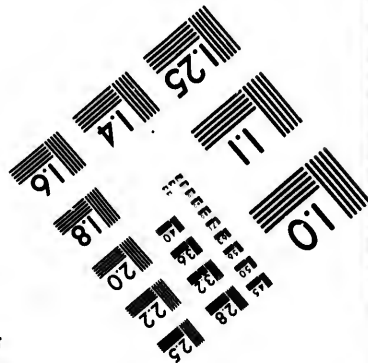
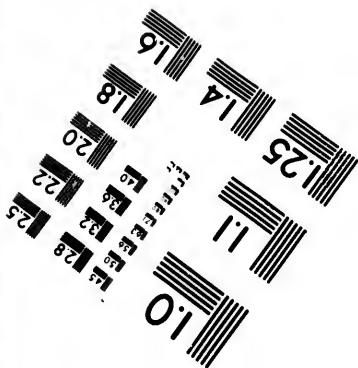
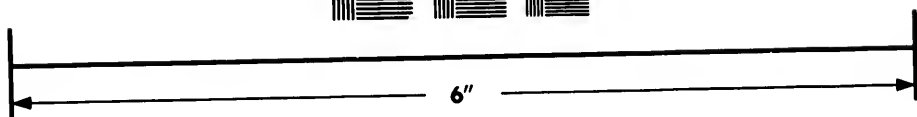
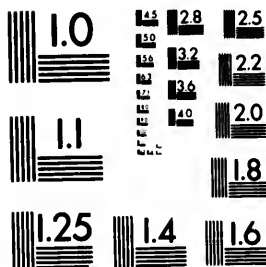


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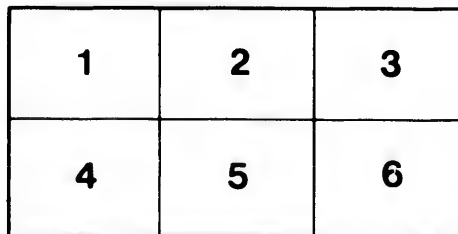
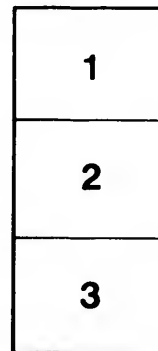
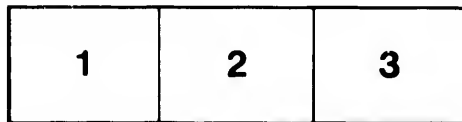
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CONFIDENTIAL.

Further Correspondence respecting the Boundary between the
British Possessions in North America and the Territory of
Alaska.

PART XIV.

No. 1.

Colonial Office to Foreign Office.—(Received January 6.)

(Confidential.)

Sir,

Downing Street, January 4, 1902.

WITH reference to the letter from this Department of the 21st October respecting the proposals for a settlement of the Alaska boundary difficulty, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, copy of a despatch from the Earl of Minto, embodying at length the views of his Ministers on the subject of the draft Treaty communicated privately by Mr. Hay to Lord Pauncefote.

2. The Dominion Government, it will be observed, take exception to Mr. Hay's draft on three main grounds:—

(a.) The constitution of the proposed Arbitration Tribunal by the appointment of an equal number of Arbitrators by each of the Parties;

(b.) To the wording of the terms of reference; and

(c.) To the absence of finality in the decision of the Arbitrators.

3. In regard to (a), Mr. Chamberlain has some doubt as to how far the United States' Government regard the constitution of the Tribunal by an equal number of Arbitrators appointed by each of the Parties as vital. Mr. Choate, in his note of the 9th August, 1899, stated that his Government regarded "the question of the organization of the Tribunal as subordinate to that concerning the subject-matter to be arbitrated, and the terms and conditions on which its action is limited." The advantage of having a Tribunal constituted of an odd number of Judges is obvious, and Mr. Chamberlain shares the view of the Dominion Government in preferring such an arrangement, and thinks that the alternative reluctantly put forward by them of two neutral Arbitrators, one nominated by each Party, should only be put forward on behalf of His Majesty's Government in the event of the United States' Government adhering fixedly to their proposal for a Tribunal of an equal number of Judges nominated by each side.

4. In regard to (b), the terms of reference suggested in Article IV of Mr. Hay's draft are undoubtedly open to the objections urged by the Dominion Government, and the questions proposed by the Dominion Government appear to state fairly and unexceptionably the points in dispute as to the interpretation of the Treaty; but it will be observed that Lord Minto states that his Ministers are "not wedded to any particular form of words."

5. It will be observed that the Dominion Government desire that if one of the

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parties should be found by the Tribunal to be in possession of territory belonging to the other it should be left to the Arbitrators to deal with such a condition of things as might seem to them best fitted to meet the equities of the case.

6. It appears to Mr. Chamberlain very doubtful whether the United States' Government would be prepared to agree to conferring powers so extensive on the Arbitrators, and as he has reason to believe that the Dominion Government, in the event of the Arbitrators deciding in favour of their contention in regard to the boundary in the neighbourhood of the Lynn Canal, would be prepared, in default of any political or other set-off, to accept pecuniary compensation, he suggested in the telegram, of which a copy is inclosed, an Additional Article which would have defined the direction in which compensation should be given.

7. From the accompanying copy of a telegram from Lord Minto, it appears, however, that the Dominion Government are not prepared to accept his suggestion, and prefer that their proposals as set forth in the despatch should be submitted without modification to the Government of the United States.

8. In these circumstances, Mr. Chamberlain would be glad if Lord Lansdowne would, if he sees no objection, instruct Lord Pauncefote to bring the proposals of the Dominion Government before the Government of the United States.

I am, &c.
(Signed) H. BERTRAM COX.

P.S.—It will be seen from Lord Minto's despatch that the third sentence of the telegram communicated in the letter from this Department of the 21st October should have read: "They also think that the last paragraph of Article III should be omitted."

H. B. C.

Inclosure 1 in No. 1.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Secret.)

Sir,

Government House, Ottawa, November 6, 1901.

REFERRING to my cypher message of the 14th ultimo on the subject of the draft Arbitration Treaty for the settlement of the Alaska boundary question, I have now the honour to present to you in a somewhat more extended form the reasons which render the terms of this Convention unacceptable to my Ministers.

In my despatch of the 23rd August last, I acquainted you with some of the objections to this proposed arrangement urged upon me by my Prime Minister. During the recent visit to Canada of the Duke and Duchess of Cornwall and York, Sir Wilfrid Laurier availed himself of the opportunity of discussing the whole subject with Sir John Anderson, with the result that my advisers determined to lay before you counter-proposals to those of Mr. Hay. The substance of these counter-proposals was contained in my telegram to you of the 14th ultimo.

Before proceeding further to consider them, I would observe that it is with much regret that my Ministers find themselves unable to agree to the proposals of the United States' Government for the settlement of this long-pending controversy. They are constrained, however, to dissent therefrom for the following reasons:—

Article I. As regards the composition of the Tribunal you have already been made aware of the disinclination of my Government to refer this important subject to a Court so constituted as not to insure a final award. Their objection springs from the fact that an even number of Arbitrators drawn from either side does not afford security in the event of differences of opinion for a binding decision on the points submitted to the Tribunal.

Animated, however, by a strong desire to secure a reference to arbitration, my Ministers are prepared to acquiesce in the proposed number of six, provided that at least one of the American Arbitrators shall not be a citizen of the United States, or a citizen or subject of any State or Power directly or indirectly under the protection of the United States, and that at least one of the British Arbitrators shall not be a British-subject or the subject or citizen of any Power or State directly or indirectly under the protection of His Britannic Majesty.

They agree to this in the hope that the neutral Arbitrators, who are not likely to be influenced by national considerations, may unite and thereby secure a majority award.

Article III. My Ministers consider that the last paragraph of the Article is unnecessary and should be omitted, though they are prepared to yield the point if pressed.

Article IV. They take exception to the terms of sub-section 1 of Article IV on the ground that the contention of the United States with respect to the course the line should take between Prince of Wales Island and Portland Channel is put forward as the natural and primary interpretation of Article III of the Convention of 1825, whereas, so far from this being so, the words "along the parallel of 56° 40'," do not occur in the Treaty as indicating the direction of the line between the points named above.

They protest against the language of the second sub-section, wherein it is assumed in the recital that the line of demarcation might at places exceed the distance of 10 marine leagues from the ocean, and they regard the placing of the extreme contention of the United States with respect to the location of the line in the forefront of the reference as open to the same objection they take in regard to the first sub-section.

My Ministers are of opinion that the terms of reference should not give prominence to one contention over the other, but rather should state in clear and unambiguous terms the questions whose determination can alone decide the issue.

Though not wedded to any particular form of words, they conceive that these questions might thus be formulated.

Referring to Articles III and IV of the Convention of 1825—

1. What is intended as the point of commencement?

2. What channel is Portland Channel?

3. What course should the line take from the point of commencement to the entrance to Portland Channel?

4. To what point on the 56th parallel is the line to be drawn from the head of Portland Channel, and what course should it follow between these points?

5. What are the mountains referred to as situated parallel to the coast, which mountains, when within 10 marine leagues from the coast, are declared to form the eastern boundary?

