

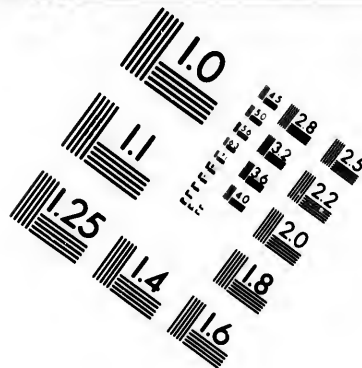
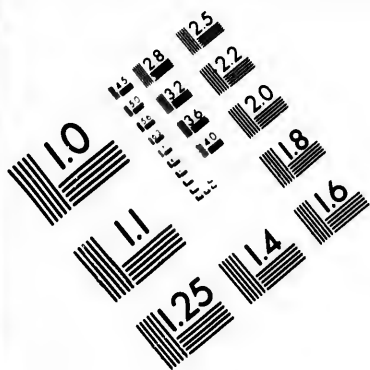
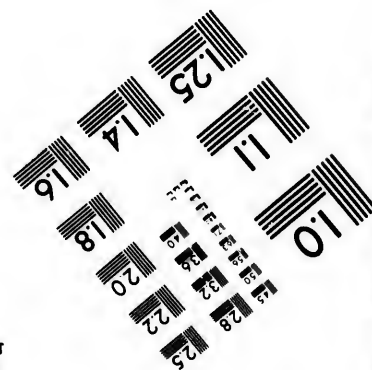
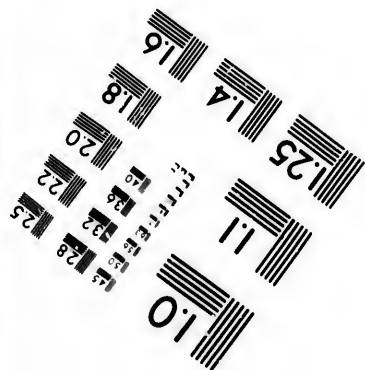
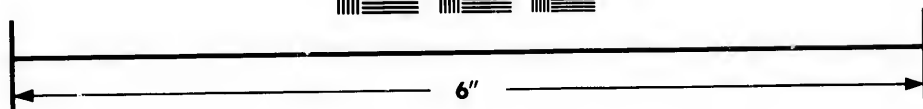
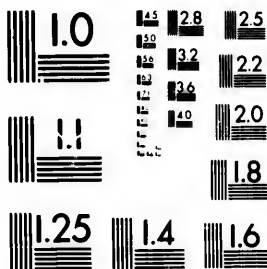


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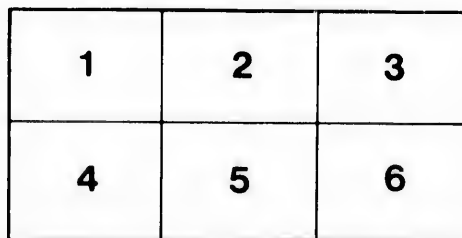
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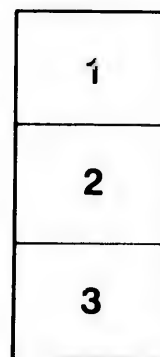
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HEAD QUARTERS DEPARTMENT OF PACIFIC,
FORT VANCOUVER, WASHINGTON TERRITORY,
September 18th, 1864.

BRIGADIER-GENERAL BENJAMIN ALVORD,

U. S. Volunteers,

Commanding District of Oregon.

GENERAL:—

On his recent visit to the Island of San Juan, the attention of the Major-General Commanding the Department was called to the existing instructions to the commanding officer of the post at that place; and since his arrival here he has carefully considered the various papers you have submitted to him on the subject of the joint occupation of the Island by the United States and British forces, and the question of the exercise of civil jurisdiction by the officers of Washington Territory over American inhabitants residing or sojourning thereon. The General now instructs me to write you as follows:

