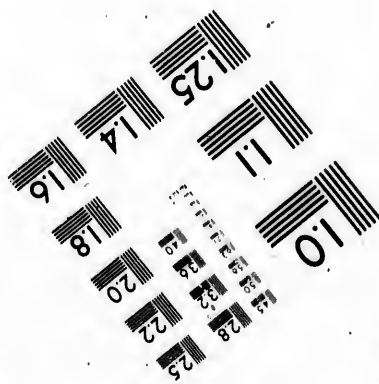
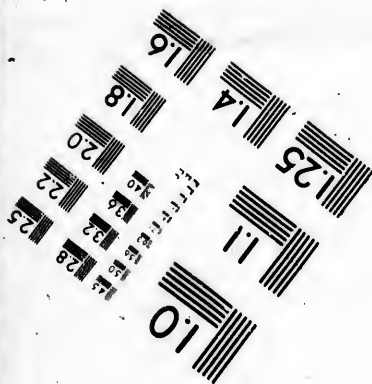
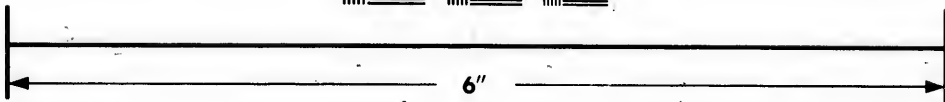
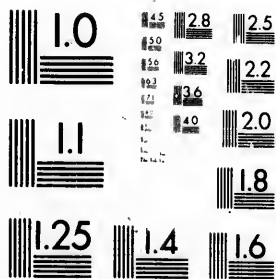


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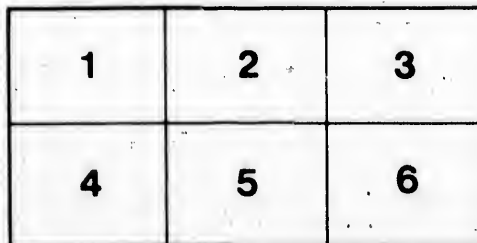
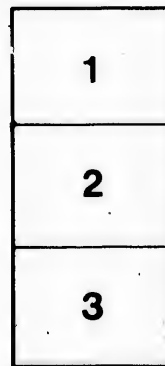
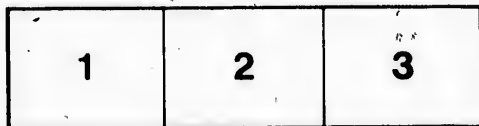
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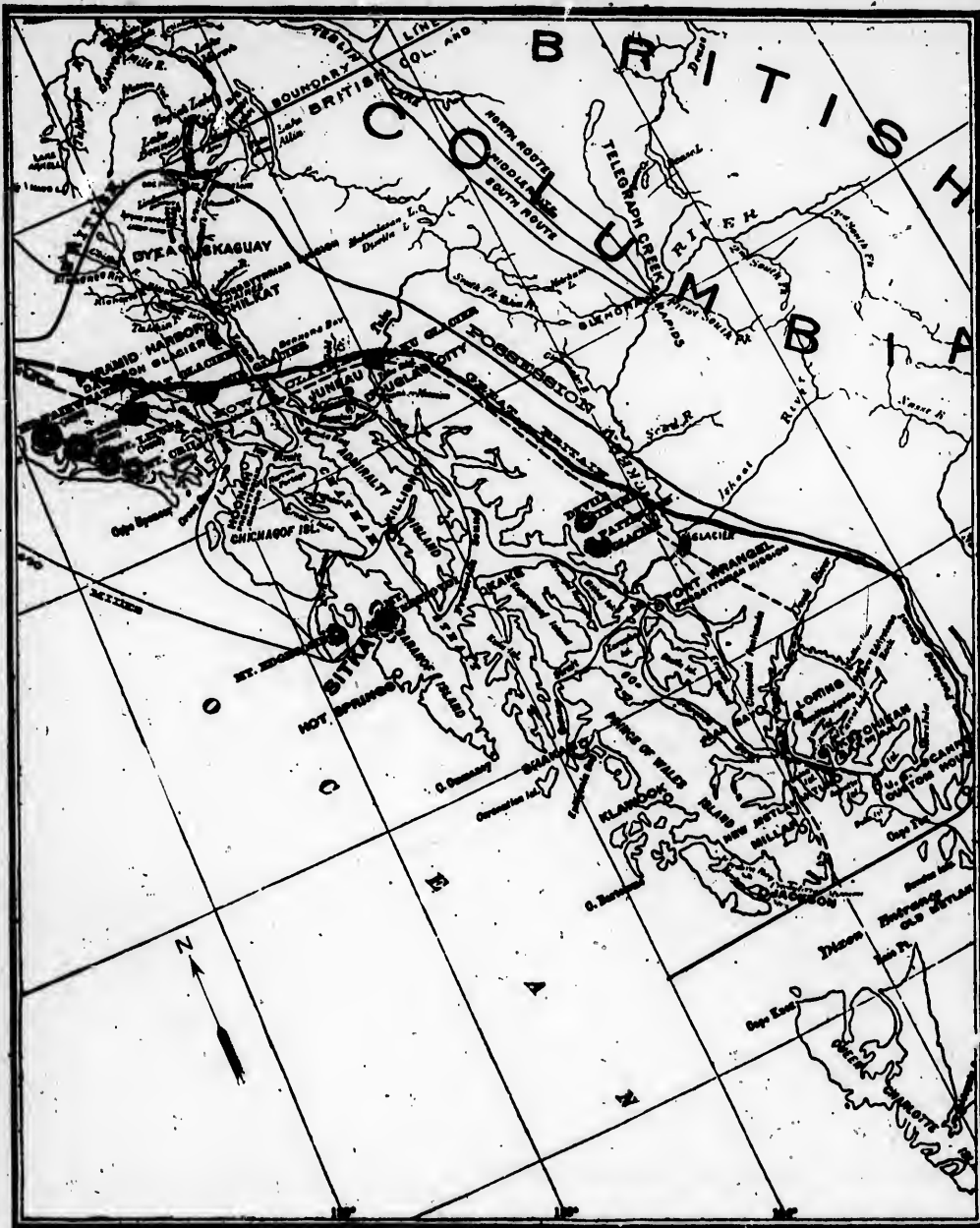
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MAP, SHOWING HEAVY BLACK LINE WHICH, WITH REASONABLE CERTAINTY, WILL BE FOUND BY A BOARD OF ARBITRATORS TO BE THE ACTUAL BOUNDARY LINE BETWEEN ALASKA AND CANADA. SEE ALSO CONTINUATION OF MR. GLASS'S ARTICLE TO BE PUBLISHED IN THE NOVEMBER ISSUE.

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No. 4.

THE ALASKAN BOUNDARY LINE.

BY THE HON. DAVID GLASS, Q. C.

THE boundary line between Alaska and Canada, as stated in the treaty of 1825, commences at the south end of Prince of Wales Island, thence runs north through Portland Channel to the fifty-sixth degree of north latitude, thence follows the summit of the mountains situated parallel to the coast of the continent to one hundred and forty-one degrees of west longitude, and thence along this line of west longitude to the frozen ocean.

That part of the line between fifty-six north latitude and one hundred and forty-one west longitude is where the chief dispute arises, the British contention being that by following the summits of the mountains between these two points the true boundary would cross Lynn Canal about midway between the headlands and the tide-water at the head of the canal, leaving both Skagway and Dyea in British territory.

The United States contends that the whole of Lynn Canal up to the very top, to the extent of tide-water, is a part of the ocean, and that back from the top of Lynn Canal for ten leagues is American territory, whereby both Skagway and Dyea are in the United States.

To this part of the boundary line the following remark will apply:

In April last Mr. Bruce published a comprehensive, well-written book on the subject of Alaska. It is full of useful information and really well worth reading. I must say, however, that the last chapter of the book, on the boundary question, is not at all equal to the other parts. It appears to have been prepared hurriedly after finishing the principal parts of the text, and is evidently not written with that easy flow characterizing the main part of the volume.



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Mr. Bruce says that for a number of years after the purchase of Alaska the United States declared Behring Sea a closed sea, that Great Britain opposed this view, that the dispute was referred to arbitration, and that the Paris Award upon the question was "disastrous" to the American people. I beg respectfully to submit that as shown by the press his views are not entertained by any large proportion of the American people. They are too narrow for the last year of the last decade of the nineteenth century, and not in accordance with the enlightened lines of trade and commerce now growing to maturity in all quarters of the globe. While the great powers control the land, the high seas are the common highways of the weakest as well as the strongest, the home of the merchantman as of the lordly master of the finest warship. The seas yield up their inexhaustible riches alike to all. The Paris Award was advantageous to the United States and to all the world, but the reduction of the Behring Sea to the proportions of an American lake would have been extreme folly.

Then Mr. Bruce says: "Scarcely had this matter been closed before England again became the aggressor in connection with the territory of Alaska." He says that an interpretation of the treaty of 1825 between Russia and England establishes the line between what is now Alaska and Canada. On this latter point I quite agree with him, but upon a careful, dispassionate view of the interpretation of the treaty my deductions are in part quite different from his. I will at present call no other evidence than Mr. Bruce's own book now before me, to establish my conclusions. In another article I may produce other authorities, but for the present this book will answer the purpose.