6. In the event of the summit of such mountains proving to be (?) in places more than 10 marine leagues from the coast, should the width of the *lisiere* which was to belong to Russia be measured from the coast of the ocean strictly so-called, along a line perpendicular [*sic*] thereto, or was it the intention and meaning of the said Convention that where the coast is indented by deep inlets, forming part of the territorial waters of Russia, the width of the *lisiere* was to be measured (a) from the line of the general direction of the coast, or (b) from the line separating the waters of the ocean from the territorial waters of Russia, or (c) from the heads of the aforesaid inlets?

These questions appear to my Ministers eminently fair. They are framed with the object of placing the case before the Arbitrators in such a manner as to secure a decision upon all the points at issue without bias or favour to one side or the other.

Art. VI. My Ministers do not understand why any negotiations between the respective Governments should be considered necessary, after the decision of the Arbitrators has been received by them. They regard this proviso as opening the door to further difficulties and delays, and suggest that Article VI be remodelled as follows:—

"When the aforesaid Contracting Parties shall have received the decision of the Arbitrators upon the questions submitted as provided in the foregoing Articles, which decision shall be final and binding upon all Parties, they will at once appoint, each on its own behalf, one or more scientific experts, who shall with all convenient speed proceed together to lay down the boundary-line, in conformity with such decision."

My Ministers, recalling the disposition of the United States' Representatives, on the International Joint High Commission of 1898-99, to limit the scope of the arbitration, then proposed to certain portions of the line, consider that the draft Treaty under consideration, should contain a stipulation in precise and positive terms, to the effect that the reference is intended to include, and does include, the definition of the entire boundary at every point between the southernmost point of Prince of Wales Island and Mount St. Elias.

My Ministers do not overlook the possibility of an award by such a Tribunal as is contemplated by the present negotiations being absolutely against Canada or absolutely against the United States, and that in the latter event, certain portions of the disputed territory which have been settled under the authority of the United States' Government might turn out to be British territory. They realize that the ownership of these

localities is the main contention at the present time, and they are willing to agree to any arrangement which shall equitably provide for the contingency I have indicated.

The precedent of Venezuela is exactly in point, and no substantial reason can be advanced against its application to this almost identical case. My Ministers recognize, however, that owing to the peculiar features of the American Constitution concerning the Treaty-making power, a settlement on the lines of that precedent might prove in the end impracticable of attainment. They have, therefore, refrained from suggesting any express stipulations on this head, preferring to leave to Lord Pauncefote full latitude to provide that if either of the Contracting Parties should be found to be in possession of territory belonging to the other, the Arbitrators should be empowered to deal with such a condition of things as might seem to them best fitted to meet the equities of the case.

My Ministers trust that these suggestions may commend themselves to His Majesty's Government.

I have, &c.
(Signed) MINTO.

Inclosure 2 in No. 1.

Mr. Chamberlain to Governor-General the Earl of Minto.

(Telegraphic.) P.

Downing Street, December 17, 1901.

ALASKA boundary. Sixth question proposed in your Secret despatch of the 6th November appears to be open to misconstruction. I would suggest that words down to "coast" first occurring should be omitted, and that the question should run as follows: "Should the 10 marine leagues which the width of the *lisiere* to be left to Russia, was not to exceed, be measured," &c.

Telegraph if your Ministers concur. Would it meet their views if the following Additional Articles were inserted:—

"The Arbitrators shall indicate by a line on the maps prepared by the Joint Survey Commission the location of the boundary in accordance with their decision on the foregoing questions, from its point of commencement to Mount St. Elias:

"Provided that if the line so indicated should be found to transfer to one of the Parties any territory or territories actually settled and occupied by the other, the Arbitrators shall divert the boundary so as to leave such territory or territories in the possession of the Party by whom it or they has or have been settled and occupied, and shall mark such diversion on the maps: Provided also that, unless the Parties shall have intimated to the Tribunal that they agree to leave the question of the compensation to be given in respect of such diversion to be settled by negotiation, the Tribunal may recommend that compensation be given in whole or in part by diverting the boundary, in a manner to be indicated by the Tribunal, on the maps in some portion of its extent where there is no occupation or settlement; and in the event of such territorial compensation being, in the opinion of the Tribunal, insufficient or impracticable, it shall fix and determine the amount of such pecuniary compensation as should be paid in addition-to, or in lieu of, such territorial compensation."

Inclosure 3 in No. 1.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Telegraphic.)

December 23, 1901.

MY Government are unable to agree to proposal made in your telegram of the 17th December for omission of first two lines of question 6, for the reason that the Treaty fixes the summits of the mountains as the eastern boundary, and it is only in default of mountains existing within 10 leagues of the coast that the artificial line is resorted to. My Government are likewise unable to agree to suggested Additional Article. They strongly urged that the conditions agreed to by them in my despatch of the 6th November are fair to both sides, and that there should be no departure from them.

No 2.

Colonial Office to Foreign Office.—(Received January 8.)

Sir, *Downing Street, January 7, 1902.*
I AM directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, copy of a despatch from the Governor-General of Canada, conveying the desire of the Dominion Government that representations may be addressed to the Government of the United States of America in regard to certain store-houses marked on the shores of "Portland Inlet" in a chart of part of the Pacific Coast published by the United States' Coast and Geodetic Survey.

2. Mr. Chamberlain will be obliged if His Majesty's Ambassador at Washington can be instructed to make the desired representations.

3. It is requested that the map inclosed in Lord Minto's despatch may eventually be returned to this Department.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 2.

Governor-General the Earl of Minto to Mr. Chamberlain.

Sir, *Government House, Ottawa, October 31, 1901.*
I HAVE the honour to inclose herewith a copy of an approved Minute of the Privy Council submitting a chart (No. 3091) of part of the Pacific Coast, published by the United States' Coast and Geodetic Survey, and calling attention to the fact that along the shores of Portland Inlet, which is erroneously designated on the chart as Portland Canal, four United States' store-houses are marked, of which Mr. King, His Majesty's Commissioner under the Alaska Boundary Convention of 1892, reports that no indications such as would be noted on a navigator's chart were observed during the progress of the boundary survey in 1893 and 1894.

You will observe that my Minister's request that an inquiry may be addressed to the United States' Government as to the nature of these store-houses and the reason of their erection in territory the title to which was, and still is, the subject of diplomatic negotiation.

I have, &c.
(Signed) MINTO.

Inclosure 2 in No. 2.

Extract from a Report of the Committee of the Honourable the Privy Council approved by the Governor-General on the 22nd October, 1901.

ON a Report dated the 4th October, 1901, from the Minister of the Interior, submitting that on the accompanying chart (No. 3091) published by the United States' Coast and Geodetic Survey, of part of the Pacific Coast, the following names appear:—

Store-house No. 1 on the eastern shore of Wales Island at the entrance to the Strait, named Portland Inlet, but erroneously designated on this chart as Portland Canal.

Store-house No. 2, on the eastern shore of Pearse Island, on the western side of the same Strait.

United States' Store-house No. 3, on the shore of Halibut Bay, which is a small indentation of the western shore of Portland Canal.

United States' Store-house No. 4, on the western shore of Portland Canal, to the north of the mouth of Salmon River, near the head of Portland Canal.

The exact point designated by the name is indicated on the chart in each case by a small dot.

The Minister states that he is informed by Mr. King, who, as Commissioner under the Convention of 1892, had the direction of the Canadian surveying parties engaged in

joint survey of the territory adjacent to the undetermined boundary-line between Alaska and British Columbia, that at the time that survey was in progress, during the years 1803 and 1804, no buildings of such character as ordinarily to be shown on a navigator's chart were seen in these localities, although the supply vessel of the survey passed along Portland Canal several times.

The Committee, on the recommendation of the Minister of the Interior, advise that his Excellency be moved to direct the attention of His Majesty's Secretary of State for the Colonies to this matter, with a view to an inquiry of the United States' Government as to the nature of these store-houses and the reason for their erection in this territory, the title to which was, and still is, the subject of diplomatic negotiation.

All which is respectfully submitted for his Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

No. 3.

Lord Pouncefote to the Marquess of Lansdowne.—(Received January 21.)

(No. 11. Confidential.)

My Lord,

Washington, January 9, 1902.

WITH reference to my despatch No. 308 of the 19th ultimo, relative to the alleged danger of disturbance in the Yukon district, I have the honour to transmit to your Lordship herewith an extract from a personal note from the Secretary of State of the United States, giving the substance of a Report addressed by the Governor of Alaska to the Secretary of the Interior, from which it appears that, in his Excellency's opinion, no movement of the kind, which was apprehended, is likely to take place.

I have forwarded this information to the Earl of Minto.

I have, &c.

(Signed)

PAUNCEFOTE.

Inclosure in No. 3.

Mr. Hay to Lord Pouncefote.

Department of State, Washington,

January 7, 1902.

(Extract.)

THE Secretary of the Interior informs me of the receipt of a Report by mail from the Governor of Alaska confirming his telegram of the 16th December, of which I informed you on the 26th ultimo, with respect to the newspaper sensation in regard to conspiracy, and stating that, at the time of the publication, the civil officers who were at Skagway—the Judge, the District Attorney, and the Marshal, together with Captain Hovey, who commands the United States' troops at that point—were alive to the news, and were ready to take action at any moment to preserve the peace, and that the civil officers can be safely relied upon to prevent any disturbances.