Pending the negotiations between the United States and Great Britain concerning their respective claims to the sovereignty of the Island—questions as to the kind and extent of jurisdiction to be maintained by the two parties, are to be decided in conformity with the temporary arrangement ("settlement") first proposed, substantially, by Captain *Geoffrey Phipps Hornby*, of Her Majesty's ship *Tribune*, to Captain *Pickell*, August 3d, 1859, concurred in by the President of the United States, as seen in War Department dispatch from Mr. *Drickhard* to Lieutenant-General *Scott*, of September 16th, 1859, and established by Lieutenant-General *Scott* in October and November, 1859, and at the time partially, and since fully, agreed to by the British authorities. That arrangement or "temporary settlement" was upon the basis of a joint and exclusively military occupation of the Island by the land forces of the two powers. You will observe that the question of joint civil jurisdiction was fully discussed at the time, it being urged by Governor *Douglas* and resisted and rejected by Lieutenant-General *Scott*. The latter, in his letter to the former of November 2d, 1859, says as follows:—"You submit for (my) consideration that for the protection of the small British and American population, settled on the Island, there should be a joint occupation, composed of the present resident stipendiary magistrates, with such assistants as may be necessary, and that the military and naval forces on both sides be wholly withdrawn." "It strikes me as a decisive objection to this basis, that if a magistrate (Judge or Justice of the Peace) could be legally (except by treaty between sovereign powers) established on neutral territory, such functionary could not be subjected to the orders of any officer of the United States Army, nor even to the direct control of the President of the United States, though appointed by an American Territorial Governor claiming jurisdiction over the disputed territory, and therefore not to be considered as a fit person to be intrusted with matters affecting the peace of two great nations." From this, and the terms of the temporary settlement as established, the entire

police of the Island was, as to American citizens, exclusively with the United States military forces, and as to British subjects, exclusively with the British forces.

The Major-General Commanding observes in the subsequent instructions and orders of the United States military authorities having the matter in charge, a deviation from the status thus established, growing out of the action of the civil authority of Washington Territory relative to the projected imposition and collection of taxes on the American residents upon the Island, and he directs they be, by whomsoever given, so far modified as to conform to the arrangements made by Lieutenant-General *Scott*, before cited. In the instructions to you from Department Head Quarters, of March 9th and August 31st, 1863, as embodied in your letter to Captain *Bissell*, of September 26th, 1863, the General notices the following :

"The General Commanding the Department has no objection to the "civil authority exercising their proper functions on that part of the "Island over which the military commandant of our Government "exercises control ; but they must not, in the present state of affairs, "attempt to exercise authority over the northern half—that under "charge of the English commandant. The residents in the southern "half of the Island must behave themselves, and not make it a nest "for gamblers and drinking shops."

The instructions of General *Wright*, dated the 9th of March last, said : "You can say to the American settlers on the portion of the "Island under the jurisdiction of the United States, that they will not "be interfered with by the military authorities ; if duly appointed or "elected under the laws governing the Territory of Washington, will "be permitted to exercise their legitimate functions."

It is a mistake to speak of our exercising authority over the southern half, and of the British exercising authority over the northern half, as if the Island were, in fact, divided between them—separated by some undefined line ! and to give warning to the inhabitants in the southern half, as if they, and none others, were all under our jurisdiction. The authority to be exercised is not as to Territory, for that is the matter at issue, but as to individuals ; and on the part of each military commander, so far as his countrymen are concerned, extends over the whole Island. In the southern part of the Island, south of the United States military post, is a farm of the Hudson Bay Company, and American citizens live in the northern part of the Island. The instructions above quoted would place American citizens under British authority, and British subjects under American authority, which of course was not, and is not intended by either party.

The Major-General Commanding was accompanied, on his visit to San Juan, by his Excellency Governor *Pickering*, of Washington Territory, and the subject of the occupation of the Island was discussed between them, the Governor concurring fully in the plan of General *Scott*, and saying he would appoint no Justice of the Peace for the Island. If the inhabitants wish to vote, or to pay taxes, and any civil officer of the Territory should come over for the purpose of receiving their votes or their money, you will instruct the commanding

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officer to afford him every facility possible for the purpose : but no authority, except such as the inhabitants may voluntarily submit to, must be exercised upon the Island pending the negotiations, save by or through military officers in command.

Everything is at present quiet on the Island, and it is not known that there is any further intention to raise questions likely to disturb that quiet. These instructions are therefore not so much with reference to the present as to the future, and are intended to guard against a state of affairs which might prove dangerous to the peace of the country. It is not necessary, it is thought, that they should be made known to any other than the commanding officer of the post, until some occasion arises for their being enforced. The General trusts that, when it does, you will, by such appeals to the forbearance and patriotism of our people as you so well know how to make, induce them to yield a further acquiescence in the anomalous state of affairs existing on the Island, till the country is at leisure and better able than now to adjust it not doubting that every right of every American citizen will be fully maintained.

I have the honor to be, General,

Very respectfully,

Your most obedient servant,

(Signed :)

F. HAVEN,

Aide-de-Camp.

HEAD QUARTERS MILITARY DIVISION OF THE PACIFIC.