I think it needless to disparage a friend or a friendly power in order to obtain one's rights. Modesty and earnestness in no way detract from courage and firmness, but are rather evidences of the possession of these virtues. These are, no doubt, the views of both the high contracting parties, and may fairly be imitated by their rival advocates. True, in 1825 Russia owned Alaska and in that year made the treaty referred to with Great Britain. Subject to this treaty, in 1867 Russia sold all she had to sell in Alaska to the United States for the sum of \$7,200,000. At this point it is not out of place to remark that for many years after the purchase but little value seemed to be placed upon the country, and however much individuals may have admired and valued Alaska, the Government certainly did not treat it with much consideration. Immediately after the purchase, it was by lease handed over to the monopoly of the Alaska Commercial Company. A few soldiers were stationed at

Sitka and at two other points, but beyond this all was delivered up to the new corporation, which in many respects was not superior to the old Russian Company, the lease of which the Czar refused to renew in 1863. It was not until 1890 that the lease to the Alaska Commercial Company expired. Mr. Bruce says (at page six of his book) that Alaska may be said to have emerged from "a mantle of gloom and desolation." It is not shown what the white population was at the time of the purchase, but in 1890, after twenty-three years, there were 4,300 white population in the whole country, chiefly at Sitka, on Baranoff Island, the old capital, and a few other scattered villages south and east of it.

Now, in regard to the interpretation of the Anglo-Russian treaty of 1825, a treaty is a contract between two or more nations, but the proper construction of it is subject to wider and more general rules than an ordinary contract between individuals or companies.

The actual contract is contained chiefly in the third article of the treaty. It is as follows :

The line of demarkation between the possessions of the high contracting parties upon the coast of the continent and the islands of America to the northwest, shall be drawn in the following manner : Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of fifty-four degrees forty minutes north latitude, and between the one hundred and thirty-first and the one hundred and thirty-third degrees of west longitude, the said line shall ascend to the north along the channel called Portland Channel as far as the point of the continent where it strikes the fifty-sixth degree of north latitude. From this last-mentioned point the line of demarkation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the one hundred and forty-first degree of west longitude (of the same meridian); and finally from the said point of intersection of the one hundred and forty-first degree in its prolongation as far as the frozen ocean, shall form the limit between the Russian and British possessions on the continent of America to the northwest.

Two factors were at work prior to and when the treaty was made, one being a valuable asset the Russians had in their fisheries and the catch of fūr seals. The operations in carrying on their work were chiefly on the islands, but at some prominent points they had camps on the mainland, like the French in Newfoundland. These camps they wanted to preserve and did preserve by the treaty. The English had a valuable asset in the peltry of the mountains on the mainland, under the Northwest Company, afterward the Hudson Bay Company. Some conflict arose between the rival interests, whereupon the Czar issued a ukase in 1821 forbidding foreign vessels entering Russian waters. England resisted this, and after four years' negotiation the treaty of 1825 was the result. A special saving clause was added making it impossible in

any event for the Russians to extend back from the west line of the continent more than ten marine leagues. It is quite clear that a line was to be drawn so as to divide the coast of the continent from the islands of the Northwest, and that whenever the word "coast" is used it means the coast of the continent, as it is so mentioned at first in the third article and controls a subsequent reference to it.

It will be observed that the line of demarkation commences at the southernmost point of Prince of Wales Island, and that as stated it extends northerly through Portland Channel until it reaches the fifty-sixth degree of north latitude; then it follows the summit of the mountains situated parallel to the coast until such line intersects one hundred and forty-one west longitude.

Mr. Bruce, at page 219, in substance alleges that the United States' contention is that where a "defined range of mountains" is found running parallel with the coast, the summit of such range of mountains becomes the boundary line from fifty-six degrees of north latitude to one hundred and forty-one west longitude.

Senator Foster is reported to have made a similar statement when interviewed at Tacoma.

On the 26th of July, 1899, Senator George Perkins, just returned from Alaska, said: "Portland Channel is ours, and we should see that the line is extended along the summit as long as it does not lie to exceed ten marine leagues from the sea."

These admissions are strongly in favor of the British contention—the contention of the latter is that the substance of the contract is found in the third article of the treaty as above quoted, but that article does not contain the words "defined range of mountains," yet it does contain the words "shall follow the summit of the mountains"—not necessarily a continuous range; but Mr. Bruce having made this statement goes on to prove that between the points mentioned there is no "defined range of mountains," and therefore, failing this "defined range," which he has created for the purpose of his argument, that the contestants must fall back on article four, which he says provides for going ten marine leagues back from all the narrow serpentine fiords extending scores of miles into the interior.

At page 219 he says: "Nowhere along the coast between Portland Channel and Mount St. Elias does there appear to be a definite range of mountains, but rather a confused jumble having no regularity of course, or having any relation to each other; and the noble peak of Mount St. Elias that defines the boundary between the British possessions and our territory at the one hundred and forty-

first degree of west longitude stands solitary and alone in awe inspiring magnificence." In apparent haste he seems to have overlooked the fact that on the map sent out by him with his book there are in the prescribed limits not only Mount St. Elias, which he says is part of the boundary in question, but apparently many other mountains, some without names and others with names such as "Dalton Glacier," "Mount Fairweather," "Great Glacier," "Mount Perus," "Muir Glacier," "Talon Glacier," "Devil's Thumb," and others.

In view of these admissions, however, the only real contest about this part of the boundary line, which is in fact the chief contested point, would appear to be as to whether the summits of the mountains mentioned in the treaty are or are not to be found between north latitude fifty-six and west longitude one hundred and forty-one. If they are there, then the contention is nearly at an end, for most of the British claim is acceded to.

It is almost impossible from personal observations on the ground to form even a fairly good opinion on these subjects. In September, 1898, I went over the district about Skagway and Dyea, and had the pleasure of taking part in the opening of the first section of the Skagway and Lake Bennett railway. This together with the observations from the steamer from Fort Wrangel to Juneau and from the latter place to Lynn Canal, were beneficial only in showing that within a reasonable distance from the coast north of latitude fifty-six there was no end of mountains, some apparently in ranges while others were apparently in detached peaks, and that what are said to be called "Mount Elias Alps" cross the inlet known as Lynn Canal.

There seems to be no doubt of the existence of the mountains, because they are there to look at; also because Mr. Bruce admits they are there, although he alleges that they are not a "defined range." At page 22 of his book he says: "After the interior is reached, and by this is meant after the coast mountains are crossed, in many places twenty or thirty miles from the coast, you find marshes and frozen ground." And again he says: "The guiding marks of Alaska may be said to be the grand mountains." Doubtless the treaty makers thought the same thing. And further on he says: "The tourist for nearly twelve hundred miles is almost entirely in narrow channels bordered by high mountains;" and again: "Fiords are numerous, winding in serpentine fashion for twenty to thirty miles into the interior;" and further on, "that mountain sheep and goats are found along the highest mountains of the coast and in the interior in droves of twenty or more." But above all, the treaty says the mountains are there, and that the

summits are to be followed, not ten leagues from the coast, but a half league or any distance up to ten leagues from the ocean.

It appears to me that when the treaty says that between fifty-six north latitude and one hundred and forty-one west longitude the line of demarkation is to extend along the summit of the mountains situated parallel to the coast, it shows that the treaty makers regarded the coast as the main line of the sea, not the fiords, but such a coast as mountains could be parallel to.

I think, in all fairness, it may be assumed that the treaty makers knew what they were doing in 1825, and that, if they had wanted to insert in the treaty the word "tidewater," they would have done so.

From the ukase of the Czar in 1821 to the making of the treaty in 1825, the correspondence shows the matter had been under consideration; and it may now be fairly said that they put in the treaty all that was agreed upon, namely, that between fifty-six north latitude and one hundred and forty-one west longitude the line of demarcation should follow the summits of the mountains.

It is not wise, for personal, political or patriotic reasons, to be carried away from the facts. The swamps, marshes and jungles of Venezuela scarcely justified the parade made about the grievances of the Venezuelans by Mr. Cleveland; and no doubt there was, and is, a quiet satisfaction on both sides of the water that Lord Salisbury as a prudent statesman allowed Mr. Cleveland to have his own way and to form such a tribunal as would be suitable to try a boundary question of that kind. It was the creation of a bit of common law relative to international arbitrations, the effect of which may not have been fully realized at the time. Both parties having fixed upon the form of submission and arbitration, it would be in the absence of other rules a precedent which in this case may fairly be invoked as an established guide.

The question of a boundary is always a sensitive subject and from both sides ought to be considered with the utmost care, yet Mr. Bruce at page 219, in connection with the affair, says: "The policy pursued by the English Government in this matter is entirely in keeping with the methods of aggrandizement that have been followed for hundreds of years by Great Britain." This is another bit of evidence that the chapter in question was written with undue haste. The United States is strong enough and wise enough to dispense with language of this kind. Apropos of it, a good joke has passed around the papers for some time, namely: That a clever American said it was dangerous to leave an island out overnight as the English would be sure to steal it before morning.

