators does not appear. In the ordinary sense, the negotiators were Mr. Pakenham and Mr. Buchanan. There is no evidence known to Her Majesty's Government of any particular map, or of any map, having been used for the purposes of the negotiations which issued immediately in the Treaty. There was a map before Mr. Everett and Lord Aberdeen in one of their conversations,‡ but what map does not appear. Mr. MacLane, it would seem, used Wilkes's map,§ but there is no evidence that he and Lord Aberdeen together referred to that or any other map. As regards Lord Aberdeen himself, he probably used Vancouver's chart, but it would rather seem that he did not give much attention to a map in the matter. In his instructions to Mr. Pakenham,‖ he makes a slip in using the name of King George's Sound, an obsolete name for Nootka Sound, instead of the Gulf of Georgia;¶

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* Mr. Bancroft says (page 2):—"Since the intention of the negotiators must rest on the knowledge in their possession at the time when the Treaty was made, I shall use the charts and explorations which have advanced, or profess to have advanced, our knowledge of the country in question, and which are anterior to that date."

† There was no chart issued with the Narrative of the United States' Exploring Expedition, under Lieutenant Wilkes, as part of the atlas connected with it, or otherwise. Indeed, no chart shewing the surveys of that Expedition in the Oregon region appears to have been published up to the time of the correspondence between Mr. Bancroft and Lord Palmerston in July to November 1848, Appendix No. 4.

‡ Above, paragraph 19 (viii), p. 7.

§ Above, paragraph 19 (ii), p. 5.

‖ Historical Note, p. ix.

¶ Mr. Archibald Campbell remarks on this point:—"Lord Aberdeen in tracing the boundary line follows the 49th parallel to the sea coast and deflects 'thence in a southerly direction through the centre of *King George's Sound* and the Straits of Fuca to the ocean.' On either of the accompanying tracings, and indeed upon any map of the north-west coast, we may look in vain for 'King George's Sound' between the Continent and Vancouver's Island. This mistake is not so readily accounted for as Mr. MacLane's in regard to Birch Bay,

Statement.

and, in his statement to Lord John Russell in 1859,* he says it was the intention of the Treaty to adopt the mid-channel of the straits as the line of demarcation, without any reference to islands, the position and, indeed, the very existence of which (he adds) had hardly at that time been accurately ascertained.

37. Finally, it should be noted that the fact that the Canal de Haro has long borne a proper name on the maps is no evidence of the superiority of that passage for purposes of navigation. It would seem to have been accidentally distinguished by a name, before and at the date of the Treaty, from the circumstance that it obtained a name (Canal de Lopez de Haro) on the Spanish map of Quimper's observations of the Straits of Fuca in 1790.† But it was little known except by name at the date of the Treaty and for some time after.

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38. Her Majesty's Government have now finished their examination of Mr. Bancroft's Memorial. They do not trouble the Arbitrator with any remarks on such parts of it as refer to the Lecture or Pamphlet of Mr. Sturgis, the observations of Mr. Bates, the articles in the Quarterly Review and the Examiner, and other matters which seem to them to have little (if any) bearing on the question to be decided. The interpretation of the Treaty cannot be affected by the public discussions which preceded it, nor can any amount of unofficial declarations as to what ought to be done be evidence of what the Governments of the two countries intended by the Treaty to do.

39. Nor have Her Majesty's Government thought it necessary to examine in detail the passage in the Memorial (page 9) which is headed "Plea for the integrity of Sir Robert Peel's Ministry," or the corresponding passage (page 12) which forms the concluding paragraph of the Memorial. Her Majesty's Government see no necessity for any such plea, and no ground for the suggestions in the passage last referred to. The characters of Sir Robert Peel and Lord Aberdeen place them beyond suspicion of having acted with insincerity or duplicity in any part of this transaction. Moreover, the frankness with which Lord Aberdeen communicated to Mr. MacLane the project of Treaty, in which no mention is made of the Canal de Haro as the channel through which the boundary should run, sufficiently shews that Mr. MacLane had no sure ground for his surmise that the Canal de Haro was contemplated by Lord Aberdeen as the boundary channel, or, at all events, was so at the time when Lord Aberdeen framed the project of Treaty.

40. The Arbitrator will not fail to observe that the explanation given in this Statement of the mention by Mr. MacLane and Mr. Benton of the Canal de Haro, far from involving any dishonouring imputation, is entirely consistent with the view, which Her Majesty's Government sincerely entertain, that Mr. MacLane, and all those who in any degree represented the United States on the occasion of the Treaty, acted with perfect good faith. Mr. MacLane, it seems almost certain, misled himself by a misapplication of Wilkes's map, and Mr. Benton was misled either by Mr. MacLane's letter, or by a misapplication of his own geographical knowledge, or by both.

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41. Her Majesty's Government then submit to His Majesty the Arbitrator, on the whole case, that, whether he looks at the general position of the two nations with reference to their claims to the Oregon district, or at the circumstances attending the particular transaction which issued in the Treaty, or at the language of the Treaty, he will be led to adopt the conclusions of Her Majesty's Government.

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as the name is nowhere to be found on Vancouver's chart, which is said to have been used by the British Government in reference to the water boundary. 'King George's Sound' is the name that was given in 1778, by Captain Cook, to Nootka Sound, on the western coast of Vancouver's Island, between latitude 49° and 50°. The name was never much in vogue, except to distinguish a mercantile association formed soon after the discovery of Nootka, called the 'King George's Sound Company.' There is, however, no need of conjecture as to Lord Aberdeen's actual meaning. He simply miscalled the Gulf of Georgia."

* Appendix, No. 1.

† A copy of this map was not in the possession of Her Majesty's Government at the time of the preparation of their Case presented to the Arbitrator in December 1871. The map, which seems to be the result of mere eye-sketches, is of small value in itself. It describes itself as made by Quimper's "primer piloto" (first mate, or master), Don Gonzalo Lopez de Haro. This fact may account for the prominence given to the channel bearing the name of Haro. But little more than the southern mouth of the channel is shewn. The southern entrance of Rosario Straits is indistinctly shewn as Boca de Fidalgo.

Statement.

42. His Majesty the Arbitrator has been pleased to take on himself to ascertain the channel of the Treaty, on the failure of the Commissioners appointed by the two Governments to agree. In the execution of this task, he has to look at the state of things as they existed at the time of the Treaty. He has to determine through which of the two channels, the Rosario Straits or the Canal de Haro, the line ought to have been drawn by Commissioners appointed for the purpose the day after the exchange of the ratifications.

43. The considerations, connected with the hydrography of the region and with the history and existing conditions of the navigation of its waters, on which, as Her Majesty's Government submit, this determination cannot fail to be in accordance with their conclusions, are fully set forth in the Case presented by them to the Arbitrator in December 1871. The channel of the Treaty is that one of the two channels in question which was the main navigable channel, as known and used at the date of the Treaty. That channel is the Rosario Straits.

HISTORICAL NOTE.

(1818 to 1846.)

Historical Note.*

(1818 to 1846.)

1818.

IN 1818 an agreement was come to between the Government of His Britannic Majesty and that of the United States respecting the boundary line between the British and United States territories in North-Western America.

It was agreed in substance that for the space extending from the Lake of the Woods westward to the Rocky (then called the Stony) Mountains, the boundary line should be the 49th parallel of north latitude.

With respect to any country that might be claimed by either party on the north-west coast, westward of the Rocky Mountains, it was agreed that for ten years the same with its harbours and the navigation of its rivers should be free and open to the vessels, citizens, and subjects of the two Powers; with a proviso that the agreement was not to prejudice any claim which either party might have to any part of that country.

This agreement was embodied in a Treaty made at London, 20th October, 1818.

The district between the Rocky Mountains and the Pacific, or part of it, came to be known as Oregon or the Oregon Territory or district, the name being taken from the Oregon River, now usually called the Columbia.

The northern boundary of this district, as it was in question between the two Governments, was the parallel of 54° 40′ north latitude, being the southern boundary of the Russian territory, as recognized by Treaty. The southern boundary was the parallel of 42° north latitude, being the northern boundary of the Spanish territory, as recognized by Treaty.

The British Plenipotentiaries who negotiated the Treaty of 1818 acceded to the arrangement relating to the country west of the Rocky Mountains in the hope that by thus leaving that country open to the trade of both nations, they substantially secured every present advantage, while removing all prospect of immediate collision, without precluding any further discussion for a definite settlement. In their judgment the American Plenipotentiaries were not authorized to admit any territorial claim of Great Britain in that quarter to the southward of the Straits of Fuca, although they would have consented to leave those straits and the waters connected with them in the possession of Great Britain.

1824.

In 1824 negotiations were resumed for the settlement of questions between the two nations, including the question of the boundary west of the Rocky Mountains.

The British Plenipotentiaries contended for the right of British subjects to make settlements in the disputed territory, a right which they maintained was derived not only from discovery, but also from use, occupancy, and settlement. They proposed that Article III of the Treaty of London of 1818 should cease to have effect, and that the boundary line west of the Rocky Mountains should be drawn due west to the point where the 49th parallel strikes the great north-easternmost branch of the Oregon or Columbia River marked on the maps as McGillivray's River, thence down along the middle of that river, and down along the middle of the Oregon or Columbia to its junction with the Pacific Ocean.

The proposal of the United States' Plenipotentiaries was to the effect that the term of ten years limited in Article III of the Treaty of 1818 should be extended to ten years

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* Referred to in the Statement, page 1, par. 3.

Historical Note. 1824-1843.

from the date of a new Treaty, but that the rights of settlement and other rights should be restricted during the new term, so that the citizens of the United States should form no settlements to the north of the 49th parallel, and that British subjects should form no settlements to the south of that parallel, or to the north of the 54th.

Terms were not agreed on, and the Conference came to an end in July 1824.

1826, 1827.

In November 1826 negotiations were again resumed.

The United States' proposal was, that if the 49th parallel should be found to intersect the Oregon or McGillivray's River at a navigable point, the whole course of that river thence to the ocean should be made perpetually free to British vessels and subjects.

The British Plenipotentiaries were authorized to offer that if the United States would consent to the Columbia being the southern British frontier, the United States should have the harbour in De Fuca Strait, called by Vancouver, Port Discovery, with land five miles in breadth encircling it.

Should this offer not fully satisfy the United States, the British Plenipotentiaries were then authorized to extend the proposition, so as to include the cession by Great Britain to the United States of the whole peninsula comprised within lines described by the Pacific to the west, De Fuca's Inlet to the north, Hood's Canal (so called in Vancouver's charts) to the east, and a line drawn from the southern point of Hood's Canal to a point ten miles south of Gray's Harbour to the south, by which arrangement the United States would possess that peninsula in exclusive sovereignty, and would divide the possession of Admiralty Inlet with Great Britain, the entrance being free to both parties.

The negotiations ended in a Convention dated 6th August, 1827. This Convention continued Article III of the Treaty of 1818 indefinitely, but with power to either party to put an end to it on twelve months' notice (after 20th October, 1828).

The Convention also contained a saving for the claims of either party to any part of the country west of the Rocky Mountains.

1827-1842.

Negotiations on the Oregon question remained in abeyance until the special mission of Lord Ashburton to the United States in 1842, when he received the following instructions on this subject:—

"Your Lordship may, therefore, propose to the Government of the United States, as a fair and equitable adjustment of their [the two Governments] respective claims, a line of boundary commencing at the mouth of the Columbia River; thence by a line drawn along the middle of that river to its point of confluence with the Great Shake River; thence by a line carried due east of the Rocky or Stony Mountains; and thence by a line drawn in a northerly direction along the said mountains until it strikes the 49th parallel of north latitude. The southern bank of the Columbia River would thus be left to the Americans and the northern bank to the English, the navigation of the river being free to both, it being understood that neither party should form any new settlement within the limits assigned to each on the north or south side of the river respectively.

"Should your Lordship find it impracticable to obtain the line of boundary above described, Her Majesty's Government would not refuse their assent to a line of boundary commencing at the Rocky or Stony Mountains at the point where the 49th parallel of north latitude strikes those mountains; thence along that parallel to the point where it strikes the great north-easternmost branch of the Columbia River, marked in the map as McGillivray's River; thence down the middle of that river and down the middle of the Columbia River to its junction with the ocean. But your Lordship will reject the proposal formerly made by the American Government, in case it should be repeated, of following the 49th parallel of latitude from the Rocky Mountains to the Ocean, as the boundary of the territory of the two States.

"If the Government of the United States should refuse the proposed compromise, and should nevertheless determine to annul the Convention of 1827, the rights of the British Government to the whole of the territory in dispute must be considered as unimpaired."

This mission resulted in the Treaty of Washington of 9th August, 1842, which contained no arrangement respecting Oregon. The main reason that induced Lord Ashburton to abstain from proposing to carry on the discussion on this subject was the apprehension that thereby the settlement of the far more important matter of the North-Eastern boundary might be impeded or exposed to the hazard of failure.

1843.

In August 1843, Mr. Fox, Her Majesty's Minister at Washington, was asked whether the United States' Government were taking any steps in furtherance of the Oregon

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Boundary negotiation, and to state that Her Majesty's Government were willing to transfer the negotiation to Washington should the United States' Government object to London.

In October instructions were sent to Mr. Everett, the United States' Minister in London, to treat with Her Majesty's Government for the adjustment of the Boundary. In the meantime Mr. Pakenham had been appointed Her Majesty's Minister to the United States in succession to Mr. Fox. Before his appointment had been gazetted, Mr. Everett informed Lord Aberdeen orally that he had received powers to negotiate the Oregon question in London. Lord Aberdeen, however, stated to him that a new Minister had already been appointed by Her Majesty to negotiate at Washington.

In consequence of this arrangement the negotiations were removed to Washington, and Mr. Everett stated in a despatch to his Government* that he would use his best efforts to produce such an impression on Lord Aberdeen's mind as to the prominent points of the question as might have a favourable influence in the preparation of the instructions to be given to Mr. Pakenham.

In an interview with Lord Aberdeen, Mr. Everett urged that the boundary should be carried along the 49th parallel to the sea. Lord Aberdeen said that this proposal had been made in 1824 and 1826 and rejected, and that there was no reason for believing that this country, more than the United States, would then agree to terms which had been previously declined, and that consequently there must be concession on both sides, on which principle Lord Aberdeen expressed himself willing to act.

In December Mr. Pakenham was authorized to re-open negotiations at Washington on the Oregon question. He was directed to make substantially the same proposals for the settlement of the boundary as had been made by Great Britain in 1826.

He was authorized to add, should that proposition be found to be unacceptable, that Her Majesty's Government would be willing to convert into a free port any harbour, either on the mainland or on Vancouver's Island, south of the 49th parallel, which the United States' Government might desire.

Further, if he should think that the extension of the privilege would lead to the final adjustment of the question, he was authorized to declare that Her Majesty's Government would be willing to make all the ports within De Fuca's Inlet and south of the 49th parallel, free ports.

Should these proposals be rejected, he was then to propose that the whole question should be referred to the arbitration of a friendly Sovereign State.

In the event of the United States' Government refusing to agree to arbitration, he was then to propose that the Treaty of 1818-27 should be renewed for a further period of ten years.

In the event of negotiations being broken off, he was then to declare to the United States' Government that Her Majesty's Government still asserted and would maintain an equal right with the United States to the occupation of the whole of the territory in dispute, and that as Her Majesty's Government would carefully and scrupulously abstain and cause Her Majesty's subjects to abstain from any act which might be justly considered as an encroachment on the rights of the United States, so they expected that the Government of the United States would exhibit and enforce on their part an equal forbearance with respect to the rights of Great Britain, which rights, believing them to be just, Great Britain would be prepared to defend.

1844.

In February, 1844, Mr. Pakenham addressed a note to the United States' Secretary of State proposing a renewal of the negotiations, which proposal was favourably received by him.

On 22nd August, Mr. Pakenham received a notification from Mr. Calhoun, then the Secretary of State, that he was prepared to proceed with the negotiation.

At a conference on the 26th, Mr. Pakenham laid before Mr. Calhoun the proposal authorized by his instructions relative to a free port either on the mainland or on Vancouver's Island, south of the 49th parallel.

This proposal was declined by Mr. Calhoun. He afterwards presented a paper (dated September 3) stating his reasons. The paper began thus :—

"The Undersigned American Plenipotentiary declines the proposal of the British Plenipotentiary, on the ground that it would have the effect of restricting the possessions of the United States to limits far

* Appendix No. 19 to Mr. Bancroft's Memorial.

Historical Note. 1844. more circumscribed than their claims clearly entitle them to. It proposes to limit their northern boundary by a line drawn from the Rocky Mountains along the 49th parallel of latitude to the north-easternmost branch of the Columbia River, and thence down the middle of that river to the sea, giving to Great Britain all the country north, and to the United States all south, of that line, except a detached territory extending on the Pacific and the Straits of Fuca, from Bullfinch's Harbour to Hood's Canal. To which it is proposed in addition to make free to the United States any port which the United States' Government might desire, either on the mainland or on Vancouver's Island south of latitude 49°.

"By turning to the map hereto annexed, and on which the proposed boundary is marked in pencil, it will be seen that it assigns to Great Britain almost the entire region on its north side drained by the Columbia River, and lying on its northern bank. It is not deemed necessary to state at large the claims of the United States to this territory, and the grounds on which they rest, in order to make good the assertion that it restricts the possessions of the United States within narrower bounds than they are clearly entitled to. It will be sufficient for this purpose to show that they are fairly entitled to the entire region drained by the river; and to the establishment of this point, the Undersigned proposes accordingly to limit his remarks at present."

The paper proceeded with arguments, and ended thus:—

"Such are our claims to that portion of the territory, and the grounds on which they rest. The Undersigned believes them to be well founded, and trusts that the British Plenipotentiary will see in them sufficient reasons why he should decline his proposal.

"The Undersigned Plenipotentiary abstains, for the present, from presenting the claims which the United States may have to other portions of the territory.

"The Undersigned, &c."

In answer to this statement Mr. Pakenham delivered a paper (marked D, and dated September 12) of which it is sufficient for the present purpose to state the concluding passages:—

"In fine, the present state of the question between the two Governments appears to be this:—Great Britain possesses and exercises, in common with the United States, a right of joint occupancy in the Oregon Territory, of which right she can be divested, with respect to any part of that territory, only by an equitable partition of the whole between the two Powers.

"It is, for obvious reasons, desirable that such a partition should take place as soon as possible, and the difficulty appears to be in devising a line of demarcation which shall leave to each party that precise portion of the territory best suited to its interest and convenience.

"The British Government entertained the hope that by the proposal lately submitted for the consideration of the American Government, that object would have been accomplished. According to the arrangements therein contemplated, the Northern Boundary of the United States west of the Rocky Mountains would, for a considerable distance, be carried along the same parallel of latitude which forms their Northern boundary on the eastern side of those mountains, thus uniting the present Eastern Boundary of the Oregon Territory with the Western Boundary of the United States, from the 49th parallel downwards. From the point where the 49° of latitude intersects the north-eastern branch of the Columbia River, called in that part of its course McGillivray's River, the proposed line of boundary would be along the middle of that river till it joins the Columbia, then along the middle of the Columbia to the ocean, the navigation of the river remaining perpetually free to both parties.

"In addition Great Britain offers a separate territory on the Pacific, possessing an excellent harbour, with a further understanding that any port or ports, whether on Vancouver's Island or on the Continent, south of the 49th parallel, to which the United States might desire to have access, shall be made free ports.

"It is believed that by this arrangement, ample justice would be done to the claims of the United States, on whatever ground advanced, with relation to the Oregon Territory. As regards extent of territory they would obtain, acre for acre, nearly half of the entire territory to be divided. As relates to the navigation of the principal river, they would enjoy a perfect equality of right with Great Britain; and, with respect to harbours, it will be seen that Great Britain shows every disposition to consult their convenience in that particular.

"On the other hand, were Great Britain to abandon the line of the Columbia as a frontier, and to surrender her right to the navigation of that river, the prejudice occasioned to her by such an arrangement would, beyond all proportion, exceed the advantage accruing to the United States from the possession of a few more square miles of territory. It must be obvious to every impartial investigator of the subject that, in adhering to the line of the Columbia, Great Britain is not influenced by motives of ambition with reference to extent of territory, but by considerations of utility, not to say necessity, which cannot be lost sight of, and for which allowance ought to be made in an arrangement professing to be based on considerations of mutual convenience and advantage.

"The Undersigned believes that he has now noticed all the arguments advanced by the American Plenipotentiary in order to show that the United States are fairly entitled to the entire region drained by the Columbia River. He sincerely regrets that their views on this subject should differ in so many essential respects.

"It remains for him to request that, as the American Plenipotentiary declines the proposal offered on the part of Great Britain, he will have the goodness to state what arrangement he is on the part of the United States prepared to propose for an equitable adjustment of the question; and more especially, that he will have the goodness to define the nature and extent of the claims which the United States may have to other portions of the territory, to which allusion is made in the concluding part of his statement, as it is obvious that no arrangement can be made with respect to part of the territory in dispute, while a claim is reserved to any portion of the remainder.

"The Undersigned, &c."

v

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Mr. Calhoun then presented a paper (dated September 20), in which he said he had read with attention the counter-statement of the British Plenipotentiary, but without weakening his confidence in the validity of the title of the United States, and, after arguments, concluded thus:—

"The Undersigned cannot consent to the conclusion to which, on a review of the whole ground, the counter-statement arrives, that the present state of the question is, that Great Britain possesses and exercises, in common with the United States, a right of joint occupancy in the Oregon Territory, of which she can be divested only by an equitable partition of the whole between the two Powers. He claims, and he thinks he has shown a clear title on the part of the United States, to the whole region drained by the Columbia, with the right of being reinstated and considered the party in possession while treating of the title, in which character he must insist on their being considered in conformity with positive Treaty stipulations. He cannot, therefore, consent that they shall be regarded, during the negotiation, merely as occupants in common with Great Britain, nor can he, while thus regarding their rights, present a counter-proposal based on the supposition of a joint occupancy, merely until the question of title to the territory is fully discussed. It is, in his opinion, only after a discussion which shall fully present the titles of the parties respectively to the territory, that their claims to it can be fairly and satisfactorily adjusted. The United States desire only what they may deem themselves justly entitled to, and are unwilling to take less. With their present opinion of their title, the British Plenipotentiary must see that the proposal which he made at the second Conference, and which he more fully sets forth in his counter-statement, falls far short of what they believe themselves justly entitled to.

"In reply to the request of the British Plenipotentiary that the Undersigned should define the nature and extent of the claims which the United States have to the other portions of the territory, and to which allusion is made in the concluding part of Statement A, he has the honour to inform him in general terms that they are derived from Spain by the Florida Treaty, and are founded on the discoveries and exploration of her navigators, and which they must regard as giving them a right to the extent to which they can be established, unless a better can be opposed."

In various informal conversations between Mr. Pakenham and Mr. Calhoun, when Mr. Calhoun insisted on the parallel of 49° as the very lowest terms which the United States would accept, Mr. Pakenham told him that, if he wished Her Majesty's Government even to take into consideration a proposal founded on that basis, it must be accompanied by some indications of a desire on the part of the United States' Government to make some corresponding sacrifice to accommodate the interest and convenience of Great Britain; that Her Majesty's Government had already gone very far in the way of concession, while the United States' Government had as yet shown no disposition to recede from their original proposal. To which Mr. Calhoun replied, on one occasion, that for his part he should have no objection to give up absolutely the free navigation of the Columbia, which had before been offered only conditionally; on another occasion, he said that if Great Britain would consent to the parallel of 49° on the Continent, perhaps the United States might be willing to leave to Great Britain the entire possession of Vancouver's Island, Fuca's Inlet and the passage northwards from it to the Pacific remaining an open sea to both countries; but he never said that he would be ready to yield both these points. In fact, he said that he was not authorized to make any proposal of the kind, nor should he until he had ascertained that such an arrangement would find favour with the Senate.

1845.

In January 1845, in answer to a proposal, made by Mr. Pakenham, to submit the question to arbitration, Mr. Calhoun said that, while the President united with Her Majesty's Government in the desire to see the question settled as early as might be practicable, he could not accede to the offer; adding this:—

"Waiving all other reasons for declining it, it is sufficient to state, that he continues to entertain the hope that the question may be settled by the negotiation now pending between the two countries; and that he is of opinion it would be unadvisable to entertain a proposal to resort to any other mode, so long as there is hope of arriving at a satisfactory settlement by negotiation; and especially to one which might rather retard than expedite its final adjustment."

On the 3rd of April, Lord Aberdeen addressed to Mr. Pakenham the following despatch, the tone and contents of which shew the seriousness of the position in which the controversy then was, and the determination of Her Majesty's Government to maintain their claims:—

"Sir, "*April* 3, 1845.

"The inaugural speech of President Polk has impressed a very serious character on our actual relations with the United States; and the manner in which he has referred to the Oregon question, so different from the language of his predecessor, leaves little reason to hope for any favourable result of the existing negotiation.

"I presume that you will have acted upon my instruction of the 3rd of March, and have repeated

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to the new Secretary of State the proposal of an arbitration, which you were directed to make to his predecessor. If this should be declined by Mr. Polk's Government in the same manner and for the same reason as assigned by Mr. Tyler, namely, the hope that the matter might yet be favourably terminated by negotiation, such a mode of refusal would at least display a friendly spirit, and would not close the door against all further attempts to arrive at such a conclusion. On the other hand, if the proposal should be simply rejected, and the rejection should not be accompanied by any specific proposition on the part of the Government of the United States, we must consider the negotiation as entirely at an end. Indeed, we could scarcely, under such circumstances, take any further step with a due regard to our honour and consistency.

"In the event of arbitration being rejected, and the failure of every endeavour to effect a partition of the territory on a principle of mutual concession, you were directed in my despatch of the 18th of November, to propose the further extension for a fixed term of years of the existing Convention. This, it is true, would have been an imperfect and unsatisfactory arrangement; but it might have been tolerated in the hope that the prevalence of friendly feelings, and the admitted interest of both parties, would in due time have led to a permanent settlement of an amicable description. The recent declarations of Mr. Polk forbid any such hope; and there is too much reason to believe that the extension of the Convention for a fixed period would be employed in active preparation for future hostility.

"You will, therefore, consider this portion of my instructions, to which I have now referred, as cancelled.

"Judging from the language of Mr. Polk, I presume we must expect that the American Government will renounce the Treaty without delay. In this case, unless the question be speedily settled, a local collision will be liable to take place, which may involve the countries in serious difficulty, and not improbably lead to war itself.

"At all events, whatever may be the course of the United States' Government, the time is come when we must be prepared for every contingency. Our naval force in the Pacific is amply sufficient to maintain our supremacy in that sea; and Sir George Seymour has been instructed to repair without delay to the coasts of the Oregon Territory.

"You will hold a temperate, but firm, language to the members of the Government and to all those with whom you may converse. We are still ready to adhere to the principle of an equitable compromise; but we are perfectly determined to concede nothing to force or menace, and are fully prepared to maintain our rights. This is the spirit in which Her Majesty's Government have declared themselves in Parliament, and to this they will adhere.

"I thought it so important that our intentions should be clearly known and understood in the United States without delay, that I detained the last American mail, in order that a correct report of the proceedings in Parliament on the Oregon question might reach Washington as early as possible.

"Nothing can be more encouraging and satisfactory than the spirit which has been exhibited on this occasion, both in Parliament and in the country generally; and it is evident that Her Majesty's Government will be warmly supported in whatever measures may be considered really just and necessary.

"I am, &c.
(Signed) "ABERDEEN."

Before this despatch reached Mr. Pakenham, Mr. Buchanan had been appointed Mr. Calhoun's successor in the office of Secretary of State. Mr. Pakenham informed Mr. Buchanan of the instructions which he had received, again to press on the Government of the United States the expediency of arbitration. But Mr. Buchanan said on one occasion that he did not despair of effecting a settlement by negotiation, by adopting (to use his own words) the principle of giving and taking; and on another occasion that settlement by arbitration did not meet with the concurrence of the President and his Cabinet, that they all entertained objections to that course of proceeding, and that they preferred negotiation, hoping, as they did hope, that by negotiation a satisfactory result would at last be attained.

On 16th July, Mr. Buchanan delivered to Mr. Pakenham a paper (marked J. B.) containing his proposal for settlement. It began thus:—

"The Undersigned, &c., now proceeds to resume the negotiation on the Oregon question at the point where it was left by his predecessor.

"The British Plenipotentiary, in his note to Mr. Calhoun of the 12th September last, requests 'that as the American Plenipotentiary declines the proposal offered on the part of Great Britain, he will have the goodness to state what arrangement he is, on the part of the United States, prepared to propose for an equitable adjustment of the question, and more especially, that he will have the goodness to define the nature and extent of the claims which the United States may have to other portions of the territory to which allusion is made in the concluding part of his statement, as it is obvious that no arrangement can be made with respect to a part of the territory in dispute, while a claim is reserved to any portion of the remainder.'

"The Secretary of State will now proceed (reversing the order in which these requests have been made), in the first place, to present the title of the United States to the territory north of the valley of the Columbia; and will then propose on the part of the President the terms upon which, in his opinion, this long-pending controversy may be justly and equitably terminated between the parties."

The paper (after a lengthened argument) ended thus:—

"Such being the opinion of the President in regard to the title of the United States, he would not have consented to yield any portion of the Oregon Territory, had he not found himself embarrassed,

if not committed, by the acts of his predecessors. They had uniformly proceeded upon the principle of compromise in all their negotiations. Indeed, the first question presented to him, after entering upon the duties of his office was, whether he should abruptly terminate the negotiation which had been commenced and conducted between Mr. Calhoun and Mr. Pakenham on the principle avowed in the first Protocol, not of contending for the whole territory in dispute, but of treating of the respective claims of the Parties, 'with the view to establish a permanent boundary between the two countries, westward of the Rocky Mountains.'

"In view of these facts, the President has determined to pursue the present negotiation to its conclusion, upon the principle of compromise in which it commenced, and to make one more effort to adjust this long-pending controversy. In this determination he trusts that the British Government will recognize his sincere and anxious desire to cultivate the most friendly relations between the two countries, and to manifest to the world that he is actuated by a spirit of moderation. He has, therefore, instructed the Undersigned again to propose to the Government of Great Britain that the Oregon Territory shall be divided between the two countries by the 49th parallel of north latitude from the Rocky Mountains to the Pacific Ocean; offering, at the same time, to make free to Great Britain any port or ports on Vancouver's Island, south of this parallel, which the British Government may desire. He trusts that Great Britain may receive this proposition in the friendly spirit in which it was dictated, and that it may prove the stable foundation of lasting peace and harmony between the two countries. The line proposed will carry out the principle of continuity equally for both parties, by extending the limits both of ancient Louisiana and Canada to the Pacific, along the same parallel of latitude which divides them east of the Rocky Mountains, and it will secure to each a sufficient number of commodious harbours on the north-west coast of America.

"The Undersigned, &c."

Thereupon Mr. Pakenham presented a paper, dated 29th July, beginning thus:—

"Notwithstanding the prolix discussion which the subject has already undergone, the Undersigned, &c., feels obliged to place on record a few observations in reply to the statement marked J. B., which he had the honour to receive on the 16th of this month from the hands of the Secretary of State of the United States, terminating with a proposition on the part of the United States for the settlement of the Oregon question."

Mr. Pakenham ended this paper as follows:—

"After this exposition of the views entertained by the British Government, respecting the relative value and importance of the British and American claims, the American Plenipotentiary will not be surprised to hear that the Undersigned does not feel at liberty to accept the proposal offered by the American Penipotentiary for the settlement of the question.

"This proposal, in fact, offers less than that tendered by the American Plenipotentiaries in the Negotiation of 1826, and declined by the British Government.

"On that occasion it was proposed that the navigation of the Columbia should be made free to both parties. On this point nothing is said in the proposal to which the Undersigned has now the honour to reply. While with respect to the proposed freedom of the ports on Vancouver's Island, south of latitude 49°, the facts which have been appealed to in this paper, as giving to Great Britain the strongest claim to the possession of the whole island, would seem to deprive such proposal of any value.

"The Undersigned therefore trusts that the American Plenipotentiary will he prepared to offer some further proposal for the settlement of the Oregon question more consistent with fairness and equity, and with the reasonable expectations of the British Government, as defined in the statement marked D, which the Undersigned had the honour to present to the American Plenipotentiary at the early part of the present negotiation.

"The Undersigned, &c."

Mr. Pakenham had thus declined to accept the proposal of the United States' Government. Mr. Buchanan thereupon delivered another paper, dated 30th August, in which, after further arguments, he withdrew that proposal. The concluding passages of this paper were as follows:—

"Upon the whole, from the most careful and ample examination which the Undersigned has been able to bestow upon the subject, he is satisfied that the Spanish-American title now held by the United States, embracing the whole territory between the parallels of 42° and 54° 40′, is the best in existence to this entire region, and that the claim of Great Britain to any portion of it has no sufficient foundation.

"Notwithstanding that such was, and still is, the opinion of the President, yet, in the spirit of compromise and concession, and in deference to the action of his predecessors, the Undersigned, in obedience to his instructions, proposed to the British Plenipotentiary to settle the controversy by dividing the territory in dispute by the 49th parallel of latitude, offering, at the same time, to make free to Great Britain any port or ports on Vancouver's Island, south of this latitude, which the British Government might desire. The British Plenipotientiary has correctly suggested that the free navigation of the Columbia River was not embraced in this proposal to Great Britain, but, on the other hand, the use of free ports on the southern extremity of this island had not been included in former offers.

"Such a proposition as that which has been made, never would have been authorized by the President, had this been a new question.

"Upon his accession to office he found the present negotiation pending. It had been instituted in the spirit and upon the principle of compromise. Its object was, as avowed by the negotiators, not to demand the whole territory in dispute for either country; but, in the language of the first Protocol 'to treat of the respective claims of the two countries to the Oregon Territory, with the view to establish a permanent boundary between them, westward of the Rocky Mountains to the Pacific Ocean.'

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"Placed in this position, and considering that Presidents Monroe and Adams had, on former occasions, offered to divide the territory in dispute by extending the 49th parallel of latitude to the Pacific Ocean, he felt it to be his duty not abruptly to arrest the negotiation, but so far to yield his own opinion as once more to make a similar offer.

"Not only respect for the conduct of his predecessors, but a sincere and anxious desire to promote peace and harmony between the two countries influenced him to pursue this course. The Oregon question presents the only cloud which intercepts the prospect of a long career of mutual friendship and beneficial commerce between the two nations, and this cloud he desired to remove.

"These are the reasons which actuated the President to offer a proposition so liberal to Great Britain.

"And how has the proposition been received by the British Plenipotentiary? It has been rejected without even a reference to his own Government. Nay, more, the British Plenipotentiary, to use his own language, 'trusts that the American Plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon question more consistent with fairness and equity, and with the reasonable expectations of the British Government.'

"Under such circumstances the Undersigned is instructed by the President to say, that he owes it to his own country, and a just appreciation of her title to the Oregon Territory, to withdraw this proposition to the British Government which had been made under his direction, and it is hereby accordingly withdrawn.

"In taking this necessary step, the President still cherishes the hope that this long-pending controversy may yet be finally adjusted in such a manner as not to disturb the peace or interrupt the harmony now so happily subsisting between the two countries.

"The Undersigned, &c."

1846.

On 9th February, 1846, the House of Representatives, and on 17th April, the Senate, of the United States passed a joint resolution, authorizing the President to give the requisite year's notice to put an end to the Convention of 1827. The notice was dated the 28th of April; it reached the United States' Minister at London on the 15th of May, and was by him sent to Lord Aberdeen on the 20th.

Meantime, on the 18th of May, Lord Aberdeen addressed the following instructions to Mr. Pakenham:—

(No. 18.)

"Sir, "*May* 18, 1846.

"In the critical state of the negotiation for the settlement of the Oregon Boundary, it has become my duty carefully to review the whole course of our proceedings, and to consider what further steps in the present juncture it may be proper to take with the view of removing existing difficulties, and of promoting, if possible, an amicable termination of the question.

"I willingly abstain from renewing a discussion, the matter for which is already exhausted, and from repeating arguments with which you have long been familiar; but I think it is not too much to assert that, to any observer looking impartially at the different stages of this negotiation, it will appear that the conduct of Great Britain has throughout been moderate, conciliatory, and just. Can it truly be said that the Government of the United States have advanced to meet us in the path of mutual concession?

"The terms of settlement proposed by the British Plenipotentiaries to Mr. Gallatin in the year 1826 were much more advantageous to the United States than those which had been offered to Mr. Rush in the previous negotiation of 1824; and on your own departure from this country you were authorized still further to augment these advantageous conditions. The United States, on the other hand, have not only recently made, through Mr. Buchanan, a proposal less favourable to Great Britain than that formerly offered by Mr. Gallatin, but, when this was rejected by you, they withdrew it altogether.

"In truth, the pretensions of the United States have gradually increased during the progress of these negotiations. Acting in manifest violation of the spirit of the Conventions of 1818 and 1827, it is now formally and officially asserted that the right of the United States to the whole territory in dispute is 'clear and unquestionable.' The principle, however, of these Conventions plainly recognized the claims of both parties, as indeed was fully admitted by the American Plenipotentiary himself; and it was only on failure of the attempt to effect an equitable partition of the territory that the joint occupancy was established.

"Such pretensions, whatever may have been their effect in the United States, cannot in any manner invalidate or diminish our own just claims. With respect to these we have never varied. We have always maintained that we possess the right to establish ourselves in any part of the country not previously occupied; but we have fully acknowledged in the United States the existence of the same right; and we have also at all times been ready, by an equitable compromise and partition, to put an end to a species of occupation which is but too likely to lead to disputes and collision.

"Despairing of arriving at any agreement by means of direct negotiation, we have been urgent in pressing the reference of the whole matter to an arbitration. We have been willing to submit, either the abstract title of the two parties, or the equitable division of the territory, to the judgment of any Tribunal which could justly inspire confidence, and which might prove agreeable to the United States. All this, however, has been peremptorily refused; the progress of the negotiation has been entirely arrested, and, in fact, it now remains without any admitted or intelligible basis whatever.

"The United States have recently expressed their determination to put an end to the Convention which, for the last thirty years, has regulated the mode of occupation of Oregon by the subjects of both countries; but, as this power was reserved to each party by the terms of the Convention, the decision

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cannot reasonably be questioned. Neither is there anything necessarily unfriendly in the act itself; but, as both parties would thus be replaced in their former position, each retaining all its claims and asserting all its rights, which each would freely exercise, it is obvious that, in proportion as the country became settled, local differences would arise which must speedily lead to the most serious consequences.

"In this state of affairs it is matter of some anxiety and doubt what step, with a view to an amicable settlement of the question, may be most consistent with the dignity and the interests of Great Britain. After all the efforts we have made, and the course we have pursued, we might perhaps most naturally pause, and leave to the United States the office of renewing a negotiation which had been interrupted under such circumstances. But Her Majesty's Government would feel themselves to be criminal if they permitted considerations of diplomatic punctilio or etiquette to prevent them from making every proper exertion to avert the danger of calamities which they are unwilling to contemplate, but the magnitude of which scarcely admits of exaggeration.

"I think that an opportunity has now arisen when we may reasonably lay aside those formal considerations by which, under ordinary circumstances, we might have been precluded from making any fresh overture or demonstration on this subject.

"In complying with the recommendation of the President to terminate the Convention under which the Oregon Territory is at present occupied, the Legislature of the United States have accompanied their decision by resolutions of a pacific and conciliatory character; and have clearly signified to the Executive Government their desire that this step should not lead to the rupture of amicable negotiations for the settlement of the question. I can scarcely doubt that the Government of the United States will be duly influenced by the desire thus unequivocally expressed by Congress; and it is in this hope and belief that I now proceed to instruct you to make another, and, I trust, final proposition to the American Secretary of State, for the solution of these long-existing difficulties.

"I avail myself of this opportunity the more readily, because, although Her Majesty's Government have strongly pressed a reference of the whole subject to arbitration, they are by no means insensible to the inconvenience attending such a mode of proceeding, and would willingly avoid it if possible. Nothing, indeed, but the apprehension that an amicable settlement by means of direct negotiation was entirely hopeless, would have led them so decidedly to adopt this course; and they are still of opinion that, with such a prospect of failure before them, it would be their duty to adhere as earnestly as ever to this recommendation. Nor can they believe that any Christian Government could ultimately persevere in rejecting a proposal of this nature, whatever might be their objections to its adoption, and in the face of the civilized world deliberately recur to the dreadful alternative of war.

"The boundary having been fixed by the Convention of 1818, between the possessions of Great Britain and the United States, and the line of demarcation having been carried along the 49th parallel of latitude for a distance of 800 or 1,000 miles through an unfrequented and unknown country, from the Lake of the Woods to the Rocky Mountains, it appeared to the Government of the United States that it was a natural and reasonable suggestion that this line should be continued along the same parallel, for about half that distance, and through a country as little known or frequented, from the Rocky Mountains to the sea. And, indeed, with reference to such a country, the extension of any line of boundary already fixed might equally have been suggested, whether it had been carried along the 49th or any other parallel of latitude.

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

"If, therefore, the 49th parallel of latitude be adopted as the basis of an agreement, it will be incumbent upon us to obviate these objections, which, I trust in great measure, may be successfully accomplished.

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

"You will also stipulate that from the point at which the 49th parallel of latitude shall intersect the principal northern branch of the Columbia River, called Macgillivray's River in the maps, the navigation shall be free and open to the Hudson's Bay Company, and to the subjects of Great Britain trading with the said Company, until its junction with the Columbia, and from thence to the mouth of the river, with free access into and through the same; British subjects, with their goods, merchandize, and produce, to be dealt with as citizens of the United States; it being always understood, however, that nothing shall interfere to prevent the American Government from making any regulations respecting the navigation of the river, not inconsistent with the terms of the proposed Convention.

"In the future appropriation of land, the possessory rights of all British settlers will of course be respected. The Hudson's Bay Company should be confirmed in the occupation of Fort Vancouver, and the adjacent lands of which the Company have been in possession for many years. They would also retain such other stations as were necessary for the convenient transit of their commerce along the line of the Columbia; but all other stations, or trading posts, connected with their present exclusive rights of hunting and of traffic with the natives, within the territory south of the 49th degree of latitude, would in all probability forthwith be abandoned.

"The Puget Sound Agricultural Company have expended considerable sums of money in the cultivation and improvement of land on the north of the Columbia River. They occupy two extensive

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farms, on which they possess large stocks of cattle and sheep. These parties would also be entitled to be confirmed in the quiet enjoyment of their land; but if the situation of the farms should be of public and political importance, and it should be desired by the Government of the United States, the whole property might be transferred to them at a fair valuation.

"I think that these proposals for an adjustment of the whole question at issue would be honourable and advantageous to both parties. It can scarcely be expected that either of them should now acquiesce in conditions less favourable than had been previously offered; and it may reasonably be presumed that each will at the present moment be prepared to make larger concessions than heretofore for the sake of peace. By this settlement, in addition to the terms proposed to us by Mr. Gallatin in 1826, we should obtain the harbours necessary for our commerce, as well as an increased security for our settlers and their possessions; and in lieu of the detached district, with its single harbour, offered by the British Plenipotentiaries on that occasion, the United States would acquire the whole coast with its various harbours, and all the territory north of the Columbia, as far as the 49th degree of latitude.

"I am not disposed to weigh very minutely the precise amount of compensation or equivalent which may be received by either party in the course of this negotiation, but am content to leave such estimate to be made by a reference to higher considerations than the mere balance of territorial loss or gain. We have sought peace in the spirit of peace, and we have acted in the persuasion that it would be cheaply purchased by both countries at the expense of any sacrifice which should not tarnish the honour or affect the essential interests of either.

"I have now, therefore, only to instruct you to inform the American Secretary of State that you have been authorized and are prepared to conclude a Convention, without delay, founded on the conditions set forth in this despatch.

"I am, &c.
(Signed) "ABERDEEN."

On the same day the following despatch was also addressed to Mr. Pakenham by Lord Aberdeen, inclosing the draft or project of the Treaty:—

(No. 19.)

"Sir, "*May* 18, 1846.

"With reference to my despatch No. 18 of this date, I transmit to you herewith the draft or project of a Treaty, such, at least in its essential parts, as Her Majesty's Government are prepared to conclude with the United States for the final settlement of the Oregon question.

"That project may be understood to embody all the conditions which are considered by us as indispensable. The wording of the Articles may be altered as may be deemed expedient, but their substance must be preserved, nor can any essential departure from that substance be admitted on the part of Great Britain.

"The preamble may be considered as open to any alteration which may be proposed, and which you may think expedient. In the project which I have sent you the definition of the territory adopted in the Convention of 1827 has been adhered to. That definition appears to be the most suitable and open to the least objection.

"If the United States' Government should agree to our terms, such or nearly such as they are now proposed, you will do well to hasten as much as possible the conclusion of the Treaty, since the present constitution of the Senate appears to offer a greater chance of acquiescence of that important body in those conditions than might be presented at any future period.

"If, on the other hand, the President should decline to accept those terms, and should make any counter-proposition essentially at variance with their substance, you will express regret that you possess no power to admit any such modification, and, without absolutely rejecting whatever proposal may be submitted on the part of the United States, you will refer the whole matter to your Government.

"I am, &c.
(Signed) "ABERDEEN."

The draft or project was, as regards the description of the boundary now in question, identical with the Treaty as ultimately ratified.

On the same day, also, Mr. MacLane, who had before this time succeeded Mr. Everett as the United States' Minister at London, addressed a letter to Mr. Buchanan as follows:—

"Sir, "*London, May* 18, 1846.

"I received, late in the day, on the 15th instant (Friday), your despatch No. 27, dated the 28th of April, 1846, transmitting a notice for the abrogation of the Convention of the 6th of August, 1827, between the United States and Great Britain, in accordance with the terms prescribed in the IInd Article, instructing me to deliver the notice to her Britannic Majesty in person, or to Her Majesty's Principal Secretary of State for Foreign Affairs, as will be most agreeable to Her Majesty's wishes, and at the same time leaving the mode of the delivery of the notice entirely at my own discretion.

"I will of course execute your instructions at the earliest practicable moment. As, however, I could only ascertain Her Majesty's wishes, which I am directed to consult, through the Principal Secretary of State for Foreign Affairs, sufficient time has not yet been afforded for that purpose; and, in the midst of the preparation of my despatches for the steamer of to-morrow, and of my engagements at the Foreign Office counected with one of the topics of this letter, it has not been in my power to give to a subject of so much importance that deliberation which I am seusible a proper exercise of the discretion confided to me requires. To-morrow, however, I propose to seek an interview with Lord Aberdeen for the purpose, and without loss of time finally to execute your instructions in the mode that may be deemed most effectual. I may add, that although it is altogether probable that the presentation of the notice to Her Majesty in person will not be admissible, and that where a Treaty may be annulled

upon notice by one party, the mode of delivering the notice need not be dependent upon the assent of the other; yet, in the present instance, I do not apprehend there will be any difficulty in giving and receiving the notice in a mode mutually satisfactory, and in conformity with usage in such cases.

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"In my last despatch (No. 43) dated on the 3rd instant, after an interview with Lord Aberdeen I informed you that, as soon as he received official intelligence of the Senate's vote upon the resolution of notice, he would proceed finally to consider the subject of Oregon, and direct Mr. Pakenham to submit a further proposition upon the part of this Government, and also that it was understood that he would not be prevented from taking this course by any disagreement between the two Houses as to the form of the notice.

"I have now to acquaint you that, after the receipt of your despatches on the 15th instant by the 'Caledonia,' I had a lengthened conference with Lord Aberdeen; on which occasion the resumption of the negotiation for an amicable settlement of the Oregon question, and the nature of the proposition he contemplated submitting for that purpose, formed the subject of a full and free conversation.

"I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow, to submit a new and further proposition on the part of this Government, for a partition of the territory in dispute.

"The proposition, most probably, will offer substantially:

"First—To divide the territory by the extension of the line on the parallel of 49 to the sea; that is to say to the arm of the sea called, Birch's Bay, thence by the Canal de Arro and Straits of Fuca to the Ocean, and confirming to the United States, what indeed they would possess without any special confirmation, the right freely to use and navigate the Strait throughout its extent.

"Second: To secure to the British subjects occupying lands, forts, and stations anywhere in the region north of the Columbia and south of the 49th parallel, a perpetual title to all their lands and stations of which they may be in actual occupation; liable, however, in all respects, as I understand, to the jurisdiction and sovereignty of the United States as citizens of the United States. Similar privileges will be offered to be extended to citizens of the United States who may have settlements north of the 49th parallel; though I presume it is pretty well understood that there are no settlements upon which this nominal mutuality could operate, I have no means of accurately ascertaining the extent of the present British settlements between the Columbia and the 49th parallel. They are not believed by Lord Aberdeen to be numerous, however; consisting, as he supposes, of a few private farms and two or three forts and stations. I have already, in a previous despatch, taken the liberty to remind you that by their Charter the Hudson's Bay Company are prohibited from acquiring title to lands, and that the occupations to be affected by this reservation have been made either by the squatters of that Company, or by the Puget's Sound Land Company, for the purpose of evading the prohibition of the Hudson's Bay Charter.

"They are, in point of fact also, according to Captain Wilkes' account, cultivated and used chiefly by the persons employed in the service of the former Company, and as auxiliary to their general business of hunting and trapping, rather than with a view, as it has been generally supposed, of colonizing or of permanent settlement.

"Lastly. The proposition will demand for the Hudson's Bay Company the right of freely navigating the Columbia River.

"It will, however, as I understand, disclaim the idea of sovereignty or of the right of exercising any jurisdiction or police whatever on the part of this Government or of the Company, and will contemplate only the right of navigating the river upon the same footing and according to the same regulations as may be applicable to the citizens of the United States.

"I have already acquainted you that Lord Aberdeen has very positively and explicitly declined to treat of the navigation of the St. Lawrence in connection with that of the Columbia; and that even if it were desirable to us to propose to offer one for the other, he would on no account enter into any negotiation in regard to the St. Lawrence.

"From the date of a private letter to the President in August, I have seen no cause to change the opinion that, in any attempt to divide the Oregon territory, the obligation felt by this Government to protect the rights of their subjects which may have been acquired or have grown up during the joint occupation, would most probably interpose the greatest difficulty in the way of an amicable adjustment. And it is now obvious that the proposed reservation of the right to the Hudson's Bay Company of freely navigating the Columbia, and that in favour of the British occupants north of the river, proceed from this source; although it is probable that more or less pride may be felt at giving up now, without what they may deem an adequate equivalent, what has been hitherto tendered by our negotiators.

"In fact, except in the surrender to the United States of the title of the lands not occupied by British subjects between the Columbia and the forty-ninth parallel, and also the surrender of the jurisdiction over the river and the country within the same limits, I am afraid it may, with some plausibility, be contended that there is no very material difference between the present proposition and that offered to Mr. Gallatin by Messrs. Addington and Huskisson, the British negotiators in 1827.

"It is scarcely necessary for me to state that the proposition, as now submitted, has not received my countenance. Although it has been no easy task, under all the circumstances, to lead to a reopening of the negotiation by any proposition from this Government, and to induce it to adopt the parallel of 49 as the basis of a boundary, nevertheless I hoped it would have been in my power to give the present proposition a less objectionable shape, and I most deeply lament my inability to accomplish it. I have, therefore, felt it my duty to discourage any expectation that it would be accepted by the President; or, if submitted to that body, approved by the Senate.

"I do not think there can be much doubt, however, that an impression has been produced here that the Senate would accept the proposition now offered, at least without any material modification, and that the President would not take the responsibility of rejecting it without consulting the Senate. If

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there be any reasonable ground to entertain such an impression, however erroneous, an offer less objectionable, in the first instance at least, could hardly be expected.