The Governor adds that the Americans who are in the British Klondyke region are very sensible people, and would, in his opinion, be the last to join or countenance an insurrection against the British authorities.

No. 4.

The Marquess of Lansdowne to Lord Pouncefote.

(No. 14.)

My Lord,

Foreign Office, January 23, 1902.

I TRANSMIT herewith, for your Excellency's information, copy of a letter from the Colonial Office,* with inclosures from the Canadian Government, suggesting that representations may be made to the United States' Government in regard to certain storehouses marked on a chart of part of the Pacific coast published by the United States' Geodetic Survey.

* No. 2.

The Marquess of Lansdowne to Lord Pauncefoot.

(No. 28.)

My Lord,

Foreign Office, February 5, 1902.

HIS Majesty's Government have carefully considered, in communication with the Government of Canada, the draft Convention communicated to your Excellency, unofficially, by Mr. Hay in May last, which provides for the submission to arbitration of the Alaska boundary dispute. While most anxious to reach a solution of this long-pending question by means of arbitration, they find themselves compelled to dissent from the terms proposed in the following points:—

Article I. As regards the composition of the Tribunal, His Majesty's Government have always been averse from referring this important subject to a Court so constituted as not to insure a final award.

Their objection in the present instance springs from the fact that an even number of Arbitrators drawn from either side does not afford security in the event of differences of opinion for a binding decision on the points submitted to the Tribunal.

Some doubt is felt, however, as to how far the United States' Government regard the constitution of the Tribunal by an equal number of Arbitrators appointed by each of the Parties as vital. Mr. Choate, in his note of the 9th August, 1899, stated that his Government regarded "the question of the organization of the Tribunal as subordinate to that concerning the subject-matter to be arbitrated, and the terms and conditions on which its action is limited." The advantage of having a Tribunal constituted of an odd number of Judges seems obvious, and His Majesty's Government would much prefer such an arrangement. Animated, however, by a strong desire to secure a reference to arbitration, they are willing to acquiesce in the proposed number of six, provided that at least one of the United States' Arbitrators shall not be a citizen of the United States or a citizen or subject of any State directly or indirectly under the protection of the United States, and that at least one of the British Arbitrators shall not be a British subject or a subject or citizen of any Power or State directly or indirectly under the protection of His Britannic Majesty.

The presence of two neutral Arbitrators would seem to increase the chances of receiving a majority Award; but this alternative would be adopted with reluctance, and the suggestion should only be put forward on behalf of His Majesty's Government in the event of the United States adhering fixedly to their proposal for a Tribunal of an equal number of Judges nominated by each side.

Article III. The final paragraph of this Article provides that "the Arbitrators shall also take into consideration any action of the several Governments or of their respective Representatives preliminary or subsequent to the conclusion of said Treaties, so far as the same tends to show the intentment of the Parties in respect to the limits of their several territorial jurisdictions under and by virtue of the provisions of the said Treaties." This provision appears to His Majesty's Government unnecessary, and they would prefer that it should be omitted, though the point is one which they are prepared to yield if the United States attach importance to it.

Article IV. Sub-section 1 of this Article, which prescribes the terms of the reference, runs as follows:—

"Referring to Article III of said Treaty of 1825 between Great Britain and Russia, was it intended thereby that the line of demarcation should be traced from the southernmost point of the island, now known as the Prince of Wales Island, along the parallel of 54° 40' north latitude to the passage now commonly known and marked on the maps as the 'Portland Channel,' and thence along the middle of said channel northward until said northward line shall reach on the mainland of the continent the 56th degree of north latitude?"

His Majesty's Government take exception to the terms of this sub-section on the ground that the contention of the United States with respect to the course the line of demarcation should take between Prince of Wales Island and Portland Channel is put forward as the natural and primary interpretation of Article III of the Convention of 1825, whereas, so far from this being the case, the words "along the parallel of 54° 40'" do not occur in the Treaty as indicating the direction of the line between the points named above.

They also feel bound to demur to the language of the second sub-section, which reads as follows :—

“In extending the line of demarcation northward from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast until its intersection with the 141st degree of longitude west of Greenwich, subject to the condition that when such line should exceed the distance of 10 marine leagues from the ocean, then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast and distant therefrom not more than 10 marine leagues, was it the intention and meaning of said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe or strip of coast on the mainland, 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean, and extending from the said point on the 56th degree of latitude north to a point where such line of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich ?

“If not, how should said line of demarcation be traced to conform to the provisions of said Treaty ?”

It is assumed in the recital that the line of demarcation might at places exceed the distance of 10 marine leagues from the ocean, and they regard the placing of the extreme contention of the United States with respect to the location of the line in the forefront of the reference as open to the same objection which they take in regard to the first sub-section.

In the opinion of His Majesty's Government, the terms of reference should not give prominence to one contention over the other, but rather should state in clear and unambiguous terms the questions whose determination can alone decide the issue.

Though not wedded to any particular form of words, they submit that these questions might preferably be formulated as follows :—

Referring to Articles III and IV of the Convention of 1825—

1. What is intended as the point of commencement ?

2. What channel is Portland Channel ?

3. What course should the line take from the point of commencement to the entrance to Portland Channel ?

4. To what point on the 56th parallel is the line to be drawn from the head of Portland Channel, and what course should it follow between these points ?

5. What are the mountains referred to as situated parallel to the coast, which mountains, when within 10 marine leagues from the coast, are declared to form the eastern boundary ?

6. In the event of the summit of such mountains proving to be in places more than 10 marine leagues from the coast, should the width of the *lisière* which was to belong to Russia be measured (1) from the coast of the ocean strictly so-called, along a line perpendicular thereto, or (2) was it the intention and meaning of the said Convention that where the coast is indented by deep inlets, forming part of the territorial waters of Russia, the width of the *lisière* was to be measured (a) from the line of the general direction of the coast, or (b) from the line separating the waters of the ocean from the territorial waters of Russia, or (c) from the heads of the aforesaid inlets ?

These questions appear to His Majesty's Government eminently fair. They are framed with the object of placing the case before the Arbitrators in such a manner as to secure a decision upon all the points at issue without bias or favour to one side or the other.

Article VI provides that “when the High Contracting Parties shall have received the decision of the Arbitrators upon the question submitted, as provided in the foregoing Articles, they will at once proceed with negotiations for the final adjustment and demarcation of the said boundary-line, in conformity with such decision.”

His Majesty's Government doubt whether any negotiations between the respective Governments should be considered necessary after the decision of the Arbitrators has been received by them. They are disposed to regard this proviso as opening the door to further difficulties and delays, and would suggest that Article VI should rather be remodelled as follows :—

“When the High Contracting Parties shall have received the decision of the Arbitrators upon the questions submitted, as provided in the foregoing Articles, which decision shall be final and binding upon all Parties, they will at once appoint, each on its own behalf, one or more scientific experts, who shall with all convenient speed proceed together to lay down the boundary-line, in conformity with such decision.”

His Majesty's Government, recalling the disposition of the United States' Representatives, on the International Joint High Commission of 1898-99, to limit to certain portions of the line the scope of the arbitration then proposed, consider that the draft Treaty under consideration should contain a stipulation in precise and positive terms, to the effect that the reference is intended to include, and does include, the definition of the entire boundary at every point between the southernmost point of Prince of Wales Island and Mount St. Elias.

His Majesty's Government do not overlook the possibility of an Award by such a Tribunal as is contemplated by the present negotiations being absolutely against Canada or absolutely against the United States, and that, in the latter event, certain portions of the disputed territory which have been settled under the authority of the United States' Government might turn out to be British territory. They realize that the ownership of these localities is the main contention at the present time, and they are willing to agree to any arrangement which shall equitably provide for the contingency above indicated.

The precedent of the Treaty between Great Britain and Venezuela, in Article IV of which provision was made for the case of previous occupation and for the recognition of other rights and claims, appears to them exactly in point, and its application to this almost identical case singularly appropriate. They recognize, however, that owing to the peculiar features of the American Constitution concerning the Treaty-making power, a settlement on the lines of that precedent might prove in the end impracticable of attainment. They therefore refrain from suggesting any express stipulations on this head, preferring to leave your Excellency full latitude to provide by some means that if either of the Contracting Parties should be found to be in possession of territory belonging to the other, the Arbitrators should be empowered to deal with such a condition of things as might seem to them best fitted to meet the equities of the case.

I should wish your Excellency to communicate to Mr. Hay in such form as you may consider most suitable the views of His Majesty's Government as above indicated, and to discuss with him the points in which the proposals of His Majesty's Government diverge from those of the United States.

I inclose, for your Excellency's confidential information, a copy of a letter from the Colonial Office, which explains fully Mr. Chamberlain's views on the counter-proposals of the Canadian Government set forth in the despatch from Lord Minto which accompanies it.

I am, &c.
(Signed) LANSDOWNE.

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Of these, No. 1, as will be seen from the copy of the chart annexed, is situated on the eastern shore of Wales Island, at the entrance to the Strait named Portland Inlet, but marked on the chart, erroneously according to the contention of His Majesty's Government, as Portland Canal.