But to be serious, let us for a moment see what the two nations have done in the way of acquiring territory for the last hundred years. During that period, while Great Britain has emerged from a kingdom into an empire and has risen to great wealth, standing and importance, I do not think she has cared to acquire more territory. None has been acquired in America, while in Europe she has only added the Island of Cyprus, and in Asia, Aden, part of Burmah, Hong Kong, and lately some additions surrounding this last place. In Africa she has added the colonies of Cape Town and Natal, with some other unsettled parts; in Australasia, part of Borneo and a few of the smaller islands. All do not exceed, I think, 1,500,000 square miles.

In the United States, in round numbers, it appears to be as follows: In 1800 the area of the United States was 850,000 square miles; then came the cessions by France and Mexico of 1,800,000, the cession from Spain of Florida and other territory of 60,000, then Texas of 266,000, then the Gadsden Purchase of 50,000, Alaska and the Aleutian Islands of 600,000, and in 1898 the conquest from Spain of 200,000; in all, 3,826,000 square miles. This is a conservative estimate of what the modest little nation on the shores of the Atlantic has done within the hundred years, while both ends of the century are crowded with startling events and masterly achievements. The stalwart young giant starting out one hundred years ago with 5,000,000 population will close the ledger of the century (including the colonies) with a population of about 90,000,000.

Standing on the summit of the Rocky Mountains, with one hand overshadowing the Atlantic and the islands of the Caribbean Sea, the other arm bends an elbow down on the Pacific coast, and with shut fist holds one thousand islands in the Pacific ocean—all the Aleutians, all the Hawaiians, all the Philippines and one of the Ladrões. Such an aggrandizement in a single century with so little loss of life has not been witnessed since the gray dawn of time. The United States contains more English-speaking people than all other countries combined. It is as much English as England, for language is the pivotal point of sentiment, emotion and inspiration to action. Americans are worthy children of the mother land. Yes, the United States has out-Heroded Herod. It has, by purchase, war and diplomacy, simply reached out and taken everything in sight. But, notwithstanding this, the small strip of land bordering on the Alaskan coast should go cheerfully to whoever really owns it; and should any person be found willing to try to get something not his own, he is no friend of either country.

The fourth article of the treaty provides for contingencies which

do not appear to arise, yet in order to found an argument is frequently quoted, and therefore I produce it here as follows, namely, "That the island called the Prince of Wales Island shall belong wholly to Russia. That wherever the summit of the mountains which extend in a direction parallel to the coast from the fifty-sixth degree of north latitude to the point of intersection of one hundred and forty-one of west longitude shall prove to be at a distance of more than ten marine leagues from the ocean, the limit between the British possessions and the *line of coast which is to belong to Russia*, as above mentioned, shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom." The winding of the coast is the irregular form of the coast, not narrow fiords for fifty or more miles extending into the interior.

As said before, the third article of the treaty contains the substance of the contract. In it there is no reference to the winding of the coast, the only line of demarkation given from fifty-six north latitude to one hundred and forty-one west longitude being the summit of the mountains. But the English thought that in some places the summits of the mountains might extend too far inland, and then, as the correspondence clearly shows, the fourth article was inserted after the most persistent effort on their part, but only as a royal favor.

By article four, when the summit of the mountains "proves to be" more than ten leagues from the ocean the line of demarkation at such point or points shall be put down at ten leagues back from the winding of the coast, and continue in this way till the point or points are passed, when, it appears to me, the intention was that the summits of the mountains should be again resumed.

The words "coast of the continent" mean the sea border of the continent, such parts as in coasting can from point to point be touched at along the winding of the coast. The coasting trade is a distinct branch of maritime service. The head of tidewater is quite different. It may go scores of miles into the gulfs, tide flats and inlets of the mainland many miles from the coast line of the continent. The latter is the border, the rim of the continent. As, for instance, no one will say that the shores of all the lagoons, fiords, tide flats, estuaries and inlets of Puget Sound, or the shores of Puget Sound itself, are parts of the coast of the continent of America. Or that the shores of the Persian Gulf are part of the coast of Asia; or the shores of the Gulf of Bothnia part of the coast of Europe, or the shores of the Gulf of California part of the coast of the continent of America. Nor can it be said with any fairness

that the shores of Portland Channel or Lynn Canal are parts of the coast line of the continent of America.

For the reasons before stated, the great contest of the Russians was to procure a strip of land along the continental line. But it was never the intention and there was nothing said about the strip going around the fiords or inlets passing beyond the strip which was fixed at a width of ten leagues from the coast or "ocean," as stated in article four.

It was a great oversight that there was no map accompanying the treaty. If there had been, much disputation would have been saved. It is not wise now to attach too much importance to maps or to what may have been done by interested parties during the forty-two years between the making of the treaty and the American purchase.

The question is, What does the treaty contain, and with a liberal construction, what did the treaty makers intend it to contain?

If arbitration is to be respected, the Venezuelan submission is a precedent created by Mr. Cleveland, a precedent created by the United States, and should be followed, especially as that particular case was in a manner forced upon the British. It was a plausible suggestion, and it was alleged by both the American and English people that this was the only fair way of settling a boundary question. It may be added that the English in the best of good faith followed up that example of popular opinion by enacting a general law for the establishment of arbitration between the two countries, but when that law came for approval to America it was rejected by the United States Senate.

When the Spanish war was over, the first thing that very naturally occurred to American statesmen was the great necessity for having the much-talked of canal built from the Atlantic to the Pacific at some point in Central America. This could be accomplished, but it would require time and large capital. In addition to this there stood in the way the Bulwer-Clayton Treaty made in 1850 whereby it was agreed between England and America that no such canal should be built unless it should be neutral between the two nations. It then occurred to the statesmen at Washington that it would be well to ask England if she would be willing to repeal the treaty. It was a surprise to English statesmen, but in view of the altered circumstances arising out of such large American interests in the Pacific, it was stated in the press that England had given the subject a most favorable consideration. Yet before anything was closed some of the American press exclaimed against the matter not being carried out more quickly, and alleged that it was being

held over because the terms of the Alaskan boundary as proposed by the American delegation on the Joint High Commission were not satisfactory to England and Canada, and that Canada wanted to get a seaport on the Lynn Canal.

Well, if the treaty of 1825 with Russia gave Canada a seaport on Lynn Canal, why should she not have it? Why should Americans not be anxious that she should have it? And if there is an unreasonable contention set up to keep this away from her, why should she not resist it? It is alleged in English newspapers that if England had asked the Washington Government to forego the rights under the Bulwer-Clayton treaty it would at once have been rejected; but England did not refuse, and, as appears by the press, was on the eve of having the papers executed to carry it out.

It is shown also by statements made in Washington, London and Ottawa that, while the British delegation was quite willing to submit the boundary question to arbitration, the Americans declined to do so unless it was provided that in any event the parts of the disputed territory now in their possession should remain the property of the United States. If this were really the case it could not be regarded as fair between private individuals; *a fortiori* as between states it would be a usurpation.

The mere corporeal possession of anything does not confer title unless the possession is of such length of time and of such a nature as warrant such a finding. This, however, would be, above all questions, one for a board of arbitrators to consider and determine.

But, after all, the fact remains that Skagway and Dyea are American towns, founded under American authority, chiefly by American people, and, as is alleged, without any protest by the English authorities. Therefore, in the event of the boundary line being hereafter determined according to the English contention, what is to become of them?

This was answered on the 27th of July, 1899, by Sir Wilfred Laurier, Premier of Canada, in reply to a New York *Herald* correspondent. He said in substance that, whatever the result of an arbitration might be in reference to the boundary line, there would be equities arise in regard to these two towns which would have to be settled. In other words, that the possession by the Americans of these two towns would have to be respected and some adjustment made by way of compromise. But if the arbitration should find the American contention correct, then the present line as marked on American maps would be established and maintained to the entire satisfaction of all parties concerned. This seems to meet the case

fully, and it is incredible that such a manifestly just suggestion could be rejected.

The Hon. David Mills also, in answer to the same correspondent on the 28th of July, draws attention to the seventh and tenth articles of the treaty, which are strongly in support of the Canadian contention. I firmly believe, when it comes down to an actual test, notwithstanding all the newspapers have said on the subject, that the Americans will be just as keen as the English in going the full length in rendering a just judgment. But if this cannot be reached as the Joint High Commission now stands, and upon the present material, I would with great diffidence and respect take the liberty of making a suggestion, namely :

Let two distinguished surveyors be appointed, one by England and one by the United States, to go, with needed assistants, separately or together, upon the ground at fifty-six degrees of north latitude, as pointed out in the third article of the treaty of 1825, and thence proceed to one hundred and forty-one degrees of west longitude, and ascertain if there are or are not summits of mountains there within the prescribed ten leagues, as indicated in the said third article; then make their respective reports to an adjourned meeting of the Joint High Commission. And in the meantime the occupation shall remain as at present.

As professional men they will tell the truth, and in all likelihood will be near enough together to enable the difficulty to be quickly solved. They will not be required to go over the whole line, but just to follow the wording of the treaty and find if there really are summits of mountains situated parallel to the coast of the continent within the ten leagues mentioned in the treaty.

Should it be impracticable to follow this suggestion, then I would, as an alternative, suggest that Governor Theodore Roosevelt and Lord Strathcona be added to the Joint High Commission. They are, like the present members, of the very highest standing; their presence would strengthen the situation generally, and would I feel sure, assist in solving the difficulty.

(To be continued.)