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

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

"It is not easy to conjecture, with any certainty, the extent to which this Government might be induced to modify the proposition, even if they should be assured that the Senate, no less than the President, demanded it. It must not escape observation that, during the preceding administration of our Government, the extension of the line on the forty-ninth parallel to the Strait of Fuca, as now proposed by Lord Aberdeen, was actually suggested by my immediate predecessor as one he thought his Government might accept; and that, in regard to those English subjects who would be left within American jurisdiction by adopting that boundary, he considered that the provisions of Article II of Jay's Treaty as a precedent for a convenient mode of dealing with them. By Article II of Jay's Treaty, however, British subjects would not only be secured in the absolute title to all their lands and effects as fully as by Lord Aberdeen's proposition, but would be allowed the option to continue as British subjects, and without any allegiance to the Government of the United States; which, according to Lord Aberdeen's offer, as I understand it, they would not possess. In point of fact, therefore, the substantial points of the present offer, and those which may be expected to be regarded as most objectionable, are little more than the embodiment of the various offers or suggestions which, at different times, have, in some form or other, proceeded from our own negotiators.

"I have myself always believed, if the extension of the line of boundary on the forty-ninth parallel by the Strait of Fuca to the sea would be acceptable to our Government, that the demand of a right freely to navigate the Columbia River would be compromised upon a point of time, by conceding it for such period as might be necessary for the trade of the Hudson's Bay Company north or south of the forty-ninth parallel. Entertaining great confidence in that opinion, and deeming it only reasonable, I confess that, from an early period, I have used every argument and persuasion in my power to reconcile Lord Aberdeen to such a limitation, and, although I am quite aware that, with a portion of the British public, an importance it by no means deserves is attached to the navigation of the Columbia River, and in that of others it is undeservedly regarded as a point of pride, I have been disappointed by the pertinacity with which it has been, at so much risk, insisted upon. Feeling very sure, however, that the present offer is not made or intended as an ultimatum, I think it only reasonable to infer an expectation on the part of those who are offering it, not only that modifications may be suggested, but that they may be reasonably required. And therefore I still entertain the opinion, that although, from a variety of causes—in part, perhaps, from an expectation that in the United States this point may not be absolutely insisted upon, and in part from deference to interests and impressions at home—they could not be induced in the first instance to make an offer with such a qualification; yet, if the adjustment of the question should be found to depend upon this point only, they would yield the demand to the permanent navigation of the river, and be content to accept it for such a number of years as would afford all the substantial advantages to those interests they have particularly in view that could be reasonably desired. If the only question upon which the adjustment of the Oregon question depended should be whether the navigation of the Columbia River should be granted for a period sufficient to subserve all the purposes of British subjects within the disputed territory, or whether the right should be extended indefinitely to a particular class of British subjects, I must believe that no English statesman, in the face of his denial of a similar privilege to American citizens in regard to the St. Lawrence, would take the hazard upon this point alone of disturbing the peace of the world. Indeed, if the same Ministry from whom the present offer proceeds should continue masters of their own proposition by remaining in office until the qualification I am adverting to would have to be dealt with, I should feel entire confidence in the belief I have now expressed.

"I regret to say, however, that I have not the least expectation that a less reservation than is proposed in favour of the occupants of land between the Columbia and the forty-ninth parallel would be assented to. I may repeat my conviction, founded upon all the discussions in which I have been engaged here, that in making partition of the Oregon Territory, the protection of those interests which have grown up during the joint occupation is regarded as an indispensable obligation on the score of honour, and as impossible to be neglected. I am quite sure that it was at one time in contemplation to insist upon the free navigation of the Columbia River for British subjects and British commerce generally, and that it has been ultimately confined to the Hudson's Bay Company, after great resistance, and, in the end, most reluctantly. Being so confined, however, it would be only reasonable to limit the enjoyment of the right to a period beyond which the company might have no great object to use the river for the purposes of their trade. But the interests of the British subjects who have settled upon, and are occupying lands north of the forty-ninth, are considered as permanent, and entitled, when passing under a new jurisdiction, to have their possession secured. This, at least, is the view taken of the subject by this Government, and not at all likely, in my opinion, to be changed.

"I may add, too, that I have not the least reason to suppose it would be possible to obtain the extension of the 49th parallel to the sea, so as to give the southern cape of Vancouver's Island to the United States.

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"It may not be amiss, before leaving this subject, to call your attention to the position of the present Ministry. The success of their measures respecting the proposed commercial relaxations is quite certain; and the Corn Bill, having now finally passed the House of Commons, may be expected, at no remote day, to pass the Lords by a majority no less decisive. From that time, however, the tie which has hitherto kept the Whig party in support of Sir Robert Peel will be dissolved; and the determination of the Protectionist party, who suppose themselves to have been betrayed, to drive him from office, has lost none of its vigour or power. Indeed, it is confidently reported, in quarters entitled to great respect, that they have even offered to the leader of the Whig party to select his own time, and that, when he is ready, they will be no less prepared to force Ministers to resign.

"I have reason to know that, at present, Ministers themselves believe a change to be inevitable, and are considering only the mode and the time in which it will be most likely to happen. It will not be long, after the success of the measures for the repeal of the Corn Laws, before opportunities enough for the accomplishment of the object will occur. The Factory Bill, regulating the hours of labour, will afford one, and most probably that on which the change will take place. With a knowledge that the change, sooner or later, must be unavoidable, and that the offer has been made to the probable head of a new Ministry to select his own time, may it not be expected that, instead of waiting quietly to allow the Whig leader to select the time of coming in, the present Premier will rather select his own time and mode of going out, and, with his usual sagacity, so regulate his retirement as to leave as few obstacles as possible to his restoration to power? In that case it is not very unlikely he would prefer going out upon the Factory Bill, before taking ground upon more important measures; and, if so, it will not surprise me to witness the coming in of a new Ministry by the end of June, or earlier. With a knowledge of the proposition now to be made, I am not prepared to say that one more objectionable might have been apprehended from a Whig Ministry; unless, indeed, the present Government may be supposed to be prepared to accept qualifications, when proposed by the President, which it was unwilling at first to offer. Upon that supposition, it might be desirable that the modifications should be offered before the coming in of a new Minister, who, finding only the acts of his predecessor, without a knowledge of his intentions, might not be so ready to take the responsibility of assenting to a change.

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"I have, &c.

(Signed) "LOUIS MACLANE."

The following was Mr. Pakenham's report after receiving Lord Aberdeen's despatches of 18th May:—

(No. 68.)

"My Lord, "*Washington, June* 7, 1846.

"Her Majesty's Government will necessarily be anxious to hear as soon as possible the result of my first communications with the United States' Government, in pursuance with your Lordship's instructions of the 18th of May, on the subject of Oregon.

"I accordingly take advantage of the departure of the 'Great Britain' steam-ship to acquaint your Lordship that I had yesterday morning a conference, by appointment, with Mr. Buchanan, when the negotiation for the settlement of the Oregon question was formally resumed.

"As the best explanation which I could offer of the motives which had induced Her Majesty's Government to instruct me to make a fresh, and as your Lordship hoped, a final, proposition for the solution of these long-existing difficulties, I read to Mr. Buchanan an extract from your Lordship's despatch No. 18, beginning with the words, 'In this state of affairs, it is a matter of some anxiety and doubt what steps,' &c., to the end of the despatch. It seemed to me that there was nothing in the observations contained in this part of your Lordship's instructions which might not be advantageously made known to the American Government.

"Your Lordship's language appeared to make a good deal of impression upon Mr. Buchanan. After I read to him the extract which I had prepared from the despatch, he requested to be allowed to read it over himself, in my presence, with which request I of course complied. I thought it best not to leave a copy of it in his hands, having in view the possible, although not probable, failure of the negotiation which might render it desirable to deliver to him a copy at length of the despatch, with a view to its ultimate publication.

"I then laid before him a copy of the draft of a Convention which accompanied your Lordship's despatch No. 19, which Mr. Buchanan said he would immediately submit to the President for his consideration. A minute of what passed between us was then drawn up and signed, with the draft of the proposed Convention formally annexed to it.

"Mr. Buchanan frankly told me that, in his opinion, the only part of the proposed arrangement likely to occasion any serious difficulty, was that relating to the navigation of the Columbia, for he said, that the strongest objection existed to granting the perpetual freedom of the navigation of that river. I did not fail to point out to him the great difference which existed between a perpetual and general freedom of navigation, and the qualified right of navigation contemplated by your Lordship's proposition. He admitted the force of my observations in this sense, but I collect, from what fell from him on this point, that an attempt will be made to limit the proposed concession to the duration of the existing charter of the Hudson's Bay Company.

"At 4 o'clock yesterday evening I again met Mr. Buchanan by appointment, when he told me that the President had come to the determination to submit our whole proposition to the Senate for their advice, and that it would accordingly be sent to the Senate at an early day with a Message, which

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† The last three paragraphs of this letter are omitted here. They have no relation to the question before the Arbitrator, and they have not (as far as Her Majesty's Government know) been published by the United States' Government.

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Message might, and probably would, suggest some modifications of it. What these modifications might be, Mr. Buchanan said, had not yet been determined; but I imagine that they will not involve anything essentially hostile to the adoption of the proposed arrangement, or which may not be overcome by friendly negotiation and explanation between the two Governments.

"As relates to the Senate, my Lord, when we consider the moderate and conciliatory spirit in which the entire question of Oregon has been treated by a large majority of that body since the opening of the present Session of Congress, I think it may be fairly expected that their advice to the President on the reference which is about to be made to them will rather favour than impede an early and satisfactory termination of the Oregon difficulties.

"I should add that, in addition to what Mr. Buchanan said about the navigation of the Columbia, he gave it as his opinion that it would be necessary, and even advisable, with the view to avoid future misunderstanding, to define, or to provide for the early definition of, the limits of the farms and lands now in the occupation of the Puget Sound Agricultural Company, and which it is proposed shall be confirmed to the Association in perpetuity. To such a proviso, if conceived in a spirit of liberality and fairness, I imagine that Her Majesty's Government will have no objection. But upon this point, as well as what relates to the navigation of the Columbia, I will act with due caution, and, to the best of my humble judgment and ability, in conformity with the spirit and intention of your Lordship's instructions, as set forth in your Lordship's despatch No. 19.

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

On the 10th of June, the President of the United States sent this Message to the Senate:—

"I lay before the Senate a proposal, in the form of a Convention, presented to the Secretary of State on the 6th instant, by the Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, for the adjustment of the Oregon question, together with a protocol of this proceeding. I submit this proposal to the consideration of the Senate, and request their advice as to the action which, in their judgment, it may be proper to take in reference to it.

"In the early periods of the Government, the opinion and advice of the Senate were often taken in advance upon important questions of our foreign policy. General Washington repeatedly consulted the Senate, and asked their previous advice upon pending negotiations with foreign Powers; and the Senate in every instance responded to this call by giving their advice, to which he always conformed his action. This practice, though rarely resorted to in latter times, was, in my judgment, eminently wise, and may, on occasions of great importance, be properly revived. The Senate are a branch of the Treaty-making Power; and by consulting them in advance of his own action upon important measures of foreign policy which may ultimately come before them for their consideration, the President secures harmony of action between that body and himself. The Senate are, moreover, a branch of the war-making Power, and it may be eminently proper for the Executive to take the opinion and advice of that body in advance upon any great question which may involve in its decision the issue of peace or war. On the present occasion, the magnitude of the subject would induce me under any circumstances to desire the previous advice of the Senate; and that desire is increased by the recent debates and proceedings in Congress, which render it, in my judgment, not only respectful to the Senate, but necessary and proper, if not indispensable, to insure harmonious action between that body and the Executive. In conferring on the Executive the authority to give the notice for the abrogation of the Convention of 1827, the Senate acted publicly so large a part, that a decision on the proposal now made by the British Government, without a definite knowledge of the views of that body in reference to it, might render the question still more complicated and difficult of adjustment. For these reasons I invite the consideration of the Senate to the proposal of the British Government for the settlement of the Oregon question, and ask their advice on the subject.

"My opinions and my action on the Oregon question were fully made known to Congress in my annual Message of the 2nd of December last; and the opinions therein expressed remain unchanged.

"Should the Senate, by the constitutional majority required for the ratification of Treaties, advise the acceptance of this proposition, or advise it with such modifications as they may, upon full deliberation, deem proper, I shall conform my action to their advice. Should the Senate, however, decline by such constitutional majority to give such advice, or to express an opinion on the subject, I shall consider it my duty to reject the offer.

"I also communicate herewith an extract from a despatch of the Secretary of State to the Minister of the United States at London, under date of the 28th of April last, directing him, in accordance with the joint resolution of Congress 'concerning the Oregon Territory,' to deliver the notice to the British Government for the abrogation of the Convention of the 6th of August, 1827; and also a copy of the notice transmitted to him for that purpose, together with extracts from a despatch of that Minister to the Secretary of State, bearing date on the 18th day of May last.

(Signed) "JAMES K. POLK."

"*Washington, June* 10, 1846."

On the same day the President's Message was considered, and a motion that the Message and documents communicated therewith be referred to the Committee on Foreign Relations was negatived, as was also a motion to postpone the further consideration thereof until 15th June.

On the two next following days the consideration of the Message was continued, and an amendment proposing the addition of a proviso to Article II was moved;* but

* Appendix, No. 5.

ultimately it was resolved on a division, by 38 votes to 12, that the President should be advised to accept the proposal of the British Government.

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On 13th June Mr. Pakenham reported to his Government as follows:—

(No. 77.)
"My Lord, "*Washington, June* 13, 1846.

"In conformity with what I had the honour to state in my despatch No. 68 of the 7th instant, the President sent a Message on Wednesday last to the Senate submitting for the opinion of that body the draft of a Convention for the settlement of the Oregon question, which I was instructed by your Lordship's despatch No. 19 of the 18th of May to propose for the acceptance of the United States.

"After a few hours' deliberation on each of the three days, Wednesday, Thursday, and Friday, the Senate, by a majority of 38 votes to 12, adopted, yesterday evening, a resolution advising the President to accept the terms proposed by Her Majesty's Government. The President did not hesitate to act on this advice, and Mr. Buchanan accordingly sent for me this morning, and informed me that the conditions offered by Her Majesty's Government were accepted by the Government of the United States, without the addition or alteration of a single word.

"At the beginning of our conversation Mr. Buchanan observed to me that the privilege of navigating the Columbia River which, by the second Article of the Convention, is secured to the Hudson's Bay Company, and to British subjects trading with the same, was understood by the Senate to be limited to the duration of the licence under which the Company now carry on their operations in the country west of the Rocky Mountains; to which I replied, that the Article proposed by Her Majesty's Government spoke for itself; that any alteration from the precise wording of that Article which the United States' Government might wish to introduce would involve the necessity of a reference to England, and consequently, to say the least of it, some delay in the termination of the business. This, he seemed to think, under all the circumstances of the case, had better be avoided, and it was finally agreed that fair copies of the Convention should be prepared, and the signature take place on Monday next.*

"On Tuesday, probably, the Convention will be submitted to the Senate, where its approval may now be considered as a matter of course, so that the Treaty, with the President's ratification, may be forwarded to England by the 'Great Western' steam-packet, appointed to sail from New York on the 25th of this month.

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

On 16th June a further Message was sent by the President to the Senate, stating that, in accordance with the resolution of the Senate, a Convention was concluded and signed on 15th June, and that Convention he then laid before the Senate for their consideration, with a view to its ratification.

On the same day and the two next following days the Message was before the Senate. Mr. Benton's speech was made on the 18th. Ultimately, on a division, by a majority of 41 votes to 14, it was resolved that the Senate advised and consented to the ratification of the Treaty.

Mr. Pakenham then further reported as follows:—

(No. 79.)
"My Lord, "*Washington, June* 23, 1846.

"I have the honour herewith to transmit a Convention for the settlement of the Oregon Boundary, which was signed by the United States' Secretary of State and myself, on Monday, the 15th of this month. The terms of this Convention, it will be seen, are in the strictest conformity with your Lordship's late instructions.

"On Tuesday, the 16th, the Convention was communicated to the Senate, and on Thursday, the 18th, it received the approval of that body by a vote of 41 to 14.

"The American counterpart of the Convention, with the President's ratification of it, is forwarded to London by a special messenger, to whose care, with Mr. Buchanan's permission, I commit the present despatch.

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

Lord Aberdeen's despatch in answer to Mr. Pakenham's of 13th June was as follows. It is the document which proves that Mr. MacLane had seen the project of the Treaty:—

(No. 30.) "*Foreign Office, June* 29, 1846.
"Sir, (*P.S.—July* 1, 1846.)

"Her Majesty's Government have received this day, with the greatest satisfaction, your despatch No. 77 of the 13th instant, in which you announce the acceptance by the Senate of the draft of Treaty for the settlement of the Oregon question, which was conveyed to you in my despatch No. 19 of the 18th of May, and also the intention of the President to proceed forthwith to the completion of the proposed Convention.

"In your despatch you state that Mr. Buchanan had observed to you that the privilege of

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* Appendix, No. 5.

Historical Note. 1846.

navigating the Columbia River, which, by the second Article of the Convention, is secured to the Hudson's Bay Company and to British subjects trading with the same, was understood by the Senate to be limited to the duration of the licence under which the Company now carry on their operations in the country west of the Rocky Mountains; to which observation you very properly replied that the Article proposed by Her Majesty's Government spoke for itself.

"Nothing in fact can well be clearer than the language of that Article. In drawing it up I had not the smallest intention of restricting the British right to navigate the Columbia in the manner supposed, nor can I comprehend how such a supposition could have been entertained by the Senate, for I have reason to know that Mr. MacLane fully and faithfully reported to his Government all that passed between himself and me respecting the navigation of the Columbia. In every conversation that we held on the subject of the proposed Treaty, I not only declared to Mr. MacLane that we must insist on the permanent right being secured to us to navigate the Columbia, but I even shewed him the project of the Treaty, and, on his expressing an apprehension that the provision contained in the second Article would not be accepted unless the right of navigation were limited to a term of years, I positively declined to accede to this suggestion.

"I think it right to state these facts, in order to obviate any misapprehension which might possibly hereafter be raised on the construction of the second Article of the Oregon Treaty.

"I am, &c.

(Signed) "ABERDEEN.

"P.S. July 1.—Since writing this despatch, I have held a conversation with Mr. MacLane, in which he has freely and fully confirmed all that I have stated above with reference to his own understanding of the intent of the second Article of the Oregon Treaty.

(Signed) "A."

Two subsequent despatches of Mr. Pakenham to Viscount Palmerston (who had succeeded Lord Aberdeen as Her Majesty's Principal Secretary of State for Foreign Affairs) are as follows:—

(No. 100.)

"My Lord, "*Washington, July* 29, 1846.

"Owing to one of those irregularities which are not unfrequently witnessed in this country, the President's Message to the Senate, submitting, for the advice and opinion of that body, the proposition lately made by Her Majesty's Government for the settlement of the Oregon question, and various other papers connected with that transaction, have found their way into the public papers, notwithstanding that the injunction of secresy has not yet been removed.

"Amongst other papers thus published, a collection of which I have the honour to inclose,* will be found a despatch from Mr. MacLane to his Government, reporting what had passed between the Earl of Aberdeen and himself with relation to the proposition which Lord Aberdeen was about to make to this Government, for the partition of the Oregon Territory.

"It would appear from this despatch that Mr. MacLane had no expectation that the terms proposed by Her Majesty's Government would be accepted here; that he discouraged any such expectation on the part of Her Majesty's Government, considering as 'erroneous' an impression, which he found had been produced in England, 'that the Senate would accept the proposition now offered, at least without any material modification, and that the President would not take the responsibility of rejecting it without consulting the Senate;' and, finally, that he gave it as his opinion to the American Government that the offer then made was not submitted as an 'ultimatum,' nor intended as such; in short, that some modification of its terms would, without much difficulty, be acceded to by England.

"It is most providential, my Lord, that Mr. MacLane's suggestions did not succeed either in England in deterring Lord Aberdeen from making his offer, acccording to his original intention, or here, in inducing the American Government to stand out for some modification of that offer when it was made; for, in either case, all would have been spoiled.

"The President's Message, transmitting the proposition of Her Majesty's Government for the consideration of the Senate is very guarded,—upon the whole, rather deprecating than encouraging the acceptance of the offer; but in this course the President ran no risk and incurred no responsibility whatever, for every one in Washington, at all acquainted with the disposition of the Senate, knew that such a proposition would be accepted by that body, by a large majority.

"I have, &c.

(Signed) "R. PAKENHAM."

(No. 106.)

"My Lord, "*Washington, August* 13, 1846.

"The injunction of secresy having been removed by a Resolution of the Senate, I have the honour herewith to transmit three numbers of the 'Union' official newspaper, containing, in an authentic form ('Union' of 7th August), the papers relative to the conclusion of the Oregon negotiation which I had the honour to transmit in an unauthorized form with my despatch No. 100, and also ('Unions' of 8th and 10th August) two Messages from the President to the Senate, the first communicating for approval the Treaty signed here on the 15th of June, the second communicating documents not before communicated to the Senate relative to the Oregon Territory in answer to a Resolution of the Senate of the 17th June last.

"Amongst the papers thus made public, the one which I should most particularly recommend to your Lordship's attention, is a despatch from Mr. Buchanan to Mr. MacLane dated the 12th of July, 1845

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* There was inclosed in the despatch a copy of the Baltimore Sun newspaper of 23rd July, 1846.

('Union' of 8th August), setting forth the terms on which the President was willing, at that time, to settle the Oregon question, but evidently with little or no expectation that those terms would be accepted by Great Britain, I might almost say with an expectation scarcely concealed that they would be rejected, when, to use Mr. Buchanan's own words, the President would 'be relieved from the embarrassment in which he has been involved by the acts, offers, and declarations of his predecessors' and be justified in going to war for the whole territory.

"The remarkable thing in this despatch is the confidence which it betrays that, in the course which the President had made up his mind to follow with reference to the Oregon question, he would receive the countenance and support of the Senate and the country, even to the extremity of a war with England. The result has shown that, in this expectation, he did not do justice either to the wisdom and integrity of the Senate, or to the intelligence and good sense of the American people.

"Within a few days after the opening of the late Session of Congress it became evident that Mr. Polk's policy respecting Oregon was viewed with no favour by a large majority of the Senate, nor was the war-cry raised by the more ardent partisans of the Administration responded to in any part of the country.

"In process of time this conclusion forced itself on the mind of the President and his advisers, and hence your Lordship will find in the ulterior despatches of Mr. Buchanan to Mr. MacLane a far more moderate and subdued tone, until at last they exhibit a positive and conciliatory desire to settle the question by compromise, the title of the United States to 'the whole of Oregon' having apparently been forgotten.

"If further proof were wanted of the anxiety of this Government to be extricated from the mistaken position in which they had placed themselves, it would be found in the alacrity in which the terms last proposed by Her Majesty's Government for the settlement of the controversy were accepted.

"Sufficient time has now elapsed since the promulgation of the Treaty to enable us to judge of the light in which the transaction has been viewed throughout the country, and it is gratifying to say that it has been everywhere received with satisfaction and applause.

"No evidence whatever of a contrary feeling has come within my observation, except it be among the disappointed advocates of a war policy, who had staked their political fortune upon the adoption of extreme measures, and even in these quarters, I am bound in truth to say that the irritation is rather against the President and his Ministers for having, as they say, deceived and betrayed them, than from any express condemnation of the Treaty itself.

"I have, &c.

(Signed) "R. Pakenham."

CHRONOLOGICAL LIST, showing the Names and Dates of Appointment of the various Principal Secretaries of State for Foreign Affairs in Great Britain, and British Ministers at Washington, and of the various Presidents and Secretaries of State of the United States, and United States' Ministers at London, from 1818 to 1872.*

* Referred to in the Statement, page 2, note *.

GREAT BRITAIN.

British Foreign Secretaries of State.	Period of Office.	British Ministers at Washington.	Dates of Appointment.
Viscount Castlereagh ..	Mar. 4, 1812, to Sept. 16, 1822	Hon. C. Bagot . ..	July 31, 1815
		Sir S. Canning	July 18, 1820
Mr. Canning	Sept. 16, 1822, to April 30, 1827	Sir S. Canning	
		C. R. Vaughan	May 21, 1825
Viscount Dudley and Ward	April 30, 1827, to June 2, 1828	C. R. Vaughan	
Earl of Aberdeen ..	June 2, 1828, to Nov. 22, 1830	C. R. Vaughan	
Viscount Palmerston ..	Nov. 22, 1830, to Nov. 15, 1834	C. R. Vaughan	
Duke of Wellington ..	Nov. 15, 1834, to April 18, 1835	C. R. Vaughan	
Viscount Palmerston ..	April 18, 1835, to Sept. 2, 1841	H. S. Fox	Oct. 2, 1835
Earl of Aberdeen ..	Sept. 2, 1841, to July 6, 1846	H. S. Fox	
		Lord Ashburton (Special Mission) .	Jan. 18, 1842
		R. Pakenham	Dec. 14, 1843
Viscount Palmerston ..	July 6, 1846, to Dec. 27, 1851	R. Pakenham	
		Sir H. Bulwer	April 27, 1849
Earl Granville	Dec. 27, 1851, to Feb. 28, 1852	Sir H. Bulwer	
		J. F. Crampton	Jan. 19, 1852
Earl of Malmesbury ..	Feb. 28 to Dec. 28, 1852	J. F. Crampton	
Lord John Russell ..	Dec. 28, 1852, to Feb. 21, 1853	J. F. Crampton	
Earl of Clarendon ..	Feb. 21, 1853, to Feb. 26, 1858	J. F. Crampton	
		Earl of Elgin (Special Mission) ..	May, 1854
		Vacant	May 28, 1856
		Lord Napier	Jan. 20, 1857
Earl of Malmesbury ..	Feb. 26, 1858, to June 18, 1859	Lord Lyons	Dec. 13, 1858
Lord John Russell ..	June 18, 1859, to Nov. 3, 1865	Lord Lyons	
		Sir F. Bruce	Mar. 1, 1865
Earl of Clarendon ..	Nov. 3, 1865, to July 6, 1866	Sir F. Bruce	
Lord Stanley ..	July 6, 1866, to Dec. 9, 1868	Sir F. Bruce	
		Sir E. Thornton	Dec. 6, 1867
Earl of Clarendon ..	Dec. 9, 1868, to July 6, 1870	Sir E. Thornton	
Earl Granville	July 6, 1870, to	Sir E. Thornton	

UNITED STATES.

Presidents of the United States.	Period of office.	United States' Secretaries of State.	Period of office.	United States' Ministers in London.	Period of appointment.
James Monroe ..	Mar. 4, 1817, to Mar. 4, 1825	John Q. Adams	Mar. 3, 1817, to Mar. 8, 1825	J. Q. Adams ..	Dec. 22, 1817, to April, 1825
				R. Rush ..	
				R. Rush	
				R. King ..	Aug. 1825, to June, 1826
John Q. Adams..	Mar. 4, 1825, to Mar. 4, 1829	Henry Clay ..	Mar. 8, 1825, to Mar. 6, 1829	A. Gallatin ..	Aug. 1826, to Oct. 1827
				W. B. Lawrence (Chargé d'Aff.)	Dec. 1827
				J. Barbour ..	July, 1828, to Sept. 1829
		M. Van Buren	Mar. 6, 1829, to 1831	J. Barbour	
				L. MacLane ..	Sept. 21, 1829, to June 9, 1831
		E. Livingston .	1831 to Mar. 7, 1833	M. Van Buren	Sept. 1831 to Mar. 1832
Andrew Jackson	Mar. 4, 1829, to Mar. 4, 1837	Louis MacLane	Mar, 7, 1833, to June 27, 1834	A. Vail ..	Mar. 1832, to April, 1836
		John Forsyth..	June 27, 1834, to Mar. 5, 1841	A. Stevenson ..	April, 1836, to Oct. 1841
Martin Van Buren	Mar. 4, 1837, to Mar. 4, 1841	John Forsyth ..	.. ..	A. Stevenson	
W. H. Harrison..	Mar. 4 to April 4, 1841	Daniel Webster	Mar. 5, 1841, to May 9, 1843	A. Stevenson	
		Daniel Webster			
		Hugh S. Legare	May 9 to June 24, 1843		
		Abel P. Upshur	June 24, 1843, to Feb. 29, 1844		
J. Tyler ..	April 4, 1841, to Mar. 4, 1845	John Nelson (Acting)	Feb. 29 to Mar. 6, 1844	E. Everett ..	Nov. 1841, to Aug. 4, 1845
		John C. Calhoun	Mar. 6, 1844, to Mar. 5, 1845		
J. K. Polk ..	Mar. 4, 1845, to Mar. 4, 1849	James Buchanan	Mar. 5, 1845, to Mar. 7, 1849	L. MacLane ..	Aug. 5, 1845, to Aug. 15, 1846
				G. Bancroft ..	Nov. 2, 1846, to Aug. 31, 1849
E. Taylor ..	Mar. 4, 1849, to July 9, 1850	John M. Clayton	Mar. 7, 1849, to July 20, 1850	G. Bancroft	
				A. Lawrence ..	Oct. 10, 1849, to Sept. 25, 1852
		Daniel Webster	July 20, 1850, to 1852	A. Lawrence	
Millard Fillmore	July 9, 1850, to Mar. 4, 1853	Edward Everett	1852, to Mar. 5, 1853	J. R. Ingersoll	Oct. 4, 1852, to Aug. 20, 1853
				J. R. Ingersoll	
F. Pierce ..	Mar. 4, 1853, to Mar. 4, 1857	W. L. Marcy..	Mar. 5, 1853, to Mar. 4, 1857	J. Buchanan ..	Aug. 22, 1853, to Mar. 14, 1856
				G. M. Dallas	Mar. 17, 1856, to May 13, 1861 with vacancy from May 1856, to Jan. 1857.
		Lewis Cass ..	Mar. 4, 1857, to Dec. 18, 1860		
J. Buchanan ..	Mar. 4, 1857, to Mar. 4, 1861	S. Black ..	Dec. 18, 1860, to Mar. 4, 1861	G. M. Dallas	
A. Lincoln ..	Mar. 4, 1861, to April 15, 1865	W. H. Seward	Mar. 4, 1861, to Mar. 4, 1869	C. F. Adams ..	May 14, 1861, to May 9, 1868
Andrew Johnson	April 15, 1865, to Mar. 4, 1869	W. H. Seward	.. ..	C. F. Adams	
				R. Johnson ..	Aug. 18, 1868, May 12, 186
General Grant ..	Mar. 4, 1869 to	H. Fish ..	Mar. 4, 1869	R. Johnson	
				J. L. Motley ..	May 13, 1869, to June 1871
				R. C. Schenck	June 22, 1871

Memorandum relative to the Origin and Privileges of the Hudson's Bay Company.*

Memorandum on Hudson's Bay Company.

IN 1669, certain British subjects formed themselves into a Company, for the purpose of undertaking an expedition to Hudson's Bay.

The object of this expedition was two-fold:—

1. To discover a passage through those parts to the Pacific Ocean, or, as it was then oftener called, the South Sea; and

2. To establish a trade in furs, minerals, and other things.

For the encouragement of this enterprise a Royal Charter was granted to the Company on the 2nd May, 1669. By the terms of this Charter, the Company obtained a Royal Grant of the sole trade and commerce of all the seas, streights, bays, rivers, lakes, creeks, and sounds, in whatsoever latitude they should be, lying within the streights commonly called Hudson's Streights, together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, &c., aforesaid, that were not already actually possessed by the subjects of any other Christian Prince or State. The territory thus acquired was to be thenceforth reckoned and reputed as one of the British Plantations or Colonies in America, to be called Rupert's Land.

For nearly a century after the formation of the Company, they confined their posts to the ample territory which had been granted to them by the Charter of Charles II, and left the task of procuring furs to the enterprise of native hunters, who brought the produce of their hunting to the established marts of the Company.

The Company continued to enjoy, until 1784, the monopoly of the trade in these territories, when a rival Company was established, called the North-West Company, which had their head-quarters at Montreal. The North-West Company, instead of following the system of trade adopted by the Hudson's Bay Company, dispatched their servants into the very recesses of the wilderness to bargain with the native hunters at their homes. As the nearer hunting-grounds became exhausted, the North-West Company advanced their stations westwardly into regions previously unexplored; and, in 1806, they pushed forward a post across the Rocky Mountains, and formed a trading establishment on a lake now called Fraser's Lake, situated in 54° north latitude. This would appear to be the first settlement made by civilized men west of the Rocky Mountains.

Other posts were soon after formed amongst the Flat-head and Kootanie tribes on the head waters or main branch of the Columbia; and Mr. David Thomson, the astronomer of the North-West Company, descended with a party to the mouth of the Columbia in 1811. Mr. Thomson and his followers were, according to Mr. Greenhow, the first white persons who navigated the northern branch of the Columbia, or traversed any part of the country drained by it.

In consequence of the rivalry existing between the Hudson's Bay and North-West Companies, which led to frequent conflicts between their respective followers, more particularly with reference to certain settlements formed in the Oregon district by Lord Selkirk, the affairs of the Companies were brought to the notice of Parliament in 1819, and their proceedings were minutely investigated. The Government finally interposed its mediation, and a compromise was effected, by which the North-West Company became merged in the Hudson's Bay Company. Subsequently, and in connection with this arrangement, an "Act for regulating the fur trade and establishing a criminal and civil jurisdiction in

* Referred to in the Statement, page 2, note *.

Memorandum on Hudson's Bay Company.

certain parts of North America" was passed in Parliament,* containing every provision required to give stability to the Hudson's Bay Company, and efficiency to its operations.

By this Act, which was passed in 1821, the Courts of Judicature of Upper Canada were empowered to take cognizance of all causes, civil or criminal, arising in any of the above-mentioned territories, including those previously granted to the Hudson's Bay Company, and in "other parts of America not within the limits of either of the provinces of Upper or Lower Canada, or of any civil Government of the United States."

Shortly before the passing of this Act, the Hudson's Bay and North-West Companies were united; and, on the 6th December, 1821, a grant was made by the King to the Company "of the exclusive trade with the Indians of North America."

By this grant the officers in the service of the Company were commissioned as Justices of the Peace for those countries; and the jurisdiction of the Courts of Upper Canada was rendered effective as far as the shores of the Pacific, the only exception made in that respect being with regard to any territory embraced in the grant, situated "within the limits of any civil Government of the United States." This grant was made for twenty-one years, but before the termination of that period, a further grant was received from the Crown by the Company.

In the grant of 1821 the following reservations were made in favour of the rights of the Crown, and also of those of subjects of foreign States:—

"But we do hereby declare that nothing in this our grant contained shall be deemed or construed to authorize the said Governor and Company, or their successors, or any persons in their employ, to claim or exercise any trade with the Indians on the north-west coast of America, to the westward of the Stony Mountains, to the prejudice or exclusion of any of the subjects of any foreign States who, under or by the force of any Convention for the time being between us and such foreign States respectively, may be entitled to or shall be engaged in the same trade. Provided, nevertheless, and we do hereby declare our pleasure to be, that nothing herein contained shall extend or be construed to prevent the establishment by us, our heirs or successors, within the territories aforesaid, or any of them, of any colony or colonies, province or provinces, or from annexing any part of the aforesaid territories to any existing colony or colonies to us in right of our Imperial Crown belonging, or for constituting any such form of civil government, as to us may seem meet, within any such colony or colonies or provinces."

Such were the provisions made by the British Government for the proper government of the territories situated beyond the Rocky Mountains and on the coasts of the Pacific Ocean. The successful result of these measures for extending the trade of the Hudson's Bay Company, and for forming settlements in these territories by Great Britain, is given in the following extract from Mr. Greenhow's History of Oregon and California, in which he says (page 344):—

"The relative positions of the two parties (Great Britain and the United States) as to the occupancy and actual possession of the countries in question had been materially changed since the conclusion of the former Convention (1818) between them. The union of the rival British Companies, and the extension of the jurisdiction of the Courts of Upper Canada over the territories west of the Rocky Mountains had already proved most advantageous to the Hudson's Bay Company, which had at the same time received the privilege of trading in that country, to the exclusion of all other British subjects. Great efforts were made and vast expenses were incurred by this Company in its efforts to found Settlements on the Columbia River, and to acquire influence over the natives of the surrounding country; and so successful have been those efforts that the citizens of the United States were obliged not only to renounce all ideas of renewing their establishments in that part of America, but even to withdraw their vessels from its coasts. Indeed, for more than ten years after the capture of Astoria by the British, scarcely a single American citizen was to be seen in those countries. Trading expeditions were subsequently made from Missouri to the head-waters of the Platte and the Colorado, within the limits of California, and one or two hundred hunters and trappers from the United States were generally roving through that region; but the Americans had no Settlement of any kind, and their Government exercised no jurisdiction whatsoever west of the Rocky Mountains.

"Under such favourable circumstances, the Hudson's Bay Company could not fail to prosper. Its resources were no longer wasted in disputes with rivals; its operations were conducted with dispatch and certainty; its posts were extended, and its means of communication were increased, under the assurance that the honour of the British Government and nation was thereby more strongly interested in its behalf. The agents of the Company were seen in every part of the Continent—north and north-west of the United States and Canada, from the Atlantic to the Pacific—hunting, trapping, and trading with the aborigines. Its boats were met on every stream and lake, conveying British goods into the interior, or furs to the great depositories on each ocean, to ship to England in British vessels; and the utmost order and regularity were maintained throughout by the supremacy of British laws. Of the trading-posts many were fortified, and could be defended by their inmates—men inured to hardships and dangers—against all attacks which might be apprehended; and the whole vast expanse of territory

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* Act 1 & 2 Geo. IV, cap. 66; July 2, 1821.

above described, including the regions drained by the Columbia, was, in fact, occupied by British forces and governed by British laws, though there was not a single British soldier, technically speaking, within its limits."

Memorandum on Hudson's Bay Company.

The Hudson's Bay Company possessed, in 1844, twenty-two forts or establishments west of the Rocky Mountains, of which several were situated on the coasts.

On the River Columbia were Fort Vancouver, Fort Walla-walla, Fort Okinagan, Fort Colville; on the River Saptin or Lewis, a branch of the Columbia, were Fort Boisé and Fort Hall.

To the south of the Columbia River were Fort George, which occupied the site of the former settlement of Astoria, and Fort Umqua, near the mouth of the Umqua River, which enters the Pacific about 180 miles south of the Columbia.

At Puget Sound was Fort Nasqually, near which place also the Company had a large agricultural establishment.

At the entrance of Fraser's River was Fort Langley, and further north were Fort Alexandria, and Fort M'Laughlin on the coast.

In 1849, a grant of Vancouver's Island was made to the Company by the Crown, but, in 1859, the island was resumed by the Crown, and was made a Colony.

In 1868, the Company surrendered their remaining territorial rights to the Crown, and the territory over which those rights extended, under the title of Rupert's Land, was subsequently admitted into and became part of the Dominion of Canada.

APPENDIX.

APPENDIX.

No. 1.

EXTRACT SHEWING VIEWS OF EARL OF ABERDEEN AND SIR RICHARD PAKENHAM.

Lord John Russell to Lord Lyons, 24th August, 1859; read, and copy given, to United States' Secretary of State.

(Extract.)

I have to state to you that the Earl of Aberdeen, to whom I have referred, informs me that he distinctly remembers the general tenour of his conversations with Mr. MacLane on the subject of the Oregon Boundary, and is certain that it was the intention of the Treaty to adopt the mid-channel of the Straits as the line of demarcation, without reference to islands, the position, and indeed the very existence, of which had hardly at that time been accurately ascertained; and he has no recollection of any mention having been made, during the discussion, of the Canal de Haro, or, indeed, any other channel than those described in the Treaty itself.

I also inclose a Memorandum drawn up by Sir Richard Pakenham, the negotiator of the Treaty of 1846.

Inclosure in foregoing despatch.

Memorandum by Sir R. Pakenham on the Water Boundary under the Oregon Treaty of 1846.

I have examined the papers put into my hand by Mr. Hammond, relating to the line of boundary to be established between the British and United States' possessions on the north-west coast of America, and I have endeavoured to call to mind any circumstance which might have occurred at the time when the Oregon Treaty was concluded (June 15, 1846), of a nature either to strengthen or to invalidate the pretension now put forward by the United States' Commissioner, to the effect that the boundary contemplated by the Treaty, would be a line passing down the middle of the channel called Canal de Haro, and not, as suggested on the part of Great Britain, along the middle of the channel called Vancouver's or Rosario Strait; neither of which two lines would, as I humbly conceive, exactly fulfil the conditions of the Treaty, which, according to their literal tenour, would require the line to be traced along the middle of the channel (meaning, I presume, the whole intervening space), which separates the Continent from Vancouver's Island. And I think I can safely assert that the Treaty of June 15, 1846, was signed and ratified without any intimation to us whatever on the part of the United States' Government, as to the particular direction to be given to the line of boundary contemplated by Article I of that Treaty.

All that we knew about it was, that it was to run "through the middle of the channel which separates the Continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits, to the Pacific Ocean."

It is true that, in a despatch from Mr. MacLane, then United States' Minister in London, to the American Secretary of State, Mr. Buchanan, dated 18th May, 1846, which despatch was not, however, made public until after the ratification of the Treaty by the Senate, Mr. MacLane informs his Government that the line of boundary about to be proposed by Her Majesty's Government would "probably be substantially to divide the territory by the extension of the line on the parallel of 49° to the sea; that is to say, to the arm of the sea called Birch's Bay, thence by the Canal de Haro and Straits of Fuca to the ocean."

It is also true that Mr. Senator Benton, one of the ablest and most zealous advocates for the ratification of the Treaty (relying, no doubt, on the statement furnished by Mr. MacLane), did, in a speech on the subject, describe the intended line of boundary to be one passing along the middle of the Haro Channel.

But, on the other hand, the Earl of Aberdeen, in his final Instructions, dated May 18, 1846, says nothing whatever about the Canal de Haro; but, on the contrary, desires that the line might be drawn "in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the Pacific Ocean."

It is my belief that neither Lord Aberdeen, nor Mr. MacLane, nor Mr. Buchanan, possessed at that time a sufficiently accurate knowledge of the geography or hydrography of the region in question, to enable them to define more accurately what was the intended line of boundary than is expressed in

the words of the Treaty, and it is certain that Mr. Buchanan signed the Treaty with Mr. MacLane's despatch before him, and yet that he made no mention whatever of the "Canal de Haro as that through which the line of boundary should run, as understood by the United States' Government."

My own despatches of that period contain no observation whatever of a tendency contrary to what I thus state from memory, and they therefore so far plead in favour of the accuracy of my recollections.

No. 2.

CORRESPONDENCE BETWEEN MR. BANCROFT AND MR. BUCHANAN.

Mr. Bancroft to Mr. Buchanan.†

Sir, *London, November* 3, 1846.

* * * * * *

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

Very respectfully, &c.

Hon. James Buchanan, (Signed) GEORGE BANCROFT.
Secretary of State.

Mr. Buchanan to Mr. Bancroft.†

† As officially printed in the United States.

Sir, *Department of State, Washington, December* 28, 1846.

I have obtained from the Navy Department, and now transmit to you, in accordance with the request contained in your despatch No. 1 (November 3), the traced copy of Wilkes' chart of the Straits of Haro. This will enable you to act understandingly upon any question which may hereafter arise between the two Governments in respect to the sovereignty of the islands situate between the Continent and Vancouver's Island. It is not probable, however, that any claim of this character will be seriously preferred on the part of Her Britannic Majesty's Government to any island lying to the eastward of the Canal of Arro, as marked in Captain Wilkes' Map of the Oregon Territory. This, I have no doubt, is the channel which Lord Aberdeen had in view when, in a conversation with Mr. MacLane about the middle of May last, on the subject of the resumption of the negotiation for an amicable settlement of the Oregon question, his Lordship explained the character of the proposition he intended to submit through Mr. Pakenham. As understood by Mr. MacLane, and by him communicated to this Department in his despatch of the 18th of the same month, it was—"First, to divide the territory by the extension of the line on the parallel of 49° to the sea; that is to say, to the arm of the sea called Birch's Bay, thence by the *Canal de Haro* and Straits of Fuca to the ocean," &c.

I am, &c.

George Bancroft, Esq., (Signed) JAMES BUCHANAN.
&c., &c., &c.

[Inclosure: Chart of the Straits of Juan de Fuca, Puget Sound, &c. By the United States' Ex. Ex., 1841.]

No. 3.

LETTERS OF MR. CRAMPTON SHEWING MR. BUCHANAN'S OPINIONS.

Mr. Crampton to Viscount Palmerston.

(No. 2.)

My Lord, *Washington, January,* 13, 1848.

On the receipt of your Lordship's despatch No. 21 of the 17th ultimo, by which I am instructed to communicate with the United States' Government with a view to the adoption of early measures for laying down such parts of the line of boundary between the British and United States' territory in North America, described in the Convention of the 15th June, 1846, as the two Governments may, upon mutual consultation, deem it advisable to determine, I waited upon Mr. Buchanan for the purpose of putting him in possession of the views of Her Majesty's Government upon the subject.

After having read to him your Lordship's despatch, together with the Draft of Instructions to the two Commissioners to be appointed in case the views of Her Majesty's Government were coincided in by the Government of the United States, I proceeded to inquire of Mr. Buchanan whether the manner suggested by your Lordship of bringing the matter under the consideration of the President of the United States, by reading to him your Lordship's despatch and presenting to him a copy of the proposed Draft of Instructions, would be admissible.

To this course Mr. Buchanan objected, as being informal, and contrary to the practice of the United States' Government, which coincided, he added, in that respect, with that of the Government of Great Britain, and he requested me, in case your Lordship's instructions did not preclude me from so doing, to communicate to him in writing the present proposal of Her Majesty's Government, together with the considerations upon which it is founded, as explained in your Lordship's despatch. He might otherwise, he said, find it difficult to convey to the President and to his colleagues in the Cabinet as clear an exposition as he could wish of the views of Her Majesty's Government upon the subject, adding that these appeared to him to be so fair and unobjectionable that he could conceive no possible case in which any inconvenience to either Government would result from an unreserved communication of them in writing.

I trust that your Lordship will not disapprove of my having, under these circumstances, so far departed from the course pointed out by your Lordship's instructions as to comply with Mr. Buchanan's request by addressing to him the note of which I have the honour to enclose a copy, and in which I have embodied the substance of your Lordship's despatch.

With respect to the expediency of laying down that part of the boundary line suggested by your Lordship's despatch, Mr. Buchanan said that he coincided in opinion with Her Majesty's Government, but he added that it was his own "impression," although he had not examined the subject with sufficient attention to enable him yet to say that it was his "opinion," that it would be desirable to go further, and to proceed to mark out on the ground, without unnecessary delay, the boundary line from the point where the 49th parallel of latitude meets the shore of the Gulf of Georgia, eastward to where it strikes the Columbia River (the portions for which an estimate is made in the 3rd section of Colonel Estcourt's Memorandum), and this appeared to him to be advisable from the reports he had lately received of the rapid manner in which colonists from the United States are spreading in that direction.

Speaking of the word "channel," as employed in the Convention of June 1846, Mr. Buchanan said that he himself, and he presumed Mr. Pakenham, in negotiating and signing that Convention, had always conceived "channel" to mean the "main navigable channel," wherever situated, but he admitted that he had never himself examined, nor did he even recollect ever to have seen, Vancouver's chart; and although he did not seem prepared to contest the probability of the channel marked with soundings by Vancouver in that chart being, in fact, "the main navigable channel," he evidently hesitated to adopt that opinion without further geographical evidence, throwing out a suggestion that it would perhaps be better that such instructions should be given to the naval officers to be employed as Joint Commissioners, as would enable them both to determine which of the channels was, in fact, the main navigable channel, and to mark the boundary down the middle of that channel so soon as ascertained.

The subject, Mr. Buchanan assured me, should receive the immediate attention of the United States' Government, with every disposition to avoid delay or difficulty in the accomplishment of an object which he felt to be extremely desirable for both Governments.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Mr. Crampton to Mr. Marcy.

Sir, *Washington, February* 9, 1856.

I have been instructed by Her Majesty's Government to call the serious attention of the Government of the United States to the unsatisfactory and hazardous state of things which continues to exist on the boundary which divides the Territory of Washington from the British Possessions occupied by the Hudson's Bay Company; and Her Majesty's Government direct me to express their regret that their repeated remonstrances have not led to any measures which seem to have succeeded in restraining the acts of the authorities of that Territory.

I have already had the honour of addressing your Department (in a note to Mr. Hunter on the 27th July last), respecting the depredations upon the property of the Hudson's Bay Company on the Island of San Juan, by Mr. Ellis Barnes, Sheriff of Watcom County, of the Territory of Washington, in virtue of an alleged claim for taxes due to the authorities of the Territory; and I have now the honour to enclose the copy of a further letter from the Governor of the Hudson's Bay Company, together with its accompanying documents, in regard to the same matter, from which it appears that no reparation whatever has been made to the Company for the very heavy losses which they incurred on that occasion.

You will at once perceive, Sir, that the occurrence in question has arisen out of the conflicting claims of the authorities of Vancouver's Island and of Washington Territory to the jurisdiction of the Island of San Juan, as appertaining, under the provisions of the Treaty between Great Britain and the United States of 1846, to the dominions of their respective Governments.

San Juan is one of the small islands lying in the Gulf of Georgia, between Vancouver's Island and the mainland; and the question which has arisen between the parties regards the position of the channel through the middle of which, by the provision of the Treaty of 1846, the boundary line is to be run.

In the early part of the year 1848, I had the honour, by the instruction of Her Majesty's Government, to propose to the Government of the United States to name a Joint Commission for the purpose of marking out the north-west boundary; and more particularly that part of it in the neighbourhood of Vancouver's Island, in regard to which, as you will perceive from a reference to my note of the 13th January of that year to the Honourable James Buchanan, the Secretary of State of the United States, Her Majesty's Government already foresaw the possibility of the occurrence of misunder-

standing between the settlers of the respective nations: and Her Majesty's Government, moreover, then proposed, in order at once to preclude such misunderstandings, that before instructing their respective Commissioners, the two Governments should agree to adopt as the "channel" designated by the Treaty, that marked by Vancouver in his charts as the navigable channel, and laid down with soundings by that navigator.

Mr. Buchanan entirely concurring in the expediency of losing no time in determining the position of the boundary line, nevertheless felt some objection to adopting the channel marked by Vancouver as the "channel" designated by the Treaty, in the absence of more accurate geographical information, and he suggested that the Joint Commissioners, when appointed, should be in the first place instructed to survey the region in question, for the purpose of ascertaining whether the channel marked by Vancouver, or some other channel, as yet unexplored, between the numerous islands of the Gulf of Georgia, should be adopted as the channel designated by the Treaty, or, in other words, should be found to be the main channel, through the middle of which, according to the generally admitted principle, the boundary line should be run.

To this suggestion Her Majesty's Government, in the hope that immediate measures would be taken by the Government of the United States to name Commissioners to proceed to the spot with those already designated by the British Government, made no objection.

It has been a subject of regret to Her Majesty's Government that, from causes upon which it is unnecessary to dwell, no appointment of Commissioners has, up to the present time, been made by the Government of the United States; and I am now instructed again to press this matter on their earnest attention.

Should it appear possible, however, that this proposal cannot be met by the Government of the United States without further difficulty or delay, I would again suggest the expediency of the adoption by both Governments of the channel marked as the only known navigable channel by Vancouver, as that designated by the Treaty. It is true that the Island of San Juan, and perhaps some others of the group of small islands by which the Gulf of Georgia is studded, would thus be included within British territory; on the other hand, it is to be considered that the islands in question are of very small value, and that the existence of another navigable channel, broader and deeper than that laid down by Vancouver, by the adoption of which some of those islands might possibly fall within the jurisdiction of the United States, is, according to the reports of the most recent navigation, extremely improbable; while, on the other hand, the continued existence of a question of doubtful jurisdiction in a country so situated as Washington Territory and Vancouver's Island, is likely to give rise to a recurrence of acts of a similar nature to those to which I have had the honour of calling your attention, and which I have no doubt would not be less deplored by the Government of the United States than by that of Great Britain.

I am, &c.
(Signed) JOHN F. CRAMPTON.

No. 4.

CONVERSATION AND CORRESPONDENCE BETWEEN MR. BANCROFT AND VISCOUNT PALMERSTON.

Mr. Bancroft to Mr. Buchanan.†

† As officially printed in the United States.