No. 2 is on the eastern shore of Pearse Island, on the western side of the same strait.

No. 3 is on the shore of Halibut Bay, a small indentation on the western shore of the Portland Canal.

No. 4 is also on the western shore of the Portland Canal, to the north of the mouth of the Salmon River and near the head of the canal.

The Canadian Government are informed by Mr. King, who, as Commissioner under the Convention of 1892, had the direction of the Canadian surveying parties engaged in the joint survey of the territory adjacent to the undetermined boundary between Alaska and British Columbia, that at the time that survey was in progress during 1893 and 1894 no buildings of such a character as ordinarily to be shown on a navigator's chart were seen in these localities, although the supply vessel of the survey passed along Portland Canal several times.

In these circumstances, I should wish your Excellency to make an inquiry of the United States' Government as to the nature of these storehouses and the reason for their erection in territory the title to which was and still is the subject of diplomatic negotiation between this country and the United States.

Your Excellency will no doubt observe that the four storehouses are described in Lord Minto's despatch as situated on "the shores of the Portland Inlet, which is erroneously designated on the chart as Portland Canal."

This is, however, inaccurate. The storehouses Nos. 3 and 4 are on the canal. Nos. 1 and 2 being on the eastern shore of Pearse and Wales Islands, are situated on Portland Inlet, and not on the canal, which, His Majesty's Government hold, passes to the west of the islands.

It would be well to make this distinction clear in any communication which your Excellency may address to the United States' Government on the subject.

It is requested that the inclosed chart may be returned with his Excellency's reply.

I am, &c.
(Signed) LANSLOWNE.

No. 5.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, February 8, 1902.

I AM directed by the Marquess of Lansdowne to acknowledge the receipt of your letter of the 4th ultimo, marked Confidential, inclosing copy of a despatch from the Earl of Minto, embodying the views of the Dominion Government on the subject of the draft Treaty, communicated privately by Mr. Hay to Lord Pauncefote, for a settlement of the Alaska Boundary question.

In accordance with Mr. Chamberlain's suggestion, Lord Pauncefote has been instructed, in a despatch, copy of which is inclosed, to bring the proposals of the Canadian Government before the Government of the United States.

I am, &c.
(Signed) F. H. VILLIERS.

No. 6.

Lord Pauncefote to the Marquess of Lansdowne.—(Received February 24.)

(No. 52.)

My Lord,

Washington, February 14, 1902.

I HAVE the honour to transmit to your Lordship herewith copy of Treasury Decisions, vol. v, on p. 2 of which will be found Circular No. 3 issued by the Treasury

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Department on the 24th January last, relative to the Law and Regulations for Protection of Salmon Fisheries of Alaska.

This document forms Inclosure 7 in my despatch No. 4, Library, of the 14th instant. I have, &c.

(Signed) PAUNCEFOTE.

Inclosure in No. 6.

Extract from the "Treasury Decisions" No. 5 of January 30, 1902.

CUSTOMS.

(23476.)—Law and Regulations for Protection of Salmon Fisheries of Alaska.

(Circular No. 8.)

Treasury Department, January 24, 1902.

THE Law relating to the salmon fisheries of Alaska, and the Regulations thereunder, promulgated on the 18th February, 1901, with modifications, are published for the information of all concerned.

Law.

Chapter 12 of the Act of the 3rd March, 1899, entitled "An Act to Define and Punish Crimes in the District of Alaska, and to provide a Code of Criminal Procedure for said District," reads in part as follows, viz. :—

Section 179. That the erection of dams, barricades, fish wheels, fences, or any such fixed or stationary obstructions in any part of the rivers or streams of Alaska, or to fish for or catch salmon or salmon trout in any manner or by any means, with the purpose or result of preventing or impeding the ascent of salmon to their spawning ground, is hereby declared to be unlawful, and the Secretary of the Treasury is hereby authorized and directed to remove such obstructions and to establish and enforce such Regulations and surveillance as may be necessary to insure that this prohibition and all other provisions of law relating to the salmon fisheries of Alaska are strictly complied with.

Sec. 180. That it shall be unlawful to fish, catch, or kill any salmon of any variety except with rod or spear above the tide waters of any creeks or rivers of less than 500 feet width in the territory of Alaska, except only for purposes of propagation, or to lay or set any drift net, set net, trap, pound net, or seine for any purpose across the tide waters of any river or stream for a distance of more than one-third of the width of such river, stream, or channel, or lay or set any seine or net within 100 yards of any other net or seine which is being laid or set in said stream or channel, or to take, kill, or fish for salmon in any manner, or by any means, in any of the waters of the territory of Alaska, either in the streams or tide waters, except Cook Inlet, Prince William Sound, Behring Sea, and the waters tributary thereto, from midnight on Friday of each week until 6 o'clock antemeridian of the Sunday following; or to fish for or catch, or kill in any manner, or by any appliances except by rod or spear, any salmon in any stream of less than 100 yards in width in the said territory of Alaska between the hours of 6 o'clock in the evening and 6 o'clock in the morning of the following day of each and every day of the week.

Sec. 181. That the Secretary of the Treasury may, at his discretion, set aside any streams as spawning grounds, in which no fishing will be permitted; and when, in his judgment, the results of fishing operations on any stream indicate that the number of salmon taken is larger than the capacity of the stream to produce, he is authorized to establish weekly close seasons, to limit the duration of the fishing season, or to prohibit fishing entirely for one year or more, so as to permit salmon to increase: Provided, however, that such power shall be exercised only after all persons interested shall have been given a hearing, of which hearing due notice must be given by publication: And provided further, that it shall have been ascertained that the persons engaged in catching salmon do not maintain fish hatcheries of sufficient magnitude to keep such streams fully stocked.

Sec. 183. That any person violating the provisions of sections 179, 180, and 181 of this Act or the Regulations established in pursuance of section 182 of this Act shall, upon conviction thereof, be punished by a fine not exceeding 1,000 dollars or imprisonment at hard labour for a term not exceeding ninety days, or both such fine and imprisonment at the discretion of the Court; and, further, in case of the violation of any of the provisions of section 179, and conviction thereof, a further fine of 250 dollars per diem will be imposed for each day that the obstruction or obstructions therein are maintained.

Regulations.

1. The provisions of this Act are applicable to all the territorial waters of Alaska, including tide waters, lagoons, bays, coves, straits, inlets, bayous, rivers, streams, and the beach approaches to the same.

2. Traps, whether "fixed or stationary obstructions" (built of piles and webbing), or constructed of webbing and floats, and susceptible to removal from place to place, are declared to be obstructions which "impede the ascent of salmon to their spawning grounds," and their use is hereby forbidden, except that such traps extending across the tide waters of any river, stream, or channel not more than one-third of the width of such river, stream, or channel, may be so used as provided in section 180 of said Act: Provided, that such traps shall be open so as to allow the unobstructed passage of fish through the same from midnight on Friday of each week until 6 o'clock ante-meridian of the Sunday following as is prescribed in section 180 of said Act.

3. It is forbidden to lay any seine, gill, or other net within 100 yards of the mouth on either side, or immediately abreast of the mouth, of any river or stream whereby in the setting or hauling of the said seine, gill, or other net, it may drift wholly or partially across and operate to close the mouth of said river or stream.

4. The wanton destruction of salmon is declared to be unlawful. Whoever is guilty thereof is hereby declared to be subject to the penalties provided for specific violations of the Act referred to.

5. All persons, Companies, or Corporations engaged in salmon packing, salting, or smoking in the district of Alaska shall make detailed annual reports of such business, upon forms furnished by this Department, to the agent of the Treasury for the protection of the salmon fisheries, covering all such facts as may be required for the information of the Department. Such reports shall be sworn to by the superintendent, manager, or other person having knowledge of the facts, a separate blank form being used for each establishment in cases where more than one cannery or saltery is conducted by a person, Company, or Corporation; and the same shall be filed with the said agent at the close of the fishing season, and not later than the 1st November.

6. During the period of inspection of the salmon fisheries by the special agent of this Department the person in charge of each fishery visited shall furnish the said agent with such information regarding the run of fish, the pack secured, the probable results of the season's work, and such other facts as may be required to afford him a basis for an intelligent preliminary report of the year's business and the state of the fisheries.

7. Each person, Company, or Corporation taking salmon in Alaskan waters shall establish and conduct, at or near the fisheries operated by him or them, a suitable artificial propagating plant or hatchery; and shall produce yearly, and place in the natural spawning waters of each fishery to operate, red salmon fry in such numbers as shall be equal to at least ten times the number of salmon of all varieties taken from the said fisheries, by or for him or them, during the preceding fishing season. The management and operation of such hatcheries shall be subject to such rules and regulations as may hereafter be prescribed by the Secretary of the Treasury. They shall be open to inspection by the authorized official of this Department; annual reports shall be made giving full particulars of the number of male and female salmon stripped, the number of eggs treated, the number and percentage of fish hatched, and all other conditions of interest. And there shall be made a sworn yearly statement of the number of fry planted, and the exact location where said planting was done.

(Signed) L. J. GAGE, Secretary.

No. 7.

Colonial Office to Foreign Office.—(Received February 24.)

(Confidential.)