THE ALASKAN BOUNDARY LINE.

COUNT NESSELRODE AND THE TREATY OF 1825.

BY THE HON. DAVID GLASS, Q. C.

THE October ANGLO-AMERICAN MAGAZINE contained a paper from me on "The Alaskan Boundary Line." A map accompanied the article, showing, by a heavy black line, approximately my views as to the position of the intermediate portion of the boundary.* It is to this intermediate section, being the eastern boundary, that this paper is directed.

The section from Mount St. Elias to the frozen ocean will be undisputed.

It must, however, be observed that a somewhat substantial dispute exists in regard to the southern boundary. Article three of the treaty of 1825 between Russia and England, descriptive of the whole boundary, is as follows :

The line of demarkation between the possessions of the high contracting parties upon the coast of the continent and the islands of America to the northwest, shall be drawn in the following manner : Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of fifty-four degrees forty minutes north latitude, and between the one hundred and thirty-first and one hundred and thirty-third degrees of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel as far as the point of the continent where it strikes the fifty-sixth degree of north latitude. From this last-mentioned point the line of demarkation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the one hundred and forty-first degree of west longitude of the same meridian ; and finally from the same point of intersection the said meridian line of the one hundred and forty-first degree in its prolongation as far as the frozen ocean shall form the limit between the Russian and British possessions on the continent of North America to the northwest.

By the British it is contended that following the wording of the treaty the line should ascend north from the southernmost point of Prince of Wales Island, and it should not before so ascending go east one hundred miles to the mouth of Portland Channel and there

*For better reference, the map is reproduced in the present issue.

ascend north through Portland Channel to the fifty-sixth degree of north latitude; that such a description is absurd and should not be followed, but the line should in fact ascend to the north through Behm Channel, this being the first channel to the east of Prince of Wales Island where it could so ascend and comply with the words of the treaty.

The Americans, on the contrary, contend that the situation and name of Portland Channel, or Canal, as it is sometimes called, were well-known at the time of making the treaty, and that the specific mention of Portland Channel as being the course to be followed must now be adhered to; and, further that the mere fact of not specifying that an eastern course had first to be taken from the point of starting before ascending northward, would not exclude the right to claim that the ascension should take place through Portland Channel.

Doubtless, arguments can be adduced on both sides of the contest in regard to it. Upon the whole, I think the American contention is the correct one: First, because, as stated in the third article, the object was to draw a line of demarkation between the possessions of the high contracting parties on the coast of the continent and the islands of America to the northwest. The chief motive of the Russians was to get the islands and a strip, or *lisière*, on the mainland, the latter being required in their fishing operations, and to prevent interference with the islands from establishments which might be founded on the strip of mainland. If the British contention were given effect to, several islands would fall within British lines. Such a result is not contemplated by the correspondence and negotiations leading up to the treaty. Again, Portland Channel is frequently mentioned in the correspondence and proceedings, showing a familiarity with it. This channel is described by Count Nesselrode further on as not being a part of the ocean but as an inlet extending from the ocean into the interior. It is, however, ultimately fixed upon by name in the third article of the treaty as being part of the boundary line along which to ascend to the fifty-sixth degree of north latitude.

I know it is contended that because it is said in the fourth article that the whole of Prince of Wales Island should belong to Russia, an inference may fairly be drawn that other islands may belong to the British. My view is that, owing to the line of demarkation commencing at the southernmost point of Prince of Wales Island and no other description being given of the island, it was thought a doubt might arise as to the ownership of the island, and, therefore, to make the point clear, Count Nesselrode requested

that it should be plainly stated that the whole of the island belonged to Russia. Upon the whole it appears clear that the line from its commencement to fifty-six north latitude, as contended for by the Americans, is the correct line and would be supported before a board of arbitrators.

After leaving the last-named point, it appears equally clear to me that the British contention is the correct one as far as the one hundred and forty-first degree of west longitude.

The American case as printed and entitled "Views of the United States Commissioners on the Alaskan Boundary as Defined by the Treaty of 1825" contains about 150 pages, including original remarks of the author, correspondence and proceedings leading up to the treaty, the treaty itself, and a number of appendices.

On the first page of the case it is alleged that the eastern boundary line of the strip of territory, or *lisière*, on the mainland, or continent, follows the crest of the mountains (but never more than ten leagues from the coast), along the sinuosities of the coast and always on the mainland till it reaches the one hundred and forty-first degree of longitude in the vicinity of Mount St. Elias; and further, on page 2, the author alleges that the negotiations which led up to the treaty confirm the above definition. This, however, if admitted, does not raise the real issue. The real issue is, as to how the above-named border or strip of land is to be measured. Is it to be along the summit of the mountains on the coast of the continent, as stated in the third article; or is the strip or border not to extend along the coast of the continent, but is it, as the Americans contend, to go into the interior and be measured ten leagues back from the head of tidewater, in some cases more than one hundred miles from the coast of the continent? If this latter view can be established it would appear to require other evidence than what is found in the printed case. At page 64 of the case attention is approvingly drawn to the letter of Count Nesselrode, bearing date the 17th of April, 1824, in which he says: "We propose to carry the southern frontier of our domains to latitude fifty-four forty and to make it abut on the continent at Portland Canal, of which the opening into the ocean is at the same latitude as Prince of Wales Island and which has its origin inland between the fifty-fifth and fifty-sixth degrees of north latitude." And in his letter of this date the count proceeds to say, further: "This proposal will assure to us merely a narrow *lisière* upon the coast itself, and will leave to the English establishments all the needed space for increase and extension."

Upon the above statement of the Prime Minister of Russia I think it is fair to assume the following as his conclusions: First,

that he did not regard Portland Canal as part of the ocean ; second, that by designating fifty-four forty as the point at which the canal opens into the ocean he draws a distinction which is unanswerable ; third, that he did not regard the shores of Portland Canal as part of the coast of the continent ; fourth, that when he says Portland Canal has its origin inland between latitudes fifty-five and fifty-six, he says that the origin of the canal was ninety miles in the interior ; fifth, that he did not regard that interior point as part of the coast of the continent ; sixth, that in securing the narrow *lisière*, or strip of land, *upon the coast itself*, he did not expect to go inland ninety miles and carry the strip of land around this, or any other, canal.

And, again, in the same letter, the count says that, according to the most recent charts, England possesses no establishments either up to the latitude of Portland Channel or on the *shores of the ocean itself*, making thereby a clear distinction between a canal and the ocean itself.

Then, again, he says Russia when she insists upon the reservation of a medium strip of terra firma does not insist upon it for any value it has, but in order not to lose the islands.

And, again, on page 66, the count says in the same letter : " So far as the principle of mutual expediency is concerned Russia leaves an enormous stretch of coast and land to the progressive development of the English establishments. She insures them free outlets ; she provides for the interests of their commerce ; and in compensation for all these benefits which the most sincere spirit of conciliation has impelled her to offer, she reserves for herself only one point of support, without which it would be impossible for her to keep half her domains."

When the count says Russia insures to England *free outlets* and provides for English commerce, it can mean no other than the use of the bays and inlets extending into the mainland, to which in a preceding part of the same letter, as above shown, he makes special reference.

Then, again, after the close of the correspondence, the Russians, in their draft treaty, said : " The line of frontier between the Russian possessions and the English possessions shall ascend northerly along the channel called Portland Channel as far as the point where this channel terminates in the interior of the mainland at the fifty-sixth degree of north latitude." It is clear that on the Russian side of the controversy it never occurred to them to extend, nor had they any thought of extending, the narrow strip they were contending for, other than along the coast.

I may remark here that when the word "coast" is used it means coast of the continent, for it is so designated at first in the treaty, which for that reason governs the use of the word in other parts; nor did it ever occur to Count Nesselrode that by securing the narrow strip along the coast it would entitle him to penetrate what he called the interior "for one hundred miles or more." He said distinctly he was getting the narrow strip not for its value or for any other purpose, but as a protection to the islands and to prevent establishments being built on the coast of the continent opposite to the islands. Now what protection could it be to the islands to have the narrow strip go one hundred miles inland around the interior end of some narrow channel? All these acts and sayings are evidence in favor of the British contention. It might, however, be added that scores of similar remarks could be cited from the printed case to show that the English had the same opinion; but since this might not be regarded as evidence in their favor, it is rejected as not being really pertinent to the controversy.

As to the narrow strip of land, the same draft treaty says the strip of land on the northwest coast belonging to Russia, from Portland Canal to the point of intersection of the one hundred and thirty-ninth degree of west longitude, shall not be wider on the continent than ten marine leagues from the shore of the sea.

It is tiresome and, I think, unnecessary to go into the subject of conflict between the Russian-American Company on the one side and the Hudson Bay and Northwest Company on the other; nor is it material. The contest between England and Russia and the resultant treaty will be more satisfactory to deal with here. Nor is it needful to go into voluntary statements as to the kind of maps made by Russia or England. At that time many interested parties may have produced maps and charts on both sides. The whole country was not regarded as of much value; and now when the question of boundary is to be considered it comes down to a study of what the treaty itself really contains, with the circumstances leading up to it.