Sir, *United States' Legation, London, August* 4, 1848.

* * * * * *

The Hudson's Bay Company have been trying to get a grant of Vancouver's Island. I inquired, from mere curiosity, about it. Lord Palmerston replied that it was an affair that belonged exclusively to the Colonial Office, and he did not know the intentions of Lord Grey. He then told me what I had not known before, that he had made a proposition at Washington for marking the boundaries in the north-west by setting up a landmark on the point of land where the 49th parallel touches the sea, and for ascertaining the division line in the channel, by noting the bearings of certain objects. I observed that on the mainland a few simple astronomical observations were all that were requisite; that the water in the Channel of Haro did not require to be divided, since the navigation was free to both parties; though, of course, the islands east of the centre of the Channel of Haro were ours. He had no good chart of the Oregon waters, and asked me to let him see the traced copy of Wilkes' chart. He spoke of the propriety of settling definitively the ownership of the several islands, in order that settlements might not be begun by one party on what properly belongs to the other. On returning home I sent him my traced copy of Wilkes' chart, with the note, of which I inclose a copy.

I am, &c.
(Signed) GEORGE BANCROFT.

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§ Inclosure in last foregoing letter.

Mr. Bancroft to Viscount Palmerston.§

My dear Lord, 90, *Eaton Square, July* 31, 1848.

As your Lordship desired, I send for your inspection the traced copy, made for me at the Navy Department, of Wilkes' Chart of the Straits of Juan de Fuca, Puget's Sound, &c. &c. Unluckily, this copy does not extend quite so far north as the parallel of 49°; though it contains the wide entrance into the Straits of Arro, the channel through the middle of which the Boundary is to be continued.

The upper part of the Straits of Arro is laid down, though not on a large scale, in Wilkes' map of

the Oregon Territory, of which I am sorry to say I have not a copy, but which may be found in the Atlas to the Narrative of the United States' Exploring Expedition.

I remain, &c.
(Signed) GEORGE BANCROFT.

Viscount Palmerston to Mr. Bancroft.

Foreign Office, August 24, 1848.

Viscount Palmerston presents his compliments to Mr. Bancroft, and has the honour to return to him herewith, with his best thanks, the traced copy of Wilkes' Chart of the Straits of Juan de Fuca, &c., which Mr. Bancroft so obligingly sent to Lord Palmerston on the 31st ultimo.

Mr. Bancroft to Viscount Palmerston.

My Lord, 108, *Eaton Square November* 3, 1848.

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

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

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

I have, &c.
(Signed) GEORGE BANCROFT.

Viscount Palmerston to Mr. Bancroft.

Sir, *Foreign Office, November* 7, 1848.

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

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

I have, &c.
(Signed) PALMERSTON.

No. 5.

PROPOSED AMENDMENT OF ARTICLE II OF TREATY.

The following was moved in the Senate of the United States, on 12th June, 1846, as an addition to the Resolution advising the President to accept the proposal:—

"With the following proviso at the end of the IInd Article of the proposed Convention, to wit:

"'Provided, That the right of navigating the Columbia River secured to the Hudson's Bay Company, and to all British subjects trading with the same, be limited to the year A.D. 1863, when it shall cease and determine.'"

Mr. Buchanan to Mr. MacLane.

(No. 34.)

Sir, *Department of State, Washington, June* 13, 1846.

The President communicated to the Senate, on the 10th instant, a confidential Message, of which I transmit you a copy, asking their previous advice in regard to the Projet of a Convention for the adjustment of the Oregon question delivered to me by Mr. Pakenham on the 6th instant.

On yesterday the Senate adopted the following resolution:—

"*Resolved*, (two-thirds of the Senators present concurring), That the President of the United States be, and he is hereby advised to accept the proposal of the British Government accompanying his Message to the Senate dated 10th June, 1846, for a Convention to settle boundaries, &c., between the United States and Great Britain, west of the Rocky or Stony Mountains."

The vote of the Senate stood 37* to 12.

I have learned from the best sources that the Senate gave this advice under the conviction that, by

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* So, in the letter as officially printed in the United States.

Appendix.

the true construction of the second Article of the Projet, the right of the Hudson's Bay Company to navigate the Columbia would expire with the termination of their present licence to trade with the Indians, &c., on the north-west coast of America on the 30th May, 1859. In a conversation with Mr. Pakenham to-day I communicated this fact to him, and requested him to state it in his despatch to Lord Aberdeen.

The Treaty will be signed and sent to the Senate on Monday next; and it is more than probable that they will, in some form or other, place upon their records their understanding of its true construction in this particular.

I have, &c.
(Signed) JAMES BUCHANAN

NORTH AMERICA. No. 6 (1873).

(D.)

NORTH-WEST AMERICAN WATER BOUNDARY.

REPLY

OF THE

UNITED STATES

TO THE

CASE OF THE GOVERNMENT OF HER BRITANNIC MAJESTY.

PRESENTED TO

HIS MAJESTY THE EMPEROR OF GERMANY,

AS ARBITRATOR,

UNDER THE PROVISIONS OF THE TREATY OF WASHINGTON,
JUNE 12, 1872.

[For Maps and Charts referred to in this Paper, see North America No. 8.]

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

LONDON:
PRINTED BY HARRISON AND SONS.

REPLY.

[This Reply is printed in a different form from the copy laid before the Arbitrator; it has therefore been necessary to change the *original Marginal References.*]

THE United States on the 12th of December last presented their memorial on the Canal de Haro as the boundary line of the United States of America to the Imperial Arbitrator, and to the Representative of Her Britannic Majesty's Government at Berlin. To the Case of the Government of Her Britannic Majesty, likewise submitted at that time, they now offer their reply. A formal answer to every statement in the British Case to which they take exception, would require a wearisome analysis of almost every one of its pages. They hold it sufficient, to point out a few of the allegations which they regard as erroneous; to throw light upon the argument on which the British principally rest their Case; to establish the consistency of the American Government by tracing the controversy through all its changes to its present form; and, lastly, to apply to the interpretation of the Treaty some of the principles which Her Britannic Majesty's Government itself has invoked.

I.

The argument of Her Britannic Majesty's Government has kept in the background the clear words of the Treaty describing the boundary, and has made no attempt to bring them into harmony with the British claim. On the contrary, in the statement of the question submitted for arbitration, it assumes that the Treaty of 1871 speaks "as if there were more than one channel between the Continent and Vancouver Island through which the boundary may be run." The United States are of the opinion that the Treaty of 1846 designates the Haro Channel precisely as the only channel of the boundary. The words are:—"The channel that separates the Continent from Vancouver's Island;" and there is but one such channel. The so-called Straits of Rosario touch neither the Continent nor Vancouver Island.

British Case, p. 1.

The name of the Continent of South America, as used by geographers, includes the group of islands south of the Straits of Magellan. The Continent of Asia includes Ceylon and Sumatra; the Continent of Europe includes Great Britain and Ireland, and the Hebrides. Asia Minor includes Lesbos, and Scio, and Samos, and Rhodes, and Tenedos; and so the Continent of North America includes all adjacent islands, to the great Pacific.

Were the question to be asked, "What channel separates the Continent of Europe from Candia?" the answer would not draw the line north of the greater part of the Ægean Archipelago, but, like all European diplomacy, would point to the channel south of Santorin. In like manner, when the Treaty speaks of "that channel which separates the Continent from Vancouver Island," nothing is excepted but Vancouver Island itself.

The United States assented, in 1871, to no more than that Great Britain might lay her pretensions before an impartial tribunal, all the while believing and avowing that the simple statement which has just been made is absolutely conclusive on the point submitted for arbitration.

The British Case seeks to draw an inference unfavourable to the American demand from the proviso in the Treaty of 1846 which secures to either party the free navigation of the whole of Fuca's Straits. It is quite true that the right was safe, and was known to be safe "under the public law;" yet it appears from documents printed at the time, that, as the recent assertion by the Russian Government of a claim to the exclusive navigation of a part of the northern Pacific Ocean was recollected, it was thought best to insert the superfluous clause, recognizing the Straits of Fuca as an arm of the sea.

British Case, p. 15.

Senate Documents, vol. ix, doc. 489, p. 44. Appendix to Memorial, No. 42, p. 32.

British Case, pp. 5, 15.

The British Argument seems suited to mislead by its manner of using the name "Straits of Rosario." The first channel from the Straits of Fuca to the north, that was discovered and partly examined in 1790, was the Canal de Haro. The expedition under Lieutenant Eliza explored that channel in June 1791, with the greatest industry and care, and discovered the broad water which is its continuation to the north. That water,

Appendix No. 62, p. 36.

lying altogether to the north of the northern termination of Haro Channel, was named by the expedition, El Gran Canal de Nuestra Señora del Rosaria la Marinera. Thus the Canal de Haro and the true Spanish channel of Rosario form at once the oldest historical continuous channel, as it is the one continuous boundary channel of the Treaty of 1846.

Map K.

Map C.

Admiralty map of Vancouver Island and the Gulf of Georgia, from the surveys of Captain G. Vancouver, R.N., 1793, Captains D. Galiano and C. Veldés, 1792, Captain H. Kellett, R.N., 1847. Published February 28, 1849.

The passage which the British authorities now call the Straits of Rosario, appears as early as 1791 on the map of Eliza as the channel of Fidalgo, Vancouver, coming after Eliza, transferred the name of Rosario to the strait east of the island of Texada. The British Admiralty, soon after receiving the surveys made under its orders in 1847 by Captain Kellett, suddenly removed the name of the Straits of Rosario from the narrow water between the continent and the Island of Texada, where it had remained on British maps for fifty years, to the passage which the Spaniards called the Channel of Fidalgo. And yet the Government of Her Britannic Majesty advances the assertion, that "how the name has come to be" so "applied in modern days, does not appear." For this act of the British Admiralty in February, 1849, there exists no historical justification whatever.

British Case, p. 5.

Map K.

The United States have obtained from the Hydrographical Bureau in Madrid a certified copy of two reports, made in 1791, of the explorations of de Eliza, and a facsimile of a map which accompanied them. On this authentic map, of which a lithographic copy is laid before the Imperial Arbitrator, the position of the Canal de Haro, of the Spanish Canal de Rosario, and of the Channel of Fidalgo may be seen at a glance, as they were determined by the expedition of Eliza in the year 1791.

The British Case exaggerates the importance of the voyage of Captain Vancouver. So far were American fur traders from following his guidance, they were his forerunners and teachers. Their early voyages are among the most marvellous events in the history of commerce. So soon as the independence of the United States was acknowledged by Great Britain, the strict enforcement of the old, unrepealed navigation laws cut them off from their former haunts of commerce, and it became a question from what ports American ships could bring home coffee, and sugar, and spices, and tea. All British Colonies were barred against them as much as were those of Spain. So American ships sailed into eastern oceans, where trade with the natives was free. The great Asiatic commerce poured wealth into the lap of the new republic, and Americans, observing the fondness of the Chinese for furs, sailed fearlessly from the Chinese seas or round Cape Horn to the north-west coast of America in quest of peltry to exchange for the costly fabrics and products of China. They were in the waters of north-west America long

Meare's Voyage, vol. lvi, p. 235; Vancouver's Voyages, vol. i, p. 20. Quimper, MS. Journal. Documento existento en el archivo e Indias en Sevilla. Appendix No. 62, p. 36.

before the Hudson's Bay Company. We know, alike from British and from Spanish authorities, that an American sloop, fitted out at Boston in New England, and commanded by Captain Kendrick, passed through the Straits of Fuca just at the time when the American constitution went into operation, two years before Vancouver, and even before Quimper and de Haro. Americans did not confine themselves to one passage in preference to others, but entered every channel, and inlet, and harbour, where there was a chance of trafficking with a red Indian for skins; and they handed down from one to another the results of their discoveries.

Appendix No. 63, p. 38.

The instruction from the British Admiralty to Captain Vaucouver was prompted by an account, which they had seen, of the voyage or Kendrick, aud the belief, derived from that account, that the waters of the Pacific might reach far into the American continent. Vancouver was therefore instructed to search for channels and rivers leading into the interior of the continent, the farther to the south the better, in the hope that water communication might be found even with the Lake of the Woods. In conformity to these instructions, founded on the voyage of Americans, he entered the Straits of Fuca, and keeping always as near as he could to the eastern shore, he vainly searched the coast to the southern limit of Puget Sound. Turning to the north, he passed through the Channel of Fidalgo, or the spurious Rosario, because his instructions required him to keep near the shore of the continent.

The inference of Her Britannic Majesty's Government, that the so-called Rosario Strait is the Channel of the Treaty because Vancouver sailed through it, is a fallacy. He never committed such a mistake as to represent the so-called Rosario, which he apparently did not even think worthy of a name, as being comparable to the Channel of Haro.

The argument of Her Britannic Majesty's Government misstates the character and exaggerates the value of the chart of Vancouver by assuming that he prepared directions

to mariners for navigation. But the chart which is produced is only one map among many, never published apart from a work, too voluminous, expensive, and rare to find a place on board the small vessels of fur-fraders. The line on his map is nothing more nor less than the track of his own course while engaged in explorations under controlling instructions, and is a track which no ship has followed or is likely to follow.

The British argument frequently refers to the soundings taken by Vancouver in the Fidalgo-Rosario channel; only two such soundings appear on his map, while there are five or six on an arm of the Canal de Haro, and one on its edge showing that its waters were found to be more than 200 feet deep. The chart of these waters for mariners published by the Spaniards in 1795, exhibits many soundings to facilitate the use of the Canal de Haro. If this excellent chart contains no soundings in the great centre of the Channel of Haro, it is for a reason to which Vancouver repeatedly refers, that the usual sounding-lines of those days were not long enough to touch bottom in the deep waters where walls of igneous rock go perpendicularly down hundreds of feet, close even to the shore. "Even nearest the islands," writes de Eliza, "we could not find bottom with a line of forty fathoms." "Proximo à las Islas, no se encuentra fondo con quarenta brazas."

British Case, pp. 6, 8, 9, 14.

Map L.

Appendix No. 64, p. 38.

The British Case assigns in like manner an undue prominence to the trade in the Vancouver waters prior to the Treaty of 1846. As to general commerce, there was none. As to settlements, properly so called, there could be none; for under the British Treaty with Spain, and the Treaty of non-occupation between the United States and Great Britain, impliedly at least, there could be no grants or holdings of territory by individuals or companies of either party. The American voyages on the northwest coast were entirely broken up by the maritime orders and acts of England which preceded the war of 1812; and the American fur trade never recovered from the effects of that war. The trade became a monopoly of the Hudson's Bay Company, and that Company boasted officially that "they compelled the Americans one by one to withdraw from the contests. The United States acknowledged that the boast was true. At rare intervals of years, Americans may have entered Fuca's Straits, but a careful search fails to discover proof that even one single United States' vessel sailed into those waters between the year 1810 and the arrival of the American Exploring Expedition under Wilkes in 1841. A monopoly of the trade was maintained by the Hudson's Bay Company, not against Americans only, but against all ships but their own. What then becomes of the British argument, that trading vessels of other nations were in all that time not known to pass through the Canal de Haro?

British Case, pp. 6, 14,

Appendix No. 67, p. 39.

The Hudson's Bay Company was once a Company of commercial importance, as well as of political influence. But the hunting ground over which it ranged was enormously wide, stretching from Labrador to California and to the Russian settlements in north-western America. They could spare very little of their limited resources for the waters round San Juan Island. Their leading settlement in the west, until 1843, was at Fort Vancouver on Colombia River. Of shipping in their employ, nothing is heard for many years, except of one small steamer, the Beaver, and of one small schooner, the Cadboro. Wilkes in 1841 met only the Beaver. These vessels were accustomed twice a-year to make the trip from Fort Vancouver to the various posts, to distribute supplies and to collect furs. If in these trips they chose to pass through the Fidalgo-Rosario channel, rather than the Canal de Haro, the British Case has omitted to state the reason of the choice. In the semi-annual trip from Fort Vancouver to the trading posts, the first one that was visited was Nisqually, at the head of Puget Sound. A vessel sailing from that part of the United States to Fraser's River would naturally pass through the Fidalgo-Rosario channel. To have taken any other would have been circuitous. A geographical sketch is annexed, from which the reason will appear, why the vessels on these trips passed through the so-called Rosario Straits; not because it was the great channel from the Straits of Juan de Fuca to the north, but because it was the shortest passage between Nisqually in Puget Sound and Fort Langley on Fraser's River. The return voyage, when there was no need of touching at Nisqually, was sometimes made by the Channel of Haro.

Appendix No. 53, p. 23. No. 56, p. 25. No. 58, p. 71. No. 59, p. 28. British Case, pp. 33, 30.

Map N.

"There were no vessels engaged in those waters," writes Rear-Admiral Wilkes of his visit to them in 1841, "except the small and very inefficient steamer, called the Beaver, commanded by Captain McNeill who spoke of it (the Strait of Haro) to me as the best passage, although he was obliged to pass through the Rosario passage.

Appendix No. 53, p. 23.

Again, in narrating the survey of the Haro Channel by the United States' exploring expedition in 1841, the British Case shapes the narrative so as to give the impression that the American expedition regarded the so-called Straits of Rosario as superior to the Haro, while the opposite is the truth. Commodore Wilkes, who commanded the expedition, detached a subordinate officer in the Vincennes to survey the channels among

British Case, p. 9.

the islands of the archipelago; he reserved for himself the more important but less difficult office of surveying the Channel of Haro.

British Case, p. 12. On the 26th page of the British Case it is asserted that the late Mr. Daniel Webster stated in the Senate of the United States, that the great aim of the United States in 1846 was to establish the 49th parallel of the 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."

The inference drawn from this is, that Mr. Webster demanded the line of the parallel of 49° for "the continent" only, and was indifferent as to "the islands."

Mr. Webster was not at that time a member of the Government of the United States, but the leader of the political minority in the Senate, which opposed the administration of that day. The United States, therefore, may, without questioning the great authority of his name, deny that he is to be received as an interpreter of the views of the Cabinet which negotiated the Treaty of 1846. It may, however, surprise the Imperial Arbitrator to learn that Mr. Webster not only did not entertain the opinions attributed to him, but expressed himself in a sense exactly the reverse.

Some members of the Senate insisted on the parallel of 54° 40′ as the American boundary; Mr. Webster declared himself content with the parallel of 49°. But his words were absolute. The British Case puts words into his mouth which he never uttered. What Mr. Webster said was, that the of line 49° was "not to be departed from for any line further south." The words "on the Continent" are an interpolation made by the British Case. In the same debate and on the same day Mr. Webster, to guard against misrepresentation, observed with great solemnity:—

Appendix No. 65, p. 38. "The Senate will do me the justice to allow, that I said as plainly as I could speak, or put down words in writing, that England must not expect anything south of forty-nine degrees."

British Case, Map No. 5. The government of Her Britannic Majesty includes in the charts annexed to its Case a map of Oregon and Upper California drawn by one Preuss, and yet in its printed Case there is not one single word explaining why the map has been produced. The United

Appendix No. 70, p. 41. States know only that on a former occasion Captain, now Admiral Prevost, the British Boundary Commissioner, wrote of it, in his official character, to the American Boundary Commissioner: "I beg you to understaud that I do not bring this map forward as any authority for the line of boundary."

Forty years ago the mountain ranges and upland plains from which the water flows to the Gulf of California, or is lost in inland seas, still remained as little known as the head springs of the Congo and of the Nile. Fremont had thrice penetrated those regions, once or more with Preuss in his service as draughtsman. On the return of Fremont from his third expedition, the Senate of the United States, although he was not then in the public service, instead of leaving him to seek a publisher, on the 5th and 15th of June, 1848, at the instance of Mr. Benton, voted to print his geographical memoir on Upper California, and the map of Oregon and California, "according to the projection to be furnished by the said J. C. Fremont."

In representative governments, each branch of the legislature may order printed what it will; but the order gives no sanction to what is printed. Last winter, for example, the German Diet printed at the public cost, that the German constitution is not worth the paper it is written on. Neither Fremont or Preuss had ever been within many

Senate Miscellaneous Documents, No. 148; 30th Congress, 1st Session. hundred miles of the Straits of Fuca, and Fremont himself says: "The part of the map which exhibits Oregon is chiefly copied from the works of others. The Senate never saw the map as delivered to the lithographer. The work was printed, not under the revision of officers of the Seuate, but solely "subject to the revision of its author." Except for the regions which he had himself explored, Fremont abandoned the drawing of the map

Appendix No. 51, p. 21. to Preuss, who followed "other authorities." While Mr. Preuss was compiling his map, Mr. Bancroft, the representative of his country in London, with full authority from the President and Secretary of State of the United States, delivered to the British Government in the clearest words the declaration of his own Government that the boundary line passes through the middle of the Haro Channel. Any error of Mr. Preuss was therefore perfectly harmless.

And, under any circumstances, what authority could attach to a draught by Mr. Preuss? He was one of the many adventurers who throng to the United States, a mechanic, possessing no scientific culture, and holding his talent as a draughtman at the command of any who would employ him.

The United States are unable to inform the Imperial Arbitrator what authority served as a guide to Mr. Preuss, when he drew the Oregon boundary to suit British pretensions. Not Mr. Benton; his opinion was well known. Not the Senate, which is

the only permanent body under our constitution, and which in the twenty-five years since the Treaty was made, has inflexibly maintained the right of the United States to the Haro boundary. Not Mr. Buchanan, the Secretary of State, whose instructions on the Haro as the boundary, sanctioned by the President and his Cabinet, date from the year in which the Treaty was made. Neither could Preuss have copied the line from printed materials. No such printed materials existed at the time. A wish expressed by the British Minister at Washington slumbered in the Department of State, and was known only to the President and his Cabinet.

Mr. Preuss is no longer living to explain by whom he was misled. Mr. Fremont remembers that Mr. Preuss had among his materials a copy of a manuscript map of the north-west territory by the Hudson's Bay Company, received from one of its officers. Be this as it may, it is enough for the United States to have shown that the map never had the sanction of any branch of their government.

Analogous mistakes have been made in Great Britain, and under weightier authority. Pending the discussion between the two countries, Messrs. "Malby & Co., of London, manufacturers and publishers to the Society for the Diffusion of Useful Knowledge," sent out a large and splendid globe, on which they assigned to the United States by line and colour the whole north-western territory up to the latitude of 54° 40′.

To treat mistakes like these as important is unsuited to negotiations between great Powers. The United States do not complain that the map of Preuss is produced by Her Majesty's Government; for the production of it is a confession of the feebleness of the British Case. They might complain, that Her Britannic Majesty's Government did not state what it hoped to prove by the map. They might complain, that it produced the map without an acknowledgment of its well known worthlessness as an exposition of American opinion. And above all they might complain of the British Government for submitting the map to the Imperial Arbitrator without avowing that its own archives contain a contemporaneous, explicit, and authoritative declaration from the American Government, that the Straits of Haro are the Boundary Channel of the Treaty of 1846.

II.

Having thus drawn attention to the character of the paper which the Government of Her Britannic Majesty has presented as its Case, its allegations in support of its pretensions are next to be examined. The Government of Her Britannic Majesty presents but one argument, and that argument has two branches. The British Government admits, and even insists that the Channel of the Treaty must be a continuous Channel from the 49th parallel to the Straits of Fuca; and it argues, first, that the Strait which it now calls Rosario, but which at the time of making the Treaty of 1846, had "no distinguishing name," must have been the Channel contemplated by the Treaty, because the British, at that time, "had no assurance" that the Canal de Haro "was even navigable;" "had a firm belief that it was a dangerous Strait; and, secondly, that Fuca Straits extend from Cape Flattery to Whidbey Island. In discussing these two points their order will be reversed.

First, then, do the Straits of Fuca, as now pretended by Great Britain, reach to Whidbey Island? The answer depends in a part on the definition of the word "Strait." Her Majesty's Government forget, that the word applies only to a narrow "passage connecting one part of the sea with another." Such is is the lesson taught by all geographers, whether British, or French, or American, or German. As soon as the south-east Cape of Vancouver Island is passed, the volume of water spreads into a broad expanse, filled with numerous islands, and becomes a gulf or bay, but is no longer a strait.

Neither can it be pretended that any exception takes place in the geographical usage of the name "Straits of Fuca, as employed in all the scientific explorations and maps, previous to June 1846. On the contrary, the pretension is hazarded in the face of them all.

The first map of the strait is by the pilot Lopez de Haro; on that the mouth of the so-called Strait of Rosario is named Boca de Fidalgo, and the water to the south of it bears the name of the Gulf of Santa Rosa. Map J.

The map of Eliza, in 1791, confines the name of the Straits of Juan de Fuca to the straits that separate Vancouver Island, on the south, from the continent; and that officer in his report repeats the name of the Gulf of Santa Rosa, as the name of the interior waters. Map K.

The explorers in the Sutil and Mexicana, alike in the Spanish chart of 1795, and in the map annexed to the publication of their voyage in 1802, called the Straits "Entrada," a Spanish word that can extend to no more than an entrance. Map L.

Map C. Next came Vancouver, and the great authority of the British overthrows the British argument beyond room for cavil; for he not only, like all his predecessors, confines the name of Straits of Juan de Fuca to the passage between Vancouver Island on the south and the continent, but, alike in his narrative and on his map, expressly distinguishes those straits from "the interior sea," which he, with great solemnity, named the Gulf of Georgia.

Map E. Map F. The map of Duflot de Mofras, of 1844, and that of Wilkes, in 1845, confine the name of the Straits of Fuca strictly to the waters that really form a strait between the continent and the southern line of Vancouver Island.

The Government of Her Britannic Majesty cannot produce one single map older than 1846 in defence of its views.

The common use of language among the British in Vancouver still corresponds with the undivided testimony of the maps. Pemberton, Surveyor-General of Vancouver Appendix No. 66, p. 39. Island, in a work published in 1860, writes thus of a "stranger steaming for the first time eastward into the Straits of Juan de Fuca:" "On his right hand is Washington Territory, on his left is Vancouver Island; straight before him is the Gulf of Georgia."

Appendix No. 66, p. 39. The statement of Commander Mayne is, if possible, still more precise. Of the Strait of Juan de Fuca, he writes in these words:—"At the Race Islands, the strait may be said to terminate, as it there opens out into a large expanse of waters." Now the Race Islands, or Race Rocks, alike on the British and American maps, lie to the south-west of the Channel of Haro. On the point in question there could be no better authority than Commander Mayne, as he is a man of science, and was employed on the surveys during the period in which Captain, now Admiral, Prevost and Captain Richards acted as the British Boundary Commissioners.

But to refute the British assumption, we need not go outside of the British Case itself. On page 27 it claims the chart of Vancouver as the chart according to which Her Majesty's Government framed the Ist Article of the Treaty, and then most correctly British Case, p. 12. says:—"The name of the Gulf of Georgia is assigned on that chart to the whole of the interior sea."

Thus this branch of the argument offered by the British Government is in flat contradiction to the proper use of language, to nature, to the concurrent testimony of every competent witness, and is given up before the end of the very paper in which it is presented.

We now come to the other branch of the British argument: that prior to 1846 there Appendix Nos. 53, 54, 55, 57, 58, 61. was no assurance that the Canal de Haro was even navigable. That channel is now universally acknowledged to be the best and most convenient for the British. It forms the only line of communication regularly used by them. The mail-steamers take only that route. It is the broadest, it is the deepest, it is the shortest passage; and so it is the only one used by the Government, the traders, the immigrants, and inhabitants of British Columbia. It became the exclusive channel as soon as gold-hunting lured adventurers to that region, and the navigation of those waters was no longer confined to the vessels coasting from one to another of the trading posts of the Hudson's Bay Company. Its superiority appears alike from the chart of the British Admiralty and of Map M. the American Coast Survey. A map is annexed exhibiting in several cross sections the relative depths of its channel.

The plea of ignorance on the part of the British up to 1846 is irrevelant. The Treaty does not designate the channel which was or was not most in use, but the channel which separates the Continent from Vancouver.

In negotiating the Treaty neither side had in view the tracks of the few former fur traders whose course was run; but the great channels provided by nature for future commerce. American statesmen officially foretold at the time to the British negotiators that, under American auspices, flourishing commonwealths, such as we now see in California and Oregon, would rise up on the Pacific.

The plea of Lord Aberdeen's ignorance of the Haro waters rests not on any thing real and tangible which can be investigated, but on something purely ideal; on an unspoken, unwritten opinion attributed to him. It was not set up till after the death of Sir Robert Peel, who professed to understand "the local conformation of that country," and explained it to the House of Commons; nor till after Lord Aberdeen in 1855 had finally retired into private life. It is not pretended by any one that the opinion was well-founded; and as it is erroneous in itself, and never obtained the sanction either of Sir Robert Peel or of Lord Aberdeen, it must be classed among the dreams that come from the realm of shades through the ivory gate.

Moreover, the attention of Lord Aberdeen, two days before he sent out the Treaty to Mr. Pakenham, was specially called to the islands of the Haro Archipelago. On the

15th of May, 1846, he definitely assented, as Mr. MacLane understood him, to the Haro Channel as the boundary. On the 16th, Sir John Pelly, then Governor of the Hudson's Bay Company, the same who boasted that that Company had "compelled" the Americans to withdraw from the fur trade, waited upon Lord Aberdeen with map in hand, pointed out to him the group of islands, wholly on the south of the parallel of 49°, and described in distinct and unequivocal language, as well "as coloured red," "the water demarcation line" which would secure every one of the Haro Islands. Lord Aberdeen, after having his mind thus closely and exactly drawn to the position of those islands, like "the straightforward man" of honour the United States took him for, rejected the "explicit" advice which would, indeed, have prevented the consummation of the Treaty; and, in his instructions and in his draught of the Treaty, stipulated only for the Channel, "leaving the whole of Vancouver's Island in the possession of Great Britain." Appendix No. 67, p. 39.

Further, this plea of ignorance in 1846 that the Channel of Haro was navigable is in itself absurd. For what is a channel? canal? "Fahrwasser?" "Seegat?" A channel means the deepest part of a river or bay, where the main current flows. The word is never used except of water that is navigable. Geographies are full of the names of channels, and the maps of Europe and Asia are studded with them, and who ever before thought of denying any one of them to be navigable? The present British suggestion is without precedent. To say that the Canal de Haro was not known to be navigable is to say that the Canal de Haro was not known to be the "Canal de Haro."

It is very unlucky for the Government of Her Britannic Majesty that its plea of ignorance relates to the waters inside of Fuca Straits. The emoluments of the fur trade; the Spanish jealousy of Russian encroachments down the Pacific coast; the lingering hope of discovering a north-west passage; the British desire of finding water communication from the Pacific to the great lakes; the French passion for knowledge; the policy of Americans to investigate their outlying possessions; all conspired to cause more frequent and more thorough examinations of these waters, even before 1846, than of any similarly situated waters in any part of the globe.

Before that epoch, the water east and south of Vancouver Island had been visited by at least six scientific expeditions, from four several nations; three from Spain, one from Great Britian, one from France, and one from the United States; and the discoveries of all the four nations had been laid before the world.

De Haro, of the Spanish exploring party of 1789, discovered, and partly sounded and surveyed, the one broad and inviting channel which then seemed, not merely the best, but the only avenue by water to the north; and he left upon it his name.

The official reports upon the expedition of Lieutenant de Eliza in 1791, and the large and excellent map which accompanied his narrative, prove that on the 31st day of May, 1791, an armed boat was ordered to enter and survey the canal of Lopez de Haro; but the survey was interrupted by the hostile appearance of six Indian canoes, filled by more than a hundred warriors. On the 14th day of June, the exploration of the Canal de Haro was resumed, and was continued till the whole line of the Canal de Haro was traced from Fuca's Straits to its continuation in the great upper channel. Appendix No. 62.

But the Imperial Arbitrator may ask if these discoveries were published to the world; and the United States answer that they were published before the end of the century, both in Spain and in England. In 1792, the Spanish vessels Sutil and Mexicana, commanded by Captains Galiano and Valdes, taking with them the map of Lieutenant de Eliza, verified and completed the exploration of the interior waters. The results of the three Spanish expeditions were published officially by Spain in 1795, in an elaborately prepared chart for mariners, of which a lithographed copy accompanies this reply. Map I.

The map of Eliza was also communicated to Vancouver in 1792, at the time when he met Galiano and Valdes, in the waters west of Vancouver Island. Thus Captain Vancouver became equally well aware of the superiority of the Channel of Haro. That he put trust in the communications made to him by the Spaniards, is proved beyond a doubt, for he incorporated them into his map. The discoveries of the Spaniards, enriched by additional surveys of Vancouver himself, were published in Great Britain in 1798, in connection with his voyage. Before the end of the 18th century therefore, the relative importance of the channels in the waters east of Vancouver Island was known to everyone who cared to inquire about it, and who could gain access either to the chart published in Cadiz, or to the account of Vancouver's voyage which was issued in London. Her Majesty's Government seem certainly to have been in possession in the surveys of Captains D. Galiano and C. Valdes, for, in the first chart drawn by the British Admiralty of Vancouver Island and the Gulf of Georgia, and published in February 1849, they are cited as equal in authority to the chart of Vancouver and as equally well-known. Appendix to Memorial No. 12, p. 19.

Appendix to Memorial No. 48, p. 36.

As to the result of the French explorations, Duflot de Mofras, in his work published in 1844 reports:

"Dans l'espace qui s'étend de la terre ferme jusqu'à la partie Est de le grande île de Quadra, il existe une foule de petites îles qui, malgré les abris sûrs qu'elles offrent aux navires, présentent à la navigation de grandes difficultés. Le passage le plus facile est par le canal de Haro, entre l'île de Quadra et Vancouver et celle de San Juan."

"In the space between the continent and the eastern part of the large island of Quadra, there is a multitude of small islands, which, in spite of the safe shelters that they offer to ships, presents great difficulties to navigation. The most easy passage is through the Canal de Haro, between the Island of Quadra and Vancouver and that of San Juan."

The testimony of Duflot de Mofras is clear and unequivocal. It is impartial, and it is authoritative, as it occurs in a formal report to his sovereign.

Commodore Wilkes himself, in 1841, made all the surveys and soundings that were necessary for the safe navigation of the Haro Channel, and, in 1845, published officially, both in London and in America, that he had done so.

The American adventurers who collected furs in those waters for the trade with China knew the relative value of the two channels. At Boston, in 1845, Mr. Sturgis, the great representative of that class, describes the Haro Channel correctly as the northernmost navigable channel, and draws the boundary line through the centre of its waters. And his pamphlet, and his map, were known and approved by Lord Aberdeen before the Treaty was framed.

Thus in Cadiz, in Paris, in Philadelphia, in Boston, and in London, the character of the Haro Channel had been publicly made known before the end of 1845.

The British claim that the Hudson's Bay Company navigated those waters from 1827, or 1828, to 1846. Is it credible that for nineteen years they should have sailed a distance of six German miles, and at the end of that time, be able to affirm that they were ignorant of the most obvious, broadest, shortest, nearest, and best channel to Fraser's River? Unless they took the Channel of Haro, they must have passed it twice on every voyage, and a sailor, from the mast-head of a vessel, or even from the deck, could have seen it in all or nearly all its extent.

Appendix No. 66, p. 39.

Governor Douglas, one of the most enterprising and inquisitive of men, famous for his "intimate acquaintance with every crevice on the coast," came, in 1842, with the knowledge and approval of Lord Aberdeen, to select the station for the Hudson's Bay Company near the south-east of Vancouver. From the hill that bears his name, his eye could have commanded the whole of the Canal de Haro, and his experience of the sea would have revealed to him at a glance the great depth of its waters. Moreover, in a good boat, with a favouring wind and tide, he could have passed through the whole channel in less than three hours. To say that he was not thoroughly well aware of its merits is, to those who know the character of the man, beyond the bounds of credibility.

The British Government has not produced one particle of evidence of an older date than 1846, that any one questioned the navigability of the Haro Channel, while all the evidence which the American Government has thus far produced to establish it, is older than the Treaty, is supported by the testimony of four different nations, and proves beyond all possibility of doubt, that before the Treaty of 1846, the superiority of the Canal de Haro was known by all who cared to know anything on the subject.

The testimony which Her Britannic Majesty's Government of to day brings forward to prove the ignorance of its predecessors, is found to be the more groundless the more it is examined. It would be difficult to state too strongly the objections which any British court of law would make to it. The declarations are taken by the one party without notice to the other. The distinguished officers of the Hudson's Bay Company, men like Governor Douglas, are passed by; for they could not be expected to stultify themselves by pleading ignorance of the merits of Haro Channel. Obscure men bear positive testimony to that about which they knew nothing. A set of written questions is presented to them, and in different places, and on different days; they answer in large part in the same words, implying that answers, as well as questions, were prepared beforehand. The testimony thus picked up is of the less value, as the witnesses were not cross-examined; and yet, without being confronted or cross-examined, they involve themselves in contradictions if not in falsehoods.

The questions are framed so as to seem to be to the point, and yet most of them are of no significance.

British Case, pp. 30, 31.

William H. McNeill pretends to have used Vancouver's charts, not knowing that Vancouver made no charts, except as an illustration of his own voyage. Then he affirms that, in coming south from Fraser's River, he went through Rosario Straits; while the

Rosario Straits on Vancouver's map lie far to the north of Fraser's River. Again, he says that the navigation of Haro Straits is much impeded by numerous small islands and rocks; whereas it may be seen by the charts of the British Admiralty, as well as those of the United States' Coast Survey, that the channel is broad and singularly deep, and where the bottom is marked rocky, the soundings show a depth of 300, 600, and even 1,000 feet. The same man puts his name to the statement that what he calls the Strait of Rosario was the only surveyed channel; whereas the Canal de Haro had been surveyed both by Spanish and American expeditions.

William Mitchell testifies twice over that the so-called Rosario Strait was the only known channel; while the Channel of Haro appears on the Spanish chart, on the French, on the American, and is given by Vancouver himself. The same William Mitchell testifies, like McNeill and equally falsely, that, in June 1846, the Straits of Rosario, so-called, were the only surveyed channel. British Case, p. 32.

But Alexander C. Anderson exceeds others in alacrity. He testifies that, as late as 1851, the passage through the Haro Strait was incompletely known. Now the large charts prepared by Wilkes and his officers had been for several years exposed for sale to anybody that chose to buy them, and it is absolutely certain that they were presented by the American Minister at London to Lord Palmerston, British Secretary of State for Foreign Affairs, and by him thankfully acknowledged, in the year 1848; so that the Government of Her Britannic Majesty happily possesses the means of correcting the rash declarations of the last named witness. British Case, p. 35. Appendix No. 51, p. 21.

The American Government cannot offer the rebutting testimony of American mariners, for their fur trade on the north-west coast had been broken up by the British before 1810, and when at a later day they attempted to renew it, they had been forcibly compelled by the officers and servants of the Hudson's Bay Company to give up the field. The American sailors, therefore, who were familiar with those regions have long since gone to slumber with their fathers.

But the British Case enables the American Government to cite the logbooks of the Hudson's Bay Company. It nowhere ventures to say that the log-books of the vessels of the Hudson's Bay Company prove that they never went through the Haro Channel, but only that they used the so-called Rosario Straits as the "leading channel." This is a confession, that the log-books of those vessels show that sometimes one channel was used by them, sometimes the other. It is admitted by the British Case that, in 1843, the "Cadboro" sailed through Haro Straits, and that once, at least, the Hudson's Bay Company's steamer "Beaver" chose the same route. Commander Mayne admits that, when the Hudson's Bay Company established their head-quarters at Victoria, the Canal de Haro became used. In corroboration of this use of the Channel of Haro, especially from the year 1842 to 1846, some affidavits and statements are offered, correcting the testimony contained in the British Case, and confirming facts which the British Case itself admits. From the want of time, no notice could be given to the other party; but among the witnesses will be found some of the highest officers in the army and navy of the United States, as well as men known by their works to the scientific world. British Case, p. 5. British Case, pp. 30, 34. Mayne's "Four Years in British Colombia," p. 39. Appendix Nos. 53, 54, 55, 57, 58, 59, 60, 61.

It is a remarkable characteristic of the British Case that, while it seems to make assertions in language of the most energetic affirmation, it qualifies them so as to make them really insignificant. It might almost be said that the British Case gives up its own theory of the ignorance of Lord Aberdeen as to the character of the Haro Channel; for it affirms not that he was ignorant about its navigability, but that he "had no assurance that it was even navigable in its upper waters." "No assurance" is a very vague expression; so is the phrase "upper waters;" and with them both nothing is asserted, while the form of the statement is an ample confession that Lord Aberdeen was at least perfectly well acquainted with the existence of the strait. When, using the same words with which they introduced their total misapprehension of Mr. Webster's opinion, they write of the Haro channel: "It is not too much to say that Her Majesty's Government had a firm belief that it was a dangerous strait," it is enough to reply that not one word has been presented to show that Lord Aberdeen believed it a dangerous strait, and without his positive testimony, which has not been produced, this is an idle and groundless assertion. British Case, p. 13.

Strange as it is for a great nation to come before a tribunal like that of the German Emperor, and complain that the Treaty which they themselves drafted contains an ambiguity due, not to bad faith, but to ignorance, the United States have avowed themselves ready to abrogate that part of the Treaty on the ground alleged by the British Government, that it might have been made under a mutual misunderstanding; and to re-arrange the boundary which was in dispute before the Treaty was concluded. When put to the Protocols 36 and 37 of Conference between the High Commissioners at Washington.

test, the British are compelled practically to acknowledge the candour and forbearance of the Americans in the formation of the Treaty, and that, if the work were to to done over again, they have no hope of a settlement so much to their advantage. The Treaty, as it is understood by the United States, made very large concessions to Great Britain ; and the British Government insists upon preserving it.

Then, since Her Majesty's Government will not consent to cancel the Treaty, it must be accepted according to its plain meaning; and if its meaning is not plain, the party which drafted it must suffer the consequences of the ambiguity.

III.

The United States have always held the Treaty to be free from ambiguity, and have maintained their understanding of it with unvarying consistency. If between a channel that had a name, and one that had none, the British Government intended to take the channel without a name, it should have described it with distinctness and care; instead of which, the words of their description exclude the channel without a name, and apply exactly and alone to the Haro Channel.

British Case, pp. 14, 15.

In January 1848 the British Minister at Washington, treating the "islets" of the San Juan Archipelago as of "little or no value," expressed a "wish" to the United States that the passage used by Vancouver in passing from Admiralty Inlet to the north might be mutually considered as the channel of the Treaty. No claim whatever was preferred, and the wish was excused, "because otherwise much time might be wasted in surveying the various intricate channels formed by the numerous islets which lie between Vancouver's Island and the mainland, and some difficulty might arise in deciding which of those channels ought to be adopted for the dividing boundary." The letter of Lord Palmerston, under which the British Minister at Washington expressed the wish of Her Majesty's Government, has never been communicated to the Government of the United States.

Appendix No. 68, p. 40.

To Mr. Bancroft, who immediately after the ratification of the Treaty, was selected as the United States' Minister at London, and who on all occasions spoke and wrote of the Canal de Haro as the boundary channel, Lord Palmerston, then Secretary of State for Foreign Affairs, never presented any counter-claim; and the American Minister was persuaded that danger to the immediate peaceful execution of he Treaty arose, not from within the ministry, but from the parliamentary influence of the Hudson's Bay Company, whose desires the Ministers seemed reluctant to adopt.

Appendix No. 51, pp. 21, 22.

Mr. Bancroft did not suffer the authoritative interpretation of the Treaty on the part of his Government to rest on the uncertainty of conversations which time might obliterate, or memory pervert.

On the last day of July 1848, Lord Palmerston observed that he had no good chart of the Oregon waters; and, having asked to see a traced copy of Wilkes' chart, Mr. Bancroft immediately sent it to him with this remark :

"Unluckily this copy does not extend quite so far north as the parallel of 49°, though it contains the wide entrance into the Straits of Haro, the channel through the middle of which the boundary is to be continued. The upper part of the Straits of Haro is laid down, though not on a large scale, in Wilkes' map of the Oregon Territory."

Obtaining from Washington an early copy of Wilkes' surveys, Mr. Bancroft delivered it to Lord Palmerston with the following official note :—

My Lord, "*November*, 3, 1848.

"I DID not forget your Lordship's desire to see the United States' surveys of the waters of Puget's Sound, and those dividing Vancouver's Island from our territory.

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

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

"I have, &c.

(Signed) "GEORGE BANCROFT.

"Viscount Palmerston, &c."

To this formal and authorized announcement of the Haro as a boundary, the answer of Lord Palmerston, written after four days, was in like manner official, and ran as follows :—

"Sir, "*Foreign Office, November* 7, 1848.

"I BEG leave to return you my best thanks for the surveys of Puget's Sound and of the Gulf of Georgia, which accompanied your letter of the 3rd instant.

"The information as to soundings contained in these charts will no doubt be of great service to the Commissioners who are to be appointed under the Treaty of the 15th of June, 1846, by assisting them in determining where the line of boundary described in the Ist Article of the Treaty ought to run.

"I have, &c.

(Signed) "PALMERSTON.

"George Bancroft, Esq., &c."

Here is no pretence of an ignorance of the Channel of Haro as affecting the interpretation of the Treaty; that theory was not started until after the death of Sir Robert Peel; but a calm wise assent to the use of the large charts of Wilkes in running the boundary. And this assent was virtually a concession that the American interpretation was just and true. Lord Palmerston declined all controversy about the Channel. He received a formal authoritative statement of the line as understood by the United States, and in his reply made no complaint and proposed no other interpretation. This note is the first and the last and the only word that the United States possess from Lord Palmerston under his own hand on the subject of the boundary. The correspondence relating to it is inserted in full in the Appendix. The American Minister of that day had very good opportunity to know what was going forward, and every motive to give the most correct information to his Government. Appendix No. 51.

In December 1852, Lord Aberdeen came to the head of affairs. The last official word of the Americans to Great Britain on the boundary had been, that it passes through the centre of the Channel of Haro. At the beginning of his ministry, in the winter of 1852-53, the territorial legislature of Oregon included the whole of the Archipelago of Haro in one of its counties. Had Lord Aberdeen been dissatisfied with the state of the question, he, who made the Treaty and now had returned to power, was bound to have taken this subject earnestly in hand. But he remained silent, made no excuses that he had draughted the Treaty in ignorance, and entered no counter pretension to the American view.

The administration which, in February 1855, succeeded that of Lord Aberdeen, was one over which the Hudson's Bay Company exercised great influence. The progress of colonization demanded a settlement of the question of jurisdiction, the more so as the British Government had made a grant of the Island of Vancouver to that Company. Accordingly, in 1856, the two Governments agreed to send out Commissioners to mark the line of boundary.

The United States, in perfect good faith, gave their Commissioner full powers, and communicated his instructions unreservedly to the British Government. The British Government gave its Commissioner ostensible instructions, which were readily communicated to the United States, but fettered him by additional ones, which were kept secret, and of which the United States repeatedly but vainly solicited a copy, until some years later Lord Malmesbury, in the Ministry of Lord Derby, became once more Secretary of State for Foreign Affairs.

Could the Hudson's Bay Company obtain possession of the Island of San Juan, they would have exclusive possession of the best channel, and of the only safe one in time of war. No British authority in Great Britain or in Vancouver expressed any desire for the so-called Rosario Channel, on which the British Case now affects to lay so much stress. The Members of Her Britannic Majesty's Government did not pretend among themselves to a right to it "as the channel indicated by the words of the Treaty;" but yielding to the importunity of the influential Government of Vancouver, they were willing to hazard an experimental attempt to gain the Island of San Juan. To accomplish this end, the British Commissioner received the following secret instruction:—

"If the Commissioner of the United States will not adopt the line along Rosario Strait, and if, on a detailed and accurate survey, and on weighing the evidence on both sides of the question, you should be of opinion that the claims of Her Majesty's Government to consider Rosario Strait as the channel indicated by the words of the Treaty cannot be substantiated, you would be at liberty to adopt any other intermediate channel which you may discover, on which the United States' Commissioner and yourself may agree as substantially in accordance with the description of the Treaty." Appendix No. 69, p. 41

According to his commission, and according to his ostensible instructions, Captain Prevost was a Commissioner, and no more than a Commissioner to mark the boundary line according to the Treaty of 1846; but, by his secret instructions, which he resolutely

refused to communicate, he was in fact a Plenipotentiary appointed to negotiate for a channel which should take the Island of San Juan from the United States.

It must be borne in mind that Captain Prevost had authority to offer a compromise only on the condition that, after personal examination and the weighing of evidence on both sides of the question, he "should be of opinion that the claims of Her Majesty's Government to consider Rosario Strait as the channel indicated by the words of the Treaty cannot be substantiated." After having been five months within the Straits of Fuca, and after having verified and approved the accuracy of the United States' Coast Survey Chart of the channels and islands between Vancouver Island and the Continent,

Appendix No. 70, p. 41. and after consenting to adopt it for the purpose of determining the boundary line, he proposed such a compromise, as would have left to the United States the so-called Rosario Straits and every island in the archipelago except San Juan.

The Commissioner of the United States, Mr. Archibald Campbell, divined the

Appendix No. 72, p. 41. character of the secret instructions under which Captain Prevost was acting, adhered with intelligence and uprightness to his duty as Commissioner, and "declined to accede to any compromise."

Captain Prevost, the British Commissioner, who by his offer of compromise, had conceded that the British claim to the so-called Rosario Straits "cannot be substantiated," struggled hard to recover the position of a zealous champion of the right of Great Britain to that channel. But for this he had drifted too far, and he was too honest to succeed.

Appendix No. 70, p. 41. As an intrepreter of the Treaty, Captain Prevost writes very correctly: "The channel mentioned should possess three characteristics: 1. It should separate the continent from Vancouver's Island. 2. It should admit of the boundary line being carried through the middle of it in a southerly direction. 3. It should be a navigable channel." He adds: "It is readily admitted that the Canal de Arro is a navigable channel, and therefore answers to one characteristic of the channel of the Treaty."

This admission, written from on board a ship anchored within sight of the Haro Channel, is conclusive as to the first point. As to his second characteristic, a glance at

Map O. the map will show the Imperial Arbitrator, that the line which is drawn due south from the middle of the channel on the parallel of 49°, strikes the Channel of Haro and leaves the so-called Rosario far to the east.

As to Captain Prevost's remaining characteristic, the United States again cite his

Appendix No. 70, p. 41. testimony, for he writes: "The Canal de Haro is the channel separating Vancouver's Island from the continent." To be sure, he adds: it "cannot be the channel which separates the continent from Vaucouver Island." But in that ground no anchor can hold. It is as if one were to own that, in latitude 53° 10′, St. George's Channel separates Ireland from England, and yet insist that England is separated from Ireland by the strait of Menai.

Appendix No. 68, p. 40. In January 1848, during the administration of which Lord John Russell, now Earl Russell, was the chief, the British Minister at Washington, timidly and by way of experiment, expressed a wish that the channel through which Vancouver sailed, might be agreed upon by the two Governments as the boundary.

Appendix No. 73, p. 42. In August 1859, when the internal commotions, which appeared to threaten the disruption of the United States, were already spreading their baleful influences, Lord John Russell, then British Secretary of State for Foreign Affairs, first ventured upon a distinct avowal of the purpose of Her Britannic Majesty's Government to obtain the island of San Juan. In pursuing this object, he sought, in an interview with the Earl of Aberdeen, to obtain the support of that Minister.

The chief interest in this narrative, as far as persons are concerned, centres in Lord Aberdeen. So far as the United States know, he never consented to set his hand to any paper which they would have a right to regard as disingenuous. The United States have

Appendix to Memorial No. 42, p. 32. shown in their Memorial that Mr. McLane, after an interview with Lord Aberdeen on the 15th of May, 1846, reported to his Government that the Treaty line would pass through the Canal de Haro.

The present Agent of the United States in this arbitration resided as Minister in England during the three years following the Treaty, became well acquainted with Lord Aberdeen, conversed with him on its interpretation, and never heard from him one word that conflicted with the report of Mr. McLane. Nor did he ever hear a different interpretation of the Treaty from Sir Robert Peel. Nor during his whole residence in England did he ever hear such difference of interpretation attributed by any one to either of the two.