Sir,

Downing Street, February 24, 1902.

WITH reference to previous correspondence respecting (1) affairs in the Yukon territory and (2) the recent cutting down of the Canadian Customs flag at Skagway, I am directed by Mr. Secretary Chamberlain to transmit to you, for the information of the Marquess of Lansdowne, copy of a despatch from the Governor-General of Canada,

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forwarding a Memorandum of a conversation recently held on these subjects by his Excellency with Mr. Busby, the Canadian Collector of Customs at Skagway.

2. In connection with Mr. Busby's remarks on the state of affairs in the Porcupine Creek district, it will be useful to refer to the Report of the Honourable A. Martin, inclosed in the letter from this Department of the 6th September last.

I am, &c.

(Signed) H. BERTRAM COX.

Inclosure 1 in No. 7.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Secret.)

Government House, Ottawa, Canada,

Sir,

February 1, 1902.

I HAVE the honour to transmit herewith a Memorandum of a conversation I had recently with Mr. Busby, the Canadian Collector of Customs at Skagway, who was connected with the "flag incident" there.

Mr. Busby bears a high reputation, and I consider his opinions valuable.

He has now been moved from Skagway to White Horse, on the upper waters of the Yukon River, the reason being, though he has not told me so himself, that his life is not considered safe in Skagway.

I submit his conversation as indicating the inflammable material existing on the Alaskan frontier.

I have, &c.

(Signed) MINTO.

Inclosure 2 in No. 7.

Memorandum of Conversation between the Earl of Minto and Mr. Busby.

MR. BUSBY, Canadian Collector of Customs at Skagway, whom I met there in August 1900, called upon me yesterday. He told me that the better class of Americans with whom he has to deal are as friendly and as easy to get on with as possible, and that Captain Hovey, commanding the United States' troops at Skagway, has shown every inclination to assist him.

Lieutenant Jinks, who was there when we passed through in the summer of 1900, has left for the Philippines; he was, I believe, in temporary command when the "flag incident" occurred, and, Busby says, is not a strong man.

As regards the hoisting of the Canadian flag, Busby acted in conformity with orders given him by his superior in Toronto. He was requested by some of the American population to pull it down and to hoist the United States' flag, which was given him for the purpose, and which he now has.

Miller, the man who eventually pulled it down, and who has been represented in recent official correspondence as a miner from Porcupine Creek district, is, I believe, a lawyer, from Juneau, who had been in the (Porcupine Creek) district; but he would appear certainly not to be only a miner by profession. He is now in Skagway, on the list of special constables, in case such should be required.

I asked him if he thought there was any connection between the "flag incident" and the recent rumoured rising in the Yukon; and he said he thought there certainly was, and that, as to the rising, though no people of real importance might be connected with it, that certainly the Mayor of Skagway was so. He believes that, though the rising, if it had taken place, could not possibly have had any direct result as to gaining the upper hand in the Yukon, still its object was to raise difficulties there and to bring the whole question of the frontier and American claims strongly before the American public, in hopes of enlisting its sympathy.

He said that the Porcupine Creek district was full of precious minerals, and that there was an intensely dissatisfied feeling amongst United States' subjects frequenting the whole line of the coast; that a very large part of this coast population was American-Irish, with a considerable foreign mixture, both German and Jew, and that the Nome excitement was due chiefly to a transportation "fake," and that, a large number of people having been taken up there, it was necessary to bring them back again; that Seattle was full of such scum, and that their presence was dangerous.

He said he believed that if we got a Canadian all-through route from Kitmat or Port Simpson, that the benefit of Skagway would be lost to the United States, and that they would be prepared to arbitrate at once. He believes that directly an all-through Canadian route was commenced, either from Port Simpson or Kitmat, the mere fact of such commencement would at once induce the United States to arbitrate, and, possibly, to agree to our possession of Dyes.

(Signed) MINTO.

Government House, Ottawa, January 7, 1902.

No. 8.

Lord Pauncefote to the Marquess of Lansdowne.—(Received April 1.)

(No. 81.)
My Lord,

Washington, March 20, 1902.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 14 of the 23rd January, transmitting copy of a letter from the Colonial Office, with inclosures from the Canadian Government, in which it was suggested that representations should be made to the United States' Government in regard to certain storehouses marked on a chart of part of the Pacific coast, copy of which was inclosed, published by the United States' Geodetic Survey.

On the receipt of this despatch I addressed a note to Mr. Hay, stating that I had been directed by your Lordship to make an inquiry as to the nature of these storehouses, and the reason for their erection in territory the title to which was, and still is, the subject of diplomatic negotiations between Great Britain and the United States.

Mr. Hay informed me, in reply, that he did not find upon examination of the charts of the region referred to any indication of storehouses marked thereon. He added, however, that the storehouses were upon territory which had been in possession of the United States since its acquisition from Russia, and that the designation of Portland Canal was such as had been noted on all the charts issued by the United States since that acquisition. Mr. Hay further stated that he was not aware that His Majesty's Government had ever advanced any claim to this territory before the signature of the Protocol of the 30th May, 1898, preliminary to the appointment of the Joint High Commission.

Upon the receipt of this communication I addressed a further note to Mr. Hay, stating the number of the chart on which the storehouses in question were indicated.

I have now received a reply from the United States' Government, stating that the omission of the storehouses on the later issue of charts was caused by an oversight of the draughtsman, and that they will appear on the charts to be hereafter issued. But he offers no further observations on the subject.

I have the honour to inclose copies of Mr. Hay's notes of the 28th February and 11th March, and I also return the chart transmitted in your Lordship's despatch.

I have, &c.
(Signed) PAUNCEFOTE.

Inclosure 1 in No. 8.

Mr. Hay to Lord Pauncefote.

Excellency,

Washington, February 28, 1902.

I HAVE the honour to acknowledge the receipt of your note of the 8th instant, in which you state that the Canadian Government has called attention to certain storehouses along the western shore of Portland Canal in Alaska, marked upon a chart of the United States' Coast and Geodetic Survey, and that you are directed by the Marquess of Lansdowne to make an inquiry as to the nature of these storehouses, and the reason for their erection in territory, the title to which you state was, and still is, the subject of diplomatic negotiations.

I am pleased to respond to his Lordship's inquiry by stating that I do not find, upon examination of the charts of the region referred to (issued by the United States' Coast Survey) any indication of storehouse marked thereon. A map with storehouses noted on it was attached to a Report of the Bureau of Engineers in 1896, which Report shows that a chart of the survey was used for a basis of the examination then

made. This Report was transmitted by the Secretary of War to Congress, and published by it the 14th December, 1896. This is doubtless the chart referred to in your note, and the Report to which it is attached will, it is believed, furnish the information sought for in his Lordship's inquiry.

I beg to add that the storehouses are upon territory which has been in possession of the United States since its acquisition from Russia, and that the designation of Portland Canal is such as has been noted on all the charts issued by the United States since that acquisition. I am not aware that the Government of His Britannic Majesty ever advanced any claim to this territory before the signature of the Protocol of the 30th May, 1898, preliminary to the appointment of the Joint High Commission.

I have, &c.

(Signed) JOHN HAY.

Inclosure 2 in No. 8.

Mr. Hay to Lord Pauncefote.

Excellency,

Washington, March 11, 1902.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 5th instant, in which you state that the chart of the United States' Coast and Geodetic Survey upon which were indicated the storehouses referred to in your note of the 23rd January last is marked "No. 3091."

I find that you are correct in this statement. Upon inquiry I am informed by the Superintendent of the Coast and Geodetic Survey that the omission of a notation of the storehouses on the later issue of charts by his Bureau was caused by an oversight of the draughtsman, and that they will appear on the charts to be hereafter issued.

I have, &c.

(Signed) JOHN HAY.

No. 9.

Lord Pauncefote to the Marquess of Lansdowne.—(Received April 5.)

(No. 85. Confidential.)

My Lord,

Washington, March 28, 1902.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 28 of the 5th ultimo with reference to the draft of a Convention, communicated to me unofficially by Mr. Hay in May last, providing for the submission to arbitration of the Alaska boundary dispute.

In that despatch your Lordship informed me that His Majesty's Government had carefully considered the draft Convention in communication with the Government of Canada, and you indicated the points in which they found themselves compelled to dissent from its terms, while most anxious to reach a solution by means of arbitration.

In accordance with your Lordship's instructions I communicated to Mr. Hay the views of His Majesty's Government in the form of an unofficial Memorandum based on your Lordship's despatch, and I have the honour to inclose a copy of that document.

When I delivered the Memorandum to Mr. Hay and proceeded to explain to him briefly its purport with a view to further discussion, I was surprised to observe a marked change of attitude on his part in relation to the question. He was quite despondent as to the prospect of any agreement for an arbitration. He gave me to understand that a strong opposition had arisen from an unexpected quarter to the mode of settlement proposed by him in May last. He stated that the President disapproved of his draft Convention, and would not have sanctioned it had he been in power at the time. That the President considers the claim of the United States is so manifestly clear and unanswerable that he is not disposed to run the risk of sacrificing American territory under a compromise which is the almost certain result of an arbitration.

This is a surprising change of sentiment considering his strenuous advocacy of arbitration in his Presidential Message.