Speaking of the strip of land, the printed case now before me contains this observation: "Secretary Canning thus describes the line: 'The summit of the mountains which run parallel to the coast and which appear, according to the map, to follow all its sinuosities,' and the word 'sinuosities' is the term used by him elsewhere in describing the course of the mountains around the inlets of the coast, page 72." By reference to page 72 of the printed case Canning is not found to give a description of land around the inlets, nor does he give it anywhere in his suggestions or correspondence on the subject.

Notwithstanding all that Count Nesselrode and others have said about these inlets called channels, or canals, not being part of the ocean, nor their shores part of the coast of the continent, at page 12 of the printed case it says: "It is plain that the Russian negotiators understood that articles three and four gave to Russia a continuous strip of territory [*lisière*] around all the bays and inlets of the ocean up to longitude one hundred and forty-one. This is confirmed by articles six and seven, by the first of which the right of free navigation is given to British subjects of all the rivers and streams which, in their course toward the Pacific ocean, may cross the line of demarkation upon the strip [*lisière*] of the coast." This is not a gift from Russia, nor is it so pretended in the treaty. It is found by investigation to be one of the rights of the British, and it is so expressed in the sixth article of the treaty. And again, on the same page, immediately following the above, the printed case goes on to say: "That by article seven the privilege is given British subjects for the period of ten years to frequent for the purpose of fishing and trading all the inland seas, the gulfs, havens and creeks on the coast mentioned in article three;" and says, further: "These grants are inconsistent with any other theory than the complete sovereignty of the Russians over not only the *lisière* on the mainland but also over the waters of the bays and inlets extending from the ocean into the mainland." The last four words give a contradiction to the author's object in the printed case, for having admitted that the waters of the bays and inlets extend from the ocean into the mainland they cannot be *parts of the coast of the continent*.

Russia never made any grants to England; she had nothing to grant, any more than England had to grant to her. There was merely a mutual separation of property for the benefit of both, and the acts were no more consistent with the sovereignty of one than of the other. But the author has failed to quote the seventh article as it is found in the treaty. The wording of the article applies equally to both Russia and England, and is as follows: "It is also understood that for the space of ten years from the signing of the present convention the vessels of the two powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens and creeks on the coast mentioned in article three, for the purpose of fishing and trading with the natives." There certainly is no grant made here by Russia to England any more than there is by England to Russia; but the article makes it quite clear as to what is an inland sea, as spoken of here. It is a sea lying enclosed, or back from the coast of the continent, such as

Count Nesselrode said the inlets were; and when the narrow strip of land was taken off along the coast of the continent, behind the strip there might be inland seas, gulfs, havens and creeks belonging to Britain; while outside or in the *lisière*, or strip, where it crossed these inlets, the gulfs, havens, inlets and creeks would belong to Russia. This is why the seventh article was placed in the treaty. It was for mutual advantage and convenience, and continued for ten years. The object in limiting to ten years may have been that each might ascertain within that time the exact boundary as a guide for all future time. But after the expiration of the ten years the inland seas could only be used for navigation and not for fishing and trading with the natives. See Count Nesselrode's letter, August 24th, 1824.

The sixth article of the treaty is as follows: "It is understood that the subjects of his Britannic majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall forever enjoy the right of navigating freely and without any hindrance whatever all the rivers and streams which in their course toward the Pacific ocean may cross the line of demarkation *upon the line of coast* described in article three of the present convention." This means what it says, "upon the line of coast," the coast of the mainland, where the strip of land is to be taken off along the rim, not around the interior canals, like Portland Canal or Lynn Canal, any more than we would in going around Puget Sound call the shores there part of the coast of the continent.

The seventh article begins exactly as the sixth does, and as before quoted. By the adoption of this article each party agreed that the other had inland seas, gulfs, havens and creeks on or near to the coast, as mentioned in article three. Who can dispute this proposition? No person will undertake to dispute it. It stands there as evidence of what both parties considered truthful at the time, and is evidence now of each against the other.

In answer to a question in the Parliament of Canada, Sir Wilfrid Laurier, the Premier, said: "According to our construction of the treaty of 1825 the boundary line should follow the crest of the mountains nearest the coast, passing over bays and creeks and inlets, which are territorial waters." This definition is not in the words but is in substance the same as used by Count Nesselrode in 1824, prior to making the treaty of 1825. The count said, in substance, that channels, or canals, having their entrance into the ocean and arising inland were not parts of the ocean, nor were their shores parts of the coast of the continent. He said Russia did not want any of these, but did want and did get under the treaty a *lisière*, or strip, winding along the border of the coast of the continent.

This, in substance, is all that is said by Sir Wilfrid Laurier, and there does not appear anything in the printed case to contradict it. On the contrary it is sustained by the sixth and seventh articles and other parts bearing on the subject. There is nothing whatever said in the proceedings leading up to the treaty, or in the treaty itself, about going inland to tidewater around the heads of channels, or canals; nor is there any suggestion in the treaty that there are mountain summits around the heads of these canals, or channels, which are to be followed, for the mountain summits mentioned in article three are to be parallel to the coast. And therefore upon the face of the printed case the American contention fails in regard to the eastern boundary.

At pages 16 and 17 of the case it is in substance alleged that apart from all other considerations a good title is held by possession alone. This may be quite true, and is, no doubt, to the extent of the *lisière*, if it is where Count Nesselrode and the treaty have placed it; but if the possession is claimed around the head of Lynn Canal, there is not sufficient possession to warrant title by occupation. This is a question, however, which would above all come under the supervision of a board of arbitrators. It may be added that by article five of the treaty it is unlawful for Russia to take possession of or put any establishment outside of the *lisière*, and if such has been done it would be a violation of the treaty—and therefore doubtful that title by possession would run in Russia's favor. However, on the latter point, at page 16 of the printed case, it is said, "If we follow the principle insisted upon by Great Britain in the pending arbitration with Venezuela and recognized in the treaty which provides for that arbitration, this uninterrupted possession would give the United States a just claim of sovereignty." This is a clear offer to abide by the terms of the Venezuela submission, and should at once be accepted by both parties.

(To be continued.)

of the unhappy Queen by Antonio Rodriguez Villa, and both seem to have been more or less influenced by the Simancas correspondence.

But, says La Fuente, "whether Juana was really insane matters little to-day, and whether she was a heretic matters less to Catholicism." Truly, the great questions of our own times are so various as to arouse every emotion without having recourse to the history of dead and gone kings and queens, unless, through some such channel as that of folk-lore, they retain a connection with modern life and custom. In the present instance it is interesting and curious to think that the namesake of the unfortunate Joanna of Castile sometimes stands at our elbow, and that we conjure up Joanna's mournful wraith whenever we make a careless allusion to Crazy Jane.

THE ALASKAN BOUNDARY LINE.

PROFESSOR MOORE, IN THE "NORTH AMERICAN
REVIEW."

BY THE HON. DAVID GLASS, Q. C.

(Concluded.)

PROFESSOR G. B. MOORE, in an interesting article in the *North American Review* for October, gives his views on the subject of the boundary line between Alaska and British America.

I have been requested by the editor of the *ANGLO-AMERICAN MAGAZINE* to review the article and to make such further remarks on the subject as may appear applicable to the case.

The first two pages of Professor Moore's article are devoted chiefly to preliminary remarks relative to President Grant's Message in 1872 recommending that the boundary line in question should be defined and marked by natural objects or artificial monuments, so that future controversy on the subject might be avoided. This recommendation on the part of the President was instigated by the Government of Canada, but no action was taken by Congress on that part of the Message.

In 1886 the American Minister at London proposed a joint commission to determine the boundary, while the Dominion Government, to whom it was referred, suggested that before this were done there should be made a preliminary survey. Out of this several conferences took place at Washington, and the result was communicated to Congress. Again, in 1892, further action was taken, pursuant to which joint surveys and a joint report were made; but there was no recommendation as to boundary.

In 1898 the present Joint High Commission was to adopt provisions for the determination and establishment of the Alaskan boundary by legal and scientific experts, if the Commission should so desire, or otherwise; but the Commission has failed so far to reach an agreement.

The Professor then explains the formation of the Russian-Ameri-

can Company under the ukase of the Emperor Paul in 1799, and the extension and enlargement of its jurisdiction under the ukase of Alexander in 1821, whereby the whole northwestern coast of North America, from north latitude fifty-one degrees to the Behring Sea, was included, in addition to which foreign vessels were prohibited from approaching nearer to the Russian coast than one hundred miles.

I may remark here that the United States of America was at that time much opposed to the pretensions of the Czar in assuming control of the northern seas, and protested against them as well as against the extension of Russian territory so far south as north latitude fifty-one degrees. The disputed question was referred to arbitration, and an award was made in April, 1824, fixing the southern boundary of Russia at north latitude fifty-four degrees and forty minutes; the Russians agreeing not to erect any establishments south of that line and the United States not to erect any establishments north of it. The Americans were to have free navigation over the seas the Emperor had so unexpectedly assumed control of.

In addition to this, by the fourth article of the treaty, both Russia and America were to have reciprocal rights, for ten years, to frequent with their vessels all the inland seas, harbors and creeks of both parties, as well north as south of north latitude fifty-four degrees and forty minutes. By that article Russia gave to the United States reciprocal rights to all the coast of her possessions extending from north latitude fifty-four degrees and forty minutes to the Arctic ocean, or, in other words, to the whole of the coast of Alaska, including all the inland seas, gulfs, harbors and creeks, for ten years, in which to fish and trade with the natives. On the other hand, the United States gave equal reciprocal rights to the possessions on the coast south of north latitude fifty-four degrees and forty minutes.