And, in 1859, Lord Aberdeen is appealed to by Lord John Russell for the aid of his testimony. Unhappily there exists no written answer of his own to the questions put to him; but only a very short report of the interview by Lord John Russell. According to

that report, Lord Aberdeen did not deny that he used the name of the Canal de Haro with Mr. MacLane, though he had no recollection of having done so. Now nothing is more likely than that the words uttered in conversation thirteen years before might have dropped from his memory; and against this failure of memory is to be weighed the despatch of Mr. MacLane, written at the moment of the conversation. But as to the channel which Lord Aberdeen had in view, he is represented as declaring, that he knew none other than that "described in the Treaty itself." Now the channel described in the Treaty, and in Lord Aberdeen's instructions to Mr. Pakenham, is, as we have seen, no other than the Canal de Haro. Appendix No. 73, p. 42.

Left without support by Lord Aberdeen, the British Foreign Office brought forward as its witness Sir Richard Pakenham, who, with Mr. Buchanan, signed the Boundary treaty of June 1846.

In that same year, while everything was still fresh in memory, Mr. Buchanan had recorded his interpretation of the Treaty in an instruction to Mr. Bancroft, the American Minister at London, who, as his colleague in Washington, had taken part in its negotiation, and knew every step of its progress. An instruction written under such circumstances is the portraiture of the inmost mind of its author. "It is not probable," wrote Mr. Buchanan, "that any claim will he seriously preferred on the part of Her Britannic Majesty's Government to any island lying to the eastward of the Canal of Arro, as marked in Captain Wilkes' map of the Oregon Territory. Appendix No. 51, p. 21.

Of the testimony given more than twelve years later by Sir Richard Pakenham, every word, as far as communicated to the United States, is presented in the Appendix. It has no date, but was communicated to the United States in the year 1859. Captain Prevost, in his final letter to Mr. Campbell, the American Commissioner, of November 24, 1857, had written: "I will at once frankly state how far I am willing to concede, but beyond what I now offer I can no further go. . . . . I am willing to regard the space above described [that is, the space between the continent and Vancouver island, south of 49°] as one channel, having so many different passages through it, and I will agree to a boundary line being run through the 'middle' of it, in so far as islands will permit." This is the lead which Sir Richard Pakenham followed. He who signed the Treaty on the British side declared positively as his interpretation of it, that the so-called Straits of Rosario are not the channel intended by the Treaty; and we must hold the British government to this confession, as it received its official approbation. Appendix No. 73, p. 42. Appendix No. 70, p. 41.

It is true he also denied the Straits of Haro to be the channel of the Treaty, using these words: "The Earl of Aberdeen, in his final instructions dated 18th May, 1846, says nothing whatever about the Canal de Haro, but, on the contrary, desires that the line might be drawn "in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the Pacific Ocean."

Now, why was Sir Richard Pakenham introduced to give testimony as to the instruction which he received from Lord Aberdeen? The instruction itself was in the Foreign Office, and was the best authority on the subject, and would have given the whole truth. Sir Richard Pakenham in his testimony leaves out the most important words of his final instructions. Lord Aberdeen, it is true, did not name in them the Channel of Haro by name, but so far from writing anything to "the contrary," he defined it exactly, when, in those same "final instructions," he describes the channel of the Treaty as the channel "leaving the whole of Vancouver Island, with its ports and harbours, in the possession of Great Britain." Appendix to Memorial No. 43, p. 33.

The final interpretation of the Treaty by Sir Richard Pakenham runs as follows:—

"The conditions of the Treaty, according to their liberal tenor, would require the line to be traced along the middle of the Channel, meaning, I presume, the whole intervening space, which separates the Continent from Vancouver Island."

Thus, Mr. Pakenham, the British signer of the Treaty, adopting the theory first communicated to the United States by Captain Prevost eleven years after the Treaty was ratified, rejects entirely the Channel of the so-called Rosario as the Channel of the Treaty. The question now is not between the so-called Rosario and some channel intermediate between it and that of Haro. It is whether the claims of the United States to the Haro, or those of Great Britain to the so-called Rosario, are more in accordance with the true interpretation of the Treaty. The instructions to Captain Prevost show that the British Government had no confidence in the so-called Rosario as being the Treaty Channel; the testimony of Sir Richard Pakenham is that the British Government, at the time of negotiating the Treaty, did not intend the so-called Rosario as the channel, while the words which he suppressed from Lord Aberdeen's final instructions prove the channel of the Treaty to be the Canal de Haro. Adopting the theory of Captain Prevost and Sir Richard Pakenham, Lord John Russell somewhat peremptorily

demanded of the United States the acceptance of that theory, and in an instruction which the British Minister at Washington was directed to communicate to the United States, he wrote :

Appendix No. 73, p. 42.

"The adoption of the central channel would give to Great Britain the Island of San Juan, which is believed to be of little or no value to the United States, while much importance is attached by British colonial authorities, and by Her Majesty's Government, to its retention as a dependency of the Colony of Vancouver's Island.

"Her Majesty's Government must, therefore, under any circumstances, maintain the right of the British Crown to the Island of San Juan. The interests at stake in connection with the retention of that island are too important to admit of compromise, and your Lordship will consequently bear in mind that whatever arrangement as to the boundary line is finally arrived at, no settlement of the question will be accepted by Her Majesty's Government which does not provide for the Island of San Juan being reserved for the British Crown."

To this naked and even menacing demand the American Government made the only fitting reply; and certainly the Imperial Arbitrator will not give an award to Great Britain, because the Vancouver colonial authorities and Her Majesty's Government covet the possession of San Juan.

When the attention of the British Secretary of State was called to the absoluteness

Appendix No. 75, p. 44.

and to the motives of this communication, he answered : "Her Majesty's Government were, by implication, abandoning a large part of the territory they had claimed, and were merely insisting on the retention of an island, which, from the peculiarity of its situation, it was impossible for Her Majesty's Government to cede, without compromising interests of the gravest importance."

Lord John Russell acknowledged the necessity of supporting his pretensions by bringing them into agreement with the words of the Treaty; and therefore, giving

Appendix No. 75, p. 44.

up the channel of the so-called Rosario, he entered into an argument in favour of the channel called on the United States' Coast Survey "the San Juan Channel," on the British Admiralty chart "Douglas Channel," as the channel of the Treaty.

In other words, he interpreted the Treaty simply as giving the Island of San Juan to the British, by which they would gain the exclusive possession of the Haro Channel.

A conclusion is thus made very easy. Captain Prevost, Sir Richard Pakenham, and Lord John Russell unite in renouncing any Treaty right to the so-called Rosario Channel, and unite in the opinion that the Douglas Channel has a better right to be regarded as the channel of the Treaty than the so-called Rosario. There is no escape from this culminated evidence thus furnished by the British Government: first, in the instructions of Lord Aberdeen to Mr. Pakenham; second, in Mr. Pakenham's declaration of the meaning of the British Government at the time the Treaty was negotiated; third, in the instructions to Captain Prevost; and, fourth, in the statements of Lord John Russell, that the so-called Rosario Strait was not the channel through which, in the interpretation of the British Government, the boundary line was to be run. It further shows that, up to the date of the instructions to Captain Prevost in 1856, the British Government had never suggested any other than the Haro and the so-called Rosario Channel. Their own evidence, excluding the Rosario Straits from their contemplation at the date of the Treaty, leaves the Haro as the only possible channel within the contemplation of either party, and the only one in accordance with the true interpretation of the Treaty.

36th Protocol of Conference between the High Commissioners at Washington.

One more effort was made for the settlement of the question by the two Governments. On the 15th day of March, 1871, the Commissioners on the part of the United States and the Commissioners on the part of Great Britain, in a Conference at Washington took up the North-Western Boundary Question, and when no agreement could be arrived at respecting the proper interpretation of the Treaty of June, 1846, the American Commissioners expressed their readiness to abrogate the whole of that part of the Treaty of 1846, and rearrange the boundary line which was in dispute before that Treaty was concluded. At the Conference on the 20th of March, 1871, the British Commissioners declined the proposal.

On the 19th of April the British Commissioners, willing to renounce all claim to the so-called Rosario, renewed the offer of the line which had before been pressed by Captain Prevost, and maintained as the line of the Treaty by Sir Richard Pakenham and by Lord John Russell. The American Commissioners on the instant declined to entertain the proposal, and the British Commissioners could not consent to regard the Channel of Haro as the boundary "except after a fair decision by an impartial arbitrator."

IV.

The United States have already asked your Majesty's attention to rules of international law applicable to the interpretation of the Treaty submitted for arbitration.

They agree with the British Government, that "the words of a Treaty are to be taken to be used in the sense in which they were commonly used at the time when the Treaty was entered into," and ask your Majesty to interpret the words "Fuca's Straits" according to the usage established by all the maps and reports prior to 1846. British Case, p. 6.

They further agree, that "Treaties are to be interpreted in a favourable rather than an odious sense;" but they did not in their Memorial invoke this rule, though it so decisively confirms their rights, because they had no fear that the German Emperor could give to the Convention an odious interpretation. Since, however this rule of interpretation has been brought forward by the Government of Her Britannic Majesty, the United States must explain the immeasurably odious nature of the interpretation which the British Government desires your Majesty to adopt. British Case, p. 13.

The United States, in signing the Treaty of 1846, had in view permanent relations of amity with Great Britain, and therefore dealt with it generously in the Treaty, that there might remain to that Power no motive for discontent or cupidity. When they consented that Great Britain should hold the southern cape of Vancouver Island, they knew that the harbour of that cape was the very best on the Pacific, from San Francisco to the far north. The United States took also into consideration that Great Britian needed to share, and had a right to expect to share in the best line of communication with its possessions to the north.

A ship using the so-called Rosario Strait may be exposed to cannon-shot, not only as it enters that strait, but nearly all the way as it sails through it. One British Ministry after another has shown, that it set no value upon it whatever, and has represented that it was not contemplated by Treaty as a boundary, and has used the claim to it only as a means of driving the United States into a surrender of the Island of San Juan.

A ship, as both parties agree, can enter the Channel of Haro and not be under any necessity of passing within territorial waters on either side of the central line.

This passage by the Haro Channel to the British possessions north of 49°, is the shortest, the most convenient, the best, and the only perfectly safe one, alike in peace and in war. Of this channel, the United States by the Treaty of 1846 conceded the joint possession to the British, but they concede it with circumstances of peculiar generosity, or rather magnanimity. In passing from the lower part of the Haro Channel to the upper interior waters, they allow to Great Britain equal right with themselves to pass through the Haro Channel to the true Rosario of the Spaniards, the British Gulf of Georgia. Thus far the United States reserve to themselves no advantage over the English. They go farther. There are two other channels connecting the Straits of Haro with the upper waters: one of them a little above 49°, at the Portier Pass; the other below 49°, through Swanson Channel and Active Pass. As to both of these, the United States leave to the British the exclusive possession of the islands on each side. This is a great concession, far outweighing in value any advantage the Americans may gain in the so-called Rosario Straits. The regular track of the British steamers between south Vancouver and Fraser's River is through the Channel of Swanson and Active Pass, a wide sheltered channel, to them the shortest and most convenient, never freezing in winter, with water nowhere less than 90 feet deep, as easy of navigation as any part of the broadest and most magnificent river in Europe. Map O.

To keep all these advantages and to acquire exclusive possession of the Channel of Haro became the uncontrollable desire, first of the Hudson's Bay Company, then of the politicians of Vancouver Island. The conduct of the United States merited a better requital.

The demand of the Government of Her Britannic Majesty is as contrary to every principal of convenience, equity, and comity, as it is to the intention and the language of the Treaty of 1846. To ask the United States to give up their equal right in the Canal de Haro is to ask them to shut themselves out of their own house. They own the continent east of these waters to the Lake of the Woods, a distance of twenty-eight degrees of longitude. It is within the bounds of belief that they should have given up to Great Britain the exclusive possession of the best channel, and the only safe channel, by which they could approach their own vast dominions on the north? Grant the English demand, draw the line of boundary through the so-called Rosario Channel, and the Americans would have access to their own immense territory from the Pacific, only by the good-will of the English. Such an interpretation of the Treaty is so unequal, so

partial to Great Britain, so opposite to the natural rights of the United States, so inconsistent with the words of the Treaty, that the American Government holds itself deeply aggrieved by the British persistence in demanding an interpretation in so "odious a sense."

The United States, it may once more be said, had not the intention to present the subject in this light to the Imperial Arbitrator, for they confide entirely in his justice. But since Her Majesty's government apparently assumes that an award in favour of the American Government would be "odious," the United States must not neglect to invite attention to the true aspect of the case.

The American Government is the more surprised at this manner of presenting the subject by the Government of Her Britannic Majesty, inasmuch as Captain Prevost, after months employed in exploring the waters, conceded that the British claim to the so-called Rosario Strait "could not be substantiated," and this opinion was formally adopted by Sir Richard Pakenham and by Lord John Russell; the latter of whom himself declares, that he abandoned by implication all but the Island of San Juan.

Another reason why an award in favour of the so-called Rosario as the channel would be odious, is, that it would transfer to the foreign allegiance of Great Britain islands east of San Juan, which have long been and are now in the undisputed possession of the United States. The United States have likewise been virtually in possessisn of the Island of San Juan; though each party maintains in it a small garrison. The civil population on that island is thoroughly American. Out of 96 resident males of 21 years of age and upwards, the number of American citizens is 56; the number of those born in Great Britain and Ireland is but 26. Of both sexes and all ages, there are 179 Americans and but 52 of British nationality on the Island of San Juan. In the whole archipelago, the American population numbers 314, the British but 90. How unsuitable it would be then, to assign to Great Britain islands which have never been out of the possession of the United States, and which are occupied almost exclusively by their citizens!

Appendix No. 76, p. 45.

The United States do not understand how a controversy could have arisen on the meaning of the Boundary Treaty of June 15, 1846. It will be remembered that it was they who, in the administration of Sir Robert Peel, recalled the intimation of Mr. Huskisson in 1826, and suggested that the disputed boundary might be arranged by just so much deflection from the forty-ninth parallel, as would leave the whole of Vancouver Island to Great Britain. For more than two years, through two successive envoys, they continued to propose this settlement. At length Lord Aberdeen consented to it. The language of the Treaty for carrying out the arrangement came from him. The United States accepted it in the sense in which they had suggested it; and by all rules for the equitable construction of contracts, Great Britain ought not now to attach to it a sense, different from that in which Lord Aberdeen must have known that the United States accepted it. Moreover, before the Treaty of June 1846 was signed, Lord Aberdeen, well knowing by the experience of more than two years that the United States had proposed as their ultimatissimum, not to divide Vancouver Island, instructed the British Minister at Washington, that what England was to obtain was the channel "leaving the whole of Vancouver's Island in the possession of Great Britain." Thus both Parties had the same object in view; both Parties intended the same thing and expressed in writing their intentions before the Treaty was signed. The Government of the United States of that day assented to the Treaty of 1846, with the understanding, communicated in advance to the British Government, that the boundary line was to deflect from the 49th parallel for the sole purpose of giving the south of Vancouver Island to Great Britain, so that it was necessarily to pass through the Canal de Haro. The American Senate accepted it in that sense and only in that sense. After it had been accepted, and before the ratifications were exchanged, Sir Robert Peel in the House of Commons announced in memorable words, that Her Majesty's government had made the contract in the same sense. Not long afterwards the present Agent of the United States in this arbitration, then the Plenipotentiary of the United States near the Court of St. James, officially called the official attention of Lord Palmerston to this construction; and from Lord Palmerston, then the British Secretary of Foreign Affairs, who, on the 29th of June, 1846, had, as a member of the House of Commons, listened to Sir Robert Peel's interpretation of the Treaty, and, with the knowledge of this interpretation, had on the same evening welcomed it as honorable to both countries, the note of the American plenipotentiary received the acquiescence of silence.

Appendix to Memorial, Nos. 10 and 19, pp. 18, 21.

Appendix to Memorial. No. 46, p. 34.

The broad and deep Channel of Haro, in its ceaseless ebb and flow, is the ever faithful and unimpeachable interpreter of the Treaty. Time out of mind, it formed the pathway

for the canoe fleets of the Red Men. It is the first channel discovered by Anglo-Americans or Europeans within the Strait of Fuca; it is the first that was explored and surveyed from side to side; it is the first through which Europeans sailed from the Fuca Strait to the waters above the parallel of 49. And now, in the increase of emigration and trade, it approves itself as "the channel" of commerce by the unanimous choice of the ships of all nations.

Everything favours a peaceful adjudication. The influential and active Hudson's Bay Company has ceased to exist. The United States have paid them, and all other British companies or citizens, for their possessory rights large indemnities, which they themselves and the British Government acknowledge to be most ample. The generation of Britons who reluctantly assumed the unwelcome task of keeping the fruitful region of North-West America in a wilderness condition, has passed away. Under the genial influence of the United States, cities rise on the stations of fur-traders, and agriculture supersedes hunting and trapping. This condition of the country facilitates the final recognition of the rights of the United States; and encourages the belief than an award favourable to them will be accepted without an emotion of surprise or discontent.

APPENDIX TO THE REPLY.

Appendix to the Reply.

No. 51.

Correspondence between Mr. Bancroft, Mr. Buchanan, and Lord Palmerston.

Mr. Bancroft to Mr. Buchanan.

Sir, *London, November* 3, 1846.

* * * * * *

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

The Straits of Haro the Treaty boundary.

Very respecfully, &c.

Hon. James Buchanan, (Signed) GEORGE BANCROFT.
Secretary of State.

Mr. Buchanan to Mr. Bancroft.

Sir, *Department of State, Washington, December* 28, 1846.

I HAVE obtained from the Navy Department, and now transmit to you, in accordance with the request contained in your despatch No. 1 (November 3rd), the traced copy of Wilkes's chart of the Straits of Haro. This will enable you to act understandingly upon any question which may hereafter arise between the two Governments in respect to the sovereignty of the islands situate between the continent and Vancouver's Island. It is not probable, however, that any claim of this character will be seriously preferred, on the part of Her Britannic Majesty's Government, to any island lying to the eastward of the Canal of Arro, as marked in Captain Wilkes's "Map of the Oregon Territory." This, I have no doubt, is the channel which Lord Aberdeen had in view, when, in a conversation with Mr. McLane, about the middle of May last, on the subject of the resumption of the negotiation for an amicable settlement of the Oregon Question, his Lordship explained the character of the proposition he intended to submit through Mr. Pakenham. As understood by Mr. MacLane, and by him communicated to this Department, in his despatch of the 18th of the same month, it was—"First, to divide the territory by the extension of the line on the parallel of 49° to the sea, that is to say, to the arm of the sea, called Birch's Bay; thence by the Canal de Haro and Straits of Fuca to the ocean," &c.

Mr. Buchanan instructs Mr. Bancroft that Haro is the boundary channel.

I am, &c.

George Bancroft, Esq., (Signed) JAMES BUCHANAN.
&c. &c. &c.

[Inclosure: Chart of the Straits of Juan de Fuca, Puget Sound, &c. By the United States' Exploring Expedition, 1841.]

Mr. Bancroft to Mr. Buchanan.

Sir, *Legation of the United States, London, March* 29, 1847.

* * * * * *

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

Mr. Bancroft warns Mr. Buchanan of the designs of the Hudson's Bay Company.

Such a proposition is in itself very proper, if there be no ulterior motive to raise unnecessary doubts and to claim islands that are properly ours. The Ministry, I believe, has no such design. Some of its members would be the first to frown on it. But I am not so well assured that the Hudson's Bay

Company is equally reasonable; or that, on the British side, a Boundary Commissioner might not be appointed favouring the encroaching propensities of that Company. * * * *

I am, &c.

James Buchanan, Esq., (Signed) GEORGE BANCROFT.
&c. &c. &c.,
Washington City.

Mr. Bancroft to Mr. Buchanan.

Sir, *United States' Legation, London, August* 4, 1848.

* * * * * *

Mr. Bancroft's interview with Lord Palmerston.

THE Hudson's Bay Company have been trying to get a grant of Vancouver's Island. I inquired, from mere curiosity, about it. Lord Palmerston replied that it was an affair that belonged exclusively to the Colonial Office, and he did not know the intentions of Lord Grey. He then told me what I had not known before, that he had made a proposition at Washington for marking the boundaries in the north-west by setting up a landmark on the point of land where the 49th parallel touches the sea, and for ascertaining the division line in the channel by noting the bearings of certain objects. I observed that on the mainland a few simple astronomical observations were all that were requisite; that the water in the Channel of Haro did not require to be divided, since the navigation was free to both parties; though, of course, the islands east of the centre of the channel of Haro were ours. He had no good chart of the Oregon waters, and asked me to let him see the traced copy of Wilkes' chart. He spoke of the propriety of settling definitively the ownership of the several islands, in order that settlements might not be begun by one party on what properly belongs to the other. On returning home I sent him my traced copy of Wilkes' chart, with the note of which I inclose a copy.

I am, &c.

James Buchanan, Esq., (Signed) GEORGE BANCROFT.
Secretary of State, Washington, D. C.

Mr. Bancroft to Lord Palmerston.

My dear Lord, 90, *Eaton Square, July* 31, 1848.

Mr. Bancroft writes to Lord Palmerston that Haro is the boundary.

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

I remain, &c.

Viscount Palmerston, (Signed) GEORGE BANCROFT.
&c. &c. &c.

Mr. Bancroft to Mr. Buchanan.

Sir, *United States' Legation, London, October* 19, 1848.

Mr. Bancroft continues the suggestion that unjust claims may be made.

I SEND you a map of Vancouver's Island, recently published by James Wyld, geographer to the Queen. It purports to mark by a dotted line the boundary between the United States and Great Britain. You will see that this map suggests an encroachment on our rights by adopting a line far to the east of the Straits of Haro. You may remember that Mr. Boyd, more than two years ago, suggested to you that a design of preferring some such claims existed. I inferred, from what I could learn at that time, that this design grew up with the Hudson's Bay Company, and I had no reason to suppose it favoured by the Colonial Secretary * * * *

I am, &c.

James Buchanan, Esq., (Signed) GEORGE BANCROFT.
Secretary of State, Washington, D. C.

Mr. Bancroft to Lord Palmerston.

My Lord, 108, *Eaton Square, November* 3, 1848.

Mr. Bancroft officially informs Lord Palmerston that the boundary runs through the middle of the Channel of Haro.

I DID not forget your Lordship's desire to see the United States' surveys of the waters of Puget's Sound and those dividing Vancouver's Island from our territory.

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

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

I have, &c.

Viscount Palmerston, (Signed) GEORGE BANCROFT.
&c. &c. &c.

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Lord Palmerston to Mr. Bancroft.

Sir, *Foreign Office, November* 7, 1848.

I BEG leave to return you my best thanks for the surveys of Puget's Sound, and of the Gulf of Georgia, which accompanied your letter of the 3rd instant. Lord Palmerston gives the acquiescence of silence to the Haro Channel as the boundary.

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

I have, &c.

George Bancroft, Esq., (Signed) PALMERSTON.
&c. &c. &c.

No. 52.

Mr. Bancroft to Mr. Campbell.

Sir, *New York, June* 15, 1858.

YOUR letter of May 27 has but just reached me, in consequence of my absence from home on a long journey. Mr. Bancroft refers Mr. Campbell to his correspondence with Lord Palmerston.

I was in the administration of Mr. Polk at the time when Mr. Buchanan perfected the Treaty for settling the boundary of Oregon. The basis of the settlement was the parallel of 49°, with the concession to Britain of that part of Vancouver's Island which lies south of 49°. The United States held that both parties had a right to the free navigation of the waters round Vancouver's Island, and therefore consented that the British boundary should extend to the centre of the Channel of Haro. Such was the understanding of everybody at the time of consummating the Treaty in England and at Washington. The Hudson's Bay Company may naturally enough covet the group of islands east of that channel, but the desire, which never can amount to a claim, should not be listened to for a moment.

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

Yours sincerely,

Archibald Campbell, Esq., (Signed) GEORGE BANCROFT.
Commissioner, &c.

No. 53.

Declaration of Rear-Admiral Wilkes.

Washington City, February 16, 1872.

IN answer to the Memorandum on the Haro question, I have to state that I have a full knowledge of the islands and waters lying between the Straits of Fuca and the Gulf of Georgia, having surveyed the whole whilst I was in command of the United States Exploring Expedition, and I state of my own knowledge that the Canal de Haro is the best and shortest route between the same. The depth of water is very great, and all obstructions to the navigation of the Canal de Haro are visible. Indeed it may be said to be an arm of the sea, passing from the Straits of Fuca to the Gulf of Georgia, and separating the Island of Vancouver from the main or continent of America, comprising now the territory of Washington, and it is the natural communication between the Gulf of Georgia and Fuca Straits, leading or tending north and south, and has now become the great highway of commerce, between Victoria on the Island of Vancouver and the Fraser's River, a few miles north of the 49th parallel, the boundary of the United States and the north-west British America. The Strait of Haro may be navigated at all times, day or night, with perfect safety, and nature has conferred upon it all that could be desired to be a well-defined national highway, between the Island of Vancouver and the smaller and intricate passages through the small archipelago lying on its eastern side, which all are more or less intricate, narrow in places to a few hundred yards, and with very rapid tides. One of Rear-Admiral Wilkes on the Channel of Haro.

these passages, lying on the east of this small archipelago, was named by me as Ringgold Channel, but at times called the Rosario Strait; its width does not entitle it to the name of a strait, and, with its many and dangerous islets, rocks, and shoals, it is a very unsafe and difficult channel to navigate, even in the day time, and impossible, with any assurance of safety, in the night time. It cannot be compared with the Strait of Haro in any point of view, and can only be used by small vessels seeking anchorage in the event of disaster and bad or boisterous weather. While the Strait of Haro affords like facilities for anchorage under the islands on the east side, it may be safely navigated, and affords ample protection in its sea-room for the largest class of vessels.

The Strait of Haro, though known at the time of my survey in 1841, it was not visited, as there were no vessels engaged in those waters, except the small and very inefficient steamer [called the "Beaver," commanded by Captain McNeil, who spoke of it to me as the best passage, although he was obliged to pass through the Rosario passage on account of the necessity of seeking the small coves at night, in passing along the east shore towards Fraser's River, to supply the Post of the Hudson's Bay Company, and this was only achieved twice a year.

All the vessels now engaged in the trade from Victoria to Fraser's River and the Gulf of Georgia invariably pass through the Haro Straits, which verifies my opinion, when I first surveyed it, that it would become the great and only highway between the Straits of Fuca and the Gulf of Georgia, and such it has now become. I consider that, in the Treaty between the British Government and the United States, there is no other passage that could be considered as adapted to the terms of the Treaty. and both parties to that instrument must have been of like views in relation to it. All the charts used as information show the same broad channel and superiority of the Gulf of Haro over any other line to the sea, and there can scarcely be a doubt that it was so understood by the Commissioners of both sides.

(Signed) CHARLES WILKES,
Rear-Admiral of the United States' Navy.

No. 54.

Commodore Case to the Secretary to the Navy.

Sir, *Bureau of Ordnance, Navy Department, February* 13, 1872.

* * * * * *

Statement of Commodore Case on the Canal de Haro.

I WAS a Lieutenant on board of the sloop of war "Vincennes" attached to the United States Expedition commanded by Lieutenant Charles Wilkes, and one of the surveying party in July 1841, which surveyed the Canal de Haro, the main ship channel for vessels bound from the sea northward inside of Vancouver's Island, for the Strait of Georgia, Fraser's River, &c.

The canal is deep, clear, and navigable for vessels of all sizes or draught.

While we were engaged in the survey of the Straits of Juan de Fuca and its adjacent waters, the only vessel then navigating them was the Hudson's Bay Company's steamer "Beaver," which was employed by it supplying stores to, and collecting peltry from, its trading ports on the coast, and which, I am of the opinion, used either the Canal de Haro, or Straits of Rosario channels according as to where she was coming from and bound to.

When coming from the sea and bound north for the Straits of Georgia, Fraser's River, or any place inside of and adjacent to Vancouver's Island, the main ship channel is the Canal de Haro, it being the nearest and most direct. But when coasting along the main land and bound north—from any of the ports in Puget's Sound, Hood's Canal, &c., for the Strait of Georgia, Fraser's River, &c., the Straits of Rosario would be the nearest and most direct. * * *

(Signed) H. LUDLOW CASE, U.S.N.,
Commodore and Chief of Bureau.

No. 55.

Mr. Gibbs to the Secretary of State.

Sir, 77, *Wall Street, New Haven, February* 20, 1872.

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Statement of Mr. George Gibbs on the Canal de Haro.

THE superior depth and width of the Canal de Haro are fully exhibited not only on Wilkes' charts, but on those of our own coast survey, and I presume on those of the British Commission on the boundary. It would be therefore useless too add any merely verbal statement as to that fact. The reason for Vancouver's not surveying it was, that his object being to find a passage to the eastward, he hugged the main shore on returning from the examination of Admiralty Inlet and Puget's Sound, and thus went northward through what is now called Rosario Strait; but that it was known to him from the charts of Quadra, is evident from his having laid it down on his chart by the name of the Canal de "Arro" and his delineation of the whole group of the disputed islands. The reason that Governor Simpson in his voyage from Nisqually to Sitka (overland journey round the world, during the years 1841 and 1842, by Sir George Simpson), took the same passage, was doubtless because, however round-about from the Strait of Fuca, it is the most direct from Admiralty Inlet. The pretence that the Hudson's Bay Company was unaware of the existence of the Canal de Haro is as absurd as it would be, were the inhabitants of Brooklyn to ignore the passage between Long and Staten Islands, and claim the Kill van Kull as the outlet of the Sound and Hudson River to the sea. * * *

It appears from Mr. R. M. Martin's work on "the Hudson's Bay Territories and Vancouver Island, London, 1849," page 35, that "the Chief Factor" [since Governor Sir James Douglas] "surveyed the south coast of Vancouver's Island in 1842, and, after a careful survey, fixed on the port of Camosack" [now Victoria] "as the most eligible site for the Hudson's Bay Company's factory within the Straits of de "Fuca," and further, "Mr. Douglas, after investigating the south coast of the island, says, Camosack is a pleasant and convenient site for the establishment, within 50 yards of the anchorage, on the border of a large tract of clear land, which extends eastward to Point Gonzalez at the south-east end of the island," &c. No man who knows Governor Douglas will charge him with stupidity, negligence, or want of knowledge of his own interests, and it is drawing too much on human credulity to suppose that his examinations did not lead to a knowledge of the Strait, if he was not aware of it before. At any rate the Indians who frequented the new trading post, coming not only from the Gulf of Georgia, Johnston's Straits, and the northern end of Vancouver Island, but from Queen Charlotte's Islands and the whole northwest coast as far as the Russian possessions, knew and pursued the passage of the Canal de Haro and that only, and do so still.

With regard to the channel actually in use at present, I can positively state that the Rosario Strait is not followed at present at all, by vessels of the Hudson Bay Company; nor is the Strait of Haro in its entire length. Vessels bound northward from Victoria follow the latter as far as Stuart Island, and thence take the channel between Salt Spring Island on the east and the Saturna group on the west, going out into the Gulf of Georgia by Active Passage, between that group and Galiano Island, thus cutting off the detour round Java Head, and taking an almost straight line from the southern entrance of the Canal de Haro, to the middle of the Gulf of Georgia on the 49th parallel, and to the mouth of Fraser River. This interior passage is perfectly navigable for large vessels, as in fact it is beyond the 49th parallel, Captain Prevost himself having gone through Virago Passage in Her British Majesty's ship of that name long before the Boundary Commission was organized.

There seems to exist a general misapprehension of the amount of trade carried on by the Hudson's Bay Company's or other British vessels in these waters. Prior to the Treaty of 1846, Fort Vancouver, on the Columbia River, was the great depôt for the receipt and distribution of goods for the north-west coast, as well as the interior, and the annual ship from London delivered its cargo there. All furs were likewise received and packed there for transportation. Fort Langley, on Fraser River, was the nearest post of any magnitude. Fort Nisqually, on Puget's Sound, belonged to the Puget's Sound Agricultural Company, and according to the testimony in the case of the Hudson's Bay and Puget's Sound Agricultural Company's Claims, the goods received there were purchased of and accounted for to the Hudson's Bay Company. It never was a distributing post of the latter. * * * *

(Signed) GEORGE GIBBS,
Late United States' Geologist, North-West Boundary Survey.

No. 56.

Extract from Letter of Messrs. Campbell and Parke to the Secretary of State.

Sir, *Washington, February* 3, 1872.

* * * * * *

A MAP should be examined showing the relative position of the Hudson's Bay Company's Establishment at Victoria, on Vancouver's Island; Nisqually, on Puget's Sound; and Fort Langley, on Frazer River; and the position of the Canal de Haro and Rosario Straits as avenues of communication between the three points. It would be well also to consider the relative importance of these three establishments in those waters. * * * *

Why the vessels of the Hudson's Bay Company used the so-called Rosario Straits.

It is not at all probable that any vessel from foreign parts or from the Columbia River ever did communicate directly with Fort Langley (on Fraser River) without touching at the other posts on the lower waters, Victoria and Nisqually. It is well known, on the contrary, that these trips of the Hudson's Bay Company's vessels were made periodically for the purpose of distributing the regular supplies of food and merchandise for trading purposes, and receiving in return the furs collected at the several posts. Now, by referring to the map, it will be seen that a vessel leaving the Columbia River for the foregoing purpose, would first touch at Victoria, then at Nisqually, and then at Fort Langley on Fraser River. In making this trip no navigator would dream of taking the Canal de Haro in sailing from Nisqually to Fort Langley, when the more direct and much shorter route lay through Rosario Straits. * *
Although Rosario Strait was generally used (and good reasons have been given herein for this general use), the Canal de Haro was not only known by these very Hudson's Bay Company's employés to be navigable, but by their own affidavits it is shown that two of their own vessels made successful passages through this channel prior to the date of the Treaty. * * * *

(Signed) ARCHIBALD CAMPBELL, *Late United States' Boundary Commissioner.*
JNO. G. PARKE, *Major of Engineers, Brevet Major-General.*

No. 57.

Mr. Campbell to the Secretary of State.

Sir, *Washington, January* 19, 1872.

* * * * * *

The Haro Channel the usual channel.

I CAN say from my own knowledge that after the discovery of gold on Fraser River in 1858, the Canal de Haro was the ordinary channel of communication between Victoria and British Columbia, and doubtless now is, and ever will be.

(Signed) ARCHIBALD CAMPBELL,
Late United States' Boundary Commissioner.

No. 58.

The Attorney-General to the Secretary of State.

Sir, *Department of Justice, Washington, April* 6, 1872.

I HAVE the honour to inclose for your consideration and use * * a statement prepared and addressed to me by Henry R. Crosby, Esq., for whose reliability I am willing to vouch. * * * *

(Signed) GEO. H. WILLIAMS, *Attorney-General.*

Hon. Hamilton Fish,
Secretary of State.

Mr. Crosby to the Attorney-General.

Sir, *Washington, D. C., April* 2, 1872.

IN compliance with your request that I would furnish you with any information which I may possess with regard to the navigation of Rosario Straits by British and other vessels previous to 1846, and whether this or the Canal de Haro was the channel most frequently used up to that period and since, these being the channels now in dispute, as to which is the true boundary line on the north-west coast, between the United States and Great Britain, I have the honour to make the following statement, prefacing it with a brief account of my opportunities for acquiring this information, and the sources from which it was derived.

I was a resident of Washington Territory from 1853 to 1860. I was for several terms a member of the Territorial Legislature, and, in the discharge of my official duties, had occasion to thoroughly investigate the subject of the claims of the Hudson's Bay Company, and its branch organization, the Puget Sound Agricultural Company, which foreign corporations at that time, and for several years afterward, retained their trading posts and establishments in different portions of the territory. This was a source of much complaint, as they claimed large tracts of unoccupied land, and thus materially interfered with the settlement of the country,

The searching for the foundation of these extensive claims necessarily involved the history of all the region west of the Rocky Mountains and north of the Columbia River to the 49th parallel.

My information, other than the facts of which I was personally cognizant during my seven years' residence, was derived from statements made me by persons who had been in the country many years. Among these were the earlier missionaries, both Protestant and Catholic, the first settlers, old trappers, and, in many instances, the chief factors and traders of the Hudson's Bay Company. One of the topics of frequent conversation was the early navigation of Puget Sound and the adjacent waters. I gleaned from corroborating evidence the following facts:—At the time of the Treaty of 1846, the vessels employed between Victoria, the trading post at Nisqually, near the head of the Sound, Fort Langley on Fraser River, and the other posts on the northern coast, were the Hudson's Bay Company's steamer "Beaver" and the schooner "Cadboro." The Company owned two or three small brigs, which were principally used in the trade with California and the Sandwich Islands. Each year two ships were dispatched from England, bringing out trading goods and other supplies, and returning with the furs collected at the depôts of Victoria and Fort Vancouver, on the Columbia River, from the various trading posts on the coast and in the interior, west of the Rocky Mountains. On the arrival of these ships, all of the posts, both of the interior and the coast, were fitted out with what was estimated as a supply sufficient to answer for trading purposes and the support of the employés for a year a-head.

The usual course for the two vessels especially assigned to this duty on the Sound and northern coast was in the spring of each year, which was the time of the arrival and distribution, to take supplies up to Nisqually, for that post and the station at Cowlitz Plains, some fifty miles south. The extensive farm at this latter place was started for the purpose of raising grain, potatoes, and other vegetables, for the supply both of the northern posts and the Russian possessions at Sitka and the Aleutian Islands. For their breadstuffs the Russian Americans were entirely dependent upon this farm, and the Puget Sound Agricultural Company had therefore with them a large and lucrative trade. At Nisqually were large herds of cattle, which were slaughtered as required, and salted down. These provisions were taken on board the "Beaver" and "Cadboro," and, with other supplies, delivered at the posts on Fraser River and up the coast.

Coming down from Nisqually, the masters of the vessels naturally, in their trips to Fraser

River, turned into Rosario Straits. From up the Sound it was the first channel which led off to the north.

Why the so-called Rosario Strait was used.

I have mentioned this customary manner of delivering the annual supplies, because it is the principal reason why the Rosario Straits, at that time, was generally used by the Fur Company's vessels. Another cause may be found in the fact that the Canal de Haro is a broad, deep arm of the sea, being, in fact, but a continuation of the Straits of Fuca, sweeping in with a rushing tide, and meeting the waters of the Gulf of Georgia at its northern end. Its extreme depth made it difficult to find good anchorage.

Rosario Straits is a very much narrower channel. It is not, comparatively, deep, is well sheltered, and affords everywhere secure anchorage. Of late years it has been found to be dangerous for large ships, on account of sunken rocks; but the vessels then navigating it were small, and therefore of light draught, and ran little or no risk on that account.

The Canal de Haro used by the vessels of the Hudson's Bay Company before 1846.

The statement that the Canal de Haro is a channel but recently known is absurd. The steamer "Beaver" went through it years before the Treaty; and that the schooner "Cadboro" did so is established by the fact that one of the passages leading into the Canal de Haro is known by the name of the "Cadboro Pass." All the Northern Indians, who came to Victoria to trade, passed through the Canal de Haro, as did also the Indians from Fraser River and the Company's factors and traders on the posts on that river, who frequently visited Victoria between the trips of the supply vessels. In 1853, Admiral (then Lieutenant) Alden passed through the Canal de Haro in the United States' Coast Survey steamer "Active." Governor Douglas, of Vancouver's Island, gave him much valuable information concerning it, and evinced a thorough and complete knowledge of its tides and depth of water. Douglas was the Governor by virtue of being the senior chief factor of the Hudson's Bay Company. He had selected the site and established the post at Victoria in 1842. A man of great energy, he made himself acquainted with everything relating to the interests of the Company he represented, and this involved not only a knowledge of the fur trade and the character of the Indians, but also that of the surrounding country and its adjacent waters.

Canal de Haro the passage to the north.

In the spring of 1854, on a visit to Victoria, I was a witness to the fact that Canal de Haro was the channel used by the English vessels. At that time quite a considerable trade had sprung up with Nanaimo, in consequence of the working of the extensive coal-mines at that place, which is on the eastern side of Vancouver's Island, near the 50th parallel. I was standing, with several other persons, watching a large barque, which had just left the harbour, and under full sail was heading up the passage, when one of the party (an old Hudson's Bay Company's shipmaster) remarked:—"If the breeze holds she will go through Haro Straits flying; but if she fails, she will drift a long way before finding anchorage. The channel is so broad, and the straits so deep, that it is like being out at sea."

From 1854 to 1860, I was frequently at Vancouver's Island, and know personally that Canal de Haro was the usual route to Fraser River, the Nanaimo coal-mines, and the saw-mills at Burrard's Inlet.

In 1857, the British steam corvette "Satellite" and the surveying steamer "Plumper" arrived at Vancouver's Island. Captains Prevost and Richards, commading these vessels, were the British Commissioners to settle the boundary line. When they went to Nanaimo, for coal, they passed through Canal de Haro.

In 1858 occurred what is known as the River Fraser excitement, consequent upon the discovery of gold in that river and its tributaries. During that year, I made frequent visits to Victoria, and was also up the Fraser River. Victoria wes the disembarking point for the ocean steamers from San Francisco. Steamers to be used between Victoria and Fraser River were brought up from California: others were hastily built on the Sound for that purpose; some of these smaller steamers also plied between the American towns and the river. In the great rush of gold miners, the steamers, though crowded to their utmost capacity, could not convey all seeking passage. Every other means, therefore, of water conveyance was, in addition, brought into service—schooners, sloops, boats, and canoes. The route at first adopted was entirely through the Canal de Haro; but the steamers eventually went by a still nearer passage. After going part of the way up the Canal de Haro, they turned into the channel on the western side of Saturna Island, passing into the Gulf of Georgia by what is known as the "Active Pass."

In 1859, I was for several months on San Juan Island, and frequently saw the steamers and other vessels passing between Victoria and Fraser River. The Canal de Haro and the nenrer route inside of Saturna Island were the only routes used; nor did I ever see or hear of any steamer or sailing vessel during the gold excitement going from Victoria to Fraser River by the way of Rosario Straits. In the hurry of those stirring times, the master of any vessel who took such a roundabout route to reach his destination, would have been not only severely ridiculed, but, in all probability, would have lost his carrying trade, both of passengers and of goods.

Worthlessness of the middle channel.

The "Middle Channel," which was proposed by Captain Prevost as a compromise, at its entrance, between the Islands of San Juan and Lopez, is so narrow that it cannot be seen until you are quite near. A vessel approaching it has to run in by the landmarks. It is but a few hundred yards across, and is only used by vessels going into San Juan Harbour, which is on the inner side of the island, a short distance from the entrance. The avowed object of this proposal, was to obtain San Juan Island, the most valuable of the islands in the archipelago. The channel designated passes into the Canal de Haro, near its northern end, and would present the anomaly of the Canal de Haro being adopted as the boundary for a portion of its course in its direct passage to the ocean, and then diverged from, thus conflicting with the clause in the Treaty, which expressly stipulates the course of the waterline shall be through a continuous channel.

The assertion that San Juan is essential for the protection of Vancouver's Island, is as absurd as the pretended ignarance of the navigability of the Canal de Haro. The nearest portion of San Juan is eighteen miles from the entrance to Victoria Harbour, and, owing to the immense width of the channel,

there is no point at which fortifications could be established, which could interfere with the passage of vessels to the settlements of British Columbia.

Difference between Haro and Rosario Straits.

The Canal de Haro is the only one of the channels which is over a cannon-shot across. The difference in width and depth of water between it and Rosario Straits is so great, that it appears like contrasting an inland sea with a river.

With the growing commerce of that section, Rosario Straits has completely fallen into disuse, and the Canal de Haro is now, and has been for many years, the route exclusively used between Victoria and British Columbia.

Very respectfully,

Hon. Geo. H. Williams,
Attorney-General.

(Signed) HENRY R. CROSBY.

No. 59.

Brigadier-General Canby to the Assistant Adjutant-General at San Francisco.

(Extract.) *Head-Quarters, Department of the Columbia, Portland, Oregon, April* 2, 1872.

Sir,

* * * * * *

Why the so-called Rosario Strait was used.

I AM informed that the vessels of the Hudson's Bay Company on their upward bound trips usually passed through Rosario Straits, because their business required them to touch at the inshore stations of the Company, but almost invariably through the Canal de Haro in returning to Vancouver.

(Signed) ED. R. S. CANBY, *Brigadier-General Commanding.*

No. 60.

Report of Captain G. H. Richards, October 23, 1858, *in Papers relating to British Columbia, presented to both Houses of Parliament by command af Her Majesty, August* 12, 1859, *Part II, page* 14.

Description of Haro Channel by Captain Richards, British Boundary Commissioner.

THE Haro Strait lies between Vancouver Island and the principal islands composing the Archipelago. * * In the Haro Strait, Cordova Bay, on the western or Vancouver shore, offers good anchorage. On Stewart Island, which helps to form the eastern side of the Strait, there are snug and land-locked harbours, easily accessible to steamers; and among the Saturna group—the western boundary of the Strait, where it enters the Gulf of Georgia—there is good shelter for a fleet, accessible either to sailing vessels or steamers.

No. 61.

Affidavits concerning the Navigation of the Canal de Haro.

Statements of Remington F. Pickett, made before the United States' Consul at Victoria, Vancouver Island, on this 12*th day of March,* A.D. 1872, *touching the Navigation of the Canal de Haro and Rosario Straits.*

Affidavits on the Canal de Haro.

ON this twelfth day of March A.D. one thousand eight hundred and seventy-two, personally appeared before me, David Eckstein, Consul of the United States of America, for the Province of British Columbia, Dominion of Canada, residing at Victoria, Vancouver Island, Bemington F. Pickett, who being first duly sworn, states as follows:—

My age is thirty-seven years. My occupation that of merchant and shipping agent. My place of residence is Victoria, Vancouver Island, and have resided here most of the time since eighteen hundred and fifty-nine.

For the last ten years I have been agent for a line of sail vessels, running between San Francisco and ports in British Columbia.

During all the time since eighteen hundred and fifty-nine, vessels, both sail and steam, in making trips from Victoria to the Gulf of Georgia and Fraser River, have invariably used the Canal de Haro as a passage.

I have also heard masters of steamers and sail vessels invariably speak of the Canal de Haro as the channel used by them, and of its superiority, for purposes of navigation, over any other channel between the continent and Vancouver Island.

All English steamers have used the Canal de Haro as a passage in making trips from Victoria to Fraser River, since my residence at this place, and continue to do so at this time.

American steamers have done the same, and do now.

In fact the Canal de Haro is the only channel used by steam and sail vessels at the present time, and has been the only one used for years.

(Signed) REMINGTON F. PICKETT.

Consulate of the United States of America, Victoria,
Vancouver Island, British Columbia.

I, David Eckstein, Consul of the United States of America, residing at Victoria, Vancouver Island, do hereby certify that Remington F. Pickett personally appeared before me, and made oath and

subscribed to the truth of the foregoing statements, on this twelfth day of March, A.D. one thousand eight hundred and seventy-two; I further certify that the said Remington F. Pickett is personally known to me, that he is a respectable and credible person, to whose representations full faith and credit can be given. Affidavits on the Canal de Haro.

In witness whereof I have hereunto subscribed my name, and affixed the seal of my office, this twelfth day of March, A.D. one thousand eight hundred and seventy-two.

(Signed) DAVID ECKSTEIN, *United States' Consul.*

(Seal.)

Statement of George Thomas Seymour, made before the United States' Consul, residing at Victoria, Vancouver Island, March 13, A.D. 1872, *touching upon the Navigation of the Canal de Haro and Rosario Straits.*

ON this thirteenth day of March, A.D. one thousand eight hundred and seventy-two, personally appeared before me, David Eckstein, Consul of the United States of America for the Province of British Columbia, Dominion of Canada, residing at the Port of Victoria, Vancouver Island, George Thomas Seymour, who, being first duly sworn, states as follows—My age is forty-nine years; and I have resided at Victoria, Vancouver Island, since eighteen hundred and fifty-eight. My occupation is that of merchant. I have been acquainted with the routes of travel by water, between Victoria and points on the Gulf of Georgia and Fraser River, since the year eighteen hundred and fifty-eight. The Canal de Haro has been the channel used by steamers and sail vessels, British and others, since eighteen hundred and fifty-eight, and is the one now generally, if not exclusively used in making trips to and from the above-named points, both night and day. It is, in fact, the main channel, and the only one regarded as really safe by masters of steamers and sail vessels who are acquainted with the waters between the continent and Vancouver Island.

Ever since my residence at Victoria, in eighteen hundred and fifty-eight, the Canal de Haro has been the channel invariably used by navigators in going from Victoria to points on the Gulf of Georgia and Fraser River. No navigator would ever think of using any other channel unless he had some special reason for it.

(Signed) GEORGE THOMAS SEYMOUR.

Consulate of the United States of America, Victoria,
Vancouver Island, British Columbia.

I, David Eckstein, Consul of the United States of America residing at Victoria, Vancouver Island, do hereby certify that, on this thirteenth day of March, A.D. one thousand eight hundred and seventy-two, personally appeared before me George Thomas Seymour, and made oath and subscribed to the truth of the foregoing statesments; I further certify that the said George Thomas Seymour is personally known to me, and that he is a respectable and credible person, to whose representation full faith and credit can be given.

In witness whereof, I have hereunto set my hand and affixed the seal of my office this thirteenth day of March, A.D. one thousand eight hundred and seventy-two.

(Signed) DAVID ECKSTEIN, *United States' Consul.*

(L.S.)

Statements of Albert Henry Guild, made before the United States' Consul, residing at the Port of Victoria, Vancouver Island, March 16, 1872, *touching the Navigation of the Canal de Haro and Rosario Straits.*

ON this sixteenth day of March, A.D. one thousand eight hundred and seventy-two, before me, David Eckstein, Consul of the United States of America, for the Province of British Columbia, dominion of Canada, residing at the Port of Victoria, Vancouver Island, personally appeared Albert Henry Guild, who, being first duly sworn, states as follows:—

My age is fifty-eight years, my residence Victoria, Vancouver Island, and have resided here since the year eighteen hundred and fifty-eight. My occupation is that of merchant.

I am familiar with the route of travel, by water, by steamers and sail vessels, British and American, from Victoria to points on the Gulf of Georgia and Fraser River.

The Canal de Haro is the channel now exclusively used, by all classes of vessels, British and others, carrying pilot or no pilot, in making trips between the abovenamed points; and has been so used, to the best of my knowledge, since eighteen hundred and fifty-eight.

During my residence at Victoria I have frequently passed through the Canal de Haro, as passenger, in Hudson Bay Company's steamers; and, in fact, I never knew them to use any other channel in making trips to and from the abovenamed points.

Vessels coming into the Straits of Juan de Fuca, from the Ocean, bound for ports or places on the Gulf of Georgia or Fraser River, invariably pass through the Canal de Haro, whether touching at Victoria or not, and have done so since my residence here in eighteen hundred and fifty-eight.

(Signed) ALBERT HENRY GUILD.

Consulate of the United States of America at Victoria,
Vancouver Island, British Columbia.

I, David Eckstein, Consul of the United States of America, residing at Victoria, Vancouver Islan do hereby certify that, on this sixteenth day of March, A.D. one thousand eight hundred and seventy-tw

Affidavits on the Canal de Haro.

Personally appeared before me Albert Henry Guild, and made oath and subscribed to the truth of the foregoing statements; I further certify that the said Albert Henry Guild is personally known to me, and that he is a respectable and credible person, to whose representation full faith and credit can be given.

In witness whereof I have hereunto subscribed my name and affixed the seal of my office the day and year first above written.

(Signed) DAVID ECKSTEIN, *United States' Consul.*

(Seal.)

Extracts from the Affidavit of William J. Waitt.

United States of America, Territory of Washington, ss.