It appears that the Senators whom he has consulted are in favour of letting the question stand over for the present as all is going on smoothly under the *modus vivendi*. I learn also from a private but reliable source that the President is anxious to postpone the question until after the termination of the war in South Africa.

I cannot but suspect that this sudden desire to postpone the question is due to political considerations of a domestic character, such as pressure from the Western States and the agitation raised against England at the present time by the pro-Boer and Irish parties.

Mr. Hay explained to me that while the President objected to intrust to a majority of a Board of Arbitration the absolute decision as to the ownership of the vast territory in dispute, he would not be indisposed to submit the points involved to a Tribunal of which the members should merely record their reasoned opinions. This, he thought, would be a step in advance and facilitate a settlement. He said, however, that he would discuss the matter further with the President and let me know the result.

The obstructiveness of the President is a serious feature in the case, but I hope that I may be able in my next report to give a more favourable account of the situation.

I have, &c.
(Signed) PAUNCEFOTE.

Inclosure in No. 9.

Memorandum.

(Private and unofficial.)

HIS Majesty's Government have carefully considered, in communication with the Government of Canada, the draft Convention communicated to Lord Pauncefote, unofficially, by Mr. Hay in May last which provides for the submission to arbitration of the Alaska boundary dispute. While most anxious to reach a solution of this long-pending question by means of arbitration, they find themselves compelled to dissent from the terms proposed in the following points:—

Article I. As regards the composition of the Tribunal His Majesty's Government have always been averse from referring this important subject to a Court so constituted as not to insure a Final Award.

Their objection in the present instance springs from the fact that an even number of Arbitrators drawn from either side does not afford security in the event of differences of opinion for a binding decision on the points submitted to the Tribunal.

Some doubt is felt, however, as to how far the United States' Government regard the constitution of the Tribunal by an equal number of Arbitrators appointed by each of the parties as vital. Mr. Choate, in his note of the 9th August, 1899, stated that his Government regarded "the question of the organization of the Tribunal as subordinate to that concerning the subject-matter to be arbitrated, and the terms and conditions on which its action is limited." The advantage of having a Tribunal constituted of an odd number of Judges seems obvious, and His Majesty's Government would much prefer such an arrangement.

Article III. The final paragraph of this Article provides that "the Arbitrators shall also take into consideration any action of the several Governments or of their respective Representatives preliminary or subsequent to the conclusion of said Treaties, so far as the same tends to show the intentment of the Parties in respect to the limits of their several territorial jurisdictions under and by virtue of the provisions of the said Treaties." This provision appears to His Majesty's Government unnecessary, and they would prefer that it should be omitted.

Article IV. Sub-section 1 of this Article, which prescribes the terms of the reference, runs as follows:—

"Referring to Article III of said Treaty of 1825 between Great Britain and Russia, was it intended thereby that the line of demarcation should be traced from the southernmost point of the island, now known as the Prince of Wales Island, along the parallel of 54° 40' north latitude to the passage now commonly known and marked on the maps as the Portland Channel, and thence along the middle of said channel northward until said northward line shall reach on the mainland of the continent of the 56th degree of north latitude?"

His Majesty's Government take exception to the terms of this sub-section on [1515] E

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the ground that the contention of the United States with respect to the course the line of demarcation should take between Prince of Wales Island and Portland Channel is put forward as the natural and primary interpretation of Article III of the Convention of 1825, whereas, so far from this being the case, the words "along the parallel of 54° 40'" do not occur in the Treaty as indicating the direction of the line between the points named above.

They also feel bound to demur to the language of the second sub-section, which reads as follows:—

"In extending the line of demarcation northward from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast, until its intersection with the 141st degree of longitude west of Greenwich, subject to the condition that when such line should exceed the distance of 10 marine leagues from the ocean, then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast, and distant therefrom not more than 10 marine leagues, was it the intention and meaning of said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe or strip of coast on the mainland, 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean, and extending from the said point on the 56th degree of latitude north to a point where such line of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich?"

"If not, how should said line of demarcation be traced to conform to the provisions of said Treaty?"

It is assumed in the recital that the line of demarcation might at places exceed the distance of 10 marine leagues from the ocean, and they regard the placing of the extreme contention of the United States with respect to the location of the line in the forefront of the reference as open to the same objection which they take in regard to the first sub-section.

In the opinion of His Majesty's Government the terms of reference should not give prominence to one contention over the other, but rather should state in clear and unambiguous terms the questions whose determination can alone decide the issue.

Though not wedded to any particular form of words they submit that these questions might preferably be formulated as follows:—

Referring to Articles III and IV of the Convention of 1825—

1. What is intended as the point of commencement?
2. What channel is Portland Channel?
3. What course should the line take from the point of commencement to the entrance to Portland Channel?
4. To what point on the 56th parallel is the line to be drawn from the head of Portland Channel, and what course should it follow between these points?
5. What are the mountains referred to as situated parallel to the coast, which mountains, when within 10 marine leagues from the coast, are declared to form the eastern boundary?

6. In the event of the summit of such mountains proving to be in places more than 10 marine leagues from the coast, should the width of the *lisière* which was to belong to Russia be measured—

(1.) From the coast of the ocean strictly so-called, along a line perpendicular thereto; or

(2.) Was it the intention and meaning of the said Convention that, where the coast is indented by deep inlets, forming part of the territorial waters of Russia, the width of the *lisière* was to be measured—

(a.) From the line of the general direction of the coast; or

(b.) From the line separating the waters of the ocean from the territorial waters of Russia; or

(c.) From the heads of the aforesaid inlets?

These questions appear to His Majesty's Government eminently fair. They are framed with the object of placing the case before the Arbitrators in such a manner as to secure a decision upon all the points at issue without bias or favour to one side or the other.

Article VI provides that "when the High Contracting Parties shall have received the decision of the Arbitrators upon the question submitted, as provided in the foregoing Articles, they will at once proceed with negotiations for the final

adjustment and demarcation of the said boundary-line, in conformity with such decision."

His Majesty's Government doubt whether any negotiations between the respective Governments should be considered necessary after the decision of the Arbitrators has been received by them. They are disposed to regard this proviso as opening the door to further difficulties and delays, and would suggest that Article VI should rather be remodelled as follows:—

"When the High Contracting Parties shall have received the decision of the Arbitrators upon the questions submitted, as provided in the foregoing Articles, which decision shall be final and binding upon all parties, they will at once appoint, each on its own behalf, one or more scientific experts, who shall with all convenient speed proceed together to lay down the boundary-line, in conformity with such decision."

His Majesty's Government recalling the disposition of the United States' Representatives, on the International Joint High Commission of 1898-99, to limit to certain portions of the line the scope of the arbitration then proposed, consider that the draft Treaty under consideration should contain a stipulation in precise and positive terms, to the effect that the reference is intended to include, and does include, the definition of the entire boundary at every point between the southernmost point of Prince of Wales Island and Mount St. Elias.

His Majesty's Government do not overlook the possibility of an Award by such a Tribunal as is contemplated by the present negotiations being absolutely against Canada or absolutely against the United States, and that, in the latter event, certain portions of the disputed territory which have been settled under the authority of the United States' Government might be declared to be British territory. They realize that the ownership of these localities is the main contention at the present time, and they are willing to agree to any arrangement which shall equitably provide for the contingency above indicated.

The precedent of the Treaty between Great Britain and Venezuela, in Article IV of which provision was made for the case of previous occupation and for the recognition of other rights and claims, appears to them exactly in point, and its application to this almost identical case singularly appropriate. But if a settlement on the lines of that precedent should be found impracticable they hope that the further discussion of the question may suggest to Mr. Hay and Lord Pauncefoot some means of providing that if either of the Contracting Parties should be found to be in possession of territory belonging to the other, the Arbitrators should be empowered to deal with such a condition of things as might seem to them best fitted to meet the equities of the case.

British Embassy, February , 1902.

No. 10.

Foreign Office to Colonial Office.

Sir,

Foreign Office, April 8, 1902.

IN accordance with the suggestion contained in your letter of the 7th January last, His Majesty's Ambassador at Washington was requested to make representations to the United States' Government with regard to the storehouses marked with the numbers 1, 2, 3, and 4, on a chart of part of the Pacific Coast, published by the United States' Geodetic Survey, and to inquire as to the reason for their erection in territory the title to which was, and still is, the subject of diplomatic negotiations between Great Britain and the United States.

I am directed by the Marquess of Lansdowne to transmit to you herewith, for the information of the Secretary of State for the Colonies, a copy of the despatch which has been received from Lord Pauncefoot on the subject.*

It will be observed that, in reply to the Ambassador's representations, Mr. Hay merely notes that the storehouses are upon territory which has been in possession of the United States since its acquisition from Russia, and that the designation of the Portland Canal is such as has been marked on all the charts issued by the United

* No. 2.

States since that acquisition. Mr. Hay further states that he is not aware that His Majesty's Government have ever advanced any claim to this territory before the signature of the Protocol of the 30th May, 1898, preliminary to the appointment of the Joint High Commission.

Lord Lansdowne will be glad to receive any observations which Mr. Chamberlain may have to offer on Lord Pauncefote's despatch.