England was also aroused at the bold pretensions of the Czar in issuing his famous ukase in 1821, and lost no time in making known her demand for an immediate revocation of it; also requesting that the long-unsettled boundary on the northwest coast of America should be determined.

Russia at once gave way and agreed to the revocation of the ukase so far as it referred to maritime jurisdiction.

A lively correspondence then followed in regard to the settlement of the boundary, and in February, 1825, an agreement was reached and a treaty executed at St. Petersburg between Great Britain and Russia. It is under this treaty that the present controversy about the Alaskan line arises.

Articles three and four of the treaty contain a description of the boundary line between Alaska and the British possessions in America. At the risk of repeating what has been published before, I am compelled, for the purposes of this paper, to reproduce these articles here. They are as follows :

ARTICLE III.—The line of demarkation between the possessions of the high contracting parties upon the coast of the continent and the islands of America to the northwest, shall be drawn in the following manner: Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of fifty-four degrees forty minutes north latitude, and between the one hundred and thirty-first and the one hundred and thirty-third degrees of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel as far as the point of the continent where it strikes the fifty-sixth degree of north latitude. From this last mentioned point the line of demarkation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the one hundred and forty-first degree of west longitude (of the same meridian); and finally, from the said point of intersection, the said meridian line of the one hundred and forty-first degree in its prolongation as far as the frozen ocean shall form the limit between the Russian and British possessions on the continent of America to the northwest.

ARTICLE IV.—With reference to the line of demarkation laid down in the preceding article it is understood, first, that the island called Prince of Wales Island shall belong wholly to Russia; second, that whenever the summits of the mountains which extend in a direction parallel to the coast from the fifty-sixth degree of north latitude to the point of intersection of the one hundred and forty-first degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the windings of the coast, and which shall never exceed the distance of ten marine leagues therefrom.

As to the part of the boundary from Mount St. Elias to the frozen ocean, it need not be adverted to. No controversy can or will arise in regard to it.

Any reference to the southern portion of the boundary, lying between the Prince of Wales Island and the fifty-sixth degree of north latitude, I will also pass over, notwithstanding Prof. Moore gives it considerable time and attention. I do not think that any serious dispute can ever arise in regard to it.

The vital question comes up on the intermediate section of the boundary line, namely, that lying between north latitude fifty-six degrees and west longitude one hundred and forty-one degrees, covering what is known as the *lisière*, or strip of mainland located along the coast of the continent between the last-named two points. It may here be remarked that when the word "coast" is used it means the coast of the continent, being first used in this way, in the third article of the treaty, which first use governs in the following parts.

The British contend that between these two points the line of demarkation follows the summits of the mountains lying nearest to and situated parallel to the coast; such line not to be more than ten leagues at any point from the windings, or sinuosities (either word may be used) of the coast; and if at any point or points the summits of the mountains should be more than ten leagues off, then at such point or points the line is to be fixed at ten leagues from the coast; but the summits are to be resumed again as soon as they are found at any point within ten leagues of the coast. This line is to cross all inlets, channels, canals, creeks or rivers, extending into the mainland, and to absolutely follow the coast of the continent. This is the only British contention, so far as I know, and so far as defined in the Canadian Parliament.

On the other hand, the United States' and Prof. Moore's contention is that the *lisière*, or strip of land, should not be marked or measured along the rim or outside border of the continent, crossing the inlets, as before mentioned, but should follow the sinuosities of the coast, which, it is said, means around outside of the head of tide-water; and that the *lisière* should extend three marine leagues backward from the highest point of tidewater, entirely excluding the British from the navigation or use of these waters in any way whatever. In this contention Prof. Moore has certainly formed an erroneous conclusion.

He says: "The actual geographical features of the territory were, to a great extent, unknown. Vancouver had navigated and charted the coast, but the interior was unexplored. Back from the shore, high mountains were visible, and after the manner of early geographers, he drew artistic ranges which followed the windings of the coast, making a continuous barrier between the coast of the mainland and the interior country. It was well known, however, to the negotiators of the convention in 1825, that the mountain ranges might be broken or that, instead of following closely the windings of the coast, they might extend far inland. Instead, therefore, of attending to geographical details, they adopted general rules that should be applied whenever the line came to be marked."

It is not quite clear what the author means by the above explanation. There is nothing said in the treaty about "mountain ranges," and if these ranges were in view at the time, as he says they were, it is a little surprising that the treaty makers did not draw attention to them. The facts are that the treaty makers knew that there were no mountain ranges, and therefore the treaty directs that the line shall follow "the summits of the mountains situated parallel to the coast"; not necessarily ranges, but disconnected moun-

tains situated parallel to the coast. I saw them there in September, 1898, just as they were in 1825. The Professor, in substance, says the mountains are there, but that they are broken in some places, and that some of the ranges extend far into the interior. Now, what does this word "interior" mean? Does it mean that in the broken places he speaks of the mountains start inland around the head of tidewater at the top of Portland Canal or Lynn Canal? No doubt it is as he says, that "Vancouver had navigated and charted the coast" while the interior was unexplored, but it must be observed that this coast was the only part the Russians ever spoke of—the only part they wanted to talk about or wanted to deal about, or, as the Professor says, that they knew about.

There is not a suggestion in Count Nesselrode's letters, or in any other paper, treating of any part but the coast, and when the Professor dwells upon the question of the unknown interior he introduces a subject never spoken of, for or on behalf of Russia. He says the treaty-makers knew that the "mountain ranges" might be broken and instead of following closely the winding of the coast they might extend far inland, clearly making a wide distinction between the coast and the place where his *mountain ranges* would be when they were "far inland." The parties in charge of the important duty of negotiating the treaty were dealing, not with the unknown, but with what Russia demanded, namely, a narrow *lisière* along the coast of the continent to protect their island lying adjacent to the *lisière*. It is useless to enter into speculation about what they did not want.

Mr. Moore says the negotiators of the treaty, "instead of attending to geographical details, adopted general rules." What foundation is there for this statement? Count Nesselrode and George Canning were men of the highest attainments; they had full knowledge of the coast (as is admitted by Mr. Moore), and this was the only part about which there was any negotiation, on one side or the other.

But, further on, Mr. Moore says, "Russia claims a strip of territory on the mainland as a barrier between her islands and the British possessions in the interior." This is the whole case, and, after having admitted it, he cannot claim to go scores of miles into the interior, but must be satisfied to accept the strip opposite the islands, as a protection in the way the Russians claim it.

And, further on, in speaking of the English, he says: "* * * They at last accepted the line through Portland Channel on which Russia, for the purpose of preserving for her islands a protective barrier on the coast of the mainland, firmly and finally insisted."

This is a repetition and confirmation of the former statement and all that is included in the British contention, namely, that the *lisière* does not go inland around the tops of canals but is confined to the mainland opposite the islands.

In view of the dangers that might arise in this unknown and unexplored country of which the Professor speaks, Mr. Canning, though strongly resisted by Russia, secured article four, as above quoted, as a saying clause in the treaty against the possibility of Russia getting further away from the coast of the continent, against the possibility of extending into the dark "interior." There is no doubt that the interior was unknown at the time, so little, indeed, that men of prominence and learning at that period had no accurate knowledge of it. George Canning, in his first instructions to Sir Charles Bagot, guarded him against allowing the line to go as far east as the Rocky Mountains, as if it occurred to him that the Rocky Mountains might run comparatively close to the Pacific ocean. Very quickly after, however, he became better informed on the subject and gave instructions that the line should pass along the seaward base of the mountains nearest to the coast.

Each party was trying to make the best terms for his own country, consistent with the known facts of the case at the time. At first the Russians assumed ownership of the whole of the high seas to the northwest, and of the land southward to north latitude fifty-one degrees; then they abandoned their pretended maritime jurisdiction and were satisfied with the coast to begin between fifty-five and fifty-six degrees north latitude and the thirty ninth degree west longitude, ultimately settling down upon a willingness to accept fifty-six degrees north latitude on the mainland, as the southern point, and one hundred and forty-one degrees west longitude as the boundary to the northwest; while England, on the other hand, made many propositions and counter-propositions, the whole negotiations extending over a period of about three years. The delay might have been, and doubtless was, partly owing to the interference and influence of the Russian-American Company of St. Petersburg, and the Hudson Bay Company of London, and by many other causes; but the results reached as embodied in the treaty of February, 1825, are chiefly to be considered at this time.

The Russians insisted upon having the islands, and also a *lisière*, or strip of land, opposite the islands, on the coast of the continent. The English were willing, in the main, to agree to this, but a question arose at what point to the southward should the strip on the mainland begin.