I, William J. Waitt, of the City of Olympia, county of Thurston, and territory aforesaid, do solemnly declare upon oath, that I am a master mariner of the age of thirty-two years. That I came to Victoria, Vancouver's Island, in the spring of 1858, and for the next four years was engaged in steamboating, between said City of Victoria, and Fraser's River, in British Columbia; fifteen months of that period I was master, the remainder pilot and mate. In 1862, I commenced running between Victoria and Olympia with occasional trips from Victoria to New Westminster. During all this time the Canal de Haro has been the only channel used in going from Victoria or the Straits of Fuca, northward into the Gulf of Georgia, and places on the northern coast. I know both Haro Canal and Rosario Straits. The first is the only one ever used in the large trade between Puget Sound and the British Columbia mines; between Victoria and the said mines; between San Francisco and the main land of British Columbia. It is the only one, by which the heavy coal trade of Nanaimo mines is carried on. It is straighter, shorter, deeper, fewer rocks, less currents, and is much the safest route, particularly going through at night or in a fog.

I am intimately acquainted with Captains McNeil, Swanson, Ella, and Lewis. I knew Captain Morrat in his life time. They are old captains who were in the service of the Hudson's Bay Company as early as 1840. I have talked with each and all of them on these matters, as it was my business to learn. * * * *

Haro Channel used exclusively for northern trade since establishment of Fort Victoria in 1842.

All their statements to me justify my declaration upon oath, that since Fort Victoria was established on Vancouver Island, this channel was exclusively used in all trips of their steamers between said Fort Victoria and their trading posts north on the Gulf of Georgia, and on the upper Fraser's River. No other channel but this was talked about by either of them. None other had ever been used in their regular trade since Fort Victoria was established, which, I believe, on information, was in 1842. Captain McNeil told me he had been through here in his own vessel, which he brought from Boston, before he was bought out by the Hudson's Bay Company and employed in the Company's service. He also spoke of going through in the steamer "Beaver," of which he was master, when Captain Wilkes was here. * * * *

The Northern Indians always came and went by the same channel in their trips to Victoria and over to Washington Territory, since I have been here, and from information, and knowledge of the Indian customs, I state the opinion they always did use such Canal de Haro in their trips to and from Victoria and their northern residences. They always used the same channel when coming to the American side of the Straits of Fuca, and the settlement on Puget Sound.

(Signed) Captain W. J. WAITT.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said Territory, came William J. Waitt, who, being first duly sworn, did depose and say that he had carefully read the foregoing statement, and knew the contents thereof, that the same had been dictated by him. And that so much thereof as was stated from his own knowledge was true, and so much thereof as was stated on information he verily believes to be true.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court, this sixteenth day of March, A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk Supreme Court, Washington Territory.*

(Seal of the Supreme Court.)

Extracts from the Affidavit of Francis Tarbell.

United States of America, Territory of Washington, ss.

I, FRANCIS TARBELL, of the City of Olympia, County of Thurston, and Territory aforesaid, do solemnly declare upon oath, that I am a native born citizen of the United States, aged forty-one years. I went to Victoria, Vancouver's Island, on the 14th July, 1858, and continued to reside there, doing business as a wholesale merchant up to 1866. In 1862 I became a director in the Victoria and British Columbia Steamboat Company, and from my connection with said Company and my business, I became thoroughly acquainted with the vessels, steamboats, routes, &c., used by the steam and other vessels, to and from said city of Victoria. From that knowledge I declare positively, and without reserve, that the Canal de Haro was the only channel used by vessels going to the Gulf of Georgia from Victoria, or from sea voyages viâ Straits of Juan de Fuca. In the last fourteen years I have probably been five hundred times to New Westminster at the mouth of Fraser's River, in British Columbia. In these trips or voyages, no other channel but the Haro Canal, was ever used. * *

I am well and intimately acquainted with Captain McNeil, Captain Swanston, Captain Lewis, and

Captain Ella. I was well acquainted with Captain William A. Morratt in his lifetime. These were all old captains formerly in the employ of the Hudson's Bay Company. From their statements to me and from other sources, several of them were here, if not all, before 1840. In my eight years' residence in Victoria I was in company with these gentlemen a great deal, conversing very freely on the subject of steamboats, routes up the coast, trade of the coast, &c. It was in the direct line of my business to learn these matters. I freely inquired as to their knowledge, and they freely communicated with me. I have been told frequently by all those gentlemen that the channel now used to reach the Gulf of Georgia in going from Victoria to Nanaimo, Fraser's River, or to the Northern coast, or in returning from the same to Victoria, has been invariably used by the vessels of the Hudson's Bay Company since Fort Victoria was established. * * *

Affidavits on the Canal de Haro.

Haro Channel used Hudson's Bay Company since establishment of Fort Victoria.

I am also positive that Captain McNeil has told me on several occasions that he used the same channel when sailing a vessel for the Hudson's Bay Company long prior to 1846. And I have heard him make the same statement in regard to the vessel he brought out from Boston, before he went into the Company's service. I am also positive that he has told me that, after going into the Company's employ, long anterior to 1846, he passed through this channel in the steamer "Beaver," of which he was captain, about the time Captain Wilkes made his survey of these waters. * *

Hudson's Bay Company used Haro Channel before 1846.

(Signed) FRANCIS TARBELL.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said territory, came Francis Tarbell, who being first duly sworn, did depose and say that he had carefully read the foregoing statement and knew the contents thereof, that the same had been dictated by him; and that so much thereof as was stated from his own knowledge was true, and so much thereof as was stated on information he verily believes to be true.

Witness my hand and the seal of the said Court this 16th day of March, A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal of the Supreme Court.)

Extracts from the Affidavit of Charles Willoughby.

United States of America, Territory of Washington, ss.

I, Charles Willoughby, of the city of Port Townsend, county of Jefferson, in said territory, do solemnly swear that I am a native-born American citizen, aged forty-one years, a master mariner, and have since December 1850 been master of a vessel. * * *

In 1861 I made another voyage in barque "Naramisse" to Nanaimo for coal. Took a pilot at Victoria, who was recommended to me by the Harbour Master as an old and experienced Hudson's Bay Company pilot; his name I have forgotten. We were again piloted as before through Haro Canal. In the latter voyage we encountered a gale from south-east veering to south, which struck the ship at 6 A.M. and lasted eight hours. Ship under close reef main topsails and blowing very heavy all the time. The position of the ship at the time we took the gale was off Chatham Island with ebb tide. The pilot as well as myself entertained no fears for the safety of the ship, as the shores were bold, the water deep, currents so regular and plenty of sea room, and we had no fears of the result. I would not like to be caught in Rosario Straits in the same manner. When the gale broke we were up by Sidney Island nearly up to the Active Pass. From my experience then and knowledge now, I pronounce the Haro Channel the best channel or passage between any of the islands or between the mainland and islands north of the Straits of Fuca. * * *

(Signed) CHAS. WILLOUGHBY.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said territory, came Charles Willoughby, who, being first duly sworn, did depose and say that he had carefully read the foregoing statement and knew the contents thereof, that the same had been dictated by him; and that so much thereof as was stated from his own knowledge was true; and so much thereof as was stated on information he verily believes to be true.

In testimony whereof I have hereunto set my hand and affixed the seal of the Court this 16th day of March, A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal of the Supreme Court.)

Extracts from the Affidavit of James S. Lawson.

United States of America, Territory of Washington, ss.

I, James S. Lawson, Assistant United States' Coast Survey, and at present a resident of Olympia, county of Thurston, and Territory of Washington, do solemnly declare upon oath that I am a native-born citizen of the United States, aged forty-four years. That I came to the western coast of the United States in June 1850, in the coast survey, and have been engaged in the same from that time to the present in all capacities, from aid to assistant in charge of a party. From 1852 to 1859, both inclusive, I spent each working season in the survey of Straits of Juan de Fuca, Canal de Haro, Rosario Straits, Gulf of Georgia to 49th parallel of north latitude, and Admiralty Inlet, and since 1866 I have been permanently located in this section, with a residence at Olympia. * * *

* * * * * *

Affidavits on the Canal de Haro.

From several years of such experience and service I assert the great superiority of the Canal de Haro over the Rosario Strait as a ship channel, or channel of any character, depth of water, width, directness, and freedom from obstructions, rocks, &c. The currents are strong in both, but as a ship channel the Canal de Haro is decidedly superior.

While working in the Gulf of Georgia in 1858 and 1859, vessels bound from Victoria to Fraser's River, Nanaimo, or farther north, invariably made use of Canal de Haro; in fact I have never heard of a single instance of a vessel sailing from Victoria since 1852, when I came to this section, and bound for any of the above-mentioned places, making use of Rosario Strait. My experience has shown that the Indians of the north-west coast always made use of the Canal de Haro, on their visits to Victoria and returning.

* * * * * *

(Signed) JAS. S. LAWSON.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said Territory, came James S. Lawson, who, being first duly sworn, did depose and say, that he had carefully read the foregoing statement, and knew the contents thereof, that the same had been dictated by him; and that so much thereof as was stated from his own knowledge was true, and so much thereof as was stated on information, he verily believes to be true.

In testimony whereof I have hereunto set my hand and affixed the seal of the said Court this 16th day of March, A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal of the Supreme Court.)

Affidavit of Thomas Mc Manus.

United States of America, Territory of Washington, ss.

I, Thomas McManus, of the city of Townsend, county of Jefferson, and Territory of Washington, do solemnly declare that I am a citizen of the United States, of the age of fifty-one years.

Wilkes surveys Canal de Haro in 1841.

On the 2nd day of May, 1841, I was serving as an ordinary seaman on board the United States' ship "Vincennes," in the United States' exploring expedition, Charles Wilkes, United States' Navy, commanding expedition, and we entered these waters about the above date. I was in the boat expedition, surveying both Canal de Haro and Rosario Straits. I served during the whole cruise of the expedition.

In 1858 I returned to Washington Territory, and since that time I have been constantly sailing in these waters. I know both channels well, and have been frequently in them, but never in Rosario Straits in a ship. From my knowledge of said Rosario Straits I do not think it a safe passage for sailing vessels. From uncertainty of winds during summer months and adversity of currents, the passage is unsafe without the use of towing, and in my knowledge it is not, nor has it ever been used by vessels going to or coming from the Gulf of Georgia. The Canal de Haro is the natural route for vessels from Victoria to the Gulf of Georgia and the northern coast. It is a safe and good channel, broad, deep, and plenty of sea room, and less danger from hidden rocks, than in Rosario Straits. For heavy draft vessels it is the only channel which can be used.

Since I have been here (1588) the Canal de Haro is the channel invariably used by vessels, American and English, steam and other vessels, going into the Gulf of Georgia from Victoria or the Straits of Fuca.

(Signed) THOMAS Mc MANUS.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said territory, came Thomas McManus, who, being first duly sworn, did depose and say that he had carefully read the foregoing statement and knew the contents thereof, that the same had been dictated by him, and that so much thereof as was stated from his own knowledge was true; and so much thereof as was stated on information he verily believes to be true.

Witness my hand and seal of said Court this 20th day of March A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal.)

Affidavit of Adam Benson.

United States of America, Territory of Washington, ss.

I, Adam Benson, of Pierce County, Washington Territory, do solemnly declare upon oath that I am a citizen of the United States of the age of fifty-six years, and a native of the north of Scotland. I came to this territory, then Oregon, in the serivce of the Hudson's Bay Company in 1836, and stopped at Fort Nisqually, in what is now Pierce County. I was a shepherd and herder of the Company's sheep, after Fort Victoria was established in 1842. I made a trip in charge of the Company's sheep from Fort Nisqually to Fort Victoria, in the spring of 1845 just before potato planting. From thence the steamer "Beaver" towed the ship "Columbia" to the mouth of Fraser's River. We went through the channel between Vancouver's Island and San Juan Island. Captain Dodd was the master of the steamer "Beaver." I fix the year 1845 because it was the year that Colonel Simmons came and settled

The steamer "Beaver" towed the ship "Columbia" through Haro Channel in 1845.

at New Market. I remember that Fort Victoria had only been established two or three years, and all the buildings were not up when I was there. Affidavits on the Canal de Haro.

(Signed) ADAM BENSON.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said territory came Adam Benson, who, being first duly sworn, did depose and say that he had carefully read the foregoing statement and knew the contents thereof, that the same had been dictated by him and was true.

In testimony whereof I have hereunto set my hand, and affixed the seal of said Court this 27th day of March, A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal.)

Affidavit of William N. Horton.

United States of America, Territory of Washington, ss.

I, William N. Norton, now of the City of Olympia, county of Thurston, and territory aforesaid, do solemnly declare upon oath, that I am a native born citizen of the United States of the age of 42 years —and am a steamboat engineer by profession—I came to Portland, Oregon, in June 1850. I came to Puget Sound in May or June 1854, since which time Olympia has been my residence when upon shore. Early after coming to the Sound, I made a trip in the sloop "Sarah Stone," Captain Thomas Slater, to all of the Sound ports, extending our voyage to Fort Victoria, and Nanaimo, upon Vancouver's Island. We went and returned through the Canal de Haro,—at that time it was the only channel used by all coal vessels going to and from Nanaimo, by the Hudson's Bay Company's steamers "Beaver" and "Otter" in their trips north from Fort Victoria to the trading posts on the northern coast. Indeed it is the only channel which can be profitably or safely used in going from the Straits of Fuca into the Gulf of Georgia, and the inland waters to the north. It was then used by those steamers, for on that trip or shortly after, I have seen both of those steamers, either going from or returning to the then Fort Victoria, now the City of Victoria on Vancouver's Island.

From the spring of 1855 up to 1858, I was running a steamer on the Sound, and made numerous trips to Victoria, and saw steam and other vessels in the Canal de Haro. I never saw or heard of any vessel ever using the Rosario Straits to get into the Gulf of Georgia. In 1858 I was employed on various steamers, running to Fraser's River, and continued in that business until 1861. The whole trade between Victoria and Fraser's River, in all classes of vessels, was entirely and exclusively done in the Canal de Haro.

I know both channels, having run in both as pilot and engineer. Haro Channel for all vessels is infinitely superior to Rosario Straits. It is broader, deeper, more direct, less sunken rocks; and the Canal de Haro is perfectly safe at night or in a fog, which I cannot say of the Rosario Straits. The currents are strong in both, but that in the Canal de Haro much the more regular.

I have very frequently seen the Northern Indians coming and going through Haro Channel, and, from my information, I believe that such channel has always been used by them in their trading trips from the North to Fort Victoria. Indians follow customs tenaciously, and do not change their routes; and as this was their custom in 1854, I am positive it was previous thereto.

(Signed) W. N. HORTON.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said territory, came William N. Horton, who, being first duly sworn, did depose and say, that he had carefully read the foregoing statement, and knew the contents thereof, that the same had been dictated by him; and that so much thereof as was stated from his own knowledge was true, and so much thereof as was stated upon information he verily believes to be true.

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court, this 30th day of March, A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal.)

Affidavit of John McLeod.

United States of America, Territory of Washington, ss.

I, John McLeod, of Pierce County, Washington Territory, do solemnly declare upon oath that I am a naturalized citizen of the United States, of the age of fifty-six years, and was born in Lewes Island, north of Scotland. I arrived in this territory, then Oregon, in the service of the Hudson's Bay Company, in the fall of 1838, at Fort Nisqually on Puget Sound, and immediately was put on board of the Company's steamer "Beaver." Captain McNeil was then master. While I was on board she was also commanded by Captain Brotchie and Captain Duncan. My duty was that of stoker. Up to 1842, when Fort Victoria was established on Vancouver's Island, she made two trips up north from Fort Nisqually, annually, in collecting furs. I continued on board until the spring of 1844 (April, I think), since which time I have lived in Pierce County, near Fort Nisqually. I know San Juan Island, and the channel between it and Vancouver's Island. I made in the steamer "Beaver," after 1842 and till I was discharged, at least two trips to the North each year, that is to say, in 1842 and 1843. While building the Fort at Victoria, till the buildings were well up, we staved in

Canal de Haro regularly navigated by vessels of Hudson's Bay Company since 1842.

Affidavits on the Canal de Haro.

the harbour as a guard against the Indians, and while thus delayed, the "Beaver" towed the schooner "Cadboro" two or three times to the mouth of Fraser's River. In all her trips north, from Fort Victoria to Fort Simpson and back, and in towing the "Cadboro" to Fraser's River, we always went through the channel between Vancouver's Island and San Juan Island. After 1842 the steamer "Beaver" only came to Fort Nisqually on particular business. Her regular trips, twice a year, were made between Fort Victoria, on the Island of Vancouver, and the trading posts north of the Gulf of Georgia. I can remember, at least, eight or nine trips through the channel between Vancouver's Island and San Juan Island, while I was engaged as stoker on the steamer "Beaver."

(Signed) JOHN McLEOD, his ⋈ mark.

Territory of Washington, County of Thurston, ss.

Before me, Joseph H. Houghton, Clerk of the Supreme Court of said territory, personally came John McLeod, who, being by me first duly sworn, did declare and say that he knew the contents of the foregoing affidavit; that the same had been dictated by him and carefully read to him, and that the same was true.

In testimony whereof I have hereunto set my hand and the Seal of said Court, this 3rd day of April, A.D. 1872.

(Signed) JOSEPH H. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal.)

Affidavit of W. H. Gray.

Astoria, April 8, 1872.

THE undersigned was in Fort Vancouver on the Columbia River Oregon in the month of January, 1837. During my stay at that port of the Hudson's Bay Company, news came that one of the Company's vessels—I think it was the steamer "Beaver"—had passed Haro Straits, and found it a shorter, deeper, and better channel from the Gulf of Georgia to Victoria than that nearer the main land.

I was informed by the masters of the Hudson's Bay Company's vessels, several of whom I have been well acquainted with since the winter of 1837, that the Haro Channel was the safest and the one they preferred to any other.

From 1858 and onward I have frequently and invariably passed through the Haro Channel in American and the Company's steamers, and been assured by all the masters that it was preferable to any other.

As to the question of the Company or British ignorance of the Haro Channel, I verily believe it wholly fictitious, and that it was well known to them as early as 1837, and that the steamer "Beaver" had passed and repassed it from Victoria on Vancouver's Island to Fort Langley on Fraser's River,

I, W. H. Gray, do solemnly swear that the foregoing statements are true to the best of my knowledge and belief. So help me God.

(Signed) W. H. GRAY.

Subscribed and sworn before me this 8th day of April, 1872.

(Signed) A. VAN DUSEN, *Notary Public for Clatsop County, State of Oregon.*

(L.S.)

Affidavit of J. A. Gardiner.

THE undersigned was one or the seamen on the exploring squadron of Captain Wilkes, of the United States, on the American coast in 1840-41, and knows that the Channel de Haro, or Belview Channel, was explored during the continuance of the surveying expedition upon the coast, in 1841, and knows that it has been for the last thirteen years universally used by both British and Americans, and is the preferable channel to any other.

(Signed) J. A. GARDINER, *First Officer steam-ship "California."*

State of Oregon, County of Clatsop, ss.

On this 16th day of April, A.D. 1872, personally appeared before me the above-named J. A. Gardiner, and to me personally known, who subscribed his name in my presence and swore according to law to the truth of the above statement.

(Signed) A. VAN DUSEN, *Notary Public.*

(Notarial Seal.)

Statements of William H. Oliver, made before the Consul of the United States of America, residing at Victoria, Vancouver Island, March 13, A.D. 1872, *touching upon the Navigation of the Canal de Haro and Rosario Straits.*

ON this thirteenth day of March, A.D. one thousand eight hundred and seventy-two, personally appeared before me, David Eckstein, Consul of the United States of America for the Province of British Columbia, Dominion of Canada, residing at the Port of Victoria, Vancouver Island, William H. Oliver, who, being first duly sworn, states as follows:—

Affidavits on the Canal de Haro.

My age is forty-eight years; my residence is Victoria, Vancouver Island.

I have resided here most of the time since eighteen hundred and fifty-eight.

I am a retired merchant.

I am acquainted with the route of travel by water, by steamers and sail vessels, British and American, in making trips from Victoria to the Gulf of Georgia and Fraser River, since the year eighteen hundred and fifty-eight.

So far as my knowledge extends, the Canal de Haro has been and now is universally used by all classes of vessels.

In eighteen hundred and fifty-eight, in December, or in January, eighteen hundred and fifty-nine, I went as a passenger on the Hudson's Bay Company's steamer "Beaver," from Victoria to Derby, or Old Langley, as it was called, on Fraser River, and passed through the Canal de Haro in going and returning. At that time, and since, the Canal de Haro is the channel generally, and I think exclusively used by British steamers and others in going to and returning from Fraser River and Gulf of Georgia to Victoria. Masters of vessels, and navigators generally, have expressed the opinion to me repeatedly, that the Canal de Haro was not only a superior channel to any other between the continent and Vancouver Island, but was the only one used by mariners in passing from Victoria to the Gulf of Georgia and the Fraser River.

I have been acquainted with William H. McNeil, formerly chief factor in the Hudson's Bay Company, personally since 1864, and by reputation since 1858. Since the 6th of the present month I have had a conversation with William H. McNeil, in which I asked him to state at what time the Hudson's Bay Company commenced using the Canal de Haro, by steamers and other vessels employed in carrying their fur trade, and the reasons why they had not used it an earlier day. He stated to me that the Hudson's Bay Company commenced using the Canal de Haro, for the above purpose, soon after they established their trading-post on Vancouver Island, which was, as he said, in eighteen hundred and forty-two, or eighteen hundred and forty-three; and that the Company continued to use it, more or less, from that time on.

And further that the Hudson's Bay Company ascertained the value of the Canal de Haro for purposes of navigation, at the time of their commencing to use it as above stated. He further stated that the reason why the Hudson's Bay Company had not used the Canal de Haro previous to establishing their trading-post on Vancouver Island, was their want of knowledge of its real value for purposes of navigation.

Canal de Haro regularly navigated by vessels of Hudson's Bay Company since 1842.

On pressing my inquiries further upon the subject, the said William H. McNeil stated to me distinctly and positively that the Hudson's Bay Company navigated the Canal de Haro with their steamers as early as 1842, and continued to navigate the said Canal de Haro thereafter exclusively in carrying on their trade between Victoria and points on the Gulf of Georgia and Fraser River. William H. MacNeil has been in the Hudson's Bay Company's service since 1837.

(Signed) W. H. OLIVER.

Consulate of the United States of America, Victoria,
Vancouver Island, British Columbia.

I, David Eckstein, Consul of the United States of America, residing at Victoria, Vancouver Island, do hereby certify that, on this 13th day of March, A.D. 1872, personally appeared before me, William H. Oliver, and made oath and subscribed to the truth of the foregoing statements; I further certify that the said William H. Oliver is personally known to me, and that he is a respectable and credible person, to whose representations full faith and credit can be given.

In witness whereof I have hereunto set my name and affixed the seal of my office, this 13th day of March, A.D. 1872.

(Signed) DAVID ECKSTEIN, *United States' Consul.*
(L.S.)

Affidavit of Charles M. Bradshaw.

United States of America, Territory of Washington, ss.

I, Charles M. Bradshaw of the city of Port Townsend, county of Jefferson, in said Territory, do solemnly declare upon oath that I am a native-born citizen of the United States, aged forty years; that I came to Washington Territory, then included in the Territory of Oregon, in November 1852. In March 1853 I went to Dungeness, on the south side of the Straits of Fuca, in Clallam county, Washington Territory, and took up a donation claim, fronting upon the harbour, which is but an indentation in said Straits of Juan de Fuca, where I continued to reside until some time in 1867.

From my house, without the weather was very hazy or foggy, I had an unobstructed view to the entrance of Victoria Harbour, the shore of Vancouver Island, the entrance to Canal de Haro, the shore of San Juan Island, and the entrance of Rosario Straits. Between 1853 and 1855 there were no steamers in those localities, except those belonging to the Hudson's Bay Company, at Victoria, Vancouver Island, or British vessels of war, and the sight of a vessel propelled by steam was a novelty, and always attracted my attention. It was not an unfrequent occurrence to see a steamer leaving Victoria Harbour, passing around Trial Island, and disappear up De Haro Straits, on its way to the Gulf of Georgia, and the trading posts to the north, The steamers referred to by me were without any doubt the Hudson's Bay Company's steamers "Beaver" and "Otter," and I have no hesitancy in declaring at this time to have been one or the other or both of those vessels. I have yet to see the first steamer or sailing-vessel come out of Victoria Harbour and go into Rosario Straits. After 1855 at times there were American steamers making trips between Olympia, Washington Territory, and Victoria.

In the spring and summer of 1858, I made a number of trips to Fraser's River from Victoria, and returned from there to Victoria, each time going through Haro Channel and returning the same way.

Affidavits on the Canal de Haro.

On two of those trips to Fraser's River, I was accompanied by from forty to fifty small boats and canoes, many of which boats piloted by Indians, and old Hudson's Bay Company bargemen and discharged servants. In every one of those trips no other route was proposed than through Haro Straits. At that time, and ever since, the Haro Channel was the recognized route of travel from Victoria to the Gulf of Georgia, and to the mainland of British Columbia at and above the mouth of the Fraser's River. All the steamers to and from Victoria used that channel, and none other was spoken of or used either for sailing vessels or steamers.

Since 1858, I speak from positive knowledge, the Canal de Haro has been exclusively used in the navigation and commerce between Victoria on Vancouver's Island, and British Columbia, and the northern coast.

(Signed) CHARLES M. BRADSHAW.

Territory of Washington, County of Thurston, ss.

Before me, Joseph N. Houghton, Clerk of the Supreme Court of said territory, came Charles M. Bradshaw, who, being first duly sworn, did depose and say that he had carefully read the foregoing statement, and knew the contents thereof that the same had been dictated by him; and that so much thereof as was stated from his own knowledge was true, and so much thereof as was stated on information be verily believes to be true.

Witness my hand and the seal of said Court this 16th day of March, A.D. 1872.

(Signed) JOSEPH N. HOUGHTON, *Clerk of Supreme Court, Washington Territory.*

(Seal.)

Extract from the Statement of Uriah Nelson, made before the United States' Consul, residing at the Port of Victoria, Vancouver Island, March 18, 1872, *touching the Navigation of the Canal de Haro and Rosario Straits.*

ON this eighteenth day of March, A.D. one thousand eight hundred and seventy-two, personally appeared before me, David Eckstein, Consul of the United States of America, for the Province of British Columbia, dominion of Canada, residing at the Port of Victoria, Vancouver Island, Uriah Nelson, who, being first duly sworn, states as follows:—

My age is forty-five years; my residence Victoria, Vancouver Island. Since eighteen hundred and fifty-nine, I have resided here part of the time, and the rest of the time at Yale and Clinton, on the mainland of British Columbia.

My occupation is that of merchant and forwarding agent.

I am acquainted, since the year one thousand eight hundred and fifty-nine, with the course pursued by all classes of vessels, British and American, plying between Victoria and ports or places on the Gulf of Georgia and Fraser River. The Canal de Haro has been since one thousand eight hundred and fifty-nine, and is now universally used as the channel by all steamers and sail vessels, British and others, in making trips between the above-named points.

Since the year one thousand eight hundred and fifty-nine I have made about one hundred trips between Victoria and New Westminster on the Fraser River, as passenger, in Hudson's Bay Company steamers and others, and every time passed through the Canal de Haro, in going and returning.

The Canal de Haro is in fact the main channel, and the only one regarded as safe by masters of steamers and sail vessels, who are acquainted with the waters between the continent and Vancouver Island.

(Signed) URIAH NELSON.

Consulate of the United States of America at Victoria,
Vancouver Island, British Columbia.

I, David Eckstein, Consul of the United States of America, residing at the Port of Victoria, Vancouver Island, do hereby certify that, on this eighteenth day of March, A.D. one thousand eight hundred and seventy-two, personally appeared before me Uriah Nelson, and made oath and subscribed to the truth of the foregoing statements; I further certify that the said Uriah Nelson is personally known to me, and that he is a respectable and credible person, to whose representations full faith and credit can be given.

In witness whereof I have hereunto set my hand and affixed the seal of my office, the day and year first above written.

(Signed) DAVID ECKSTEIN, *United States' Consul.*

(Seal.)

No. 62.

Extracts from the Report of the Voyage of the "Eliza," forwarded December 29, 1791, *from San Blas, by Juan Pantoja y Arriaga. From a certified copy of the original Report in the Hydrographical Bureau at Madrid.*

Survey of the Canal de Haro by the Spaniards in 1791.

El 31 del mismo, como á las cinco de la mañana, salió la lancha armada en guerra, á las órdenes del segundo piloto Don José Verdia con el fin de explorar la boca é interiores del Canal de Lopez de Aro, y á las 10½ regresó con toda diligencia y dió parte al Comandante de que no podia continuar la comision al que lo habia destinado por haberse visto sorprendido desde que entró por el Canal por

muchas canoas de Indios, á quienes se vió precisado á hacer fuego y que de haber seguido consideraba se exponia á perderse con la gente y lancha, pues ademas de la mucha Indiada que habia concurrido, veia concurrir mucha mas en tierra, echando canoas al aqua y al mismo tiempo oyeron en ella estruendo como de tambor, y en las canoas andaba uno muy solícito, animando y repartiendo zurrones de flechas, con cuya noticia y atrevimiento nos hemos asegurado ser cierto lo que sus mismos paisanos nos han significado, y en la retirada echaron á pique una canoa grande, y mataron algunos naturales de los que mas se empeñaban en atracar la lancha por todas partes con gruesas lanzas, y los puntos de hierro arponadas. En visto de lo acaceido determinó el Comandante esperar la goleta para seguir el expresado reconocimiento, la que fondeó próxima á nosotros el 11 de Junio, y su capitan communicó al Comandante ser la entrada ó boca de Carrasco, un grande archipiélago de islas pequeñas que tiene de E^te. á O^te. 6 leguas y de N. á S. 4 leguas, y tiene en lo interior de la tierra dos brazos de mar de media legua de ancho que se internan mucho, demorando el uno en el 1er cuadrante y el otro en el 4°, los cuales no pudo explorar mas que tres leguas por haberselo impedido los fuertes temporales con copiosa lluvia que tuvo por espacio de doce dias, y que hallándose sin víveres se vió precisado á dejar la comision sin concluir y durante el dicho tiempo lo insultaron los Indios por tres ocasiones, á quienes rechazó con la artilleria, tirando varios canoñazos al viento para separarlos de la goleta, lo que en breve conseguia pues de haberlos dejado que se empeñasen en la accion miraba la destruccion tan grande que haria en ellos con la metralla de los cañones por venir numerosa Indiada en muchas canoas juntas, demostrando ser muy guerreros y atrevidos y en lo que anduvo vió cuatro grandes rancherias y todas visten lo mismo que los de Noca, con alguna diferencia en el idioma.

El 14 de dicho Junio mandó el Comandante armar la lancha en guerra, proveer la goleta de 29 tiros para el cañon y pedreros que lleva montados que son seis, y tripuló una y otra con treinta hombres de mar y ocho soldados hábiles y de espíritu de los voluntarios de Cataluña, y me entregó el mando de la comision, con el objeto de examinar prolijamente cuanto comprenda el Canal de Lopez de Aro, y castigar á los Indios siempre que vuelvan ó quieran insultarnos como lo hicieron con Don José Verdia, y á las nueve de la mañana nos largamos con toda fuerza de vela y con viento fresco de S°. con el cual navegamos la vuelta del 1er cuadrante haciendo los rumbos convenientes para entrar por el Canal de Lopez de Aro, lo que conseguimos á las 10½ por entre varias tiletas y algunas piedras que tiene próximas á la costa, y en toda encontramos muy recia corriente la que hacia remolinos tan grandes que parecia navegabamos por un rio muy caudaloso, y hallándonos á las 11 rebasados enteramente, seguimos en vuelta del cuarto cuadrante por ser la direccion que lleva este canal, por el cual navegamos con viento fresco del tercer cuadrante hasta las 12¼ que refrescó algo mas, por cuya razon no me era posible seguir á la vela por lo mucho que me sotaventeaba de la goleta (que se habia mandado tender la base) y por lo mismo los aferré, y echando abajo los palos seguí al remo en su demanda, haciendo mucha agua que me entraba por la borda por estar la mar picada. La goleta, notándome que nada podia grangear, se puso á la capa, y habiendo á la 1½ llegado á su bordo, mandé arbolar los palos, y largando las velas seguí por la popa de remolque de cuya conformidad seguimos hasta las 8 de la tarde que viendo se estaba poniendo el sol y no teniamos ya mas que ventolinas y que por este motivo no podiamos llegar á un fronton de tierra que habiamos demarcado en donde nos parecia se concluia este brazo del 4° cuadrante me largué al remo en la demanda, y habiendo reconocido eran dos bocas que sus direcciones iban la una al 1er cuadrante y la otra al 3 °, retrocedí y llegué á la goleta á las 10½, la cual estaba fondeada próxima á tierra en 20 brazas de agua fondo lama, donde paramos la noche, sin haber visto en todo el dia mas que un Indio y varias humaredas en el grande bosque que hay á orillas de la playa de todo el pedazo de costa, en donde hicieron sus naturales retroceder al piloto Don José Verdia.

Nota: Que el haber determinado el Comandante saliese con la lancha en conserva con la goleta ha sido con el fin de que tomasemos con las dos embarcaciones las dos costas de este canal, por haber concebido todos seria mucho mas angosto que el Estrecho, y siendolo pudieramos con mas prontitud concluir su reconocimiento, y por este concepto me dió cuatro dias de término, pero ha sucedido todo muy al contrario, pues nos hallamos en un imponderable archipiélago de islas, con rocas y bocanas, por cuya razon hemos determinado no separarnos, tanto por que no serian capaces de encontrarnos en muchos dias, cuanto por que la lancha no es apropósito para semejante comision en brazos tan anchos por ser muy pequeña y no tener buque para acomodar los necesarios correspondientes al efecto, y asi hemos dispuesto siga la lancha por la popa de la goleta al remolque y que se ayude con sus velas cuando haya viento y cuando este se calme pase á proa de la goleta á darle remolque, y esto dispuesto me pasé à la goleta à ayudar à mis compañeros, á hacer las muchas marcaciones, enfilaciones y rectificacionesque hay que hacer, y en la tarde hemos dejado por la parte del O^te. varias bocanas y brazos formados al parecer de muchas islas que sus direcciones prometen alguna estension por ser tierras quebradas y rasas y sin verse por detras serrania alguna, los canales no hemos seguido por haber comprendido con bastante fundamento ser necesarios muchos dias, y traer nosotros muy pocos dias de término, y tambien por que en la navegacion que hemos hecho esta tarde avistamos por la banda del E^te. un brazo de mucha mas estension que las bocas que hemos rebasado, y promediando á primera vista se^r mucho mas útil seguir este por su estension, lo hemos acordado asi para que luego que principie el crepúsculo del dia seguir su demanda.

El 15 del dicho amaneció el tiempo claro y el terralito bonancible del Levante, por lo que á las tres de la mañana nos levamos y seguimos con el remolque á la lancha y los ocho remos á la goleta de la vuelta del E^te. con el fin de irnos aproximando al brazo expresado en cuya distancia hemos reconocido varios promontorios de tierra, segun sus estremos demuestran ser grandes islas. A las 6 nos vimos precisados á dar fondo por haber refrescado el terral del E^te. y lo ejecutamos en 11 brazos de agua fondo canajo, proximo á una punta que parecia tener una pequena entrada, y habiendome largado con la lancha, reconocí un buen puerto aunque pequeño pues lo mas largo de él tiene una y media millas, y lo mas ancho una, pero resguardada de todo viento y su fondo es de 13 hasta 2 brazos arena fina y se halla situado en lo mas sur de la isla de Sayas, y le puse puerto de San Antonio. A las 9½ calmó el terral, y habiendo llegado á la goleta como á las diez de la mañana, nos levamos y seguimos con los

remos de ella y el remolque de la lancha la vuelta del 1er cuadrante hasta el medio dia que atravesando por la boca de una profunda ensenada, dimos fondo en ella en 18 brazos de agua cascagillo, y luego salí con la lancha á reconocerla, la cual tiene de largo de N°. SE. 7 millas (y en su fondo dos bocas en el 1° y 4° cuadrante, siendo esta del 4°, la que ayer tarde reconocé giraba para el 1°) y de ancho 2½, y habiendo á las 3 de la tarde concluido el mismo exámen que en tan corto tiempo sepodia hacer nos levamos y luego que la montamos. se nos quedó el viente calma y seguimos con el remolque de la lancha y los remos de la goleta á atracar una punta saliente que nos demoraba en el primer cuadrante, lo que conseguimos á las siete y luego que la rebasamos, vimos por el cuarto cuadrante un muy grande y dilatado canal, pues segun lo claro del horizonte se alcanzaba á ver mucha distancia, y en el medio de él se distinguia como á perder de vista un pequeño cerro, á modo de Pan de Azucar, siendo advertencia que los estremos ó puntas de tierra que forman este canal es serrania muy elevada, cubierta de nieve, al cual le puse, en honor de nuestra Patrona, por ser el punto de mas consideracion que hasta lo presente hemos descubierto El Gran Canal de Nuestra Señora del Rosario, la marinera. * *

Discovery of the broad upper Channel of Rosario.

Voyage of Kendrick in 1789.

El 12 de Julio entró en este puerto y pasó por nuestro castillo con las mechas encendidas y gente armada, el Capitan Juan Kendrique Bostones, con bandera de su nacion, en la balandra Wasinton aperajada de bergantin, y se fué á fondear al invernadero que llaman de Malbinas que se halla tres leguas al Nte. de esta entrada, y grande puerto de Noca: siendo este individuo el que encontró Don Estebân Martinez el ano de 89 en este mismo invernadero, mandando la espresada balandra y la fragata Columbia, que ya tien remitida desde Macao al Nte. de América, á Provincias Unidas. Al pasar por el castillo se le preguntó con la bocina, quien era y de donde venia, y respondió no entender, por cuya razon, y sin pérdida de tiempo le pasé officio el Comandante interno de est establicimiento Don Ramon Saavedra, que hasta la presente pertenecia esta tierra al dominio de nuestro Soberano y que por lo mismo no podia entrar, ni comerciar sin el debido permiso, y que dijese de donde venia y la causa de entrar en este puerto, á que respondió: de Macao con destino de comerciar de toda la costa en pieles de nútrias, y que luego que concluyese su comision pensaba largarse, lo que verificó el dia 2°, saliendo á la mar sin pasar por el castillo, pues lo ejecutó por el brazo de agua salada que va por dentro de este puerto á la Bahia de Buena Esperanza, que se halla 10 leguas al Nte. de esta entrada de Noca, que tiene su entrada ó boca al mar sobre la misma costa, siendo toda ella una gran isla, como en el adjunto plano se manifiesta, del mismo modo que todo lo que se ha descubierto, pues para ello el espresado plano va en Carta Esférica y comprende solo desde la punta de Bosse hasta lo mas sur del Estrecho, con todos los interiores de la costa que se han reconocido.

No. 63.

Extract from the Instructions to Commander George Vancouver, by the Commissioners for Executing the Office of Lord High Admiral of Great Britain and Ireland, &c.

["Vancouver's Voyage," vol. i, Introduction, p, 22.]

Vancouver followed the lead of Americans. His instructions.

THE particular course of the survey must depend on the different circumstances which may arise in the execution of a service of this nature; it is, however, proper that you should, and you are therefore hereby required and directed to pay a particular attention to the examination of the supposed Straits of Juan de Fuca, said to be situated between 48° and 49° north latitude, and to lead to an opening through which the sloop "Washington" is reported to have passed in 1789, and to have come out again to the northward of Nootka. The discovery of a near communication between any such sea or strait, and any river running into, or from the Lake of the Woods, would be particularly useful.

If you should fail of discovering any such inlet, as is above mentioned, to the southward of Cook's River, there is the greatest probability that it will be found that the said river rises in some of the lakes already known to the Canadian traders, and to the servants of the Hudson's Bay Company; which point it would, in that case, be material to ascertain; and you are, therefore, to endeavour to ascertain accordingly, with as much precision as the circumstances existing at the time may allow: but the discovery of any similar communication more to the southward (should any such exist) would be much more advantageous for the purposes of commerce, and should, therefore, be preferably attended to, and you are, therefore, to give it a preferable attention accordingly.

No. 64.

Extract of Voyage of Captain Vancouver.

No soundings appear on Vancouver's map where the water is of great depth.

SOUNDINGS in some places only could be gained close to the shore; and in the middle no bottom had anywhere been found with 100 fathoms of line, although the shores were in general low, and not half a league asunder. (Vol. 1, p. 240.)

As we stood to the westward, our depth soon increased to fifteen fathoms, after which we gained no bottom till we reached the western shore of the gulf. (Vol. 1, p. 299.)

No. 65.

Extracts from the Remarks of Mr. Daniel Webster in the Senate of the United States, March 30, 1846.

THE Government of the United States has never offered any line south of forty-nine (with the navigation of the Columbia), and it never will. It behoves all concerned to regard this as a settled

point. As to navigation of the Columbia, permanently or for a term of years, that is all matter for just, reasonable, and friendly negotiation. But the 49th parallel must be regarded as the general line of boundary, and not to be departed from for any line further south. As to all straits, and sounds, and islands in the neighbouring sea, all these are fair subjects for Treaty stipulation. If the general basis be agreed to, all the rest, it may be presumed, may be accomplished by the exercise of a spirit of fairness and amity. * * * What I meant, and what I said, was, that if 49° should be agreed on as a general basis, I was satisfied to negotiate about all the rest. But the gentleman from Ohio and the Senate will do me the justice to allow that I said, as plainly as I could speak or put down words in writing, that England must not expect anything south of forty-nine degrees. I said so in so many words.

No. 66.

"Four Years in British Columbia and Vancouver Island." By Commander R. C. Mayne, R.N., F.R.G.S. London, 1862.

THE breadth of the Strait of Juan de Fuca, at its entrance between Cape Flattery, its southern point upon American territory, and Bonilla Point in Vancouver Island, is thirteen miles. It narrows soon, however, to eleven miles, carrying this breadth in an east and north-east direction some fifty miles to the Race Islands.—(Page 20.)

At the Race Islands the Strait may be said to terminate, as it there opens out into a large expanse of water, which forms a playground for the tides and currents, hitherto pent up among the islands in the comparatively narrow limits of the Gulf of Georgia, to frolic in.—(Pages 21, 22.)

Where Fuca's Strait end.

"Facts and Figures relating to Vancouver Island and British Columbia." By J. Despard Pemberton, Surveyor-General, Vancouver Island. London, 1860.

STEAMING for the first time eastward into the Straits of Juan de Fuca, the scene which presents itself to a stranger is exceedingly novel and interesting. On his right hand is Washington Territory, with its snowy mountain range stretching parallel to his course for sixty miles; flanked with Mount Ranier and culminating in the centre with Mount Olympus. Of these mountains the base is in some places at the coast, in others many miles from it. This range is occasionally intersected with deep and gloomy valleys, of which the Valley of Angels is the gloomiest and most remarkable; and every succession of cloud and sunshine changes the panorama. On his left is Vancouver Island, in contrast looking low, although even there as late as June some specks of snow may be detected on distant mountain tops. Straight before him is the Gulf of Georgia, studded with innumerable islands.—(Page 8.)

Limited extent of Fuca's Straits.

Victoria was selected by Governor Douglas, whose intimate acquaintance with every crevice in the coast ought to carry considerable weight, as "the site, in 1842, when he expressed his confidence that there was no sea-port north of the Columbia, where so many advantages could be combined;" an opinion which was confirmed by Sir George Simpson in his despatch of June 21, 1844, in which he states, "The situation of Victoria is peculiarly eligible, the country and climate remarkable fine, and the harbour excellent." And again: "June, 1846.—Fort Victoria promises to become a very important place."—(Page 50.)

No. 67.

Extract from a Letter of Sir J. Pelly, Governor of the Hudson's Bay Company, to the Lords of the Committee of Privy Ceuncil for Trade.

Hudson's Bay House, February 7, 1838.

FOR many years previous to the grant of exclusive trade to the Hudson's Bay Company, the trade of that coast was engrossed by the subjects of the United States of America and Russia, the only establishment occupied by British traders being "Astoria," afterwards named "Fort George," at the mouth of the Columbia River, while no attempt was made, through the means of shipping, to obtain any part of the trade of the coast: and so unprofitable was it in the years 1818, 1819, 1820, 1821, and 1822, and so difficult of management, that several of the leading and most intelligent persons in the country strongly recommended that the Company should abandon it altogether. The Company, however, felt that the honour of the concern would, in a certain degree, be compromised were they to adopt that recommendation, holding as they did under Government the license in question, and with a degree of energy and enterprise, whieh I feel assured your Lordships will admit reflects much credit on themselves and on their officers and servants in the country, they directed their efforts so vigorously to that branch of the business, that they compelled the American adventurers, one by one, to withdraw from the contest.

The Hudson's Bay Company expel Americans from the fur trade.

The outlay and expense attending this competition in trade are so heavy that the profits are yet but in perspective, none worthy of notice having been realized, the result showing some years a trifling loss, and in others a small gain, fluctuating according to the degree of activity with which the contest is maintained.

40

Affidavit of W. H. Gray.

IN a conversation had with Dr. John McLaughlin while he was in charge of the affairs of the Hudson's Bay Company (time I cannot state, except I am confident it was before the news of the Treaty of 1846 reached us), Dr. McLaughlin said to me, in relation to Captain N. Wyeth, who left this country in 1836, "that if he (Captain Wyeth) had not accepted his proposition for the purchase of his goods and forts, the Company would have insisted on other means to get rid of his (Captain Wyeth's) competition in the fur trade." I have always understood this intimation to mean that the Company would insist upon letting loose their Indian or aboriginal allies upon Captain Wyeth or any other American fur trader that might presume to compete with them in the fur trade, the same as I am fully satisfied they did in the case of a Mr. G. Smith, the partner of Sublit and Jackson, in 1828. The Indians were informed that, in case they robbed or killed the Americans, the Company would not punish them or take any notice of it. (Smith's party were eleven of them killed, his furs received by the Company, who paid a nominal price for them, as per testimony of G. L. Meak, Hudson's Bay Company, V. S. U. S.)

I solemnly swear that the first part of the foregoing statement is true, and that I believe the latter part to be true. So help me God.

(Signed) W. H. GRAY.

Subscribed and sworn to before me this 8th day of April, 1872.

(Signed) A. VAN DUSEN, *Notary Public for Clatsop County, State of Oregon.*

(L.S.)

Extract from a Letter of Sir J. Pelly, Governor of the Hudson's Bay Company, to the Earl of Aberdeen.

(Precise date not stated, but from internal evidence certainly later than May 16, 1846.)

The Hudson's Bay Company suggest to Lord Aberdeen to draw the boundary line through the channel used by Vancouver.

I HAVE been considering the subject on which I had the honour of conversing with your Lordship on Saturday last (May 16, 1846), and feeling that, in the multiplicity of business which comes before your Lordship, some parts may have been overlooked, or that I may not have been sufficiently explicit, I have thought it advisable to trouble you with a few lines.

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

The next question on which the Governments of the two countries will have to decide will be as to the islands abutting on and in the Gulf of Georgia, viz.: one, Vancouver Island, intersected by the parallel of 49°, and others which are wholly on the south of that parallel. With respect to the former, I think, upon the principle of mutual convenience, and which, I think, should form the foundation of the Treaty, Great Britain is entitled to the harbour on its south-east end, being the only good one, those in Puget Sound being given up to the United States; that with respect to the other islands, the water demarcation line should be from the centre of the water in the Gulf of Georgia in the 49th degree along the line coloured red, as navigable in the chart made by Vancouver, till it reaches a line drawn through the centre of the Straits of Juan de Fuca.

No. 68.

Mr. Crampton to Mr. Buchanan.

(Extract.) *Washington, January* 13, 1848.

The British Government wishes the American to agree on the channel used by Vancouver as the boundary.

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

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

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

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

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

The main channel marked in Vancouver's chart is, indeed, somewhat nearer to the continent than to Vancouver's Island, and its adoption would leave on the British side of the line rather more of those small islets with which that part of the gulf is studded, than would remain on the American side. But these islets are of little or no value.

(Signed) JOHN F. CRAMPTON.

Hon. James Buchanan.

No. 69.

Extract from Additional Instructions to Captain Prevost.

Foreign Office, December 20, 1856.

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

The British Government in 1856 does not claim the so-called Rosario as the boundary.

Captain Prevost.

No. 70.

Captain Prevost to Mr. Campbell.

"Satellite," Simiahmoo Bay, Gulf of Georgia,
October 28, 1857.

(Extracts.)

BY a careful consideration of the wording of the Treaty, it would seem distinctly to provide that the channel mentioned should possess three characteristics: 1st. It should separate the continent from Vancouver's Island. 2nd. It should admit of the boundary line being carried through the middle of it in a southerly direction. 3rd. It should be a navigable channel. To these three peculiar conditions the channel known as the Rosario Strait most entirely answers.

Admiral Prevost on the channel of the Treaty.

It is readily admitted that the Canal de Arro is also a navigable channel, and therefore answers to one characteristic of the channel of the Treaty.

November 9, 1857.

The Canal de Haro, or Arro, is undoubtedly the navigable channel which, at its position, separates Vancouver's Island from the continent, and therefore, while other channels exist more adjacent to the continent, cannot be the channel which separates the continent from Vancouver's Island.

November 24, 1857.

With reference to your remarks upon the map drawn by Charles Preuss, * * * I beg you to understand me that I do not bring this map forward as any authority for the line of boundary. * * *

I will at once frankly state how far I am willing to concede, but beyond what I now offer I can no further go. In contemplating your view that all the channels between the continent and Vancouver's Island, from the termination of the Gulf of Georgia to the eastern termination of the Straits of Fuca, are but a continuation of the channel of the Gulf of Georgia, I see a way by which I can in part meet your views without any gross violation of the terms of the Treaty. I am willing to regard the space above described as one channel, having so many different passages through it, and I will agree to a boundary line being run through the "middle" of it, in so far as islands will permit.

No. 71.

Mr. Edward Everett to Mr. Campbell.

Boston, May 29, 1858.

(Extract.)

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

Mr. Everett on the channel of the Treaty.

(Signed) EDWARD EVERETT.

Archibald Campbell, Esq.

No. 72.

Mr. Campbell to Mr. Cass.

Washington City, D. C., February 10, 1858.

(Extracts.)

CAPTAIN PREVOST finally proposed such a compromise as would throw within the territory of the United States all the islands but San Juan, the largest and most valuable of the group. Being fully satisfied, from my own observation, that the Canal de Haro is the main channel, and consequently "the channel" intended by the Treaty, and being supported in this opinion by indisputable contemporaneous evidence of the highest official character, I declined to accede to any compromise.

Lucid statement of Mr. Campbell on the channel of the Treaty.

United States' North-west Boundary Commission Camp,
Simiahmoo, 49th parallel, September 25, 1858.

PRACTICALLY it can make no difference whether the main channel be adopted as "the channel" intended by the Treaty upon the "generally admitted principle" recognized by Mr. Crampton, and assented to by Her Majesty's Government in 1848; or whether the Canal de Haro be adopted on the proof of contemporaneous evidence that it was proposed by the British Government, and in good faith accepted by the United States as the boundary channel. In either case the Canal de Haro would be the boundary channel. In advocating it with Captain Prevost, I did not confine myself singly to either of these sufficient grounds, but maintained both, with others equally forcible and tenable.

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

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

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

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

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

But leaving the mere letter of the Treaty, and referring to the history of the negotiation to ascertain the cause which prevented the United States and the British Government from agreeing upon the prolongation of the forty-ninth parallel to the ocean, it will be found that the southern end of Vancouver's Island was alone the stumbling-block. The British Government refused to concede it to the United States, four-fifths of the island being north of the forty-ninth parallel; and the southern end, with its harbours, being the most valuable portion. The United States, considering the disadvantages of a divided jurisdiction of the island, and the probabilities of difficulties arising therefrom, reluctantly yielded it. This was the sole object in deviating from the forty-ninth parallel, and reduces the water boundary to a very simple question. It was a second compromise line. Divested of all quibbles, the meaning of the Treaty is that the 49th parallel shall be the dividing line between the territories of the United States and the British possessions until it reaches "the middle" of the nearest natural boundary to Vancouver's Island; aud thence the line shall be run to the ocean by the nearest natural boundary, in such a direction as will give the whole of Vancouver's Island to that power upon whose side the greatest portion wouid fall by the prolongation of the parallel to the ocean.