SAN FRANCISCO, CAL., *September 20th, 1868.*

OFFICIAL :

*Brevet Lieutenant-Colonel, U. S. A.,
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HEAD QUARTERS MILITARY DIVISION OF THE PACIFIC,

SAN FRANCISCO, CAL., *October 3d, 1865.*

CAPTAIN THOMAS GREY,

2d Reg't U. S. Artillery,

CAPTAIN :—

On your arrival at the Island of San Juan, in Puget Sound, you will relieve the commanding officer of that post, as directed in Special Orders, No. 6, current series, from these Head Quarters.

You have been furnished with a copy of General *McDowell's* letter of September 18th, 1864, to Brigadier-General *Alvord*, then commanding District of Oregon, which will serve as your guide in the delicate duties of your command.

Your reports will be made in the usual manner to the commanding officer of the Department of the Columbia; but in case of any exigency, you are authorized to communicate directly with these Head Quarters, furnishing at the same time copies of such communications to the Commander of the Department in which you are stationed.

The delicate character of your duties will demand great activity, care, and discretion, and it is expected that you will keep these Head Quarters fully advised of all matters which may require special instructions.

BY ORDER OF MAJOR-GENERAL HALLECK :

Very respectfully,

Your obedient servant,

(Signed :)

ROBERT N. SCOTT,

Assistant Adjutant General.

OFFICIAL:



Brevet Lieutenant-Colonel, U. S. A.,

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Department of State,

WASHINGTON, 15th July, 1868.

MAJOR-GENERAL J. M. SCHOFIELD,

Secretary of War,

SIR:—

I have the honor to acknowledge the receipt of your letter of the 2d instant, accompanied by one addressed to you by *Charles Benjamin Darwin*, Associate Justice of Washington Territory, in which he asks why process from his court should not be served upon the United States officers and soldiers who are joint occupants with British officers and soldiers of San Juan Island. In reply, I have the honor to state that, as for reasons of high public expediency, the tenure of that Island has, since the arrangement between the two governments upon the subject, been exclusively military, it is deemed advisable that that tenure should continue until it shall have been terminated by the parties. It is presumed to be competent for the War Department to redress, pursuant to military law or regulations, any grievances with which the officers and soldiers subject to its orders may be charged.

I have the honor to be, Sir,

Your obedient servant,

(Signed :)

WILLIAM H. SEWARD.

Official copy respectfully furnished the Adjutant General for the information of the Commanding General of the Military Division of the Pacific.

BY ORDER OF THE SECRETARY OF WAR :

(Signed :)

ED. SCHRIVER,

Inspector General,

ADJUTANT GENERAL'S OFFICE,

WASHINGTON, July 18, 1868.

Respectfully forwarded to the Commanding General Military Division of the Pacific.

BY ORDER OF THE SECRETARY OF WAR :

(Signed :)

E. D. TOWNSEND,

Assistant Adjutant General.