On the 17th of April, 1824, Count Nesselrode, for Russia, made a

long and definite proposition in which he receded from the former Russian claim of extending south to north latitude fifty-one degrees, and was willing to accept north latitude fifty-six degrees as the southern boundary on the mainland. The letter proceeds: "In order not to cut Prince of Wales Island, which, according to this arrangement, would remain to Russia, we propose to carry the southern frontier of our domain to latitude fifty-four degrees and forty minutes, and make it abut upon the continent at the Portland Canal, of which the opening into the ocean is at the same latitude as Prince of Wales Island and which has its origin inland between fifty-five and fifty-six degrees of latitude. This proposal will assure to us merely a narrow strip upon the coast itself, and will leave to the English establishment all the needful space for increase and extension. If Prince of Wales Island remains to us, it is necessary that it should be of some utility to us. For ourselves we limit our demand to a mere *lisière* of the continent. England possesses no establishments either up to the latitude of Portland Canal or on the shores of the ocean itself. Russia, when she insists on preserving a moderate expanse of the mainland, only insists fundamentally upon the means of not losing the environing islands. So far as the principle of mutual expediency is concerned, Russia leaves an enormous stretch of coast and land to the progressive development of the English establishments. She insures to them free outlets. She provides for the interest of commerce. And in compensation for all these benefits she reserves for herself only one point of support, without which it would be impossible for her to keep half of her domains."

On the 29th of May, 1824, George Canning wrote the Russian Minister in London that the terms of Count Nesselrode's letter, upon the whole, were satisfactory, but that the *lisière*, or strip, must be more clearly defined, as well as the questions of trade, commerce and navigation more clearly understood.

On the 24th of the July following George Canning again wrote Sir Charles Bagot: "Your Excellency will observe that there are but two points which have struck Count Lieven (the Russian Minister at London), as susceptible of question: First, the assumption of the bases of the mountains instead of the summits; second, the extension of the right of navigation of the Pacific. No great inconvenience can arise from your Excellency's consenting to substitute the summits instead of the seaward bases, provided always that the stipulations be adopted as to the extreme distance from the coast the line is in any case to run. But the shutting up of Behring Straits or the power to shut them up hereafter would be a thing not to be tolerated by England."

Then on the 12th of August, 1824, Sir Charles Bagot wrote George Canning: "There are three points upon which almost insuperable difficulties arise: First, as to the opening forever to British subjects of the Port of Nova Archangelsk (Sitka); second, as to the liberty to be granted to British subjects to navigate and trade forever along the coasts of the *lisière* which it is proposed to cede to Russia from Portland Canal to the sixtieth degree of north latitude, and the islands adjacent; third, as to the liberty to be given reciprocally to each power to visit for a term of years the other ports of the northwestern coast of America."

On the 31st of August, 1824, Count Nesselrode, in a dispatch to Count Lieven said: "In your dispatch No. 96 your Excellency sent me a memorandum which Mr. Canning had addressed to you after discussing with you the questions of boundary and maritime jurisdiction which were to be settled between Russia and England on the northwest coast of America. In that memorandum Mr. Canning, in discussing the last propositions we had made to Sir Charles Bagot, informed you, M. le Comte, that they would be accepted, with the exception of some shades of difference and some additional clauses which would not change in the least the substance of our draft settlement. These clauses were to consist of a more exact description of the strip we were to possess on the American continent, the selection of a degree of longitude more to the west, beginning at Mount St. Elias, and the free navigation of the rivers, seas, straits and bays which the dominions of His Imperial Majesty might contain. As we had already declared previously that the ukase of September 16th, 1821, would not be executed, so far as related to the sea limit of one hundred miles, within which it prohibited the navigation of foreign vessels; as, on the other hand, we ourselves had hastened to offer to the subjects of His Britannic Majesty, in our negotiations with Sir Charles Bagot, liberty to descend and ascend all the rivers which might cross our territory on the northwest coast, it seemed to us that the modifications desired by Mr. Canning would not involve any difficulty."

Then, further on, in the same letter, he says: "Here we will again cite the memorandum which Mr. Canning addressed to you, M. le Comte, under date of May 29th. It is there stated that England would demand the free use of all the rivers which might cross the strip of coast belonging to Russia, and of all the seas, straits, bays, and so forth, which might be within her dominions; and a few lines further down the memorandum of the Chief Secretary of State adds that he considers it understood and agreed upon that

Russia would withdraw all the exclusive claim which she had set up in the ukase of 1821 with respect to the navigation and jurisdiction of the North Pacific Ocean. When we compare these two demands which follow each other so closely and which, so to speak, explain and complete each other, it is difficult to find anything more in them than the free navigation of the waters and seas bathing the possessions of Russia. Now we have always shown ourselves ready to guarantee this freedom (of navigation). But as to hunting, fishing, and trading with the natives of the country, we cannot avoid making an important distinction."

It is quite clear that the Count made a wide distinction between commercial privileges, that is, the right of fishing, hunting and trading with the natives, and what he calls navigation privileges. He says, "We have always been ready to guarantee this freedom."

The Professor says that Great Britain accordingly proposed that the line should ascend northerly along Portland Canal "till it strikes the coast of the continent lying in the fifty-sixth degree of north latitude." The words quoted are not the same as the ones in the dispatch, and have not the same meaning; the latter may be found in the dispatch of George Canning to Sir Charles Bagot, dated 12th July, 1824, and are as follows: "His Majesty's Government have resolved to authorize your Excellency to consent to include the south points of Prince of Wales Island within the Russian frontier, and to take as the line of demarkation a line drawn from the southernmost point of Prince of Wales Island from south to north through Portland Channel, *till it strikes the mainland in latitude fifty-six degrees*, thence following the sinuosities of the coast along the base of the mountains nearest to the sea, to Mount St. Elias."

It will be observed that the actual words used are different from the ones quoted. To use Mr. Moore's words, "strikes the coast of the continent lying in the fifty-sixth degree of north latitude," would be declaring that the coast of the continent is to be found at a point which Count Nesselrode says is eighty miles in the interior. The Professor's words give a wrong meaning and signification to the letter.

Count Nesselrode in his letter of April, 1824, as above quoted, says: "We propose to carry the southern frontier of our domains to latitude fifty-four degrees and forty minutes and to make it abut on the continent at Portland Canal, of which the opening into the ocean is at the same latitude as Prince of Wales Island and which has its origin inland between the fifty-fifth and fifty-sixth degrees of north latitude." Now, if the Count is correct in saying that the head of Portland Canal is "inland" so great a distance, it is not

correct to call that inland point a part of the coast of the continent. The actual words used in the letter being "from south to north through Portland Channel till it strikes the mainland in latitude fifty-six degrees," to strike the "mainland" at this interior point is following the allegations of Count Nesselrode in his letter. It will also be observed that the Count in that letter says that this canal has its opening into the ocean in the same latitude as the southernmost point of Prince of Wales Island. It is quite clear that the Count was of the opinion that the canal was not a part of the ocean nor its banks part of the coast of the continent. The ocean has its shores on the coast of the continent, but the banks of Portland Canal go eighty miles inland and are not the coasts of the continent any more than the banks of the Hudson River at Albany are part of the coast of the continent, notwithstanding they have tidewater up to that city. All the world knows that there is tidewater at Albany, but it also knows that the capital city is one hundred and fifty miles from the ocean, or the coast of the continent.

In any event, it would not be wise to contradict Count Nesselrode, and at the same time violate common sense, by going to the head of Portland Canal, or any inland canal, to find the coast. The Russians were not looking for the coast there; they were looking for a narrow *lisière*, or strip, as they said, and above quoted, to protect their islands; but in their wildest moments, they never suggested that they would go eighty miles into the "interior" to find a *lisière* to form such a protection.

This, however, is not a matter left in doubt, as appears by the foregoing correspondence. The British were to have the right to navigate the rivers, streams, inland seas, gulfs, havens and creeks through the *lisière*, or strip of land, and also those inside of the *lisière* in their own territory, the latter being what are known as territorial waters.

Count Nesselrode, in the same letter, said: "If Prince of Wales Island remains to us it would be for us only a burden, at the mercy of the English establishments on the coast." What can this mean? Does it mean the coast of the continent opposite the islands? or does it mean what Mr. Moore alleges, the coast at the head of some canal eighty miles in the interior? And, as quoted before, the Count says: "Russia reserves for herself only a point of support." What is the point of support she reserves? The Count repeatedly said what it was, namely, a narrow *lisière*, or strip, on the coast of the continent opposite the islands.

Again, in the Count's letter, above quoted, of the 31st of August, 1824, he states to the Russian Minister in London, in

speaking about a demand of the English for some additions to the proposed treaty: "These claims were to consist of a more exact description of the strip which we were to possess on the American continent; the selection of a degree of longitude more to the west at Mount St. Elias, and the free *navigation* of the rivers, seas, straits and bays which the dominion of His Imperial Majesty might contain." To this plain demand of the English the Court at once accedes, and, in the same letter and immediately after the above sentence, goes on to say: "On the other hand, as we ourselves had hastened to offer to the subjects of His Britannic Majesty, in our negotiations with Sir Charles Bagot, liberty to descend and ascend all the rivers which might cross our territory on the north-west coast, it seemed to me that the modification desired by Mr. Canning would not involve any difficulty." In diplomatic language, what can be plainer than this? The Count speaks of the rivers, seas, straits and bays which the dominions of Russia might contain in the *lisière*, or strip along the coast, for he says he himself suggested giving to the English the right to navigate all the rivers and streams across this *lisière*, and now that the extension of the privilege to the rivers, streams, seas, straits and bays need cause no delay in the negotiations. But what does he mean by using the following words: "The free navigation of the rivers, seas, straits and bays which the dominions of His Imperial Majesty might contain"? If they were all to be in the strip of land, he would have said the British were to have had the use of all of them there; but he places the sentence in the subjunctive mood, which implies possibility and so forth, and means that a part of these seas, gulfs and bays might be found behind the *lisière*, in British territory; and he does not presume to deal in regard to these parts which, under the treaty, would be English.