(Signed) ARCHIBALD CAMPBELL.
Commissioner of the North-West Boundary Survey.

Hon. Lewis Cass,
Secretary of State.

No, 73.

Lord John Russell to Lord Lyons.

(Extract.) *Foreign Office, August* 24, 1859.

The British Government announces its intention of obtaining the Island of San Juan.

THE Earl of Aberdeen, to whom I have referred, informs me that he distinctly remembers the general tenor of his conversations with Mr. MacLane on the subject of the Oregon boundary, and it is certain that it was the intention of the Treaty to adopt the mid-channel of the straits as the line of demarcation, without any reference to islands, the position, and, indeed, the very existence of which had hardly, at that time, been accurately ascertained; and he has no recollection of any mention having been made during the discussion of the Canal de Haro, or, indeed, any other channel than those described in the Treaty itself.

I also inclose a memorandum,drawn up by Sir Richard Pakenham, the negotiator of the Treaty of 1846. * * *

The adoption of the central channel would give to Great Britain the Island of San Juan, which is believed to be of little or no value to the United States, while much importance is attached by British Colonial Authorities, and by Her Majesty's Government, to its retention as a dependency of the Colony of Vancouver's Island.

Her Majesty's Government must, therefore, under any circumstances, maintain the right of the British Crown to the Island of San Juan. The interests at stake, in connection with the retention of that island, are too important to admit of compromise, and your Lordship will consequently bear in mind that, whatever arrangement as to the boundary line is finally arrived at, no settlement of the question will be accepted by Her Majesty's Government which does not provide for the Island of San Juan being reserved to the British Crown.

(Signed) J. RUSSELL.

Lord Lyons,
&c., &c., &c.

43

Sir Richard Pakenham on the Water Boundary under the Oregon Treaty of 1846.

I HAVE examined the papers put into my hands by Mr. Hammond, relating to the line of boundary to be established between the British and the United States' possessions on the north-west coast of America, and I have endeavoured to call to mind any circumstance which might have occurred at the time when the Oregon Treaty was concluded (15th June, 1846) of a nature either to strengthen or invalidate the pretension now put forward by the United States' Commissioner, to the effect that the boundary contemplated by the Treaty would be a line passing down the middle of the channel called Canal de Haro, and not, as suggested on the part of Great Britain, along the middle of the channel called Vancouver's or Rosario Strait, neither of which two lines could, as I conceive, exactly fulfil the conditions of the Treaty, which, according to their literal tenor, would require the line to be traced along the middle of the channel (meaning, I presume, the whole intervening space) which separates the continent from Vancouver's Island. And I think I can safely assert, that the Treaty of 15th June, 1846, was signed and ratified without any intimation to us whatever, on the part of the United States' Government, as to the particular direction to be given to the line of boundary contemplated by Article I of that Treaty.

Sir R. Pakenham, in 1859, denies the Rosario to be the channel of the Treaty.

All that we knew about it was that it was to run "through the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean."

It is true that, in a despatch from Mr. MacLane, then United States' Minister in London, to the Secretary of State, Mr. Buchanan, dated 18th May, 1846, which despatch, however, was not made public until after the ratification of the Treaty by the Senate, Mr. MacLane informs his Government that the line of boundary about to be proposed by Her Majesty Government would "probably be substantially to divide the territory by the extension of the line in the parallel of 49° to the sea, that is to say, to the arm of the sea called Birch's Bay, thence by the Canal de Haro and Straits of Fuca to the ocean."

It is also true that Mr. Senator Benton, one of the ablest and most zealous advocates for the ratification of the Treaty (relying, no doubt, on the statement furnished by Mr. MacLane), did, in his speech on the subject, describe the intended line of boundary to be one passing along the middle of the Haro Channel.

But, on the other hand, the Earl of Aberdeen, in his final instructions, dated 18th May, 1846, says nothing whatever about the Canal de Haro, but, on the contrary, desires that the line might be drawn "in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the Pacific Ocean."

Sir R. Pakenham misstates Lord Aberdeen's instruction by suppressing his description of the channel of the Treaty.

It is my belief that neither Lord Aberdeen, nor Mr. McLane, nor Mr. Buchanan, possessed at that time a sufficiently accurate knowledge of the geography or hydrography of the region in question to enable them to define more accurately what was the intended line of boundary than is expressed in the words of the Treaty, and it is certain that Mr. Buchanan signed the Treaty with Mr. MacLane's despatch before him, and yet that he made no mention whatever of the "Canal de Haro" as that "through which the line of boundary would run, as understood by the United States' Government."

My own despatch of that period contains no observation whatever of a tendency contrary to what I thus state from memory, and they, therefore, so far, plead in favour of the accuracy of my recollection.

No. 74.

Mr. Cass to Mr. Dallas.

Sir, *Department of State, Washington, October* 20, 1859,

* * * * * * *

The words of the Treaty are: "through the middle of said channel and of Fuca's Straits to the Pacific Ocean. Ordinarily, and in the absence of any other controlling circumstances, the way which would be selected from one given point to another would be the shortest and the best way. In the present case this is the Canal de Haro, which is, undoubtedly, the broadest, the deepest, and the shortest route by which the Straits of Fuca can be reached from the point of deflection. This pre-eminence was given to it by De Mofras as long ago as 1841, and it has been fully confirmed by subsequent surveys. The Canal de Haro may, therefore, be fairly regarded, from its own intrinsic merits merely, as the main channel down the middle of which the Treaty boundary is to pass to the Straits of Fuca.

Mr. Cass on the channel of the Treaty.

It is the only channel, moreover, which is consistent with the purpose of those who negotiated the Treaty, for it is the only channel which separates Vancouver's Island from the continent without leaving something more to Great Britain south of the forty-ninth parallel than the southern cape of that island. The Rosario Channel claimed by Captain Prevost would surrender to Great Britain not only Vancouver's Island, but the whole archipelago between that island and itself; while the middle channel, which is proposed as a compromise by Lord John Russell, would in like manner concede the important Island of San Juan.

These considerations seem to be almost conclusive in favour of the Haro Channel. But they are abundantly confirmed by evidence contemporaneous with the negotiation of the Treaty. The description given by Mr. MacLane, immediately after he had an interview on the subject with Lord Aberdeen, of what the British proposal would be, has already been mentioned, and carries the line in so many words down the Canal de Haro. Equally clear is the statement of Senator Benton as to what the proposition was. Colonel Benton was one of the most earnest members of the Senate in his support of the Treaty; and he was better acquainted, perhaps, than any other member with the geography of the region in

dispute. His construction, therefore, of the Treaty, at the very time it was before the Senate for ratification, is entitled to no inconsiderable weight. On that occasion he said: "The 1st Article is in the very words which I myself would have used, * * * and that Article constitutes the Treaty. With me, it is the Treaty. * * * The great question was that of boundary. * * * When the line reaches the channel which separates Vancouver's Island from the Continent * * * it proceeds to the middle of the channel, and thence turning south through the Channel de Haro (wrongly written *Arro* in the maps) to the Straits of Fuca." Mr. Buchanan, who signed the Treaty, was equally explicit in his understanding of this part of it.

On the 28th December, 1846, Mr. Bancroft having written to him on the subject from London, he inclosed to him a traced copy of Wilkes' Chart of the Straits of Arro, and added in his letter: "It is not probable, however, that any claim of this character will be seriously preferred by Her Britannic Majesty's Government to any island lying to the eastward of the Canal de Arro, as marked in Captain Wilkes' map of the Oregon Territory." Mr. Bancroft, who was a member of President Polk's Cabinet when the Treaty was concluded, wrote repeatedly to Lord Palmerston after receiving this chart, and uniformly described the Straits of Arro "as the channel through the middle of which the boundary is to be continued." * * * The Canal de Haro, then, as being the best channel leading from the point of deflection to the Straits of Fuca, as answering completely the purpose for which the deflection was made, as being the only channel between the island and the main land which does answer this purpose, and as being supported also by a large amount of personal testimony contemporaneous with the Treaty, must fairly be regarded, in my judgment, as the Treaty channel.

Nor are there any important difficulties which seem to me to be necessarily in conflict with this conclusion. Lord John Russell indeed says, that it is beyond dispute that the intentions of the British Government were that the line of boundary should be drawn through Vaucouver's Channel. But this assumption is wholly inconsistent, not only with the Treaty itself, but with the statements both of the Earl of Aberdeen and of Sir Richard Pakenham. Lord Aberdeen declares that it was the intention of the Treaty to adopt the mid channel of the Straits at the time of demarcation, without reference to islands, the position of which, and indeed the very existence of which, had hardly at that time been accurately ascertained; "and he has no recollection of any mention having been made during the discussion of any other channel than those described in the Treaty itself." Sir Richard Pakenham is still more explicit: "Neither the Canal de Haro nor the Channel of Vancouver," he says, "could, as I conceive, exactly fulfil the conditions of the Treaty, which, according to their literal tenor, would require the line to be traced along the middle of the channel, meaning, I presume, the whole intervening space which separates the Continent from Vancouver's Island." He adds further, that he has no recollection whatever that any other channel was designated in the discussions than that described in the language of the Treaty. Surely there is nothing in this testimony which supports the statement of Lord John Russell, that the Channel of Vancouver was the channel intended by the Treaty; but, on the contrary, another and entirely different channel is suggested as that which the Convention requires. After these statements of Lord Aberdeen and Sir Richard Pakenham, the Rosario Channel can no longer, it seems to me, be placed in competition with the Canal de Haro. Whether the latter is the true channel or not in the opinion of the British negotiation, it is quite certain, by the concurrent testimony of both the American and British negotiators, that the former channel is not. In respect, moreover, to the Canal de Haro, the other considerations to which I have referred appear to me to quite outweigh the mere want of recollection of Lord Aberdeen and Sir Richard Pakenham, or their general impression at this time as to what is required by the literal language of the Treaty.

There is one allusion in Sir Richard Pakenham's Memorandum to which I think it right to call your special attention. It is the reference which he makes to his final instructions from Lord Aberdeen, dated May 18, 1846, and describing the boundary line which he was authorized to propose to Mr. Buchanan. These instructions were shown by Lord Napier to Mr. Campbell, and according to his clear recollection, the description quoted by Sir Richard Pakenham was followed in the despatch by these words: "thus giving to Great Britain the whole of Vancouver's Island and its harbours." This places beyond controversy the object which was intended by deflecting the Treaty boundary south of the parallel of 49°, and ought to have great weight, undoubtedly, in determining the true channel from the point of deflection to the Straits of Fuca. * * *

(Signed) LEWIS CASS.

George M. Dallas, Esq.

No. 75.

Lord John Russell to Lord Lyons.

My Lord, *Foreign Office, December* 16, 1859.

The British Government, in 1859, does not claim the so-called Rosario as the boundary.

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

* * * The fact is that, by the instructions with which Captain Prevost was furnished, he was authorized, in case he should be of opinion that the claims of Her Majesty's Government, to consider the Rosario Strait as the channel of the Treaty, could not be sustained, to adopt any other intermediate channel on which he and the United States' Commissioner might agree.

* * * Sir R. Pakenham seems to think that the conditions of the Treaty would obtain their most exact fulfilment if the line were carried through the Douglas Channel.

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

* * * If I notice General Cass's allusion to the letters which he says Mr. Bancroft repeatedly wrote to Lord Palmerston in 1848, it is only for the purpose of placing on record what, no doubt, Mr. Bancroft duly reported his Government at the time, viz., that Lord Palmerston gave Mr. Bancroft distinctly to understand that the British Government did not acquiesce in the pretentions of the United States that the boundary line should be run down to the Haro Channel. * * *

Lord J. Russell does injustice to the moderation of his own administration in 1848. Lord Palmerston gave the acquiescence of silence.

(Signed) J. RUSSELL,

Lord Lyons.

No. 76.

United States of America, Department of State.

To all to whom these presents shall come, Greeting:

I CERTIFY that the paper hereto annexed is a correct copy of the statement furnished by the Acting Superintendant of the census, of the returns of the ninth census, from the "disputed" islands in the County of Whatcom, Territory of Washington. In testimony whereof, I Hamilton Fish, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed. Done at the City of Washington this 29th day of March, A.D. 1862, and of the independence of the United States of America the 96th.

(Signed) HAMILTON FISH.

ABSTRACT of the Returns at the Ninth Census, from the "Disputed" Islands in the County of Whatcom, Territory of Washington.

The population of the Haro Archipelago more than two-thirds American.

Names of Islands.	Aggregate Number of Males, 21 Years of Age and upwards.	Males, 21 Years of Age and upwards, born in the United States.	Males, 21 Years of Age and upwards, born in Foreign Countries but claiming to be Citizens of the United States.	Males, 21 Years of Age and upwards, born in Great Britain and Ireland, not claiming to be Citizens of the United States.	Males, 21 Years of Age and upwards, born in Foreign Countries other than Great Britain and Ireland, not claiming to be Citizens of the United States.
Blakeley	1	1	..	..	..
Decatur	4	2	2	..	..
Henry	1	1	..	..	..
Lopee	23	5	12	4	2
Orcas	52	26	9	16	1
San Juan, excluding the English and American garrisons ..	96*	21	35	26	14*
Shaw's	1†	1†	..	..	..
Speidan	1	..	..	1	..
Stewart's	1†	1†	..	..	..
Waldron	4	4	..	..	..
	184	62	58	47	17

* Including 2 Chinese. † Indian.

Charts and Maps to Memorial and Reply.

A. Photograph of Map of de Haro. 1790.
B. Photograph of Map of Eliza. 1791.
C. Photograph of Map of Vancouver. 1798.
D. Photograph of Map of Galiano and Valdes. 1802.
E. Photograph of Map of Duflot de Mofras. 1844.
F. Photograph of Map of Wilkes. 1845.
G. Photograph of Map of W. Sturgis. 1845.
H. Lithograph of U. S. Coast Survey Map of Washington Sound and Approaches.
J. Lithograph of Map of de Haro. 1790.
K. Lithograph of Map of Eliza. 1791.
L. Lithograph of Spanish Chart published in 1795.
M. Cross Sections of Haro and Rosario Channels.
N. Sketch to illustrate the rout of the vessels of the Hudson's Bay Company.
O. Copy of Map H, with a blue line drawn southerly from the centre of the Gulf of Georgia in latitude 49°; with red lines to show the channels through Haro northwards; and a yellow line to show the so-called Rosario Channel.

NORTH AMERICA No. 7 (1873).

(E.)

NORTH-WEST AMERICAN WATER BOUNDARY.

MAPS

ANNEXED TO THE

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.

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

LONDON:
PRINTED BY HARRISON AND SONS.

LIST OF CHARTS.

No. I.

Carta Esférica de los Reconocimientos hechos en la Costa N. O. de America, en 1791 y 1792, por las goletas "Sutil" y "Mexicana," y otros buques de Su Magestad. (Published at Madrid, 1802.)

No. II.

A Chart showing part of the Coast of North-West America, with the tracts of His Majesty's sloop "Discovery," and armed tender "Chatham," commanded by George Vancouver, Esquire, and prepared under his immediate inspection by Lieutenant Joseph Baker, in which the continental shore has been traced and determined from Lat. 50° 30′ N. and Long. 236° 12′ E. to Lat. 52° 15′ N. and Long. 232° 40′ E. at the different periods shown by the tracts. (Published at London in 1798.)

No. III.

North America, West Coast.—Haro and Rosario Straits, surveyed by Captain G. H. Richards and the officers of Her Majesty's ship "Plumper," 1858-59; and the shores of Juan de Fuca Strait to Admiralty Inlet. (From Captain H. Kellett's Survey, 1847.)

No. IV.

America, North-West Coast.—Strait of Juan de Fuca, surveyed by Captain Henry Kellett, R.N., 1847.—Haro and Rosario Straits, by Captain G. H. Richards, R.N., 1858.—Admiralty Inlet and Puget Sound, by the United States' Exploring Expedition, 1841.—South Coast of Cape Flattery, by the same, in 1853.

No. V.

Map of Oregon and Upper California, from the Surveys of John Charles Fremont and other authorities.

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

Num.º 2

CARTA ESFÉRICA

de los Reconocimientos hechos en la Costa N. O. DE AMÉRICA

en 1791. y 92. por las Goletas Sutil, y Mexicana y otros Buques de S. M.

OCEANO SEPTENTRIONAL

ISLA DE QUADRA Y VANCOUVER

ARCHIP. DE CLAUCUAHT Y NITINAT

ENTRADA DE JUAN DE FUCA

CANAL DEL ROSARIO

Salida de las Goletas

Islas de Lanz

Islas de Berrejford

Pta Mexicana

Bahia de S.n Jose

Pt.e Scot

Pt.e Cornualles

Monterey Mos

Pt.e de Lamanon

Pt.e Quemada

Pt.e Santiago

Pt.e Baxa

Laserviana

Pt.e de Baldivia

Estrecho de Fuca

Pt.e de Retamal

Is.s Cardenas

B.t del Canonigo y de Flores

Brazo de Salamanca

Ens.e de Viana

Canal de Olavide

C.e de Remolino

Ens.e de Alx.o Pontons

Brazo de Quintano

Is.s de Lobellos

Brazo de Toba

Canal de Galiano

B.to de Bustamante

B.to de Malaspina

Pt.o de Magallanes

Estate Sarmiento

Is.s de Concha

Cabo Frondoso

Pt.e de Bruto

B.to de Aguirre

Is.s de Lobellos

Pico de Tasis

Is.l Catala

Isla de Nutka

Canal de Tasis

B.to de Guelpulanuitg

Brazo de Guelpuanuitz

Pt.o de Macuina

Entrada de Nutka

Pt.o de S.n Estevan

Pt.e de Terron

Pt.e del Estado

Pt.e de Lamanto

R.a de Grillos

Pt.e de Bonilla

Pt.e de S.n Juan

Pt.e de la Magdalena

Boca de Finisterre

Estrecho del Desengano

Bocas de Borbon

Pt.e del Anclage

Is.s de Tutusi

Pt.o de Martinez

Pt.e Nuevo

Is.s de los Pescados

Pt.e de Alava

R.a Canel

Ens.da de Davila

Pt.e de los Angs.

Bahia de Quimper

Ens.da de Mogos. Hipi.

Ens.da y R.a de los Martires

Is.s de Dolores

Pt.e de la Bastida

Pt.e de Gray

Pt.e Quadra

Bocas de Malaspina

Bocas del Carmelo

Canal de Sacramat

Canal de Langara

Ens.da del Engaño

Pt.o de S.ta Rafael

Ens.da del Garzon

Ens.da de Lara

Seno de Gaston

Isla de S.n Juan

Canal de Haro

Pt.e de Revillagigedo

Is.s de Bonilla

Bocas de Guemano

Punta de la Posesion

Canal de Hood

Canal del Almirantazgo.

Ens.da de Malabrigo

Entrada de Bxeta vista en 1775.

C.e S. Roque

C.e Brandon

Rio de la Columbia

C.e de N.a S.a de la Luz.

C.e Lookout

C.e Lucuat

Ens.da del Engaño

C.e Fonlweather

C.e Perpetua

Longitud Occidental de Cadiz.

124 30 123 30 122 30 121 30 120 30 119 30 118 30 117 30 116

51 50 49 48 47 46 45

Cardano lo Grabo

Certified to be a true Photozincographic facsimile of the Map Nº 2 of the "Atlas para el viage de las Goletas sutil y Mexicana al reconocimiento del Estrecho de Juan de Fuca en 1792, Publicado en 1802"

Ordnance Survey Office, Southampton, 1872.

Henry James.

M. Grenard.

A CHART
shewing part of the
COAST OF N.W AMERICA,
with the tracks of His *MAJESTY's* Sloop
DISCOVERY and Armed Tender *CHATHAM;*
Commanded by GEORGE VANCOUVER Esq.r and prepared
under his immediate inspection by Lieu.t Joseph Baker, *in which*
the Continental Shore has been traced and determined from
Lat.: 45. 30 N. and Long. 236. 12 E. to Lat.: 52. 15 N. and Long. 232. 40 E.
at the different periods shewn by the Tracks

The parts not shaded, are taken from Spanish Authorities.

N denotes the Vessels track Northward S their return Southward.

Warner Sculp.

West Longitude from Greenwich

East Longitude from Greenwich

ENTRANCE of COLUMBIA RIVER
Lat.: 46.° 19 N.
Long. 206. 06 E.
Var. 20. 00 E.

Gray's Bay

Scale of two Leagues

GRAY'S HARBOUR
Lat.: 47.° 00 N.
Long. 236. 07 E.
Var. 18. 00 E.

Overfalls from 4 to 20 feet

Overfalls from 2 to 3 feet

From aground

Dry at low Water

Breakers

Breakers

Scale of one League

PORT DISCOVERY
Lat.: 48.° 02. 30 N.
Long. 237. 22. 30 E.
Var. 21. 30 E.

Protection Island

Scale of one League

London Published May 1st 1798 by J. Edwards Pall Mall & G. Robinson Paternoster Row.

Certified to be a Photozincographic copy of "A Chart shewing part of the Coast of N.W America, with the tracks of His Majestys Sloop Discovery and Armed Tender Chatham; Commanded by George Vancouver Esq.r and prepared under his immediate inspection by Lieu.t Joseph Baker, in which the Continental Shore has been traced and determined from Lat. 45.30 N. and Long. 236.12 E. to Lat. 52.15 N. and Long. 232.40 E. at the different periods shewn by the Tracks." Engraved by Warner – Published at London May 1st 1798 by J. Edwards Pall Mall & G. Robinson Paternoster Row.

Ordnance Survey Office, Southampton, 1872.

Henry James.
Lt. General.

III

NORTH AMERICA
WEST COAST

HARO AND ROSARIO STRAITS

SURVEYED BY CAPTS G.H. RICHARDS, & THE OFFICERS OF H.M.S. PLUMPER

1858-9

The shores of Juan de Fuca Strait to Admiralty Inlet from Capt.n H. Kellett's Survey 1847

F. Fixed. Fl. Flashing. Rev. Revolving Lights.

H.W.F.& C. Victoria irregular. Springs rise 7 to 10 feet

Entrance of Fraser River V.P 30m. D.o 10

→ Flood. ← Ebb. kn. knots. D. Doubtfull.

f. fine, d. dark, g. gravel, m. mud, r. rock, s. sand, sh. shells, st. stones, wd. weed.

Figures on the land shew the heights in feet above High Water Sp.

Magnetic Variation in 1858 increasing about 2' annually

SOUNDINGS IN FATHOMS

Natural Scale 1/63,000

The East Coast of Rosario Strait from Bellingham Bay to Admiralty Inlet from the American Surveys of 1841.

Kelp

View A. West.P.t of Patos I.d and Monarch Head in one bearing S.W&W leads to the North.d of Alden Bank.

View B. Mt Constitution just open to the East.d of Pt Fitzhn.d bearing S by E&E. lead Eastward of the Alden Bank.

View C. Galiano Island. Mt Parke. S.W. Bluff of Galiano Island in line with Mt Parke, E.&S. clears the Alcan Reef, Trincomalee Channel.

A. Monarch Head in line with W.t Point of Patos I. S.W&W leads North of Alden Bank.

B. Tom. Pt in line with S.E. Pt of Sidney I. S.S.E.½E. leads just clear to the East.d of Cooper Rk.

C. Mt Tuam in line with centre of the two notches on James Island. N.W.½W. leads clear of all the rocks South of Sidney Channel until Moresby I. is just shut in with S. Pt of Sidney Island, N.E.½N.

D. Mt Constitution just open to the East.d of Alden Bank, leads East of the Alden Bank.

E. Mt Erie in line with Jennie Point N.E.½E.¼E. leads ¼ mile South of Salmon Bank.

F. Cross Nob in line with Goose I. N.N.W.½W. leads East of Salmon Bank into Middle Channel.

G. Lawrence Pt just touching Tide Pt (Cypress I.) N.N.W. leads clear Eastward of the Bolle Pt.

Published Plans

Fraser River	Scale of Sea Mile in inches	1	N.o 1822	Price 3.6
Victoria Harbour	to join	10	1897a	2.6
Esquimalt Harbour		10	1897b	2.6
Esquimalt & Victoria Harbours		6	576	2.6
Inner Channels to Haro Strait		6	577	2.6
Becher & Pedder Bays		4	1906	1.6
Constance Cove		18.t	572	1.6
Harbours in Stuart Ch.l & Saanich Inlets		3	714	1.6
Griffin Bay & adjacent Anchorages		3	611	1.6
Becher Harbour approaches		6	602	1.6

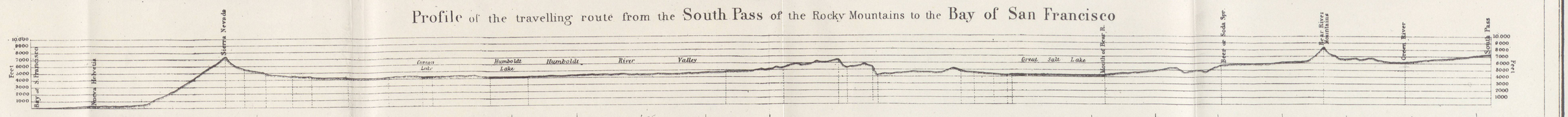
Drawn for Engraving by E. J. Powell.
V. 70, 72, 80, 1, 71, 11, 18, 28, 29, 71, 28, 73.

London. Published at the Admiralty 28 July 1859 under the Superintendence of Capt.n Washington R.N. F.R.S. Hydrographer. Corrections Sept.r 1864. Feb 65.
Sold by J.D. Potter Agent for the Admiralty Charts 31 Poultry & 11 King Street Tower Hill.

Engraved by J.& C. Walker


IV
AMERICA
N.W. COAST
STRAIT OF
JUAN DE FUCA
SURVEYED BY CAPTAIN HENRY KELLETT, R.N. 1847.
HARO & ROSARIO STRAITS.
BY CAPTAIN G.H. RICHARDS, R.N.
1858.
ADMIRALTY INLET AND PUGET SOUND.
BY THE UNITED STATES EXPLORING EXPEDITION, 1841.
Coast South of C. Flattery by the same in 1853.
g. gravel. m. mud. r. rock. s. sand. sh. shells. Kelp
SOUNDINGS IN FATHOMS
Magnetic Variation in 1871, increasing about 2' annually
VANCOUVER ISLAND
JUAN DE FUCA STRAIT
WASHINGTON
OLYMPIAN RANGE
ROSARIO STRAIT
ADMIRALTY INLET
WHIDBEY ISLAND
PORT SUSAN
PORT GARDNER
Scatchat Tribe
Clalum Tribe
Suquamish Tribe
Toando Tribe
Nahomish Tribe
Bainbridge Island
Port Madison
Port Orchard
Port Ludlow
Suquamish Harbour
Washington Harbour
Cape Flattery
Appearance of Cape Flattery bearing N.E. 16 or 17 miles
Fisgard I. Light
(See large plan of Haro & Rosario Straits)
WASHINGTON TERRITORY
PUGET SOUND
Socomish Tribe
Kellim Lake
Olympia
Budd Inlet
Fort Nisqually
Steilacoom
Beach Bay
Dungeness
Port Ludlow
Port Gamble
Port Orchard
Seattle
Destruction I.
CONTINUATION
OF
ADMIRALTY INLET
AND
PUGET SOUND.
Fort Nisqually H.W.F.&C.Vt. Springs Range 10 feet
Longitude West of Greenwich
1911

Profile of the travelling route from the South Pass of the Rocky Mountains to the Bay of San Francisco



MAP OF OREGON AND UPPER CALIFORNIA

From the Surveys of

JOHN CHARLES FRÉMONT

And other Authorities

DRAWN BY CHARLES PREUSS

Under the Order of the

SENATE OF THE UNITED STATES

Washington City 1848.

Scale 1:3,000000

Explanations

F^R.1842 or 1846 means Frémont's Exploring route in 1842 &c &c.
The arabic figures note the elevation of the country above the level of the sea.
S. before a feminine name, signifies Santa, as Santa Barbara.
S. before a masculine name signifies San, as San Luis Rey. (Saint Luis the king.)
P. before masculine names (on the coast,) signifies Punto, or Punta, according to the gender of the name, as Punto Gordo, (Big Point,) or Punta Concepcion. (Point Conception.)
Y. before the names of islands, stands for Yela (island), as Yela de Santa Catalina, or Yela de San Clemente, Santa, or San according to the gender.

Lith^d by E. Weber & Co. Balto.

Certified to be a true Photo-zincographic copy of the "Map of Oregon and Upper California" from the Surveys of John Charles Frémont and other authorities. Drawn by Charles Preuss under the order of the Senate of the United States, Washington City 1848. Scale 1/3,000,000. Lithographed by E. Weber & Co. Balto.

Ordnance Survey Office, Southampton 1872.

Henry James.
Col. R.E.

NORTH AMERICA. No. 8 (1873).

(F.)

NORTH-WEST AMERICAN WATER BOUNDARY.

MAPS

ANNEXED TO THE

MEMORIAL AND REPLY

OF THE

UNITED STATES' GOVERNMENT,

SUBMITTED TO THE

ARBITRATION AND AWARD

OF

HIS MAJESTY THE EMPEROR OF GERMANY,

UNDER THE PROVISIONS OF THE TREATY OF WASHINGTON,
JUNE 12, 1872.

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

LONDON:
PRINTED BY HARRISON AND SONS.

LIST OF CHARTS AND MAPS.

(A.) Photograph of Map of De Haro. 1790.

(B.) Photograph of Map of Eliza. 1791.

(C.) Photograph of Map of Vancouver. 1798.

(D.) Photograph of Map of Galiano and Valdes. 1802.

(E.) Photograph of Map of Duflot de Mofras. 1844.

(F.) Photograph of Map of Wilkes. 1845.

(G.) Photograph of Map of W. Sturgis. 1845.

(H.) Lithograph of United States' Coast Survey Map of Washington Sound and approaches.

(J.) Lithograph of Map of De Haro. 1790.

(K.) Lithograph of Map of Eliza. 1791.

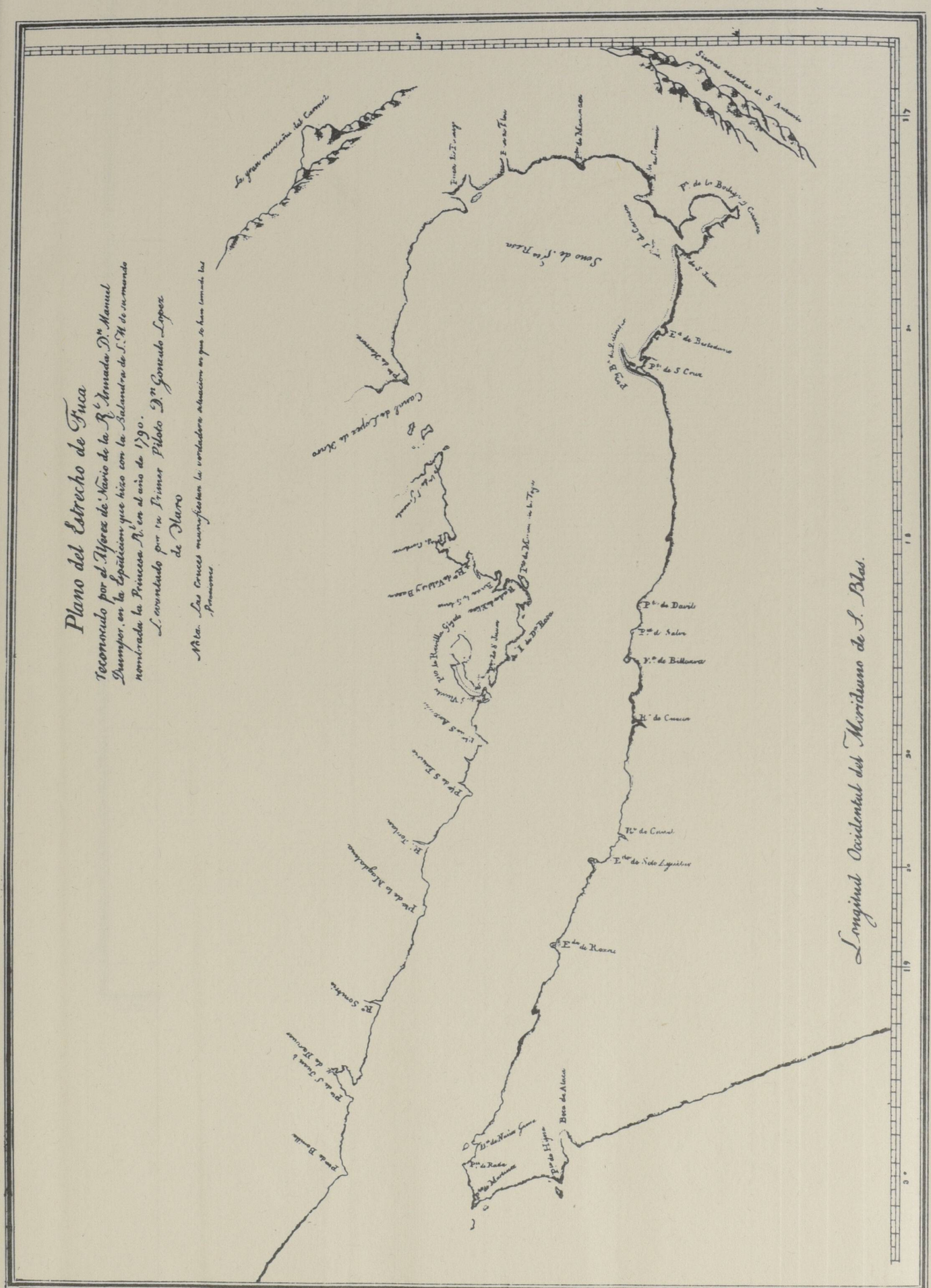
(L.) Lithograph of Spanish Chart published in 1795.

(M.) Cross Sections of Haro and Rosario Channels.

(N.) Sketch to illustrate the Route of the Vessels of the Hudson's Bay Company.

(O.) Copy of Map H, with a blue line drawn southerly from the centre of the Gulf of Georgia in latitude 49°; with red lines to show the Channels through Haro northwards; and a yellow line to show the so-called Rosario Channel.

A


Plano del Estrecho de Fuca
Reconocido por el Alferez de Navio de la R.l Armada D.n Manuel Quimper, en la Expedicion que hizo con la Balandra de S.M de su mando nombrada la Princesa R.l en el año de 1790.
Levantado por su Primer Piloto D.n Gonzalo Lopez de Haro
Nota. Las cruces manifiestan la verdadera situacion en que se han tomado las Puntas
Longitud Occidental del Meridiano de S. Blas.
Sierras nevadas de S. Antonio
Pt.a de Bodega y Cuadra
Pt.a de S.n Juan
Pt.a de Bustamante
Pt.a de S.ta Cruz
Pt.a de Dardo
Pt.a de Salas
Pt.a de Villaverde
Pt.a de Cuevas
Pt.a de Cuevas
Pt.a de Soto Laguilera
Pt.a de Rozas
Pt.a de Hezeta
Boca de Asseo
Pt.a de Hesperia
Pt.a de Rada
Pt.a de Malaspina
Pt.a de Hesperia
Pt.a de Bonilla
Pt.a de Bonilla
Pt.a de Bonilla

NOTES.

This is a copy of an extremely interesting chart, preserved in the Archives of the Topographical Bureau in Washington, among other manuscript charts come from Mexico. The original chart comprises the whole of Vancouver Island. We give here, however, only that part of it which represents "Le Fuca Strait and the Rosario Channel," so as they were surveyed and explored in the year 1791, by the Spanish Navigator ELIZA. In the title of the chart, translated into English, is stated the following :—

"A chart which contains the interior and turning of the coast "from 48 deg. to 50 deg. N. L., scrupulously examined by the Lieu- "tenant of the Navy Don Francisco Eliza, Commander of the packet- "boat of his Majesty 'San Carlos' and of the galliot 'Sta Saturnina' "(alias 'La Orcasitas'). And the lately made discovery of the "Great Channel of Nuestra Senora del Rosario, Longitude of the "Meridian of S. Blas, and after the newest Astronomical Observa- "tion, made in this port of Santa Crux de Nuca (Nootka) in this "year of 1791, by the Captain of the Navy Don Alexander Malaspina. "All those reconnoitrings were made in this year 1791."

From this we see that the chart pretends to have been made in the year 1791, and to represent the surveys and discoveries of Don Francisco Eliza; and of the truth of this statement it is easy to convince us by a comparison of the dates and names given on the chart with the dates and names given in the reports on Eliza's Exploration in the Journal of the Spanish voyage to these regions under Yaldes and Galiano (1792). Everything that we learn from this report agrees with what we see depicted on the chart, which is very accurately drawn, and which is either the very chart made by Eliza himself, or at least a true copy of it.

The chart is so very interesting and valuable because we see the discoveries of Eliza so minutely depicted on it. Eliza was the first who penetrated into the Rosario Channel—the first who gave this and many other names. We have no special journal of his voyage; we possess only the scattered allusions to his expedition in the said work of Galiano and Yaldes. I have also never seen before his chart, nor ever heard it alluded to. I believe it was perfectly unknown to all the historians of the north-western discoveries.

Eliza penetrated nearly to the central part of the great Gulf of Georgia. His names were nearly all adopted and preserved by his successors, Galiano and Yaldes, in the year 1792; and we shall meet them again on the chart of these navigators. (See our collection.)

B

49°

48°

(2072 1/13 .174) [F.O. 108]

MAP OF DE FUCA-STRAIT BY ELIZA 1791.

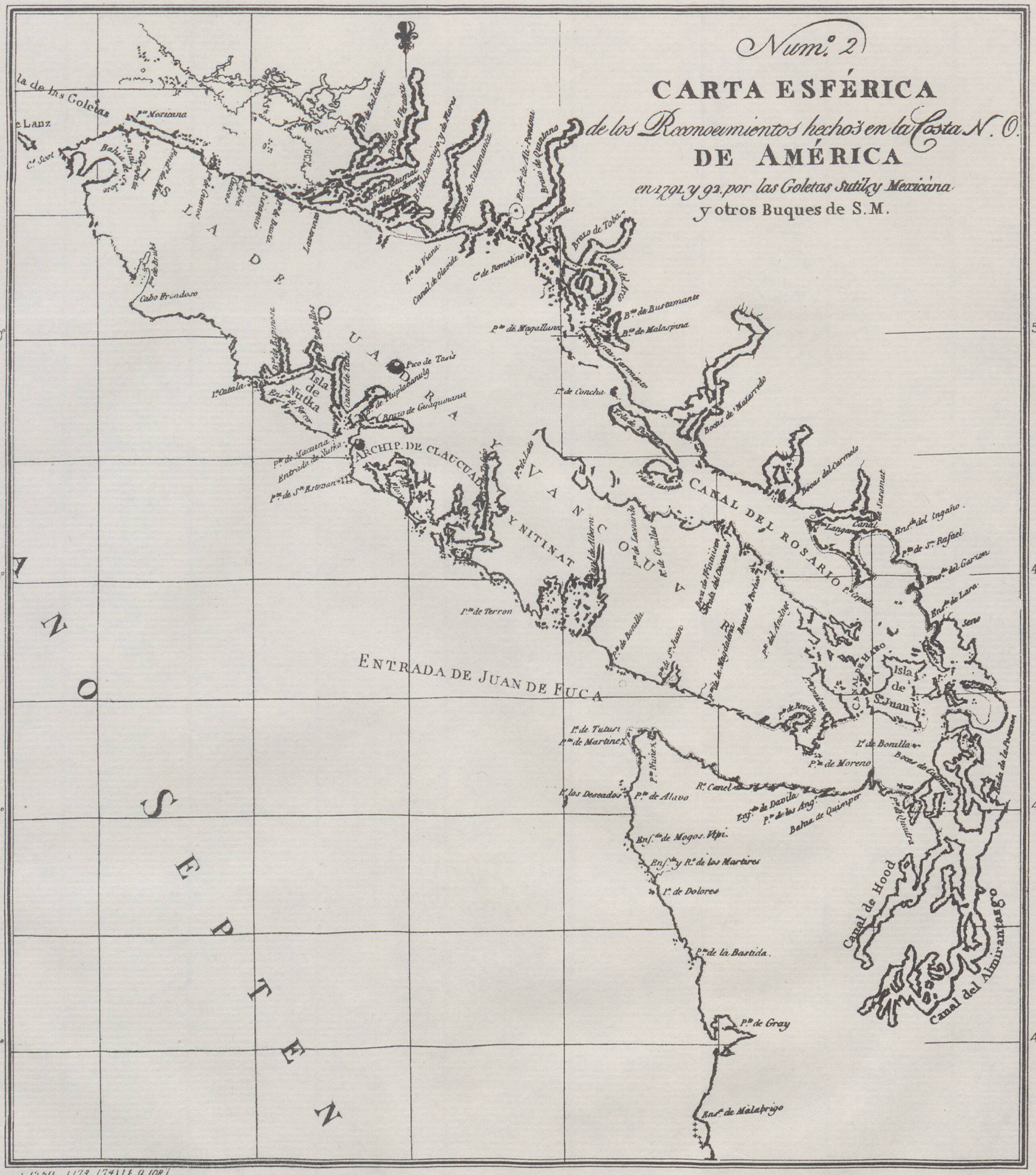
Harrison & Sons, Photo-Lith. St Martins Lane, W.C.

B.

MAP OF ELIZA.

1791.


50°
48°
THE GULPH OF GEORGIA
VANCOUVER'S ISLAND
NEW
Pt Marshall
Cape Mudge
Pt Johnston
Pt Grey
Burrard Inlet
Hotham Sound
Cape Lazo
Cape Mark
Cape Roberts
Cape Commerell
Cape Lees Inlet
Cape Cockburn
Cape Caamaño
Cape Parkyns
Cape Calvert
Cape Mudge
Cape Sutil
Cape Mark
Cape Roberts
Cape Commerell
Cape Lees Inlet
Cape Cockburn
Cape Caamaño
Cape Parkyns
Cape Calvert
Cape Sutil



(1750. 1/73.174) [F.O.108]

Harrison & Sons, Photo-Lith. St. Martins Lane, W.C.

D.

MAP OF THE SUTIL Y MEXICANA.

1792.

Published in 1802.



(1750 1773 . 174) [F.O. 108]

E.

MAP OF DUFLOT DE MOFRAS.

F

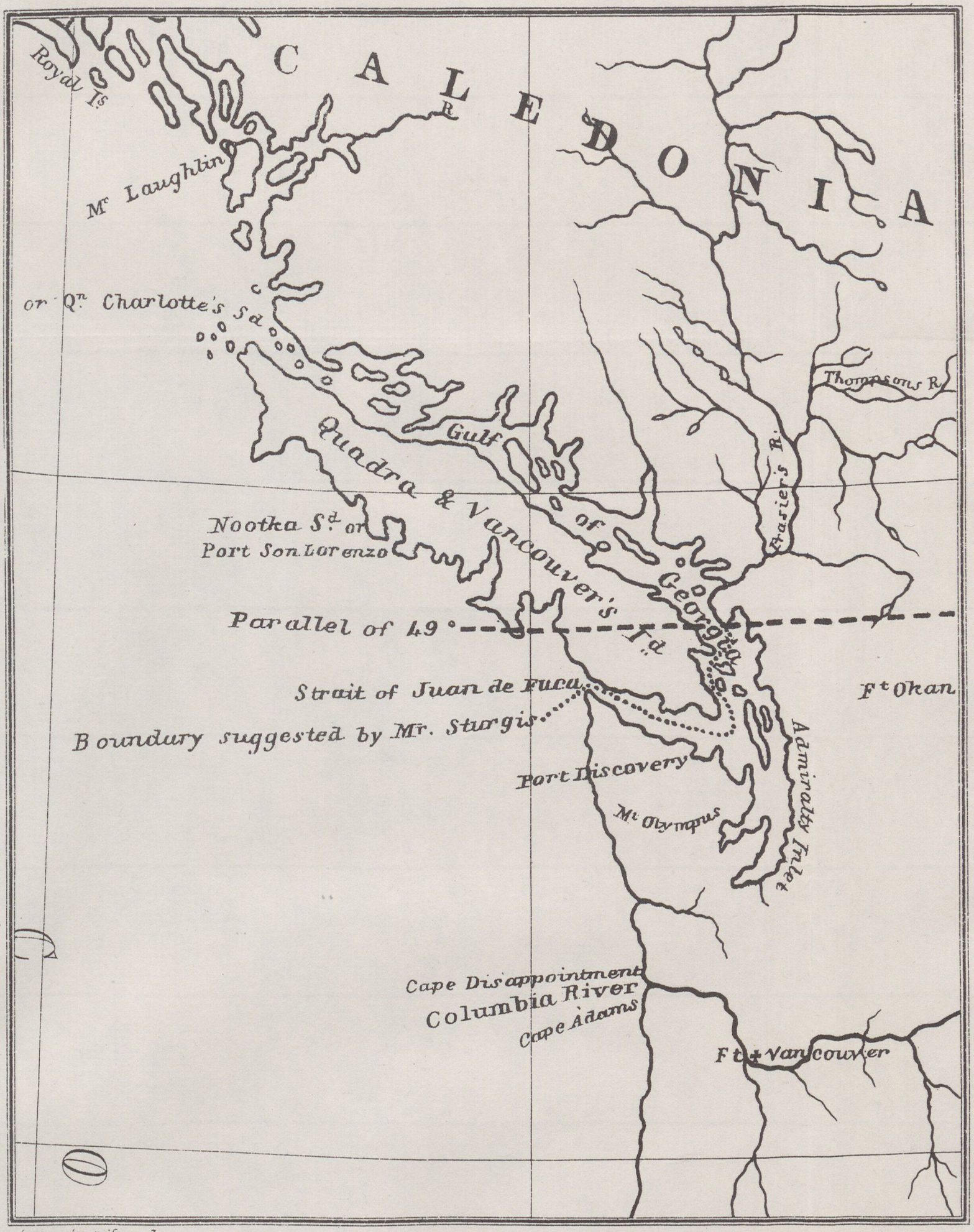


(1750. 1/73. 174)[F.0.108]

Harrison & Sons Photo-Lith St Martins Lane W.C.

F.

MAP OF WILKES.



G

(1750. 1/73. 174) [F. A. 108]

Harrison & Sons, Photo Lith. St Martins Lane, W.C.

G.

MAP OF W STURGIS.

1845.

U.S. COAST SURVEY

A.D. BACHE Superintendent

WASHINGTON SOUND AND APPROACHES

WASHINGTON TERRITORY

Scale 2oo'ooo.

1866.

Verified
J.E. Hilgard
Assist. Coast Survey
In charge of Office

Statute Miles.

Nautical Miles.

In addition to the reconnoissances and surveys by Commander James Alden and Lieut. R.M. Cuyler U.S.N. George Davidson and J.S. Lawson Assist. units U.S. Coast Survey, the following material has been used in the compilation of this chart

Charts of the British Admiralty by Capts. G.H. Richards and Henry Kellett R.N.
Map of the Northwestern Boundary, Archibald Campbell, Commissioner.
U.S. Land Office Surveys
Charts of the U.S. Exploring Expedition under command of Capt. Charles Wilkes U.S.N.
The astronomical and magnetic observations were made by Assistant George Davidson in 1852 '53 and '56.

The Triangulation was executed at intervals between 1853 and 1859
The Topography & Hydrography " " 1854 and 1856

SOUNDINGS

The Soundings are expressed in feet to 12 feet, or within the dotted surface, beyond it in fathoms, and show the depth at the average of the lowest low waters

ABBREVIATIONS OF BOTTOMS

Materials as Capitals	Colors or Shades two small letters	Other qualities three small letters
M. for Mud	bl. for black	hrd. for hard
S. " Sand	gy. " grey	sft. " soft
G. " Gravel	dk. " dark	fne. " fine
Sh. " Shells		stk. " sticky
St. " Stones		
R. " Rock		

The principal materials and their qualities are represented by larger letters than the subsidiary

Signifies Rock awash at Low Water
+ Sunk Rock ⁘ Kelp
Over a sounding signifies that no bottom was reached at that depth
The 20 fathom curve is shown thus ..... , the 50 fathom curve thus .....

(2100. 1/73. 174/F.O. 108)

Lith. v. Th. Mettke in Berlin.

HARRISON & SONS, PHOTO. LITH., ST. MARTIN'S LANE, W.C.

PLANO DEL ESTRECHO DE FUCA

reconocido por el Alferez de Navio de la Rl Armada Dn Manuel Quimper, en la Espedicion
que hizo con la Balandra de S.M.de su mando nombrada
la Princesa Rl en el año de 1790
Levantado por su Primer Piloto Dn Gonzalo Lopez de Haro

Nota:
La Cruses manifiestan la verdadera situacion en que se han tomado las Posesiones

Canal de Lopez de Haro

La gran montaña del Carmelo

Pto de Bonilla

Pto de S. Juan ó de Narvaez

Rio Sombrio

Pto de la Magdalena

Rio Jordan

Pto de S. Eneerio

Pto de S. Antonio

Pto de Revilla Gigedo

Pto de S. Vicente

Pto de Cordoca

Pto de Galiano

Rda de Valdes y Bazan

Rada de Soloano

Rada de Eliza

Pto de S. Juan

J. de Dn Rosa

Pto de Moreno de la Vega

Pto de Hontora

Pto de S. Gerusalen

Boca de Fidalgo

Boca de Flon

Pto de Menendez

Pto de Camaño

Pto de Mazones

Pto de Rocha

Pto de Nuñez Gaona

Pto de Hyosa

Boca de Alava

Pto de Nieves

Aguilar

Pto de Cunel

Pto de Oseta

Pto de Bilbaina

Pto de Salas

Pto de Davila

Pto y Bo de Quimper

Pto de S Cruz

Eo de Bertodano

Pto de S. Juan

J. de Carrasco

Pto de la Bodega y Cuadra

Sierra nevada de S. Alonso

S e n o d e S n R o s a

LONGITUD OCCIDENTAL DEL MERIDIANO DE S. BLAS.

(1750. 1/73. 114) [F.O.]

Lith. Inst. v. Th. Mettke. Berlin

Carta que comprehende

los interiores y veril de la Costa desde los 48° de Latitud N hasta los 50° examinados escrupulosamente por el Teniente de Navio de la Rl Armada Dn Franco Elizu Comandante del Paquebot de S.M.S.ma Carlos del porte 16 Cañones y Goleta Sta Saturnina (Alias la Orcacitas)

Y descubierto nuevamente el Gran Canal de Nuestra Señora del Rosario arregladas sus Longitudes al Meridiano de Sn Blas y a la ultima observacion Astronomica hecha en este Puerto de la Sta Cruz de Nuca en este año de 1791 por el Capn de Navio de la Rl Armada Dn Alexandro Malaespina Comandante de las Corbetas de S.M la Descubierta y Atrevida, hechos estos reconocimientos en este año de 1791.

Nota.

1o Que los parages donde se denota Ancla indica ser buen tenedero 2o Los quadros de Carmin que estan sobre el veril de la Costa son Rancherias de Yndios y las Derrotas del mismo color que tienen los Puertos son las que se deven executar para tomarlos 3o En los Puertos que comprehende esta Carta se ha observado sucede el fluxo maximo el dia de la Conjuncion y Oposicion a las 12h de la tarde.