The chart which accompanied your letter of the 7th January is returned herewith as requested.

I am, &c.
(Signed) F. H. VILLIERS.

No. 11.

Foreign Office to Colonial Office.

(Very Confidential.)

Sir,

Foreign Office, April 9, 1902.

WITH reference to the letter from this Office of the 8th February last on the subject of the draft Convention for the settlement of the Alaska Boundary question by arbitration, put forward unofficially by Mr. Hay in May last, I am directed by the Marquess of Lansdowne to transmit herewith, for the consideration of the Secretary of State for the Colonies, copy of a Confidential despatch from His Majesty's Ambassador at Washington,* in which his Excellency forwards a Memorandum communicated to Mr. Hay, explaining the points on which His Majesty's Government dissent from the terms of the draft Convention.

Lord Pauncefote reports the language held by Mr. Hay and the attitude assumed by President Roosevelt with regard to the boundary question.

I am, &c.
(Signed) F. H. VILLIERS.

No. 12.

Colonial Office to Foreign Office.—(Received April 24.)

(Confidential.)

Sir,

Downing Street, April 23, 1902.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 9th instant marked "Very Confidential," inclosing copy of a despatch from His Majesty's Ambassador at Washington reporting the language held by the United States' Secretary of State on the occasion of the unofficial presentation to him of a Memorandum embodying the views of His Majesty's Government on the terms of the draft Convention for the settlement of the Alaska Boundary question privately submitted by Mr. Hay in May 1901.

2. The information contained in Lord Pauncefote's despatch as to the present attitude of the President of the United States in this matter has been received by Mr. Chamberlain with regret, but he will await the further report promised by his Excellency before offering any remarks on the situation.

I am, &c.
(Signed) H. BERTRAM COX.

No. 13.

Lord Pauncefote to the Marquess of Lansdowne.—(Received May 15.)

(No. 113.)

My Lord,

Washington, May 5, 1902.

IN my despatch No. 115 of the 2nd April, 1901, I had the honour to forward to your Lordship a copy of a note from the Secretary of State of the United States relative to the position of American miners on Glacier Creek in the Porcupine District, and to

inform you that I had likewise communicated this document to the Governor-General of Canada.

I have now received a despatch from the Earl of Minto forwarding copies of an approved Minute of the Privy Council of Canada, to which are appended copies of a despatch from the Lieutenant-Governor of British Columbia and of its inclosures, expressing the views of the Government of that Province upon this question.

I have the honour to transmit to your Lordship herewith, copies of all the documents inclosed in Lord Minto's despatch, from which it is clear that the British Columbian Government have no intention of extinguishing claims of United States' citizens, assured by the *modus vivendi* of the 20th October, 1899, because of the failure of the holders to record their location with the Commissioner recently appointed to receive and enter such records, and that they fully recognize that such rights and privileges cannot be diminished by local legislation.

They concur in the suggestion made in the concluding paragraph of Mr. Hay's note above quoted, that the United States should supply information as to the rights and privileges to which their citizens were entitled at the date of the *modus vivendi*, that they may receive due recognition.

I have communicated copies of these documents to the United States' Government, and I am informed by Lord Minto that his Excellency has reported their purport to His Majesty's Principal Secretary of State for the Colonies.

I have, &c.
(For His Majesty's Ambassador),
(Signed) ARTHUR S. RAIKES.

Inclosure in No. 13.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 26th April, 1902.

THE Committee of the Privy Council have had under consideration a despatch, dated the 18th September, 1901, from the Right Honourable the Secretary of State for the Colonies, requesting to know if a reply has been addressed to the despatch of His Majesty's Ambassador to the United States respecting the position of United States' miners in the district adjacent to the Alaska provisional boundary.

The Secretary of State submits a copy of a despatch from the Lieutenant-Governor of British Columbia, transmitting a certified copy of a Minute of his Executive Council of the 8th April, 1902, expressing the views of his Ministers upon the subject in question.

The Committee advise that his Excellency be moved to transmit the said Minute of Council to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for his Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

Sir, *Government House, Victoria, B.C., April 11, 1902.*

WITH reference to your communication of the 24th October, 1901, covering a Minute of the Privy Council dated the 22nd idem, with a copy of a despatch from the British Ambassador at Washington, together with a note from the United States' Secretary of State, in respect to the administration of mining claims at Glacier Creek, Chilkat Mining Division, I have the honour to transmit to you herewith a copy of a Minute approved by me on the 8th instant, and of a Report made by the Attorney-General expressing the views of my Ministers upon the subject in question.

I have, &c.
(Signed) HENRI G. DE LOTBINIERE,
Lieutenant-Governor.

The Honourable the Secretary of State,
Ottawa.

Report of a Committee of the Honourable the Executive Council, approved by the Lieutenant-Governor on the 8th April, 1902.

The Committee of Council have had before them a Minute of the Privy Council, dated the 22nd October, 1901, referring to a despatch from His Majesty's Ambassador at Washington, with an inclosure from the United States' Secretary of State, regarding the administration of mining locations at Glacier Creek in that part of the Chilkat Mining Division placed under Canadian jurisdiction by the *modus vivendi* of 1899.

The said documents having been referred to the Attorney-General, the Committee submit the observations made by the Minister upon the subject in question, and recommend that a copy of his Report, if approved, be forwarded to the Honourable the Secretary of State.

(Signed) J. D. PRENTICE,
Clerk, Executive Council.

Victoria, April 5, 1902.

To his Honour the Lieutenant-Governor in Council:

THE Undersigned has the honour to transmit herewith an extract from a Report of the Committee of the Honourable the Privy Council of Canada, approved on the 22nd October, 1901, respecting a despatch from His Majesty's Ambassador at Washington, transmitting copy of a note from the United States' Secretary of State, in which he deals with the administration of mining claims on Glacier Creek, which is situated in a portion of the country under Canadian administration, in virtue of the temporary boundary established by the *modus vivendi* of 1899.

Upon this subject the Undersigned has the honour to make the following observations:—

On the 20th October, 1899, a Treaty or arrangement was made between the United Kingdom of Great Britain and Ireland and the United States of America, fixing a provisional boundary-line between the Territory of Alaska and the Dominion of Canada about the head of the Lynn Canal.

One clause of this Treaty is as follows:—

"It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either Power found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy."

Pursuant to said arrangement a provisional boundary-line was marked out by officers appointed by the Governments of Her Britannic Majesty and the United States. The effect of establishing this provisional boundary-line was to give to Canada the Valley of Glacier Creek. This creek is a tributary of Klehini River, into which it falls about midway between the North-west Mounted Police Post called Daltons and Porcupine City. Before the establishment of said provisional boundary-line this creek appears to have been considered by certain citizens and officials of the United States to have been American territory as certain mining locations had been made, and water rights had been taken up therein under the laws of the United States. Of the said locations ninety-two (eighty-four placer and eight lode) were made before the date of the *modus vivendi*, and seventy-two (seventy-one placer and one lode) were made after said date, and of the water rights three were taken up before said date and four afterwards. In order to carry out the provisions of the *modus vivendi* Chapter 30 of the Statutes of 1900 of this province was passed authorizing the Lieutenant-Governor in Council to appoint a Judge of the Supreme Court of British Columbia a Special Commissioner to adjust and establish the rights of the United States' citizens acquired in said disputed territory. On the 23rd August, 1900, a Commission issued to the Honourable Mr. Justice Martin under the provisions of said Act and our Public Inquiries Act.

The Commissioner proceeded to the disputed territory and established his headquarters in Canadian territory about three-quarters of a mile from Porcupine City, which is provisionally in American territory. For a long time before the arrival of the Commissioner it was well known at Skagway and throughout the disputed territory that the Government of British Columbia through said Commission was seeking to ascertain and establish the rights of American citizens in the portion of the disputed territory provisionally awarded to Canada.

The widest possible publicity was given to the object of the Commission and to its date of sitting. On the 17th September the Commission was formally opened. After

the Commission opened, for some days no one appeared to make application and the Commissioner caused Notices to be posted at his camp, along the trails, in Porcupine City, at Daltons and elsewhere, that the Commission would be closed on Wednesday, the 20th September, which was accordingly done. Only two applications were filed with the Commissioner and even they were not proceeded with. It appears that the United States' claim holders advisedly refrained from taking advantage of the means which the Government of British Columbia, at considerable expense, had taken to establish and safeguard their rights.

There can be no doubt that the development of the disputed territory is being seriously retarded by the existing uncertainty as to mining and water rights.

The *modus vivendi* is a law which overrides all our local laws and it provides that there shall be no diminution of the rights and privileges enjoyed on the 20th October, 1899, by American citizens or subjects in the disputed territory provisionally awarded to Canada.

I am inclined to think that the Government of the United States should be requested to ascertain and certify to His Majesty's Government the names of the citizens or subjects of the United States enjoying rights and privileges in the said disputed territory on the said 20th day of October, A.D. 1899, and the nature and extent of such rights and privileges. In my opinion it would be idle for the Legislature of this province to enact legislation to the effect that said rights and privileges must be established in a particular way or at or before some date as this is a matter over which a Provincial Legislature has no control. If the above-mentioned information is furnished by the Government of the United States, then instructions could be given to the British Columbia officials in the territory in question to recognize and give effect to the said rights and privileges.