The Anglo-Russian treaty of 1825 is plain enough if carefully examined. Article one revokes the ukase of 1821 and opens the high seas to trade and commerce. Article two prohibits one party from visiting the establishments of the other party on the coast without permission from the governor. Articles three and four, as quoted above, provide for the setting apart of the *lisière* on the coast, which was to belong to Russia. Article five provides that neither one of the parties shall erect establishments on the admitted territory of the other party. Article six is as follows:

It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall forever enjoy the right of navigating, freely and without any hindrance whatever, all the rivers and streams which, in their course toward the

Pacific ocean, may cross the line of demarkation upon the line of coast described in article three of the present convention.

What is meant by "the line of coast described in article three"? It means the *lisière*, or strip of land, on the coast, through which the rivers and streams may flow from the lands, inland seas or tributary waters to the east of the strip of land, in their course to the ocean. These rivers or streams have no mutual bargain attached to them. They were to cross the property, then of Russia, now of the United States, and a permission was given to enjoy the use of them for all time.

Then comes article seven as follows :

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

It will be observed that this article does not mention rivers and streams—they are disposed of in article six; but includes such navigable waters as are referred to in article three. This will at once be manifest upon reading the seventh article, for these are all England had to give to Russia in consideration for the mutual agreement mentioned in article seven. What was this seventh article for? It was what it says it is, an agreement that the inland seas, gulfs, harbors and creeks owned in severalty by each should, for the space of ten years, be occupied mutually for the purpose of fishing and trading with the natives. Now, what did article three mention that Russia owned? She owned the *lisière*, or strip of land, along the coast of the continent. What did article three mention that England owned? She owned all not included in the *lisière*, all that would be found there after the *lisière* were taken off; this is all she had, as spoken of at the bottom part of article seven, and this is what she put in as her part of the mutual agreement. If it does not mean this, it means nothing. But England's contribution to the mutual agreement was very extensive, and only can be referred to as quoted when Count Nesselrode said in his famous pronouncement of the 17th of April, 1824: "Russia leaves an enormous stretch of coast and land to the progressive development of the English establishments; she ensures free outlets and provides for the interests of commerce." What was meant by saying that Russia ensures free outlets? She provides for the interests of commerce? The Count's meaning is plain that there should be no locking up of navigation, which, after all, is the chief factor in the interests of commerce. And then he goes on to say: "This proposal will insure

to us merely a narrow *lisière*, or strip of territory, upon the coast itself. For ourselves, we limit our demands to a mere strip of the continent."

Count Nesselrode was keenly alive to the situation, for on the very day he wrote the above letter he executed two copies, one in English and one in French, of the treaty of 1824 with the United States of America. That was on the 17th of April of that year, and it may have been at the same sitting, for he says in the same letter, "We have just signed with its Plenipotentiary" (meaning the Plenipotentiary of the United States). That was evidently an interesting moment, and Count Nesselrode, one of the greatest diplomats of his age, after two years discussing the subject, was not going to make a statement he did not understand.

And then, again in the letter of the 31st of August, 1824, above quoted, he says: "It is stated that England would demand the free use of all the rivers which might cross the strip of coast belonging to Russia and of all the inland seas, straits, bays, and so forth, which might be within her dominions." What is the meaning of these last six words, if they do not illustrate the distinction I have drawn in regard to navigation? But the Count goes on to say in the same letter: "When we compare these two demands which follow each other so closely and which, so to speak, explain and complete each other, it is difficult to find anything more in them than the free navigation of the waters and seas bathing the possessions of Russia. Now, we have always shown ourselves ready to guarantee this freedom (of navigation); but as to hunting, fishing and trading with the natives of the country we cannot avoid making an important distinction."

In other words, you may go in and out through the rivers and streams, inland seas, gulfs and havens within and across the *lisière* for the purpose of navigation for all time, and for the period of ten years we shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas mentioned in article three, for the purpose of fishing and trading with the natives, both within and without the *lisière*. But after that time each country, excepting for navigation, shall be confined to its own inland seas, gulfs, havens, and so forth; and the creeks, rivers, gulfs or inland seas through which they may flow on their way to the ocean through the *lisière* shall for all time be the property of Russia, while the British for all time shall have the right to navigate the rivers and streams from the ocean through and across the *lisière*.

It may be added that, while there is abundance of evidence that the fourth article of the treaty of 1824 was abrogated by Russia in

1834, there is no evidence of article 7 of the treaty of 1825 having been revoked, or of any attempt having been made to revoke it, by either one country or the other.

Mr. Moore says the line was agreed upon as a compromise, and the treaty was drawn up and signed, and that until a recent period the line as it was then understood by both Governments remained unquestioned; also that in all the maps the line appeared following the sinuosities of the coast and running around the head of the inlets, including Lynn Canal.

I find no authority for the statement of any admitted line, either by Russia or England, or of any maps having their sanction carrying the *lisière* around Lynn Canal, or any other canal; on the contrary, all the correspondence and information lead to the opposite conclusion. Any atlas or map made or copied by geographers for their own purpose would, of course, have no binding effect upon these Governments.

The Professor then goes on to say: "But more significant than any map is the fact that the greater part of the strip of mainland in question was, for many years after 1839, leased at an annual rental by the Hudson Bay Company. In support of this he quotes a note or extract from Sir George Simpson's trip around the world. In any event the quotation is extremely vague. Sir George was Governor of the Hudson Bay Company, and anything he may have said in his trip around the world, or that any officer of the Russian-American Company might have said, would, indeed, be of small importance. But if Sir George were to be quoted at all it would have been better to produce his evidence as taken before the House of Commons' Committee in February, 1857.

It appears that the Russian-American Company and the Hudson Bay Company began quarreling over this strip of territory, and for the sake of peace, as Sir George said, the latter company made a lease of part of the *lisière*. This lease was dated in 1839. Sir George was asked this question in that investigation:

"Besides your own territory I believe you administer a portion of the territory which belongs to Russia, under some arrangement with the Russian-American Company?"

Answer: "There is a margin of coast, marked yellow in the map, from fifty-four degrees and forty minutes up to Cross Sound, which we have rented from the Russian-American Company for a term of years."

In this connection, it would be very interesting to know what has become of that map. Sir George Simpson and his company were before the House of Commons' Committee to defend them-

selves against charges of wrong administration, and anything he might have said would not be much evidence in this case. However, whatever it may be, Mr. Moore thinks it of "perhaps more significance than any map."

I do not agree with him; on the contrary, well-authenticated maps would be of the greatest importance; and it is only fair to ask those who have been looking up evidence, Where is that map marked yellow of which Sir George Simpson speaks? and where are all the other maps used at the making of the treaty? At first I did not think any were used, but upon closer examination and careful reading of the correspondence, I find several spoken of.

The treaty itself was signed at St. Petersburg on the 28th of February, 1825. As I understand it, there was only one copy, and that in French, which was so executed. An approved translation in English was obtained and taken by the British Ambassador to England. All the rest of the papers were left in the archives at St. Petersburg. These muniments of title, including the papers, are now somewhere, and should without much difficulty be produced. And, more particularly, the maps, which cannot be reached as books on the subject can, should without delay be (if they are not now) lodged in some public place where they can be consulted. Prof. Moore, who speaks with great positiveness about maps, and their being acknowledged by both England and Russia, might give valuable assistance. When at Sitka and other parts of Alaska last year I tried to get information on the subject, but was unable to do so:

It is interesting to note the points of similarity between this controversy and what is known as the Venezuela arbitration. In the Venezuela case there was really only one question to determine, namely, the boundary line between the colony of British Guiana and the United States of Venezuela. In all, there are fourteen articles in the treaty of arbitration: only one in regard to the question in dispute, the other thirteen descriptive of the rules to be followed and the power of the court. The treaty of arbitration was signed in February, 1897; well on to three years expired during the consideration of the question, and before making an award. It was said at the time that the only fair way to determine a boundary question was by arbitration. Both England and America were loud in exclaiming that a boundary dispute, above all others, should be determined by a board of arbitrators. In the Alaskan boundary dispute there is also only one question to determine, namely, the boundary line between Alaska and British America.

The *New York Times*, a well-conducted paper, speaking of the Venezuela award, says, in part: "To be courageously consistent

it may be urged that, having exercised pressure upon Great Britain to submit this matter to arbitration, we cannot refuse to comply with a similar request by Great Britain that we submit to arbitration the Alaskan boundary dispute, if it should reach a stage so critical as to menace the peace of the two leading nations urging arbitration."

This, a pure matter of business, should be viewed in that light only, and no step should be taken as a matter of indulgence to one side or the other. Both parties are large enough and strong enough to take care of themselves. Neither wants any advantage over the other, but, on the contrary, each wants to hand over, without a grudge, any parts of the disputed territory belonging to the rightful owner. With this end in view, the only real friendship that can be extended is to throw all possible light on the subject and to bring about a speedy determination of it. This view I have endeavored to follow in the present paper.

DAVID GLASS.