Bayo

Boca de Arestizaral

Punta de Jora

Fondo del Cuervo

Fonda de Isaxis

Bahia de Buena Esperanza

Fonda de Clapananuil

Is de Mazarredo

Pto de Sn Lorenzo de Nuca

Con Observacion Astronomica

Fondo de Guicananich

Pta del Bajo

Archipielago de Clayocuat

Pto de Sn Esteban

Pto de Sn Rafael

Is de Flores

Seno de Gervete

Pto Caudaloso

Boca de Suaredra

Canal de poca agua

Pto de Clayocuat

Archipielago de Nitinat ó Carrasco

Boca de Cañaveral

Canal de Alberny

Pto de Perron

Pto de Alegria

Pto de Sn Luis

Punta de Romay

Pto de Camino

Pto de Campo Alange

Pto de Laxa de la Vega

Pto de Araus

GRAN CANAL DE NUESTRA SRA DEL ROSARIO

Is de Texada

Pto de Arte

Boca de Moreno

Is de Sn Ignacio

Boca de Valdes

Is de Lasquety

Is de Lorena

Pto de Sn Leonardo

Pto de la Cruzada

Is de las Ballenas

Is de Apodaca

Bocas del Carmelo

Pta de la Bodega

Is de Langara

Is de Espedago

Boca de Florida Blanca

Pto de Sn Rafael

Declin.on Observ.a NE 19° 30'

Pto de Sn Jose

Pto y Laguna del Carzon

Is de Potos

Is Sucia

Pto Loera

Is de Moraleja

Is de Aguayo

Pto del Socorro

Isla y Archipielago de Sn Juan

Pto de Herrera

Boca de Hovensitaf

Seno de Padilla

Boca de Flon

Is de Bonilla

Is de Carruaco

Pto de Guadre

Pto de Martinez

Pto de Nuñez Gaona

Pto de Isfosa

Boca de Alava

Pto de Mazarredo

Pto de Kevilla Gisford

Radas de Elizo

Is de Dn Rosa

Pto de Moreno de la Vega

Pto de Cordova

Pto de Gonzalo

Pto de Quimper

Pto de Bertodano

Pto de Guemes

Pto de Bocas

Pto de Alava

Pto de Nuñez Gaona

Pto de Sn Juan

Pto de la Magdalena

Pto de Sn Antonio

Pto de Sn Francisco

Pto de Sn Ignacio

Pto de Sn Vicente

Pto de Sn Antonio

Pto de Sn Pedro

Pto de Sn Diego

Pto de Sn Antonio

Pto de Sn Ysidro

Pto de Sn Anton

LONGITUD DEL MERIDIANO DE TENERIFE

CARTA ESFERICA
de los reconocimientos hechos en 1792
EN LA COSTA N.O. DE AMERICA
PARA EXAMINAR LA ENTRADA
DE JUAN DE FUCA,
y la internacion de sus Canales navegables
LEVANTADA DE ORDEN
DEL REY NUESTRO SEÑOR
abordo de las Goletas
SUTIL Y MEXICANA
Por D. Dionisio Galiano y D. Cayetano Valdés
Capitanes de Navio de la Rl. Armada
AÑO DE 1795.

NOTA.
Los Numeros de la Sonda son brazas de á 2 varas castellanas.
F.ª indica fanal

ARCHIPIELAGO DE NUTKA

ARCHIPIELAGO DE CLAUCUAD

ARCHIPIELAGO DE NITINAT

CANAL DEL ROSARIO

ENTRADA DE JUAN DE FUCA

Islas de Barrefford

Islot de Luna

Salida de las Goletas

Cabo Scot

Bahia de San Josef

Puerto de Bucarelli

Puerto de Brunet

Puerto de Bruno

Cabo Frondoso

Isla Calvario

Isla de Nutka

Pta. de Maquinna

Pta. de Conuma

Isla de Concha

Isla de Texada

Punta de Lazo

Isla Vancouver

Isla Blanquera

Punta de Lemarre

Punta de Gabala

Punta del Descanso

Punta de Pedros

Punta de Hesquiat

Punta de Estevan

Punta de Martinez

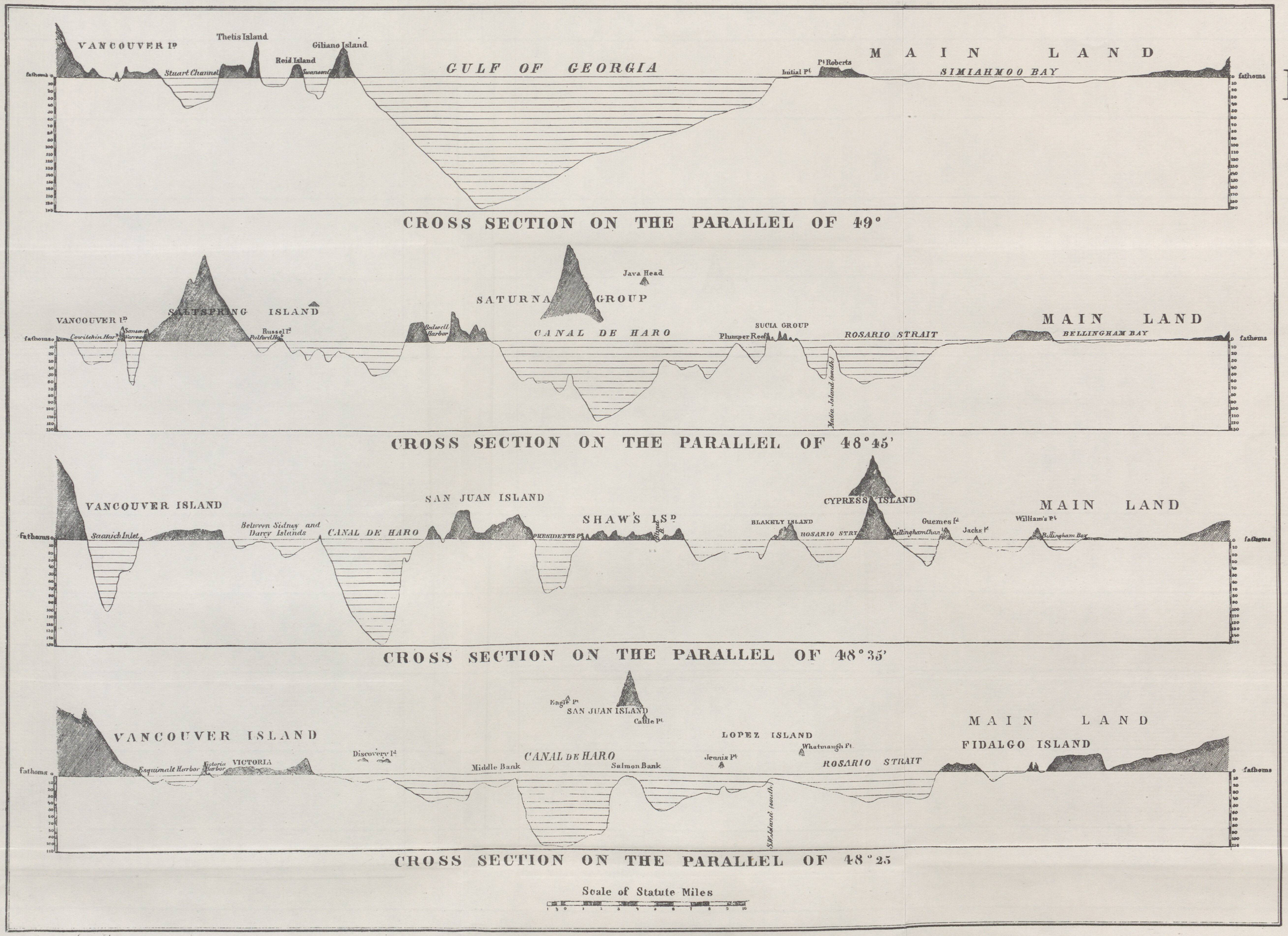
Punta de Hesquiat

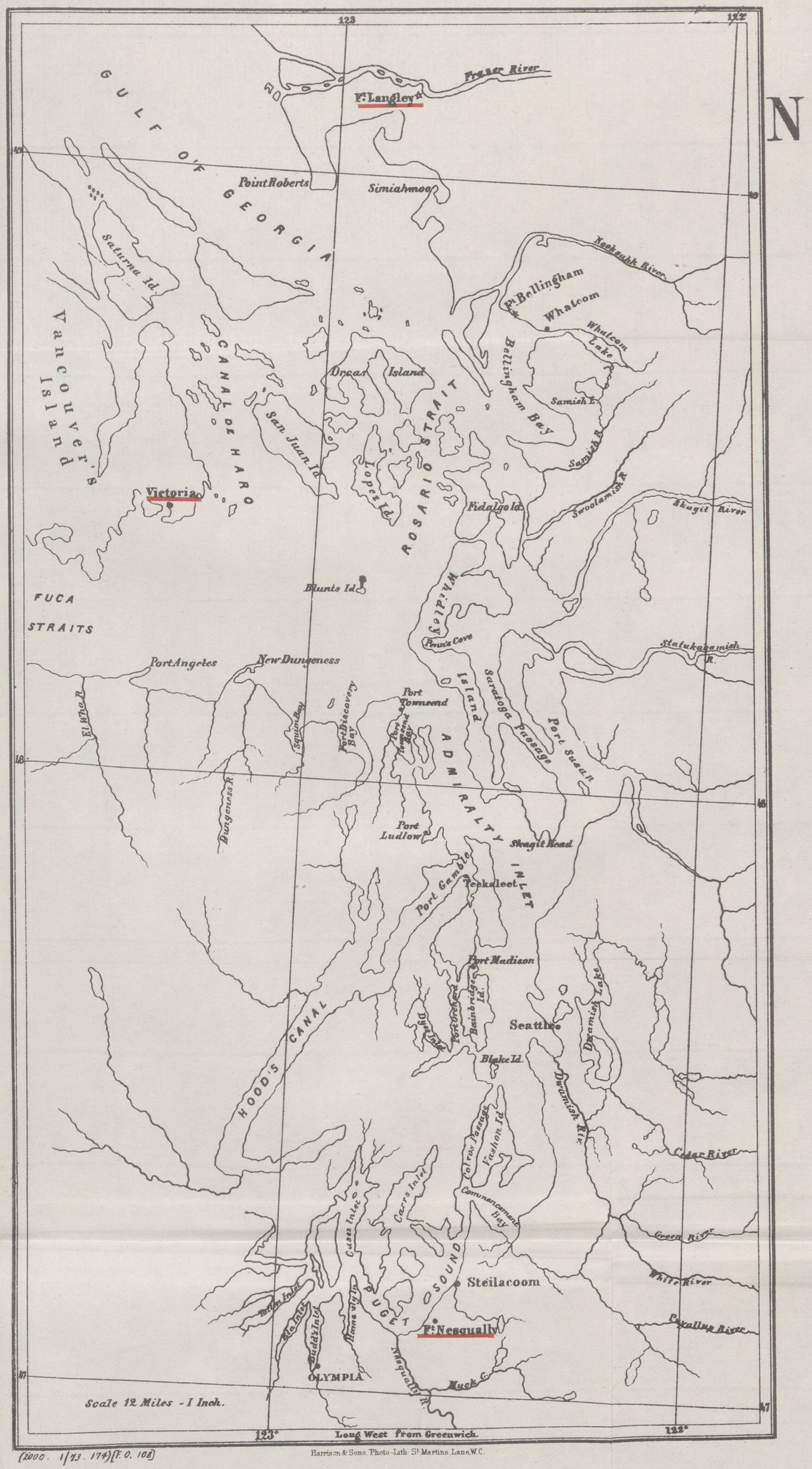
Punta de Arena

Punta de Langara

Punta de Lucia

Punta de Mala


M
VANCOUVER Id
Thetis Island
Giliano Island
Reid Island
Stuart Channel
Swanson
GULF OF GEORGIA
Initial Pt
Pt Roberts
MAIN LAND
SIMIAHMOO BAY
fathoms
CROSS SECTION ON THE PARALLEL OF 49°
Java Head
SATURNA GROUP
VANCOUVER Id
SALTSPRING ISLAND
Cowitchin Harb
Sansons Narrows
Russel Id
Fulford Harb
Bedwell Harbor
CANAL DE HARO
SUCIA GROUP
Plumper Reef
ROSARIO STRAIT
Matia Island (south)
MAIN LAND
BELLINGHAM BAY
CROSS SECTION ON THE PARALLEL OF 48°45'
VANCOUVER ISLAND
Saanich Inlet
Between Sidney and Darcy Islands
CANAL DE HARO
SAN JUAN ISLAND
PRESIDENTS Pt
SHAW'S Isd
BLAKELY ISLAND
ROSARIO STRT
CYPRESS ISLAND
Bellingham Chan
Guemes Id
Jacks Id
William's Pt
Bellingham Bay
MAIN LAND
CROSS SECTION ON THE PARALLEL OF 48°35'
Eagle Pt
SAN JUAN ISLAND
Cattle Pt
VANCOUVER ISLAND
Esquimalt Harbor
Victoria Harbor
VICTORIA
Discovery Id
Middle Bank
CANAL DE HARO
Salmon Bank
LOPEZ ISLAND
Jennis Pt
Whatmaugh Pt
ROSARIO STRAIT
S.W. Island (south)
MAIN LAND
FIDALGO ISLAND
CROSS SECTION ON THE PARALLEL OF 48°25
Scale of Statute Miles



(2000. 1/73. 174)[F. O. 108]

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U.S. COAST SURVEY

A.D. BACHE Superintendent

WASHINGTON SOUND AND APPROACHES

WASHINGTON TERRITORY

Scale 2oo^{m}ooo.

1866.

Verified
J.E. Hilgard
Assist. Coast Survey
In charge of Office

Statute Miles. 5 4 3 2 1 0 5 10

Nautical Miles. 5 4 3 2 1 0 5 10

In addition to the reconnoissances and surveys by Commander James Alden and Lieut. R.M. Cuyler U.S.N. George Davidson and J.S. Lawson Assist. ants U.S. Coast Survey, the following material has been used in the compilation of this chart

Charts of the British Admiralty by Capts. G.H. Richards and Henry Kellett R.N.
Map of the Northwestern Boundary, Archibald Campbell, Commissioner.
U.S. Land Office Surveys
Charts of the U.S. Exploring Expedition under command of Capt. Charles Wilkes U.S.N.
The astronomical and magnetic observations were made by Lieutenant George Davidson in 1852 '53 and '56.

The Triangulation was executed at intervals between 1853 and 1859
The Topography & Hydrography 1841 and 1856

SOUNDINGS

The Soundings are expressed in feet to 18 feet, or within the dotted surface, beyond it in fathoms, and show the depth at the average of the lowest low waters

ABBREVIATIONS OF BOTTOMS

Materials in Capitals	Colors or Shades by small letters	Other qualities by small letters
M. for Mud	bk. for black	hrd. for hard
S. . Sand	gy. . grey	sft. . soft
G. . Gravel	dk. . dark	fne. . fine
Sh. . Shells		stk. . sticky
St. . Stones		
R. . Rock		

The principal materials and their qualities are represented by larger letters than the subsidiary

Signifies Rock awash at Low Water
+ Sunk Rock ⁘ Kelp
Over a sounding signifies that no bottom was reached at that depth
The 20 fathom curve is shown thus ——— ———, the 50 fathom curve thus ———

(20000. 1/73. 174/50 1867)

Lith. v. Th. Mettke in Berlin.

HARRISON & SONS, PHOTO. LITH., ST. MARTIN'S LANE, W.C.

NORTH AMERICA. No. 9 (1873).

(G.)

NORTH-WEST AMERICAN WATER BOUNDARY.

CORRESPONDENCE

RESPECTING THE

AWARD OF THE EMPEROR OF GERMANY

IN THE

MATTER OF THE BOUNDARY LINE

BETWEEN

GREAT BRITAIN AND THE UNITED STATES,

UNDER THE TREATIES OF WASHINGTON OF JUNE 15, 1846,
AND MAY 6, 1871.

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

LONDON:
PRINTED BY HARRISON AND SONS.

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Correspondence respecting the Award of the Emperor of Germany in the matter of the Boundary Line between Great Britain and the United States, under the Treaties of Washington of June 15, 1846, and May 6, 1871.

No. 1.

Lord Odo Russell to Earl Granville.—(Received October 17.)

My Lord. *Berlin, October 14, 1872.*

MR. BANCROFT called on me to propose that we should "jointly in one note, or in identical notes," request the German Government, before the Arbitrator's decision in the San Juan question be commnnicated to us, to inform us of the amount of legal expenses incurred, which, according to Article XLI of the Washington Treaty, we are to pay in equal moieties.

Although the text of Article XLI fully justifies Mr. Bancroft's suggestion, as the words are "the Arbitrator shall be requested to deliver, together with his Award," &c., and that the account cannot be delivered with the Award, since it has not yet been asked for, I requested Mr. Bancroft to let me refer previously to the Foreign Office for your Lordship's sanction before I complied with his request.

I have, &c.

(Signed) ODO RUSSELL.

No. 2.

Lord Odo Russell to Earl Granville.—(Received October 28.)

My Lord, *Berlin, October 21, 1872.*

WITH reference to my despatch of the 14th instant, and to your Lordship's telegram of the 19th instant, I have the honour to inclose herewith copy of the note which, conjointly with Mr. Bancroft, I have this day addressed to M. de Balan, requesting that we may be furnished, together with the Award, with the account of the costs which may have been incurred in relation to the San Juan Arbitration.

I have, &c.

(Signed) ODO RUSSELL.

Inclosure in No. 2.

Lord Odo Russell to M. Balan.

THE Undersigned, Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary Agent of the United Kingdom of Great Britain and Ireland at Berlin under the Treaty of Washington of June 8, 1871, has the honour to request his Excellency M. de Balan, Actual Privy Councillor, charged with the conduct of the Foreign Office, that, in accordance with the provisions contained in Articles XXXIX, XL, and XLI of the said Treaty, there may be delivered to the Undersigned, with the Award which shall be made in pursuance of said Treaty, an account of all the costs and expenses which shall have been incurred in relation to the

matter, to the end that they may be discharged by the two Governments in equal moieties, as provided by said Treaty.

The Undersigned, &c. (Signed) ODO RUSSELL.

Berlin, October 21, 1872.

No. 3.

Lord Odo Russell to Earl Granville.—(*Received October* 28.)

My Lord, *Berlin, October* 23, 1872, 11·45 P.M.

I HAVE the honour to transmit herewith to your Lordship by Admiral Prevost the Decision and Award of the Emperor of Germany respecting the true interpretation of the Treaty of June 15, 1846, which, in accordance with the XXXVth Article of the Treaty of Washington, is given in writing, signed by His Majesty, and dated on the 21st instant, and is forwarded to me by M. de Balan, in a letter dated to-day, the 22rd instant, which has just been handed in at this Embassy.

I have, &c.

(Signed) ODO RUSSELL.

Inclosure 1 in No. 3.

M. de Balan to Lord Odo Russell.

(Translation.) *Berlin, October* 23, 1872.

HIS Imperial and Royal Majesty having, in accordance with the Treaty of Washington of May 8, 1871, given His Royal Award in the Boundary Question at issue between Great Britain and the United States, the Undersigned has the honour herewith to transmit to his Excellency Her Britannic Majesty's Ambassador, Lord Odo Russell, the Award in writing, informing him at the same time that a similar document has been forwarded to the Envoy of the United States at this Court.

The Undersigned, &c. (Signed) BALAN.

Inclosure 2 in No. 3.

Award of His Majesty the Emperor of Germany on the San Juan Boundary Question.

WIR, WILHELM, von Gottes Gnaden, Deutscher Kaiser, König von Preussen, &c., &c., &c.

Nach Einsicht des zwischen den Regierungen Ihrer Britischen Majestät und der Vereinigten Staaten von Amerika geschlossenen Vertrages de dato Washington den 6ten* Mai, 1871, Inhalts dessen die gedachten Regierungen die unter ihnen streitige Frage: ob die Grenzlinie, welche nach dem Vertrage de dato Washington den 15ten Juni, 1846, nachdem sie gegen Westen längs des 49ten Grades Nördlicher Breite bis zur Mitte des Kanals, welcher das Festland von der Vancouver Insel trennt, gezogen worden, südlich durch die Mitte des gedachten Kanals und der Fuca-Meerenge bis zum Stillen Ocean gezogen worden soll, durch den Rosario-Kanal, wie die Regierung Ihrer Britischen Majestät beansprucht, oder durch den Haro-Kanal, wie die Regierung der Vereinigten Staaten beansprucht, zu ziehen sei, Unserem Schieds-spruche unterbreitet haben, damit Wir endgültig und ohne Berufung entscheiden, welcher dieser Ansprüche mit der richtigen Auslegung des Vertrages vom 15ten Juni, 1846, am meisten im Einklange stehe;

Nach Anhörung des Uns von den durch Uns berufenen Sach- und Rechtskundigen über den Inhalt der gewechselten Denkschriften und deren Anlagen erstatteten Vortrages,

Haben den nachstehenden Schiedsspruch gefällt:—

Mit der richtigen Auslegung des zwischen den Regierungen Ihrer Britischen Majestät und der vereinigten Staaten von Amerika geschlossenen Vertrages de dato Washington den 15ten Juni, 1846, steht der Anspruch der Regierung der Vereinigten Staaten am meisten im Einklange, dass die Grenzlinie zwischen den Gebieten

* *Sic in orig.* Query, May 8?

Ihrer Britischen Majestät und den Vereinigten Staaten durch den Haro-Kanal gezogen werde.

Urkundlich unter Unserer Höchsteigenhändigen Unterschrift und beigedrucktem Kaiserlichen Insiegel.

Gegeben Berlin den 21ten October, 1872.

(Signed) WILHELM.

(Translation.)

WE, WILLIAM, by the Grace of God German Emperor, King of Prussia, &c., &c., &c.

After examination of the Treaty between the Governments of Her Britannic Majesty and that of the United States of America, dated at Washington May 6th,* 1871, by virtue of which the above-named Governments have submitted to Our Arbitrator the question at issue between them, viz., whether the line of boundary which, according to the Treaty dated at Washington June 15, 1846, after it had been continued westward along the 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, shall be further drawn southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean, should run, as claimed by the Government of Her Britannic Majesty, through the Rosario Straits, or through the Canal of Haro, as claimed by the Government of the United States, in order that We should decide finally and without appeal which of these claims is most in accordance with the true interpretation of the Treaty of June 15, 1846 :—

Have, after taking into consideration the statement of the experts and jurists appointed by Us to report upon the contents of the respective cases and counter-cases, with their inclosures, given the following decision :—

The claim of the Government of the United States, viz., that the line of boundary between the dominions of Her Britannic Majesty and the United States should be run through the Canal of Haro—is most in accordance with the true interpretation of the Treaty concluded between the Government of Her Britannic Majesty and that of the United States of America, dated at Washington June 15, 1846.

Given under Our Hand and Seal at Berlin, October 21, 1872.

(Signed) WILLIAM.

No. 4.

Lord Odo Russell to Earl Granville.—(Received November 5.)

My Lord, *Berlin, November 2, 1872.*

WITH reference to my despatch of the 21st instant, in which I informed your Lordship that, conjointly with Mr. Bancroft, I had addressed a note to the Imperial Government, requesting that we might be furnished with the account of the costs which might have been incurred in relation to the San Juan Arbitration, I have the honour to inclose translation of M. de Balan's reply, in which his Excellency very courteously informs me that no costs or expenses have been incurred by his Government in the matter.

I have, &c.

(Signed) ODO RUSSELL.

Inclosure in No. 4.

M. de Balan to Lord Odo Russell.

(Translation.) *Berlin, November 1, 1872.*

IN the note which Her Britannic Majesty's Ambassador, Lord Odo Russell, was good enough to address to the Undersigned on the 21st ultimo, communication was requested of the amount of costs and expenses incurred by this country in the boundary question between Great Britain and the United States.

* *Sic in orig.* Query, May 8?

In reply to this inquiry, the Undersigned, while expressing his thanks for thi courteous offer, has the honour to inform his Excellency Lord Odo Russell that no costs or expenses have been incurred by this country in the matter referred to.

The Undersigned, &c. (Signed) BALAN.

No. 5.

Viscount Enfield to Mr. Herbert.

Sir, *Foreign Office, November* 7, 1872.

I TRANSMITTED to you on the 31st ultimo, by Earl Granville's direction, printed copies of the Award delivered by the Emperor of Germany on the 21st ultimo upon the San Juan Water Boundary, deciding that the line of boundary should run through the Haro Channel.

The XXXVth Article of the Treaty of Washington provides that "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," and it "shall be considered as operative from the day of the date of the delivery thereof;" and I am accordingly to request that you will move the Earl of Kimberley to cause copies of the Award to be forwarded with as little delay as possible to the Governor of the Dominion of Canada and to the Lieutenant-Governor of British Columbia with a request that proper notification of it may be made and effect given to it.

For the latter purpose I have, by Lord Granville's direction, written a letter to the Admiralty, of which a copy is inclosed,* requesting that instructions may be given for the immediate withdrawal of the detachment of Royal Marines now stationed on the Island of San Juan; and I am to suggest that the Governor of the Dominion of Canada and the Lieutenant-Governor of British Columbia should be informed that these instructions will be given.

I am also to transmit to you, for Lord Kimberley's information, a copy of a despatch which Lord Granville has addressed to Sir E. Thornton respecting the Award,† in which he is instructed to propose to the Government of the United States that the work of the former Boundary Commission should be resumed and completed by the preparation of a map or chart showing the exact line of boundary under the Treaty of 1866, and the Emperor's Award.

I am, &c.

(Signed) ENFIELD.

No. 6.

Viscount Enfield to the Secretary to the Admiralty.

Sir, *Foreign Office, November* 8, 1872.

I AM directed by Earl Granville to transmit to you herewith, to be laid before the Lords Commissioners of the Admiralty, a copy of the Award delivered by the Emperor of Germany on the 21st ultimo upon the San Juan Water Boundary, deciding that the line of boundary should run through the Haro Channel; and I am to request that you will move their Lordships to cause a copy of this Award to be communicated with as little delay as possible to the Admiral in command of the Pacific station or to the Chief Naval Officer at Vancouver's Island, with instructions that, in accordance therewith, the detachment of Royal Marines now stationed at the island of San Juan should be at once withdrawn; and I am to suggest that, in making this communication to the Admiral or Chief Naval Officer, their Lordships should request him to convey to the officer in command of the detachment and to the men under his orders the appreciation of Her Majesty's Government of the harmonious manner in which the joint occupation has been conducted, which reflects the greatest credit on the officers and men of the occupying force of both countries.

I am, &c.

(Signed) ENFIELD.

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* No. 6. † No. 7.

No. 7.

Earl Granville to Sir E. Thornton.

Sir, *Foreign Office, November* 8, 1872.

I TRANSMIT to you herewith copies of letters which I have caused to be addressed to the Colonial Office and Admiralty,* inclosing copies of the Award of the Emperor of Germany on the San Juan Water Boundary, and requesting that effect may be given to it with as little delay as possible by the withdrawal of the detachment of Royal Marines from the Island of San Juan, and the due notification of the Award to the proper Colonial authorities.

I have to instruct you to communicate the substance of the instructions which will be given in accordance with these letters to the Government of the United States, and at the same time to propose that the work of the Boundary Commission, which was interrupted in 1859, should be resumed and completed by the preparation of a map or chart showing the exact position of the boundary line from the Gulf of Georgia through the Haro Channel to the ocean, under the Treaty of 1846, and the Award of the Emperor of Germany.

Her Majesty's Government consider that, in compliance with the XXXVth Article of the Treaty of Washington this should be done with as little delay as possible, in order to give effect to the Emperor's Award. They presume that the surveys which have already been made will render it unnecessary for another Commission to meet on the spot, but they leave the details of the arrangement to be made for the completion of the work of the Commission for further consideration.

I am, &c.

(Signed) GRANVILLE.

No. 8.

Earl Granville to Lord Odo Russell.

My Lord, *Foreign Office. November* 11, 1872.

I RECEIVED, on the 28th ultimo, your Excellency's despatch of the 23rd of October, forwarding the Decision and Award of the Emperor of Germany respecting the true interpretation of the Treaty of June 15, 1846, between Great Britain and the United States; and I have to instruct you to convey to His Imperial Majesty the thanks of Her Majesty's Government for the friendly motives which induced him to undertake the arduous task of arbitration in this matter.

At the time when His Majesty's acceptance of the responsibility was solicited, Her Majesty's Government had every confidence in the judgment of so experienced and enlightened a Sovereign; and, in now begging to convey to the Emperor their thanks for the obligation conferred upon them, they can only add the expression of their sincere regret at the labour which has been entailed on His Majesty by his condescension in accepting the post of Arbiter.

I am, &c.

(Signed) GRANVILLE.

No. 9.

Lord Odo Russell to Earl Granville.—(Received November 11.)

My Lord, *Berlin, November* 9, 1872.

A STATEMENT appeared in the "New York Herald" to the effect that "the written judgment on the San Juan Award had been prepared, and awaited only the signature of the Royal Arbitrator to render it complete and final, but that a delay had arisen through the British Ambassador at the Court of Berlin, Lord Odo Russell, who, aware of the nature of the decision, endeavoured, in the interests of his Government, to modify the judgment or defeat its settlement," &c.

I should not have noticed this statement if I had not seen it repeated in our own newspapers; and although it may appear unnecessary to tell your Lordship that I never was engaged in any intrigue to persuade the Emperor to give an award

* Nos. 5 and 6.

different from that which a sense of justice would impel him to do, I think it right to place on record in the archives of the Foreign Office that I altogether deny the statement, which is false and utterly without foundation.

I never interfered directly or indirectly to influence the judgment which His Imperial Majesty might pronounce on the question submitted to his decision.

I have, &c.
(Signed) ODO RUSSELL.

No. 10.

Earl Granville to Lord Odo Russell.

My Lord, *Foreign Office, November* 11, 1872.

I HAVE received and laid before the Queen your Excellency's despatch of the 9th instant, relative to a statement which appeared in the "New York Herald" and was copied into the English newspapers respecting an alleged attempt on your part to influence the decision of the Emperor of Germany on the San Juan question, and I have read your formal contradiction of this statement with satisfaction. Although the denial was not necessary, and no one in England attached any importance to the unfounded rumour, it is well to have the refutation of it on record.

I am, &c,
(Signed) GRANVILLE.

No. 11.

Mr. Holland to Viscount Enfield.—(Received November 12.)

Sir, *Downing Street, November* 12, 1872.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 7th instant, received on the 9th, respecting the steps to be taken to give effect to the Award of the Emperor of Germany in the San Juan Arbitration case.

I am desired to state, for the information of Earl Granville, that copies of the Award were communicated to the Governor-General of Canada by the mail of the 7th, and to the Lieutenant-Governor of British Columbia by that of the 1st instant.

A copy of your letter now under acknowledgment will be communicated to them by the next mails to Canada and British Columbia respectively, for their information and guidance, and they will be instructed to take care that proper notification is made of the Emperor's Award and effect given to it.

I am, &c.
(Signed) H. T. HOLLAND.

No. 12.

Earl Granville to Admiral Prevost.

Sir, *Foreign Office, November* 16, 1872.

I HAVE to convey to you the thanks of the Queen and of Her Majesty's Government for the zeal and ability which you have displayed in the preparation of the Case and the Counter-Case presented to His Majesty the Emperor of Germany on behalf of Great Britain in maintenance of the claims of this country to the line of water boundary separating the Continent of North America from Vancouver's Island which were referred to His Majesty's Arbitration under the XXXIVth Article of the Treaty of Washington.

The efficient manner in which your duties, as Boundary Commissioner, were discharged under circumstances requiring the exercise of great tact as well as scientific attainments of high order, has been acknowledged by previous Secretaries of State, and it gives me much pleasure to add this approval of your labours throughout the recent Arbitration.

A copy of this letter will be forwarded to the Lords Commissioners of the Admiralty.

I am, &c.
(Signed) GRANVILLE.

No. 13.

The Secretary to the Admiralty to Viscount Enfield.—(*Received November* 20.)

Sir, *Admiralty, November* 18, 1872.

WITH reference to your letter of the 8th instant, I am commanded by my Lords Commissioners of the Admiralty to acquaint you that the necessary intimation of the Award delivered by the Emperor of Germany upon the San Juan Water Boundary has been communicated to the Commander-in-chief in the Pacific and the Senior Naval Officer at Esquimalt, and that instructions have been forwarded both by telegraph and by letter for the withdrawal to Esquimalt of the detachment of Royal Marines stationed on San Juan Island.

I am, &c.

(S.gned) VERNON LUSHINGTON.

P.S. *November* 19.—A telegram has this day been received from the Senior Naval Officer at Esquimalt, acknowledging the receipt of the orders above alluded to, and stating that all dispatch would be used in carrying them out.

V. L.

No. 14.

The Secretary to the Admiralty to Viscount Enfield.—(*Received November* 23.)

Sir, *Admiralty, November* 23, 1872.

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Earl Granville, that on the 21st instant telegraphic instructions were sent for the withdrawal of Captain Delacombe with the detachment of Royal Marines under his orders from the Island of San Juan, and for Captain Delacombe to remain at Esquimalt to certify to lands at San Juan, as requested by the Colonial Office.

2. I am further to state that a telegram has this morning been received reporting that the above orders have been carried out, that the detachment of Marines have evacuated the Island of San Juan and that the camp is clear.

I am, &c.

(Signed) VERNON LUSHINGTON.

No. 15.

Earl Granville to Lord Odo Russell.

My Lord, *Foreign Office, November* 25, 1872.

I HAVE received your Excellency's despatch of the 2nd instant, inclosing a copy of a note from M. de Balan, informing you, in reply to the inquiry which, conjointly with the United States' Minister, you had addressed to his Excellency, that no costs or expenses had been incurred by the Prussian Government in respect of the San Juan Arbitration; and I have to instruct your Excellency in conveying to M. de Balan the thanks of Her Majesty's Government for his courtesy in regard to this affair, to express the sense which they entertain of the generosity shown by the German Government in declining to allow Her Majesty's Government to make any payment on account of the expenses of the arbitration.

I am, &c.

(Signed) GRANVILLE.

No. 16.

The Secretary to the Admiralty to Viscount Enfield.—(*Received November* 29.)

Sir, *Admiralty, November* 28, 1872.

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Earl Granville, that a telegram has this day been

received from the Senior Naval Officer at Esquimalt, stating that the camp and buildings hitherto occupied by the detachment of Marines stationed on San Juan Island had been handed over to the Americans.

I have, &c.
(Signed) ROBERT HALL.

No. 17.

Earl Granville to Sir E. Thornton.

Sir, *Foreign Office, November* 29, 1872.

IN my despatch of the 8th instant I stated that Her Majesty's Government would leave the details of the arrangement to be made for the completion of the work of the North-West American Water Boundary Commission for further consideration.

I have now to state to you that it appears to Her Majesty's Government that the work of the Boundary Commissioners should be resumed by the reappointment of Commissioners on the part of the respective Governments, who should meet and proceed with as little delay as possible to compare and examine the charts and surveys already prepared by the Commissioners appointed in 1856, and lay down upon maps in duplicate, to be subsequently signed by them and recorded in a Protocol, the actual line of water boundary in accordance with Article I of the Treaty of June 15, 1846, and the Award of the Emperor of Germany.

Her Majesty's Government will be prepared at once to reappoint for the purpose Admiral Prevost, to be assisted as on the former occasion by Admiral Richards, the hydrographer of the Board of Admiralty, and would be glad to know whether the Government of the United States are also ready to name a Commissioner.

Her Majesty's Government are informed that the charts and surveys have been so far completed as to render any further local examination of the boundary unnecessary, and they do not anticipate that many meetings of the Commissioners would be required. They therefore propose that the meetings should take place in London or in Europe; but if the United States' Government express a strong opinion on the matter, they would not object to the Commissioners meeting in the United States.

They, however, consider it of importance, in order to give due and early effect to the Award, under the XXXVth Article of the Treaty, that the matter should be forthwith proceeded with.

I am, &c.
(Signed) GRANVILLE.

No. 18.

Sir E. Thornton to Earl Granville.—(Received December 1.)

My Lord, *Washington, November* 18, 1872.

WHEN I was at the State Department on the 14th instant, Mr. Fish asked whether I was acquainted with the views of Her Majesty's Government with regard to the withdrawal of the British force now in the Island of San Juan, so as to leave the United States in full possession of that island. He said that he made this inquiry because, in consequence of the Award of the Emperor of Germany, it would be necessary to enter upon arrangements for the collection of the revenue, for establishing Courts of Justice, and for other matters; indeed, a telegram had already been received by the Treasury Department from the Governor of Washington Territory, inquiring whether duties were to be at once levied upon goods arriving in the Island of San Juan, and the Secretary of the Treasury had been urging the President to issue directions upon this subject.

I replied that I had no doubt that Her Majesty's Government had already taken measures with a view to leaving the island at the entire disposal of the Government of the United States, but that it was not likely that I should be informed by telegraph of the orders which had been given. Mr. Fish, however, expressed a wish to learn as soon as possible what had been done, and asked me to telegraph to your Lordship. It was in compliance with his request that I addressed to your Lordship my telegram of the 14th instant.

On receipt of your Lordship's telegram of the 16th instant, I communicated to Mr. Fish its substance, and he requested me to convey to your Lordship his acknowledgments for the letters which had been addressed by the Foreign Office to the Admiralty and the Colonial Department.

With reference to the proposal that the work of the Boundary Commission, which was interrupted in 1859, should at once be resumed, and should be completed by a map or chart showing the position of the boundary line through the Haro Channel under the Treaty of 1846 and the Emperor of Germany's Award, Mr. Fish said that he would, without loss of time, consult with the President, who, he had no doubt, would be disposed to recommend Congress, in his next Message to that Body, to authorize the appointment of a Commission for that purpose.

I have, &c.

(Signed) EDWD. THORNTON.

No. 19.

Sir E. Thornton to Earl Granville.—(Received December 8.)

My Lord, *Washington, November 23, 1872.*

ON the receipt of your Lordship's despatch of the 8th instant I addressed a note to Mr. Fish, copy of which I have the honour to inclose, conveying to him the substance of that despatch and of its inclosures.

On the same day, the 21st instant, I called upon Mr. Fish at the State Department, and he alluded to my note which he had just read. With reference to that part of it in which I informed him that Her Majesty's Government presumed that the surveys of the water boundary from the Gulf of Georgia to the ocean through the Haro Channel, which had already been made, would render it unnecessary for another Commission to meet on the spot, Mr. Fish said that he was much gratified to receive this suggestion from Her Majesty's Government which had not struck him before, but which, if carried out, would, he thought, save a great deal of trouble and expense, and would be completely satisfactory; indeed, without having consulted the President or having thought over the matter, his first idea was that a chart might be made here or in London, the boundary line laid down upon it, and the chart signed on behalf of each Government in duplicate.

Yesterday, I had the honour to receive your Lordship's telegram informing me of the orders given by the Admiralty for the withdrawal of the Royal Marines from the island of San Juan and of the reply which had been received from the Senior Naval Officer at Esquimalt. I called upon Mr. Fish to acquaint him with the contents of the telegram, and he begged me to convey to your Lordship his acknowledgments for the promptnesss with which these measures had been taken.

He again alluded to the Water Boundary, and said that, upon reflection, he believed that it was in accordance with rule and precedence that Congress should be asked to authorize the President to appoint a Commission for the purpose of settling this boundary, and a recommendation to that effect would be inserted in the President's Message.

Still the matter would be a very simple one; a chart could be prepared here in duplicate and the line laid down, and the charts could then be signed on behalf of each Government.

During the conversation, Mr. Fish produced a chart upon a pretty large scale about a quarter inch to the mile, made by the United States' Coast Survey, and on it he roughly drew with a pencil what he conceived to be the boundary line, and which coincided with my opinion upon the subject. I may describe it to your Lordship by referring to the map of the Haro and Rosario Straits, which formed Annex No. 3 of the case submitted by Her Majesty's Government to the Emperor of Germany.

The line thus roughly put down by Mr. Fish would begin at the point on the 49th parallel in the middle of the Gulf of Georgia; thence in a direction about east-south-east by south to a point opposite the entrance of Haro Channel; thence in a south-south-westerly direction between Tumbo and Saturna Islands on the right, and Patos Island on the left, to a point midway between Moresby and Stuart Islands; then in a direction about south-south-east by east, leaving Gooch, Sidney, and Darcy on the right, and Henry and San Juan Islands on the left, to a point in the middle of Juan de Fuca Strait; and thence along the middle of that strait to the ocean.

Mr. Fish added that he would give directions that a larger chart should be made, and that the line in accordance with the opinion of the United States' Government should be marked upon it; and that he would then hand it to me for transmission to your Lordship.

I have this evening received your Lordship's telegram of to-day informing me that the Admiralty had received a telegram repeating that the detachment of Royal Marines had evacuated San Juan, and I have communicated the information to Mr. Fish in a private note. The word "repeating" in your Lordship's telegram should probably be "reporting." Mr. Fish in reply, states that the United States' Government highly appreciates the spontaneous action of Her Majesty's Government in accepting the award.

I have, &c.
(Signed) EDWD. THORNTON.

P.S.—*November* 26. Since writing the above, I have received from Mr. Fish the note of which I have the honour to inclose a copy, in reply to mine of the 21st instant.

E. T.

Inclosure 1 in No. 19.

Sir E. Thornton to Mr. Fish.

Sir, *Washington, November* 21, 1872.

IN compliance with an instruction which I have received from Earl Granville, I have the honour to inform you that on the 7th and 8th instant his Lordship caused letters to be addressed to the Colonial Office and to the Admiralty, inclosing copies of the Award of the Emperor of Germany on the San Juan Water Boundary, and requesting that effect may be given to it with as little delay as possible by the withdrawal of the detachment of Royal Marines from the Island of San Juan, and the due notification of the award to the proper Colonial Authorities.

In accordance with the tenor of these letters, a copy of the Award will be forwarded to the Governor-General of the Dominion of Canada, and to the Lieutenant-Governor of British Columbia, with a request that proper notification of it may be made, and effect given to it.

The Admiralty will also communicate a copy of the Award with as little delay as possible to the Admiral in command of the Pacific Station, or to the Chief Naval Officer at Vancouver's Island, with instructions that, in accordance therewith, the detachment of Royal Marines now stationed at the Island of San Juan should be at once withdrawn. The Admiral or Chief Naval Officer will also be requested to convey to the officer in command of the detachment, and to the men under his orders, the appreciation of Her Majesty's Government of the harmonious manner in which the joint occupation has been conducted, which reflects the greatest credit on the officers and men of the occupying force of both countries.

Earl Granville has further instructed me to propose to the Government of the United States that the work of the Boundary Commission, which was interrupted in 1859, should be resumed and completed by the preparation of a map or chart showing the exact portion of the boundary line from the Gulf of Georgia through the Haro Channel to the ocean under the Treaty of 1846, and the Award of the Emperor of Germany.

Her Majesty's Government considers that, in compliance with the XXXVth Article of the Treaty of Washington, this should be done with as little delay as possible, in order to give effect to the Emperor's Award. It presumes that the surveys which have been already made will render it unnecessary for another Commission to meet on the spot, but it leaves the details of the arrangement to be made for the completion of the work of the Commission for further consideration.

I have, &c.
(Signed) EDWD. THORNTON.

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Inclosure 2 in No. 19.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, November* 23, 1872.

I HAVE the honour to acknowledge the receipt of your note of the 21st instant, in which you are pleased to inform me of the steps taken by Earl Granville to carry into effect the award made by the Emperor of Germany on the San Juan Water Boundary.

The prompt and spontaneous measures adopted by Her Majesty's Government for the final adjustment of the question are highly appreciated by this Government.

The proposition made by his Lordship, to the effect that the work of the Boundary Commission, which was interrupted in 1859, should be resumed and completed by the preparation of a map or chart showing the exact position of the line from the Gulf of Georgia through the Haro Channel to the ocean, under the Treaty of 1846, and the Award of the Emperor of Germany, meets the assent of this Government.

The Government of the United States entertains the same opinion as that expressed by Her Majesty's Government, that as little delay as possible should be incurred in giving effect to the Emperor's Award ; and that the surveys which have already been made will render it unnecessary for another Commission to meet on the spot.

I have, &c.
(Signed) HAMILTON FISH.

No. 20.

Sir E. Thornton to Earl Granville.—(Received December 31.)

My Lord, *Washington, December* 16, 1872.

WHEN I ventured to trouble your Lordship with my telegram of the 12th instant, I had not yet received your despatch of the 29th ultimo relative to the water boundary through the Haro Channel, which did not reach me till the night of the 13th instant. On the receipt, however, of that despatch I felt that your Lordship would have no objection to the boundary line being laid down on a chart or map either in London or here without its being necessary to send a Commission to the spot.

I therefore called upon Mr. Fish on the following day and communicated to him the substance of the above-mentioned despatch. Mr. Fish said that, as the Session of Congress would be short, and there was a good deal of business before it, he should, being now aware of the feeling of Her Majesty's Government upon the subject, send to Congress on Tuesday (to-morrow) a Bill proposing to authorize the President to appoint as a Commissioner, either the Secretary of State, one of the Assistant Secretaries of State, or the United States' Minister in London, to co-operate with a Commissioner named by Her Majesty for the purpose of laying down on a chart or map the water boundary line through the Haro Channel to the sea. He should also ask for a small sum merely to cover any little expense connected with making the necessary charts.

Mr. Fish said that the United States' Government would have no objection to the chart in question being prepared and ultimately signed in London as well as the accompanying Protocol, and that the only reason for inserting in the Bill the names of some persons at Washington was the possibility that General Schenck might not be in London at the time.

Mr. Fish informed me that, in the meantime, he had given directions that the boundary line, as the United States' Government believed it to be, should be laid down on one of the maps annexed to the British Case submitted to the Emperor of Germany, and on a chart prepared by the United States' Coast Survey ; and that when these two were ready, he would send them to me to be forwarded to England for your Lordship's inspection, or that of any other persons to whom you might wish to submit them for examination.

I beg to offer to your Lordship my acknowledgments for your answer to my telegram of the 12th instant, which reached me this afternoon.

I have, &c.
(Signed) EDWD. THORNTON.

No. 21.

Sir E. Thornton to Earl Granville.—(*Received January* 5, 1873.)

My Lord, *Washington, December* 23, 1872.

WITH reference to my despatch of the 16th instant, I have the honour to inform your Lordship that, during a visit which I paid to Mr. Fish on the 19th instant, he told me that it had been found more convenient to lay down the water boundary line through the Haro Channel on two of the Admiralty Charts, than on one of the maps annexed to the Case presented to the Emperor of Germany, or on the charts of the United States' Coast Survey. He then showed me the Admiralty charts in duplicate, with the boundary line marked on them, and said that he would put his initials upon them, and would send them to me in order that I might, after examining them, forward whichever I chose for your Lordship's inspection. He begged me to return the other set to him with my initials upon them.

As the two sets seemed precisely alike, I have done so, and have now the honour to transmit herewith the set which I selected. Mr. Fish suggested that if, after your Lordship had inspected these charts, and they had been examined by Admiral Prevost or any other person whom Her Majesty's Government should direct to do so, the boundary line should be pronounced to be correctly laid down, a single chart should be made either in England or here, on which the whole of the boundary line should be laid down in accordance with the two charts transmitted herewith. He further proposed that this new chart and an explanatory Protocol should be signed in duplicate at Washington by him and by any one else whom your Lordship might direct, and that one of the charts there signed should be transmitted to your Lordship.

The Bill to which I alluded in my above-mentioned despatch, but of which I have not yet been able to obtain a copy, was submitted to the House of Representatives on the 17th instant by General Banks, as Chairman of the Committee on Foreign Relations.

The first section proposes to authorize the President to appoint the Secretary of State, or either of the Assistant Secretaries, or the United States' Minister at London, or, in his discretion, by and with the advice of the Senate, to appoint a Commission, to act jointly with such officer or Commissioner as may be named by Her Majesty, for the purpose of completing the determination of so much of the boundary line between the territory of the United States and the possessions of Great Britain as was left uncompleted by the Commissioner appointed under the Act of Congress of August 11, 1856, to carry into effect the Ist Article of the Treaty of the 15th of June, 1846, between the United States and Great Britain.

The 2nd section of the Bill appropriates the sum of 5,000 dollars, or so much thereof as may be required to carry into effect the provisions of the Act.

After the Bill had been read a first and second time, General Banks proposed that it should be at once taken into consideration. This motion was agreed to; the Bill was read a third time and passed.

It was forwarded to the Senate, where action will probably be taken upon it soon after Congress shall reassemble on the 6th of next month.

I have, &c.

(Signed) EDWD. THORNTON.

NORTH AMERICA. No. 10 (1873).

PROTOCOL

SIGNED AT WASHINGTON ON THE 10TH OF MARCH, 1873,

DEFINING THE

BOUNDARY LINE

THROUGH THE

CANAL DE HARO,

IN ACCORDANCE WITH THE

AWARD OF THE EMPEROR OF GERMANY

OF

OCTOBER 21, 1872.

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

LONDON:
PRINTED BY HARRISON AND SONS.

[C.—735.] *Price* 1*d.*

Protocol signed at Washington on the 10th of March, 1873, defining the Boundary Line through the Canal de Haro, in accordance with the Award of the Emperor of Germany of October 21, 1872.

WHEREAS it was provided by the Ist Article of the Treaty between Great Britain and the United States of America, signed at Washington on the 15th of June, 1846, as follows :—

" ARTICLE I.

" From the point on the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary, between the territories of Her Britannic Majesty and those of the United States, shall be continued westward along the said 49th parallel of north latitude, to the middle of the channel which separates the Continent from Vancouver's Island ; and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean ; provided, however, that the navigation of the whole of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both Parties."

And whereas it was provided by the XXXIVth Article of the Treaty between Great Britain and the United States of America, signed at Washington on the 8th of May, 1871, as follows :—

" ARTICLE XXXIV.

" Whereas it was stipulated by Article I 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 Her Britannic Majesty and those of the United States, from the point on the 49th 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 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 to the abovementioned 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."

And whereas His Majesty the Emperor of Germany has, by his award dated the 21st of October, 1872, decided that "Mit der richtigen Auslegung der zwischen den Regierungen Ihrer Britischen Majestät und der vereinigten Staaten von Amerika geschlossenen Vertrages de dato Washington den 15ter Juni, 1846, steht der Anspruch der Regierung der vereinigten Staaten am meissten im Einklange, dass die Grenzlinie zwischen den Gebieten Ihrer Britischen Majestät und den vereinigten Staaten durch den Haro Kanal gezogen werde."

The Undersigned, the Right Honourable Sir Edward Thornton, one of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and Rear-Admiral James Charles Prevost, Commissioner of Her Britannic Majesty in respect of the boundary aforesaid, and Hamilton Fish, Secretary of State of the United States, duly authorized by their respective Governments to trace out and mark on charts prepared for that purpose the line of boundary in conformity with the award of His Majesty the Emperor of Germany, and to complete the determination of so much of the boundary line between the possessions of Great Britain and the territory of the United States, as was left uncompleted by the Commissioners heretofore appointed to carry into effect the Ist Article of the Treaty of 15th June, 1846, have met together at Washington, and have traced out and marked the said boundary line on four charts, severally entitled "North America, West Coast, Strait of Juan de Fuca, and the Channels between the Continent and Vancouver Island, showing the Boundary Line between British and American Possessions, from the Admiralty Surveys by Captains H. Kellett, R.N., 1847, and G. H. Richards, R.N., 1858-1862;" and having on examination agreed that the lines so traced and marked on the respective charts are identical, they have severally signed the said charts on behalf of their respective Governments, two copies thereof to be retained by the Government of Her Britannic Majesty, and two copies thereof to be retained by the Government of the United States, to serve with the "Definition of the Boundary Line" attached hereto, showing the general bearings of the line of boundary as laid down on the charts, as a perpetual record of agreement between the two Governments in the matter of the line of boundary between their respective dominions, under the Ist Article of the Treaty concluded at Washington on the 15th of June, 1846.

In witness whereof the Undersigned have signed this Protocol, and have hereunto affixed their seals.

Done in duplicate at Washington, this 10th day of March, in the year 1873.

EDWD. THORNTON. (L.S.)
JAMES C. PREVOST. (L.S.)
HAMILTON FISH. (L.S.)

Definition of the Boundary Line.

The chart upon which the boundary line between the British and United States' Possessions is laid down is entitled "North America, West Coast, Strait of Juan de Fuca, and the Channels between the Continent and Vancouver Island, showing the Boundary Line between British and American Possessions, from the Admiralty Surveys by Captains H. Kellett, R.N., 1847, and G. H. Richards, R.N., 1858-1862."

The boundary line thus laid down on the chart is a black line, shaded red on the side of the British Possessions, and blue on the side of the Possessions of the United States.