HEAD QUARTERS MILITARY DIVISION OF THE PACIFIC,

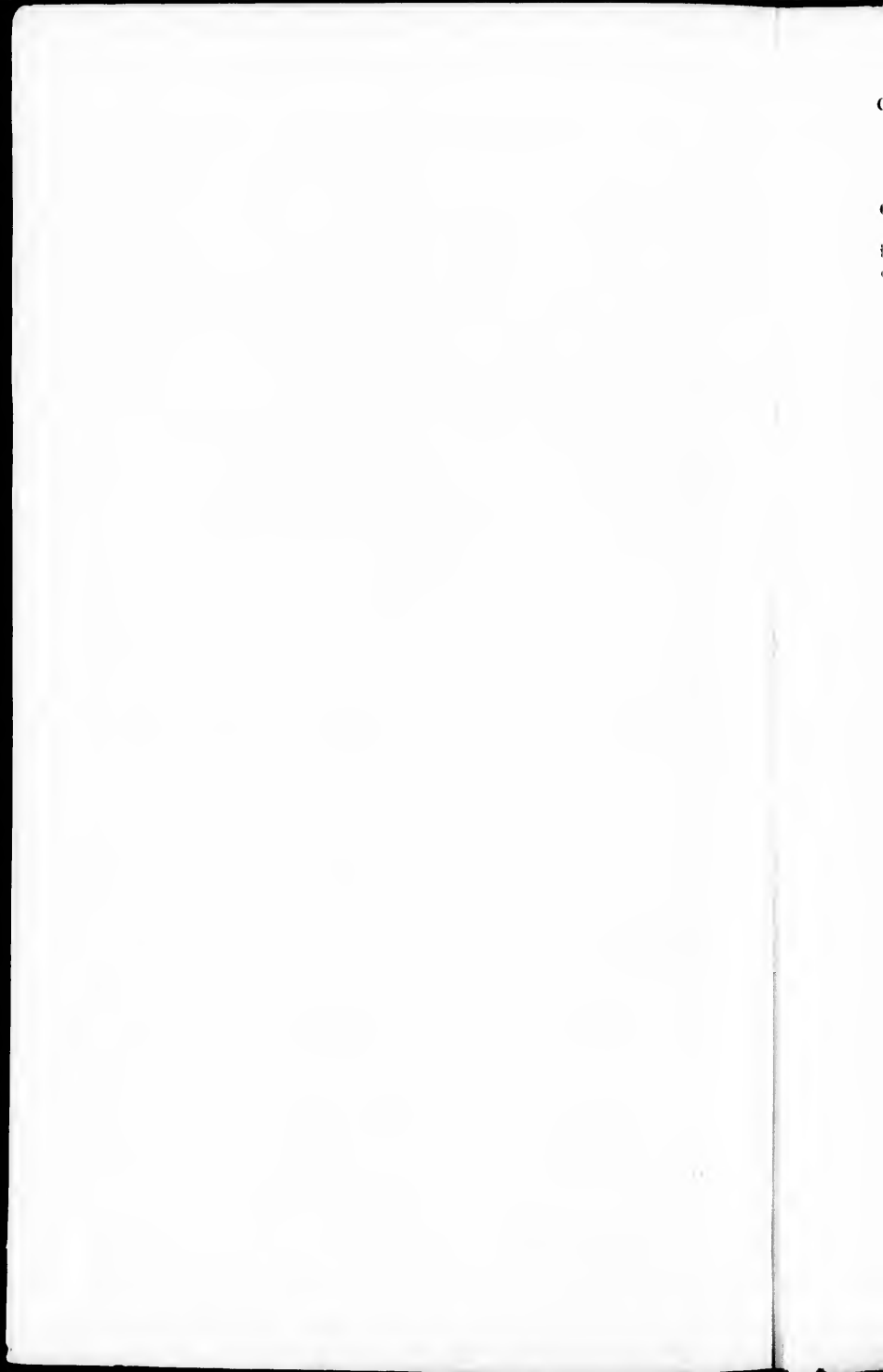
SAN FRANCISCO, CAL., August 20, 1868.

OFFICIAL:



Brevet Lieutenant-Colonel, U. S. A.,

A. D. C.



HEAD QUARTERS MILITARY DIVISION OF THE PACIFIC,

SAN FRANCISCO, CAL., September 26th, 1868.

CAPTAIN A. H. NICKERSON, 23d Infantry,

Comd'g Camp Steele, San Juan Island,

(Through Comd'g Gen'l Department of the Columbia,
Portland, Oregon.)

CAPTAIN :—

I am directed to furnish for your information and guidance in the exercise of your command on San Juan Island the enclosed copies of official papers, viz :—

General McDowell's letter to General Alford, dated September 18th, 1864.

General Halleck's letter to Captain Grey, dated October 3d, 1865.

Secretary Seward's letter to the Secretary of War, dated July 15th, 1868.

These letters contain all necessary information in regard to the character of the *joint military* occupation of the Islands, the ownership of which is now in dispute between the United States and Great Britain. It will be noticed that this joint occupation is *exclusively military*, and that *civil* officers of neither power can exercise any jurisdiction or authority whatsoever there.

Subjects of Great Britain residing on or visiting these Islands must refer all questions between them to the commander of the British forces of occupation ; and citizens of the United States residing or sojourning there will naturally appeal to the American commander in any matter affecting their individual rights, and the police and good order of the Islands.

It is not understood that you, as such military commander, have any civil jurisdiction over persons or property on the Islands, or that you can decide questions in regard to private rights which may arise among our citizens, or between them and British subjects, any further than may be necessary to preserve order and maintain a proper military police. But you can do much by way of advice towards an amicable adjustment of any difficulties of this kind which may be brought to your notice. It will be proper for you to hear all complaints made by our citizens against each other or British residents, and where you and the British commander cannot amicably adjust the disputes, you will refer them to higher authority for instructions.

It is especially desirable that no just grounds be given to either British or American residents for complaint against your command. You will, therefore, bear in mind, and impress it upon your officers and men, that you and they have no power to govern any of the inhabitants of the disputed territory, and that your authority extends no further than to maintain good order, and to exclude the exercise of any civil jurisdiction, so long as the joint military occupation continues.

By ORDER OF MAJOR-GENERAL HALLECK :

Very respectfully,

Your obedient servant,

ROBERT N. SCOTT,

Brevet Lieutenant-Colonel, U. S. A.,

A. A. A. G.

OFFICIAL :