The boundary line thus defined commences at the point on the 49th parallel of north latitude on the west side of Point Robarts, which is marked by a stone monument, and the line is continued along the same parallel to the middle of the channel which separates the Continent from Vancouver Island, that is to say, to a point in longitude 123° 19′ 15″ west, as shown in the said chart.

It then proceeds in a direction about south 50° east (true) for about fifteen geographical miles, when it curves to the southward passing equidistant between the west point of Patos Island and the east point of Saturna Island until the point midway on a line drawn between Turn Point on Stewart Island and Fairfax Point on Moresby Island bears south 68° west (true), distant 10 miles, then on a course south 68° west (true) 10 miles to the said point midway between Turn Point or Stewart Island and Fairfax Point on Moresby Island, thence on a course about south 12° 30′ east (true) for about $8\frac{3}{4}$ miles to a point due east 1 mile from the northernmost kelp reef, which reef, on the said chart, is laid down as in latitude 48° 33′ north and in longitude 123° 15′ west; then its direction continues about south 20° 15′ east (true) $6\frac{1}{8}$ miles to a point midway between Sea Bird Point on Discovery Island and Pile Point on San Juan Island, thence in a straight line south 45° east (true) until it touches the north end of the middle bank in between 13 and 18 fathoms of water; from this point the line takes a general south 28° 30′ west direction (true) for about 10 miles, when it reaches the centre of the fairway of the Strait of Juan de Fuca, which by the chart is in the latitude of 48° 17′ north and longitude 123° 14′ 40″ west.

Thence the line runs in a direction south 73° west (true) for 12 miles to a point on

a straight line drawn from the light-house on Race Island to Angelos Point midway between the same.

Thence the line runs through the centre of the Strait of Juan de Fuca, first, in a direction north 80° 30′ west about $5\frac{3}{4}$ miles to a point equidistant on a straight line between Beechey Head on Vancouver Island and Tongue Point on the shore of Washington Territory; second, in a direction north 76° west about $13\frac{1}{2}$ miles to a point equidistant in a straight line between Sherringham Point on Vancouver Island and Pillar Point on the shore of Washington Territory; third, in a direction north 68° west about $30\frac{3}{4}$ miles to the Pacific Ocean at a point equidistant between Bonilla Point on Vancouver Island and Tatooch Island lighthouse on the American shore, the line between the points being nearly due north and south (true).

The courses and distances as given in the foregoing description are not assumed to be perfectly accurate, but are as nearly so as is supposed to be necessary to a practical definition of the line laid down on the chart and intended to be the boundary line.

(Signed) EDWD. THORNTON.
JAMES C. PREVOST.
HAMILTON FISH.

NORTH AMERICA. No. 10 (1873).

PROTOCOL signed at Washington on the 10th of March, 1873, defining the Boundary Line through the Canal de Haro, in accordance with the Award of the Emperor of Germany of October 21, 1872.

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

[LONDON:
PRINTED BY HARRISON AND SONS.

NORTH AMERICA. No. 1 (1875).

CORRESPONDENCE

RESPECTING THE

DETERMINATION OF THE NORTH-WESTERN BOUNDARY

BETWEEN

CANADA AND THE UNITED STATES.

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:
INTED BY HARRISON AND SONS.

[C.—1131.] *Price* 1*d.*

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CORRESPONDENCE respecting the Determination of the North-Western Boundary between Canada and the United States.

No. 1.

Captain Cameron, R.A., to the Earl of Derby.—(*Received December* 1.)

My Lord, *Dufferin, Manitoba, Canada, November* 3, 1874.

I HAVE the honour to report the progress made in carrying out my duties as Boundary Commissioner.

The international boundary line—between the United States and Canada—from the most north-west point of the Lake of the Woods, due south to the parallel of 49° of north latitude, and thence westward to the "Stony" or Rocky Mountains, has been determined in accordance with the IInd Article of the Convention of London, 20th October, 1818.

2. A party is now engaged in placing iron pillars along the line of the meridian of the most north-west point of the Lake of the Woods, southward to the point where the line enters the lake, and in which it intersects the parallel of 49° north latitude.

3. From the western shore of the lake, for a distance of about 55 miles along the parallel of 49° north latitude, the country being very swampy, is inaccessible, except when frozen. Preparations have been made for placing iron pillars on such available sites as there are, when access can be gained to this portion of the line.

4. Westward from the swamp district just referred to, for a distance of 115 miles along the south of the Province of Manitoba, to its western boundary, iron pillars have been placed at 2 mile intervals.

5. Westward from Manitoba to the eastern end of the international boundary previously run and marked from the Pacific coast, the line is indicated by cairns, generally about 3 miles apart.

6. With the exception of about 19 miles at the western end of the line, the whole has been cleared of trees.

7. The western end of the line traverses impracticable ground in the Rocky Mountain ranges; and in this length of 19 miles it was considered sufficient to mark only two points, viz., the passage of Belly River, and the crossing of Lake Waterton.

8. To provide for the possible disappearance of monuments, and the definition of the line in intervening spaces, the United States' Commissioner has agreed with me in deciding that the line in traversing these spaces, shall be held to run from point to point of astronomically determined 49° north latitude, following the course of a line having the curvature due to a parallel of that latitude.

8. The Chief Astronomer, his two assistants, and six Royal Engineers have proceeded to Ottawa, where public office accommodation has been placed at their disposal, to complete maps and office work generally.

A surveyor, temporarily employed here on a Committee of Audit, is about to join the party at Ottawa.

9. The remainder of the detachment of Royal Engineers who were employed in surveying, has been disposed of by discharge from the service, or by remission to garrison duties at Halifax, Nova Scotia. Authority for this arrangement was received from the Horse Guards.

10. The services of the staff and employés generally are being dispensed with as rapidly as the public interests permit.

11. Provision having necessarily been made for the possibility of the field work being continued beyond the present season, there remains on hand a larger stock of supplies than can be disposed of immediately without incurring a loss which may be avoided by a more gradual sale. The real property—land and buildings—here, belonging to the Commission, is too valuable to be disposed of hastily. The prospect—from the opening

of railway communication with the United States next year—of a considerable rise in the value of all real estate in this Province is very good, and especially so in the case of such as has the advantages of location offered by the site of the expedition winter quarters.

12. Under the circumstances I have concluded that the interests entrusted to my charge may be best served by my remaining here during the winter.

13. I have contemplated sending the Secretary to England, in order that, by placing himself in immediate communication with the War Office, the final closing of the Commission accounts may be facilitated and expedited. Should this arrangement be approved of, the Secretary would proceed to London as soon as he has closed his work here, and has had the leave of absence which his arduous duties have, I regret to say, rendered necessary, and to which his unremitting zeal and application have so well entitled him.

I have, &c.
(Signed) D. R. CAMERON, *Captain R.A.*,
Her Majesty's Commissioner.

No. 2.

The Earl of Derby to Captain Cameron, R.A.

Sir, *Foreign Office, January* 13, 1875.

I HAVE had under my consideration, in communication with Her Majesty's Secretaries of State for the Colonies and for War, your despatch of the 3rd of November, reporting the completion of the tracing of the boundary line from the Lake of the Woods to the Rocky Mountains, and the arrangements which you propose to make for winding up the business of the Commission, and I have to state to you that your proceedings are approved by Her Majesty's Government, and that you are authorized to remain in Canada during the winter, and to send the Secretary home to assist in closing the accounts.

I am, &c.
(Signed) DERBY.

NORTH AMERICA. No. 1 (1875).

CORRESPONDENCE respecting the Determination of the North-Western Boundary between Canada and the United States.

Presented to both Houses of Parliament by Command of Her Majesty. 1875.

LONDON:
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NORTH AMERICA. No. 8 (1876).

FURTHER CORRESPONDENCE

RESPECTING THE

DETERMINATION OF THE BOUNDARY

BETWEEN

CANADA AND THE UNITED STATES.

(In continuation of "North America No. 1, 1875.")

Presented to both Houses of Parliament by Command of Her Majesty.
1876.

LONDON:
PRINTED BY HARRISON AND SONS.

[C.—1552.] *Price 2d.*

Further Correspondence respecting the Determination of the Boundary between Canada and the United States.

Major Cameron, R.A., to the Earl of Derby.—(*Received June* 16.)

Office of the North American Boundary Commission,
London, June 15, 1876.

My Lord,

I HAVE the honour to forward herewith a record of the proceedings at my last meeting with Mr. Archibald Campbell, the United States' Commissioner appointed to act with me in ascertaining and marking the boundary from the most north-western point of the Lake of the Woods to the Rocky Mountains between the territories of Her Majesty and those of the United States.

2. The Record consists of—

(A.) A detailed list of the astronomical stations at which observations were taken, and whence the exact position of the line was deduced.

(B.) A detailed descriptive list of 388 marks placed on the line.

(C.) A set of twenty-four maps* (exclusive of an index sheet) on a scale of one inch to two miles, embracing an area of over 9,000 square miles, illustrating topographical features in detail, and indicating the positions of the astronomical stations and of the marks on the line.

(D.) A Minute that the marks above referred to are accepted by Mr. Campbell and myself as being on the line defined by the 2nd Article of the Convention of London, signed on the 20th October, 1818, that we agree that between any two neighbouring marks the boundary is a line having the curvature of a parallel of 49 degrees north latitude, and that, in the event of any mark placed on the line being obliterated beyond recognition, its lost site is to be recovered by reference to its recorded position relatively to the nearest unobliterated mark or marks.

3. These documents, including the maps, have been made in duplicate, and signed by both Mr. Campbell and myself; one copy I now forward to your Lordship, the other has been retained by Mr. Campbell for delivery to the Government of the United States.

4. Of the 388 marks placed on the boundary line there are eight in an extensive swamp, between thirty-three and forty-two miles west from the Lake of the Woods, which are of a comparatively temporary character. The softness of the subsoil precluded the placing of permanent monuments by the expedition in the swamp, and the marks here consist of a collection of forty-feet poles driven down twenty feet. It will probably be considered unnecessary to maintain these, or to incur the great expense which would be involved in substituting permanent marks in their stead.

5. The iron pillars referred to in the accompanying list should be coated at intervals of a few years, to preserve them from corrosion, and the cairns and earthen mounds should be inspected periodically with a view to repairing such of them as may need it.

I have, &c.

(Signed) D. R. CAMERON, *Major, R.A.,*
Her Majesty's Commissioner.

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* These Maps are in the Foreign Office Library.

Inclosure 1.

(A.) LIST of the Astronomical Stations observed by the Joint Commission for the determination of the International Boundary Line from the North-West Angle of the Lake of the Woods to the Rocky Mountains.

No.	Name of the Astronomical Station.	Distance from Lake of Woods Station.		Longitude West of Greenwich.	Remarks.
		Miles.	Links.	° ′ ″	
	North-West Angle	..		95 08 39·7	Latitude 49° 22′ 19·137″
1	Lake of the Woods (joint) ..	0	0	95 16 55·3	
2	Pine River	31	7,205	95 59 01·1	
3	West Roseau Ridge	68	1,283	96 46 51·9	
4	Red River (joint)	88	4,936	97 13 51·5	
5	Pointe de Michel (joint)	108	5,962	97 40 25·2	
6	Pembina Mountain, East (joint) ..	124	2	98 00 33	
7	Pembina Mountain, West ..	135	6,307	98 16 06·3	
8	Long River	165	1,305	98 54 52·1	
9	Sleepy Hollow	183	3,911	99 19 02·4	
10	Turtle Mountain, East	203	7,729	99 46 04·3	
11	Turtle Mountain, West	238	1,510	100 31 13·9	
12	1st Souris (or Mouse River) ..	258	744	100 57 29·8	
13	South Antler	281	1,973	101 28 03	
14	2nd Souris (or Mouse River) ..	303	7,150	101 57 56·1	
15	United States' No. 8 Astronomical Station	325	3,846	102 26 25·2	
16	Short Creek	343	2,892	102 50 00·9	
17	3rd Mouse River	359	3,254	103 11 11·8	
18	Grand Coteau	377	2,977	103 34 53·7	
19	Mid Coteau	400	4,925	104 05 34	
20	Big Muddy	426	5,035	104 39 53·6	
21	Bully Spring	451	1,841	105 12 21·4	
22	Poplar River	473	3,454	105 41 39·2	
23	West Poplar	496	6,906	106 12 34·4	
24	Little Rocky	522	4,742	106 46 31·5	
25	Frenchman's Creek	550	6,740	107 23 48·2	
26	Cottonwood Coulé	567	3,881	107 45 45·9	
27	Pool on Prairie..	588	1,931	108 13 09·2	
28	Near Goose Lake	615	3,202	108 48 59·6	
29	East Fork	642	218	109 24 27·8	
30	West Fork	655	2,357	109 41 38·2	
31	Milk River Lake	677	281	110 10 19·5	
32	Milk River	702	3,023	110 43 46·1	
33	East Butte	723	383	111 11 02·5	
34	West Butte	739	5,770	111 33 02·6	
35	Red Creek	760	3,160	112 00 19·5	
36	2nd Milk River (or South Branch) ..	785	0,279	112 32 50·3	
37	North Branch, Milk River ..	804	3,361	112 58 25·2	
38	Rocky Mountains	825	6,138	113 26 35·3	
39	Belly River	836	3,385	113 40 39	
40	Chief Mountain Lake	846	240	113 53 19·7	
	Akamina	853	2,529	114 02 56·5	Observed by the Joint Commission, 1861.

(Signed) D. R. CAMERON, *Major, R.A., Her Britannic Majesty's Commissioner.*
ARCHIBALD CAMPBELL, *United States' Commissioner.*
W. J. TWINING, *Captain of Engineers, United States' Chief Astronomer.*
S. ANDERSON, *Captain, R.E., British Chief Astronomer.*

May 29, 1876.

Inclosure 2.

(B.) List of the Monuments marking the International Boundary Line from the North-West Angle of the Lake of the Woods to the Rocky Mountains.

Monuments Marking due South Line.

No.	Distance South of North-West Point		Nature of Monument.	Longitude West of Greenwich.	Remarks.
	Miles.	Links.		° ′ ″	
..	..		Not marked	95 08 57·7	North-west point in swamp. Latitude 49° 23′ 50·3″.
1	1	3,071	Iron pillar	95 08 57·7	Latitude 49° 22′ 38·2″.
2	1	7,001	„	95 08 57·7	Latitude 49° 22′ 12·6″. North of Dawson Road.
3	2	2,797	„	95 08 57·7	Latitude 49° 21′ 47·8″.
4	3	3,626	„	95 08 57·7	Latitude 49° 20′ 50·4″.
5	5	945	„	95 08 57·7	Latitude 49° 19′ 23·6″.
6	6	1,882	Granite cairn	95 08 57·7	Latitude 49° 18′ 25·4″.
7	7	4,351	Iron pillar	95 08 57·7	Latitude 49° 17′ 17·2″.

* Indicates that an iron tablet was buried 2 feet deep and 10 feet east of the Monument, and † indicates that an iron tablet was buried also in the centre of the monument.

No.	Distance from Lake of the Woods.		Nature of Monument.	Longitude West of Greenwich.	Remarks.
	Miles.	Links.		° ′ ″	
1	..		Stone cairn, 7½ ft. by 8 ft. ..	95 16 55·3	Lake of the Woods Astronomical Station.
2	3	0	Earth mound, 7 ft. by 14 ft. ..	95 20 52·8	
3	5	0	„ 7 ft. by 14 ft. ..	95 23 31·1	
4	9	0	Iron pillar	95 28 47·8	
5	12	0	Earth mound, 7 ft. by 14 ft. ..	95 32 45·4	
6	15	0	„ 7 ft. by 14 ft. ..	95 36 42 9	
7	17	0	Iron pillar	95 39 21·2	East of North-east Roseau Crossing.
8	18	2,080	Earth mound, 7 ft. by 14 ft. ..	95 41 01·0	
9	21	0	Iron pillar	95 44 37·9	
10	24	1,548	Earth mound, 7 ft. by 14 ft. ..	95 48 50·8	
11	25	6,804	Iron pillar	95 51 02·0	On ridge.
12	29	0	Earth mound, 7 ft. by 14 ft. ..	95 55 11·3	At Pine River.
13	30	0	„ 7 ft. by 14 ft. ..	95 56 30·5	
14	32	5,154	„ 7 ft. by 14 ft. ..	96 00 00	Marking eastern boundary of Manitoba.
15	33	4,936	„ 10 ft. by 6 ft. ..	96 01 16·9	
16	34	4,936	Timber	96 02 36·0	In Great Roseau Swamp.
17	35	4,936	„	96 03 55·2	Ditto.
18	36	4,936	„	96 05 14·4	Ditto.
19	37	4,936	„	96 36 33·6	Ditto.
20	38	4,936	„	96 07 52·7	Ditto.
21	39	4,936	„	96 09 11·9	Ditto.
22	40	4,936	„	96 10 31·1	Ditto.
23	41	4,936	„	96 11 50·2	Ditto.
24	42	5,519	Iron pillar	96 13 15·2	
25	43	4,936	Earth mound, 10 ft. by 6 ft. ..	96 14 28·5	
26	44	5,519	Iron pillar	96 15 53·6	
27	45	4,936	Earth mound, 10 ft. by 6 ft. ..	96 17 06·9	
28	46	5,519	Iron pillar	96 18 31·9	
29	47	4,936	Earth mound, 10 ft. by 6 ft. ..	96 19 45·3	
30	48	5,519	Iron pillar	96 21 10·3	Near 40 mile station.
31	49	4,936	Earth mound, 10 ft. by 6 ft. ..	96 22 23·6	
32	50	5,519	Iron pillar	96 23 48·6	
33	51	4,936	Earth mound, 10 ft. by 6 ft. ..	96 25 02·0	
34	52	5,519	Iron pillar	96 26 27·0	
35	53	4,936	Earth mound, 10 ft. by 6 ft. ..	96 27 40·3	
36	54	5,519	Iron pillar	96 29 05·3	East of Pointe d'Orme.
37	55	5,519	„	96 30 24 5	West of Pointe d'Orme. Between 37 and 38 the Roseau River, at Pointe d'Orme, crosses the line three times.
38	56	5,519	„	96 31 43·7	
39	57	5,519	„	96 33 02·8	

No.	Distance from Lake of the Woods.		Nature of Monument.	Longitude West of Greenwich.	Remarks.
	Miles.	Links.		° ′ ″	
40	58	5,519	Iron pillar	96 34 22·0	
41	59	5,519	„	96 35 41·2	
42	60	5,519	„	96 37 00 4	
43	61	5.519	„	96 38 19·5	
44	62	5,519	„	96 39 38·7	
45	63	5,519	„	96 40 57·9	
46	64	5,519	„	96 42 17·1	
47	65	5,519	„	96 43 36·2	
48	66	5,519	„	96 44 55·4	
49	67	5,519	„	96 46 14·6	East of Roseau Ridge.
50	68	5,519	„	96 47 33·8	West of Roseau Ridge.
51	69	5,519	„	96 48 52·9	
52	70	5,519	„	96 50 12·1	
53	71	5,519	„	96 51 31·3	
54	72	5,519	„	96 52 50·5	
55	73	5.519	„	96 54 09·6	
56	74	5,519	„	96 55 28·8	
57	75	5,519	„	96 56 48	
58	76	5,519	„	96 58 07·2	
59	77	5,519	„	96 59 26·3	
60	78	5,519	„	97 00 45 5	
61	79	5,519	„	97 02 04·7	
62	80	5,519	„	97 03 23·9	
63	81	5,519	„	97 04 43	
64	82	5,519	„	97 06 02 2	
65	83	5,519	„	97 07 21 4	
66	84	5,519	„	97 08 40·6	West bank of Joe River.
67	85	5,519	„	97 09 59·7	
68	86	5,519	„	97 11 18·9	
69	87	5.519	„	97 12 38·1	East of Red River.
70	88	4,936	„	97 13 51·5	Red River Astronomical Station.
71	88	5,519	„	97 13 57·3	
72	89	5.519	„	97 15 16·4	
73	90	5,519	„	97 16 35·6	
74	91	5,519	„	97 17 54·8	
75	92	5,519	„	97 19 14·0	
76	93	5,519	„	97 20 33·1	
77	94	5,519	„	97 21 52·3	
78	95	5,519	„	97 23 11.5	Marais River.
79	96	5,519	„	97 24 30·7	
80	97	5,519	„	97 25 49·8	
81	98	5,519	„	97 27 09	Manitoba principal Meridian.
82	99	5,519	„	97 28 28·2	
83	100	5,519	„	97 29 47·4	
84	101	5,519	„	97 31 06·5	
85	102	5,519	„	97 32 25·7	
86	103	5,519	„	97 33 44·9	
87	104	5,519	„	97 35 04·1	
88	105	5,519	„	97 36 23·2	
89	106	5.519	„	97 37 42·4	
90	107	5,519	„	97 39 01·6	
91	108	5,519	„	97 40 20·8	Grants, or Pointe Michel.
92	109	5,519	„	97 41 39·9	
93	110	5,519	„	97 42 59·1	
94	111	5,519	„	97 44 18·3	
95	112	5,519	„	97 45 37 5	
96	113	5,519	„	97 46 56 6	
97	114	6,319	„	97 48 23·7	
98	115	5.519	„	97 49 35·0	
99	116	5.519	„	97 50 54·1	
100	117	5,519	„	97 52 13 3	
101	118	5,519	„	97 53 32·5	
102	119	5,519	„	97 54 51·7	
103	120	5.519	„	97 56 10·9	
104	121	5,519	„	97 57 30	
105	122	5,519	„	97 58 49·2	
106	123	5,519	„	98 00 08·4	Base of Pembina Mountain.
107	124	5,519	„	98 01 27·6	
108	125	5,519	„	98 02 46·7	
109	126	5,519	„	98 04 05·9	
110	127	5,519	„	98 05 25·1	
111	128	5.519	„	98 06 44·3	
112	129	5,519	„	98 08 03·4	
113	130	5,519	„	98 09 22·6	
114	131	5,519	„	98 10 41·8	

No.	Distance from Lake of the Woods.		Nature of Monument.				Longitude West of Greenwich.			Remarks.
	Miles.	Links.					°	′	″	
115	132	6,065	Iron pillar	..	..	..	98	12	06·5	Near west bank of Pembina River.
116	133	2,307	„	..	..	..	98	14	07·5	Top of ridge west of Pembina River.
117	134	5,519	„	..	..	..	98	14	39·3	
118	135	5,519	„	..	..	..	98	15	58·5	Near United States' Astronomical Station, No. 4.
119	136	5,519	„	..	..	..	98	17	17·6	
120	137	5,519	„	..	..	..	98	18	36·8	
121	138	5,519	„	..	..	..	98	19	56·0	
122	139	5,519	„	..	..	..	98	21	15·2	
123	140	5,519	„	..	..	..	98	22	34·4	
124	141	5,519	„	..	..	..	98	23	53·5	
125	142	5,519	„	..	..	..	98	25	12·7	
126	143	5,519	„	..	..	..	98	26	31·9	
127	144	5,519	„	..	..	..	98	27	51·1	
128	145	5,519	„	..	..	..	98	29	10·2	
129	146	5,519	„	..	..	..	98	30	29·4	
130	147	5,519	„	..	..	..	98	31	48·6	
131	148	5,519	„	..	..	..	98	33	07·8	
132	149	5,519	„	..	..	..	98	34	26·9	East bank of large Coulé.
133	150	5,519	„	..	..	..	98	35	46·1	
134	151	5,519	„	..	..	..	98	37	05·3	
135	152	5,519	„	..	..	..	98	38	24·5	
136	153	5,519	„	..	..	..	98	39	43·6	Near Coulé, east bank.
137	154	5,519	„	..	..	..	98	41	02·8	
138	155	5,519	„	..	..	..	98	42	22·0	
139	156	5,519	„	..	..	..	98	43	41·1	
140	157	5,519	„	..	..	..	98	45	00·3	
141	158	5,519	„	..	..	..	98	46	19·5	Near crossing of Half-Breed trail.
142	159	5,519	„	..	..	..	98	47	38·7	
143	160	5,519	„	..	..	..	98	48	57·9	
144	161	5,519	„	..	..	..	98	50	17	
145	162	5,519	„	..	..	..	98	51	36·2	
146	163	5,519	„	..	..	..	98	52	55·4	
147	164	5,519	„	..	..	..	98	54	14·6	
148	165	5,519	„	..	..	..	98	55	33·7	
149	166	5,519	„	..	..	..	98	56	52·9	
150	167	5,519	„	..	..	..	98	58	12·1	
151	168	5,519	„	..	..	..	98	59	31·3	
152	169	420	„	..	..	..	99	00	00	Western boundary of Manitoba.
153	169	5,519	„	..	..	..	99	00	50·4	
154	170	5,519	„	Ft.	Ft.	..	99	02	09·6	
155	170	6,998	Stone cairn,	13	× 7*	..	99	02	24·2	
156	172	7,154	„	13	7*	..	99	05	04·2	
157	175	7,662	„	13	7*	..	99	09	06·7	
158	176	5,485	„	10	6*	..	99	10	04·3	
159	178	6,527	Earth mound,	16	7*	..	99	12	53	
160	180	7,412	„	16	7*	..	99	15	40·1	
161	183	1,414	„	10	5*	..	99	18	38·3	
162	183	3,911	„	9	6*	..	99	19	03	Sleepy Hollow Astronomical Station.
163	186	3,911	„	9	6*	..	99	23	00·5	
164	189	1,228	„	9	6*	..	99	26	31·5	
165	191	5,717	„	9	6*	..	99	29	54·2	
166	195	1,272	„	9	6*	..	99	34	27	
167	198	3,911	„	9	6*	..	99	38	50·6	
168	201	7,911	„	9	6*	..	99	43	27·7	
169	203	7,729	„	14	6*	..	99	46	04·2	Turtle Mountain East Astronomical Station.
170	206	7,729	„	14	6*	..	99	50	01·8	
171	209	5,582	„	14	6*	..	99	53	38	
172	212	7,729	„	14	6*	..	99	57	56·8	
173	215	1,996	„	14	6*	..	100	00	57·6	
174	218	7,729	„	14	6*	..	100	05	51·9	
175	221	7,248	„	14	6*	..	100	09	44·6	
176	224	7,729	„	14	6*	..	100	13	46·9	
177	227	6,470	„	14	6*	..	100	17	32	
178	229	7,245	„	14	6	..	100	20	18	East shore of Boundary Lake.
179	233	3,787	„	9	6*	..	100	25	05·5	High ridge east of Summit Lake.
180	235	2,660	„	9	6*	..	100	27	27·7	On slope of Turtle Mountain, and outside of timber.
181	237	6,968	Stone cairn,	16	7*	..	100	30	48·7	East of Turtle Mountain, West Astronomical Station.
182	243	1,114	„	16	7*	..	100	37	45·8	
183	247	649	„	16	7*	..	100	42	57·9	

No.	Distance from Lake of the Woods.		Nature of Monument.			Longitude West of Greenwich.			Remarks.
	Miles.	Links.		Ft.	Ft.	°	′	″	
184	249	3,036	Stone cairn,	16 ×	7* ..	100	45	59·9	
185	252	5,896	„	16	7* ..	100	50	25·7	
186	255	2,940	Earth mound,	8	5* ..	100	53	54	
187	256	3,880	Stone,	16	7* ..	100	55	22·4	
188	258	744	Earth mound,	5	8* ..	100	57	29·8	First crossing of Mouse River on west bank, Astronomical Station.
189	261	744	„	5	8* ..	101	01	27·3	
190	264	744	„	5	8* ..	101	05	24·8	
191	267	744	„	5	8* ..	101	09	22·3	
192	270	744	„	5	8* ..	101	13	19·9	Right bank of South Antler Creek.
193	273	744	„	5	8* ..	101	17	17·4	Left ditto.
194	276	744	„	5	8* ..	101	21	14·9	
195	279	744	„	5	8* ..	101	25	12·4	
196	281	1,973	Stone cairn,	10	5* ..	101	28	02·9	On prairie, near South Antler Creek.
197	283	3,146	„	15	6* ..	101	30	52·9	
198	286	448	„	15	6* ..	101	34	23·7	
199	288	5,976	Earth mound,	15	6* ..	101	37	56·8	
200	291	514	Stone cairn,	15	6* ..	101	41	00·2	
201	294	7,699	Earth mound,	12	6* ..	101	46	08·9	
202	297	2,521	„	12	6* ..	101	49	15·1	
203	300	1,250	Stone cairn,	12	6* ..	101	53	00·1	
204	301	5,152	„	12	6* ..	101	54	57·9	East bank of Mouse River, near road.
205	303	7,150	Earth mound,	5	8* ..	101	57	56	Second crossing of Mouse River, Astronomical Station.
206	306	7,150	„	5	8* ..	102	01	53·6	
207	309	7,150	„	5	8* ..	102	05	51·1	
208	312	7,678	„	5	8* ..	102	09	53·8	East of Rivière des Lacs.
209	315	7,150	„	5	8* ..	102	13	46·1	West of ditto.
210	319	398	„	5	8* ..	102	17	56	
211	321	7,150	„	5	8* ..	102	21	41·2	
212	325	3,846	„	14	6* ..	102	26	25·2	Astronomical Station.
213	329	7,294	Stone cairn,	8	6* ..	102	32	16	
214	331	5,986	Earth mound,	14	6* ..	102	34	41·4	
215	334	5,167	Stone,	8	6* ..	102	38	30·8	
216	337	1,260	Earth mound,	10	5* ..	102	41	49·7	
217	340	1,291	Stone,	10	5* ..	102	45	47·5	East bank of Coulé.
218	342	2,814	Earth mound,	13	6* ..	102	48	40·9	East bank of Short Creek.
219	343	2,892	„	9	6* ..	102	50	00·9	British Astronomical Station, Short Creek west branch.
220	346	472	„	12	6* ..	102	53	34·4	
221	349	2,410	„	12	6* ..	102	57	51·1	
222	352	4,392	„	12	6* ..	103	02	08·3	Near Half-breed Road, east bank of Mouse River.
223	356	770	„	12	6* ..	103	06	49·1	West of Mouse River.
224	359	3,254	Stone,	12	5* ..	103	11	11·2	Third Mouse Astronomical Station.
225	361	7,908	Earth mound,	18	8* ..	103	14	35·7	
226	364	3,666	„	18	8* ..	103	17	51·2	East of Mouse River.
227	369	336	„	16	6* ..	103	23	54·1	West of Mouse River.
228	372	4,136	„	16	6* ..	103	28	29·3	
229	374	5,825	Stone,	12	7* ..	103	31	24·3	
230	377	2,977	Earth mound,	12	6* ..	103	34	53·7	Grand Coteau. Astronomical Station base of Coteau.
231	379	7,417	„	12	6 ..	103	38	16	
232	382	4,013	„	12	6 ..	103	41	39·8	
233	385	1,896	„	12	6 ..	103	45	16·4	
234	388	6,377	„	12	6 ..	103	49	58·2	
235	392	4,139	„	12	6 ..	103	54	52·8	
236	395	4,462	„	12	6 ..	103	58	53·5	
237	398	6,241	„	12	6 ..	104	03	08·6	
238	400	4,925	„	10	5 ..	104	05	34	Mid Coteau Astronomical Station.
239	403	2,392	„	10	5 ..	104	09	06·4	
240	405	5,407	Stone,	10	5 ..	104	12	14·6	
241	407	6,966	„	10	5 ..	104	15	08·4	East side of Large Coulé.
242	410	4,899	Earth,	10	5 ..	104	18	45·5	West side of Large Coulé.
243	413	3,675	„	10	5 ..	104	22	30·9	
244	417	2,411	„	10	5 ..	104	27	35	
245	421	2,177	Stone,	10	5 ..	104	32	49·4	
246	424	941	„	10	5 ..	104	36	34·7	
247	426	5,035	Earth,	14	6 ..	104	39	53·6	Big Muddy Astronomical Station.
248	429	4,938	„	14	6 ..	104	43	50·2	

No.	Distance from Lake of the Woods.		Nature of Monument.				Longitude West of Greenwich.			Remarks.
	Miles.	Links.		Ft.	Ft.		°	′	″	
249	432	1,370	Earth mound,	14 ×	6	..	104	47	12·4	East of Pyramid Creek.
250	435	3,035	„	14	6	..	104	51	26·4	On west bluff of Pyramid Creek.
251	437	1,489	„	14	6	..	104	53	49·4	
252	440	7,152	„	14	6	..	104	58	43	East of Big Muddy River.
253	444	5,081	„	14	6	..	105	03	39·2	West of Big Muddy River.
254	447	5,311	Stone,	12	6	..	105	07	39	
255	451	1,841	„	10	5	..	105	12	21·4	Bully Spring, United States Astronomical Station, No. 11.
256	451	4,321	„	10	5	..	105	12	45·9	
257	454	4,541	Earth mound,	10	5	..	105	16	45·6	
258	457	5,874	„	10	5	..	105	20	56·3	
259	460	5,841	„	10	5	..	105	24	53·5	In a broad valley.
260	464	4,632	„	10	5	..	105	29	58·3	
261	467	4,826	„	10	5	..	105	33	57·7	
262	472	732	„	10	5	..	105	39	53·1	In valley of Poplar River.
263	473	3,454	„	14	6	..	105	41	39·2	Poplar River Astronomical Station.
264	476	3,454	„	14	6	..	105	45	36·7	
265	479	3,332	„	14	6	..	105	49	33	
266	482	3,454	„	14	6	..	105	53	31·8	
267	485	3,454	„	14	6	..	105	57	29·3	
268	488	3,454	„	14	6	..	106	01	26·8	
269	491	2,054	„	14	6	..	106	05	10·5	
270	494	3,454	„	14	6	..	106	09	21·8	
271	496	6,906	Stone,	15	6*	..	106	12	34·3	West Poplar River Astronomical Station.
272	498	6,821	Earth mound,	12	7*	..	106	15	11·9	
273	501	1,299	„	12	7*	..	106	18	14·7	
274	502	7,391	„	12	7*	..	106	20	34·2	On edge of west branch of Poplar River.
275	505	356	„	12	7*	..	106	23	22·1	
276	510	170	„	12	7*	..	106	29	56·1	
277	511	1,061	Stone,	10	6*	..	106	31	24·1	
278	514	1,239	„	10	6*	..	106	35	23·4	
279	518	3,641	Earth mound,	12	7*	..	106	41	03·9	
280	520	7,605	Stone,	10	6*	..	106	44	21·5	East of Little Rocky Creek.
281	522	4,742	Earth mound,	14	6*	..	106	46	31·5	Little Rocky Creek Astronomical Station, west of Creek.
282	525	3,103	Stone,	10	6*	..	106	50	12·8	
283	528	764	„	10	6*	..	106	53	47·2	
284	531	2,323	„	10	6*	..	106	58	00·1	
285	534	7,642	„	10	6*	..	107	02	50·3	
286	537	1,010	„	10	6*	..	107	05	42·2	
287	541	7,704	„	10	6*	..	107	12	05·1	On east bluff of Frenchman's Creek.
288	544	7,513	Earth mound,	12	6*	..	107	16	00·8	
289	548	3,375	Stone,	10	6*	..	107	20	36·5	On west bluff of Frenchman's Creek.
290	550	6,740	„	10	6*	..	107	23	48·2	Frenchman's Creek Astronomical Station.
291	553	1,607	„	10	6*	..	107	26	54·9	Near Lake.
292	557	2,460	„	10	6*	..	107	32	20	
293	560	3,708	„	10	6*	..	107	36	29·9	
294	563	2,270	„	10	6*	..	107	40	13·2	
295	565	2,322	„	10	6*	..	107	42	52·1	
296	567	3,881	„	12	6*	..	107	45	45·8	Cottonwood Coulé Astronomical Station.
297	570	3,881	„	12	6*†	..	107	49	43·4	
298	573	3,881	„	10	6*	..	107	53	40·9	
299	576	3,881	„	10	6*†	..	107	57	38·4	On west bank of Cottonwood Coulé.
300	579	3,881	„	10	6*	..	108	01	35·9	
301	582	3,881	„	10	6*†	..	108	05	33·5	
302	585	3,881	„	10	6*†	..	108	09	31	
303	588	1,931	„	10	6*	..	108	13	09·2	Pool on Prairie, Astronomical Station.
304	591	6,187	„	10	6*	..	108	17	48·8	
305	596	5,787	„	10	6*	..	108	24	20·8	
306	599	228	„	10	6*	..	108	27	23·3	
307	601	2,182	„	10	6*	..	108	30	21	
308	605	6,789	„	10	6*	..	108	36	23·3	
309	608	6,593	„	10	6*	..	108	40	18·9	
310	613	378	„	10	6*	..	108	45	53·2	
311	615	3,202	„	12	6*	..	108	48	59·5	Near Goose Lake Astronomical Station.

No.	Distance from Lake of the Woods.		Nature of Monument.				Longitude West of Greenwich.	Remarks.
	Miles.	Links.		Ft.	Ft.		° ′ ″	
312	618	3,202	Stone,	10 ×	6*	..	108 52 57	
313	621	1,085	„	10	6*	..	108 56 33·6	
314	624	2,737	„	10	6*	..	109 00 47·5	
315	627	571	„	10	6*	..	109 04 23·6	
316	630	4,402	„	10	6*	..	109 08 59	
317	632	4,005	„	10	6*	..	109 11 33·4	
318	635	4,459	Stone and earth mound	10	6*	..	109 15 35·5	
319	639	4,147	Stone,	10	6*	..	109 20 49·1	
320	642	218	„	10	6*	..	109 24 07·7	East Fork, Astronomical Station in river bottom.
321	643	6,856	„	10	6*	..	109 26 32·6	
322	646	2,395	„	10	6*	..	109 29 46	
323	649	2,001	„	10	6*	..	109 33 39·6	
324	651	1,113	Earth mound,	12	7*	..	109 36 09·2	
325	655	2,357	Stone,	10	6*†	..	109 41 38·2	West Fork, Astronomical Station in river bottom.
326	658	2,357	„	10	6*†	.	109 45 35·7	
327	661	2,357	„	10	6*†	.	109 49 33·2	
328	664	2,357	„	10	6*†	..	109 53 30·7	
329	667	2,357	„	10	6*	..	109 57 28·2	
330	670	2,357	„	10	6*†	..	110 01 25·8	
331	673	2,357	„	10	6*†	..	110 05 23·3	
332	677	281	„	10	8*	..	110 10 19·5	Milk River Lake Astronomical Station.
333	680	497	Earth and stone mound	10	6*	..	110 14 19·1	
334	683	1,144	„	10	6*	..	110 18 23·1	
335	685	5,545	Stone,	10	6*	..	110 21 45	
336	699	3,677	„	10	6*	..	110 39 54·9	
337	702	3,023	„	12	6*	..	110 43 46	West of Milk River Astronomical Station.
338	705	7,527	„	10	6*	..	110 48 28·1	
339	708	3,204	„	10	6*	..	110 51 42 8	On west bank of Large Coulé.
340	711	3,444	„	10	6*	..	110 55 42·7	
341	714	2,412	„	10	6*	..	110 59 30	
342	717	7,848	„	10	6*	..	111 04 21·3	
343	720	5,550	„	10	6*	..	111 07 56·1	On crest of spur.
344	723	383	„	10	6*	..	111 11 02·5	Mound on west slope of spur of East Butte.
345	726	4,094	„	10	6*	..	111 15 36·8	
346	730	573	„	10	6*	..	111 20 18·6	
347	734	724	„	10	7*	..	111 25 36·8	
348	738	5,383	„	14	8*	..	111 31 39·6	East of West Butte.
349	740	197	„	10	6*†	..	111 33 26·6	West of West Butte.
350	742	6,392	„	10	6*†	..	111 37 06 3	
351	745	6,377	„	10	6*†	..	111 41 03·7	
352	748	6,766	„	10	6*†	..	111 45 05·1	Near Creek.
353	751	5,770	„	10	6*†	..	111 48 52·7	
354	754	5,770	„	10	6*†	..	111 52 56·2	
355	757	7,524	„	10	6*†	..	111 57 05·1	
356	760	3,160	„	10	6*	..	112 00 19 5	Red Creek Astronomical Station.
357	763	7,188	„	10	6*	..	112 04 56·8	East of Red Creek, near Whoop-up Trail.
358	768	2,493	„	10	6*	..	112 10 46·3	
359	771	4,268	„	10	6*	..	112 15 01·4	
360	774	4,353	„	10	6*	..	112 18 59·7	
361	777	2,061	„	10	6*	..	112 22 34 6	
362	779	2,675	„	10	6*	..	112 25 19	
363	781	6,772	„	10	6*	..	112 28 37·9	
364	785	279	„	12	6*	..	112 32 50·3	South branch Milk River. Astronomical Station on west bank.
365	787	6,221	„	10	6*	..	112 36 27·5	
366	790	7,610	„	10	6*	..	112 40 38 7	
367	793	7,613	„	10	6*	..	112 44 36·3	
368	798	2,305	„	10	6*	..	112 50 19·6	
369	801	3,201	„	10	6*	..	112 54 26	
370	804	3,361	„	10	6*	..	112 58 25·1	East Bluff, north branch of Milk River. Astronomical Station.
371	807	6,209	„	10	6*	..	113 02 50·8	On Milk River ridge.
372	811	2,846	„	10	6*	..	113 07 34·3	In valley.
373	815	319	„	10	6*	.	113 12 26	On high ridge.
374	817	7,258	„	10	6*	..	113 16 13	East of St. Mary's River.
375	820	4,680	„	10	6*	..	113 19 45	West of St. Mary's River.
376	824	3,946	„	10	6*	..	113 24 54 4	

No.	Distance from Lake of the Woods.		Nature of Monument.				Longitude West of Greenwich.			Remarks.
	Miles.	Links.		Ft.		Ft.	°	′	″	
377	825	6,138	Stone,	12	×	6*† ..	113	26	35·3	Rocky Mountain. Astronomical Station near lake.
378	828	6,483	„	10		6*† ..	113	30	36·2	
379	831	2,653	„	10		6* ..	113	33	59·9	
380	836	3,385	„	12		6* ..	113	40	39	Belly River Astronomical Station.
381	846	240	„	12		6* ..	113	53	19·6	Chief Mountain Lake Astronomical Station.
	853	2,529	„	7		6 ..	114	02	56·5	Summit of Rocky Mountains, 1861.

(Signed) D. R. CAMERON, *Major, R.A., Her Britannic Majesty's Commissioner.*
ARCHIBALD CAMPBELL, *United States' Commissioner.*
W. J. TWINING, *Captain of Engineers, United States' Chief Astronomer.*
S. ANDERSON, *Captain, R.E., British Chief Astronomer.*

May 29, 1876.

Inclosure 3.

(c.) A Set of Twenty-four Maps.*

Inclosure 4.

(d.)—Record of Proceedings at a meeting of the Commissioners appointed respectively by Her Britannic Majesty and by the President of the United States of America, to ascertain and mark the boundary line between the respective territories of Her Majesty and of the United States, the said line being that defined by the 2nd Article of the Convention of London, signed 20th October, 1818:

Present:

DONALD R. CAMERON, Major, Royal Artillery, Commissioner on the part of Her Britannic Majesty.
S. ANDERSON, Captain Royal Engineers, Chief Astronomer to Her Majesty's Commission.
A. C. WARD, Captain Royal Engineers, Secretary to Her Majesty's Commission.
ARCHIBALD CAMPBELL, Commissioner on the part of the United States of America.
W. J. TWINING, Captain of the Corps of Engineers of the United States' Army, Chief Astronomer to the United States' Commission.

1. THE Chief Astronomers submit the following documents and maps:—

(*a.*) A detailed list, in duplicate, of forty astronomical stations in addition to one for the location of the most north-western point of the Lake of the Woods, at which observations were taken under their superintendence to determine the line described in the 2nd Article of the Convention of London (signed 20th October, 1818) between the terminal points, viz., the most north-western point of the Lake of the Woods and the eastern end of the international boundary line, previously marked between Akamina, in the Rocky Mountains, and the western coast of North America.

(*b.*) A descriptive list, in duplicate, of 388 monuments and marks placed on the boundary line, as derived from the astronomical stations enumerated in the list referred to in section (*a*) of this paragraph.

(*c.*) A duplicate set of 24 maps,* on a scale of $\frac{1}{126720}$ths, or 1 inch to 2 miles,

* These Maps are in the Foreign Office Library.

illustrating the topography of the country through which the boundary line runs, and indicating the relative positions of the various monuments and marks referred to in section (*b*) of this paragraph.

2. The 2nd Article of the Convention of London, signed 20th October, 1818, is read as follows :—

"It is agreed that a line drawn from the most north-western point of the Lake of the Woods, along the 49th parallel of north latitude, or, if the said point shall not be in the 49th parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west along and with the said parallel, shall be the line of demarcation between the territories of His Britannic Majesty and those of the United States, and that the said line shall form the southern boundary of the said territories of His Britannic Majesty, and the northern boundary of the territories of the United States, from the Lake of the Woods to the Stony Mountains."

3. The duplicate documents and maps enumerated in paragraph numbered (1) —one set for each of the respective Governments—having been examined and compared, are authenticated by the signatures of the Commissioners, who agree as follows :—

(1.) The 388 monuments detailed in the list referred to in section (*b*) of paragraph numbered 1, are on and mark the astronomical lines stipulated by the 2nd Article of the Convention of London (signed 20th October, 1818), to be the line of boundary between the territories of Her Britannic Majesty and of the United States of America, from the Lake of the Woods to the Stony (*i.e.*, Rocky) Mountains.

(2.) In the intervals between the monuments along the parallel of latitude it is agreed that the line has the curvature of a parallel of 49° north latitude, and that such characteristic shall determine all questions that may hereafter arise with reference to the position of the boundary at any point between neighbouring monuments.

(3.) It is further agreed that, in the event of any of the said 388 monuments or marks being obliterated beyond the power of recognition, the lost site or sites shall be recovered by their recorded position relatively to the next neighbouring unobliterated mark or marks.

(Signed) D. R. CAMERON, *Major, R.A., Her Britannic Majesty's Commissioner.*
ARCHIBALD CAMPBELL, *United States' Commissioner.*

London, May 29, 1876.

NORTH AMERICA. No. 8 (1876).

FURTHER CORRESPONDENCE respecting the Determination of the Boundary between Canada and the United States.

(In continuation of "North America No. 1, 1875.")

Presented to both Houses of Parliament by Command of Her Majesty. 1876.

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316

TREATY SERIES. No. 16.

1892.

CONVENTION

BETWEEN

GREAT BRITAIN AND THE UNITED STATES OF AMERICA

RESPECTING THE

BOUNDARY BETWEEN THE TWO COUNTRIES.

(ALASKA AND PASSAMAQUODDY BAY.)

Signed at Washington, July 22, 1892.

Ratifications exchanged at Washington, August 23, 1892.

Presented to both Houses of Parliament by Command of Her Majesty.
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CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA RESPECTING THE BOUNDARY BETWEEN THE TWO COUNTRIES. (ALASKA AND PASSAMAQUODDY BAY.)

Signed at Washington, July 22, 1892.

[*Ratifications exchanged at Washington, August* 23, 1892.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, being equally desirous to provide for the removal of all possible cause of difference between their respective Governments hereafter in regard to the delimitation of the existing boundary between Her Majesty's possessions in North America and the United States in respect to such portions of said boundary as may not in fact have been permanently marked in virtue of Treaties heretofore concluded, have resolved to conclude a Convention in furtherance of these ends, and for that purpose have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Honourable Michael H. Herbert, Chargé d'Affaires *ad interim* of Great Britain; and

The President of the United States, John W. Foster, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:—

ARTICLE I.

The High Contracting Parties agree that a coincident or joint survey (as may be found in practice most convenient) shall be made of the territory adjacent to that part of the boundary-line of the Dominion of Canada and the United States of America dividing the Province of British Columbia and the north-west territory of Canada from the Territory of Alaska, from the latitude of 54° 40′ north to the point where the said boundary-line encounters the 141st degree of longitude westward from the meridian of Greenwich, by Commissions to be appointed severally by the High Contracting Parties, with a view to the ascertainment of the facts and data necessary to the permanent delimitation of said boundary-line in accordance with the spirit and intent of the existing Treaties in regard to it between Great Britain and Russia and between the United States and Russia.

Application will be made without delay to the respective Legislative Bodies for the appropriations necessary for the prosecution of the survey, and the Commissions to be appointed by the two Governments shall meet at Ottawa within two months after said appropriation shall have been made, and shall proceed as soon as practicable thereafter to the active discharge of their duties.

The respective Commissions shall complete the survey and submit their final Reports thereof within two years from the date of their first meeting.

The Commissions shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

Each Government shall pay the expenses of the Commission appointed by it.

Each Government engages to facilitate in every possible way any operations which, in pursuance of the plan to be agreed upon by the Commissions, may be conducted within its territory by the Commission of the other.

The High Contracting Parties agree that, as soon as practicable after the Report or Reports of the Commissions shall have been received, they will proceed to consider and establish the boundary-line in question.

ARTICLE II.

The High Contracting Parties agree that the Governments of Her Britannic Majesty in behalf of the Dominion of Canada and of the United States shall, with as little delay as possible, appoint two Commissioners, one to be named by each party, to determine upon a method of more accurately marking the boundary-line between the two countries in the waters of Passamaquoddy Bay in front of and adjacent to Eastport, in the State of Maine, and to place buoys or fix such other boundary marks as they may determine to be necessary.

Each Government shall pay the expenses of its own Commissioner, and cost of marking the boundary in such manner as shall be determined upon shall be defrayed by the High Contracting Parties in equal moieties.

ARTICLE III.

The present Convention shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at Washington within twelve months from the date hereof, or earlier if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done in duplicate at Washington, the 22nd day of July, one thousand eight hundred and ninety-two.

(Signed) (L.S.) MICHAEL H. HERBERT.

(Signed) (L.S.) JOHN W. FOSTER.

TREATY SERIES. No. 10.

1894.

CONVENTION

BETWEEN

GREAT BRITAIN AND THE UNITED STATES

SUPPLEMENTARY TO THE

CONVENTION RESPECTING BOUNDARIES OF JULY 22, 1892

(ALASKA AND PASSAMAQUODDY BAY).

Signed at Washington, February 3, 1894.

[*Ratifications exchanged at Washington, March* 28, 1894.]

Presented to both Houses of Parliament by Command of Her Majesty.
April 1894.

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[C.—7311.]

CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES SUPPLEMENTARY TO THE CONVENTION OF JULY 22, 1892, RESPECTING BOUNDARIES (ALASKA AND PASSAMAQUODDY BAY).

Signed at Washington, February 3, 1894.

[*Ratifications exchanged at Washington, March* 28, 1894.]

THE Governments of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and of the United States of America, being credibly advised that the labours of the Commission, organized pursuant to the Convention which was concluded between the High Contracting Parties at Washington July 22, 1892, providing for the delimitation of the existing boundary between Her Majesty's possessions in North America and the United States, in respect to such portions of said boundary-line as may not, in fact, have been permanently marked in virtue of Treaties heretofore concluded, cannot be accomplished within the period of two years from the first meeting of the Commission as fixed by that Convention, have deemed it expedient to conclude a supplementary Convention extending the term for a further period, and for this purpose have named as their respective Plenipotentiaries :—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, his Excellency Sir Julian Pauncefote, G.C.B., G.C.M.G., Ambassador Extraordinary and Plenipotentiary of Great Britain; and

The President of the United States, Walter Q. Gresham, Secretary of State of the United States;

Who, after having communicated to each other their respective Full Powers, which were found to be in due and proper form, have agreed upon the following Articles :—

ARTICLE I.

The third paragraph of Article I of the Convention of July 22, 1892, states that the respective Commissions shall complete the survey and submit their final Reports thereof within two years from the date of their first meeting. The Joint Commissioners

held their first meeting November 28, 1892; hence the time allowed by that Convention expires November 28, 1894. Believing it impossible to complete the required work within the specified period, the two Governments hereby mutually agree to extend the time to December 31, 1895.

ARTICLE II.

The present Convention shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at Washington at the earliest practicable date.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done in duplicate at Washington, the third day of February, 1894.

(L.S.) JULIAN PAUNCEFOTE.
(L.S.) W. Q. GRESHAM.

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