It seems to me quite clear that after the date of the *modus vivendi*, namely, the 20th October, 1899, no rights or privileges could be acquired by citizens or subjects of the United States in said territory provisionally awarded to Canada except under the laws of British Columbia.

Dated this 21st day of March, A.D. 1902.

(Signed)

D. M. EBERTS,

Attorney-General.

No. 14.

Colonial Office to Foreign Office.—(Received May 24.)

Sir,

Downing Street, May 23, 1902.

WITH reference to your letter of the 12th April, 1901, relative to the recognition of the claims of United States' miners in the district of British Columbia adjoining the Alaska Provisional Boundary, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, copy of a despatch which has now been received from the Governor-General of Canada on the subject.

2. In view of the terms of this despatch and its inclosures, Mr. Chamberlain would suggest, for Lord Lansdowne's consideration, that His Majesty's Ambassador at Washington should now be instructed to invite the United States' Government to ascertain and certify to His Majesty's Government the names of the citizens of the United States enjoying rights and privileges in the district in question on the 20th October, 1899, and the nature and extent of such rights and privileges.

3. If Lord Pauncefoot has not yet been furnished with a copy of the Honourable Archer Martin's account of the proceedings under the Commission referred to in the Minute of the Attorney-General of British Columbia, it might perhaps be advisable to do so now. It will be found in the Report forwarded in the letter from this Department of the 6th September, 1901.

I am, &c.

(Signed)

H. BERTRAM COX.

Inclosure in No. 14.

Governor-General the Earl of Minto to Mr. Chamberlain.

Sir, *Government House, Ottawa, Canada, May 3, 1902.*
 WITH reference to your despatch of the 18th September, 1901, inquiring whether any reply had been addressed to Lord Pauncefote's despatch of the 2nd April, 1901, respecting the position of United States' miners in the district adjacent to the Provisional Alaska Boundary, I have the honour to inclose, for your information, copy of an approved Minute of the Privy Council,* submitting a communication on the subject from the Lieutenant-Governor of British Columbia, within whose jurisdiction the district in question lies, which I am to-day forwarding to His Excellency.

You will observe that the British Columbian authorities, while they have taken steps by appointing a Commissioner to ascertain and establish the rights of United States' citizens in the districts referred to, under the *modus vivendi* of the 20th October, 1899, fully recognize that the rights and privileges assured to such citizens by that instrument are not liable to diminution by local legislation. With a view, however, to the removal of the obstacles put in the way of the development of the territory concerned by the existing uncertainty as to mining and water rights, it is suggested that the United States be requested to ascertain and certify the names of their citizens enjoying rights and privileges in the disputed territory at the date of the *modus vivendi* with the nature and extent of such rights and privileges.

This suggestion, it will be noted, is in accordance with what is proposed by Mr. Secretary Hay in the note inclosed in Lord Pauncefote's despatch above mentioned.

I have, &c.
 (Signed) MINTO.

No. 15.

Mr. Raikes to the Marquess of Lansdowne.—(Received May 29.)

(No. 128.)

My Lord,

Washington, May 17, 1902.

I HAVE the honour to inform your Lordship that, according to a report published by the "New York Tribune" of to-day's date, Lieutenant George T. Emmons, United States' Navy, has been ordered to Alaska to make further inquiries as to whether Canadian officials have surreptitiously removed or destroyed ancient landmarks said to have been erected by the Russian Government to mark the international boundary.

I have, &c.
 (Signed) ARTHUR RAIKES.

No. 16.

The Marquess of Lansdowne to Mr. Raikes.

(No. 113.)

Sir,

Foreign Office, May 31, 1902.

I TRANSMIT to you herewith copy of a letter from the Colonial Office, inclosing copy of a despatch from the Governor-General of Canada,† in which his Excellency forwards the same documents as accompanied the late Lord Pauncefote's despatch No. 113 of the 5th instant, with regard to the recognition of the claims of United States' miners in the district of British Columbia adjoining the Alaska provisional boundary.

In accordance with the suggestion contained in the second paragraph of the Colonial Office letter, I have to request you to invite the United States' Government to ascertain and certify to His Majesty's Government the names of the United States' citizens enjoying rights and privileges in the district in question on the 20th October, 1899, the date of the *modus vivendi* concluded between the two countries. The nature and extent of such rights and privileges should also be recorded.

* Inclosure in No. 13.

† No. 14.

The Honourable Archer Martin's account of the proceedings under the Commission, referred to in the Minute of the Attorney-General of British Columbia, will be found in the Confidential print of the Alaska Boundary series, 7th September, 1901, section 1.

I am, &c.
(Signed) LANSDOWNE.

No. 17.

The Marquess of Lansdowne to Mr. Raikes.

(No. 134.)

Foreign Office, June 25, 1902.

Sir,
I MENTIONED to the United States' Ambassador to-day that the Governor-General and the Prime Minister of Canada, as well as one or two Canadian Ministers were in London, and that it had occurred to me that advantage might be taken of their presence to discuss, perhaps in a quite informal manner, the present situation with regard to the Alaska Boundary.

It was, as I understood the case, as follows: His Majesty's Government had, towards the end of March of this year, communicated to Mr. Hay a Memorandum containing our views in regard to certain proposals which had been communicated to us, unofficially, by Mr. Hay in the previous summer, and there the matter, so far as we were aware, had been left.

His Excellency told me that he had never seen the Memorandum in question, and asked me whether I could supply him with a copy. I have since sent him one for his confidential information. Mr. Choate observed that the United States' elections would take place in November, and that the moment did not seem to him a very advantageous one for the discussion of such a question. Was there any object in raising it?

I replied that I had no desire to provoke such a discussion prematurely, and that my reasons for mentioning the matter were first that which I had already mentioned, viz., the presence of several members of the Canadian Government in London, and secondly, my apprehension that so long as the question remained open, there was a risk of serious trouble arising should there be discoveries of gold at any point within the disputed area.

Mr. Choate said that it would give him the greatest pleasure to meet the Canadian Representatives should I think it desirable that he should do so. He would, however, first like to see the Memorandum to which I had referred.

I am, &c.
(Signed) LANSDOWNE.

No. 18.

Mr. Raikes to the Marquess of Lansdowne.—(Received July 14.)

(No. 197.)

Washington, July 2, 1902.

My Lord,

I HAVE the honour to report that on the receipt of your Lordship's despatch No. 113 of the 31st May with regard to the recognition of the claims of United States' miners in the district of British Columbia adjoining the Alaska provisional boundary, I addressed a note to Mr. Hay inviting the United States' Government to ascertain and certify to His Majesty's Government the names of the United States' citizens enjoying rights and privileges in the district in question on the 20th October, 1899.

I have now the honour to transmit copy of a note from Mr. Hay, stating that efforts are being made to obtain the required data through the officers of the United States' army stationed in Alaska.

I have forwarded a copy of this communication to the Administrator of the Dominion of Canada.

I have, &c.
(Signed) ARTHUR S. RAIKES.

Inclosure in No. 18.

Mr. Hay to Mr. Raikes.

Sir,

Department of State, Washington, July 1, 1902.

REFERRING to your note of the 17th ultimo and to the Department's of the 26th idem, I have now the honour to inform you that on the 24th of last month the Secretary of the Treasury informed me that his Department had no records of the rights acquired by American miners on Glacier Creek before the 20th October, 1899, and that if there were such records, they were probably made under regulations established under Section 2324 of the Revised Statutes by the miners themselves.

Efforts are being made to obtain the data which you desire through the officers of the United States' army stationed in Alaska.

I have, &c.
(Signed) JOHN HAY.

No. 19.

The Marquess of Lansdowne to Mr. Raikes.

(No. 146.)

Sir,

Foreign Office, July 16, 1902.

I TOLD the United States' Ambassador a few days ago that I thought it might be desirable to take advantage of the presence in this country of the Governor-General of Canada, and of Sir W. Laurier and some of his colleagues, in order to exchange ideas with regard to the present position of the Alaska boundary question.

Mr. Choate told me to-day that he had had two or three conversations with Sir W. Laurier upon this subject. On one of these occasions Sir Wilfred had made two observations which he, Mr. Choate, had thought it his duty to report to the United States' Government. The first of these was to the effect that the Canadian Government, earnestly desiring that the boundary question should no longer remain unsettled, would probably not object to an arbitral tribunal composed of six members, three on each side, in spite of the objection which had previously been urged to a Commission so constituted.

The other statement made by Sir Wilfred was to the effect that, even if the arbitrators were to give Dyea and Skagway to Canada, it would be impossible for the Canadian Government to press for the surrender of these places which were, in fact, American towns which the Dominion Government would not desire to take over.

Mr. Choate had also gathered from Sir Wilfred that the Canadian Government were so apprehensive of the dangers which might arise from the discovery of gold within the debatable region, that they would gladly accept a "compromise line," drawn either provisionally or as a permanent arrangement.

Mr. Choate observed that he did not himself see much chance of trouble arising within the next few months, as the season, which Lord Salisbury had once described to him as "our mutual friend the winter," was drawing near.

I told Mr. Choate that I could well understand Sir Wilfred's feelings, and that it seemed to me that we ought to take advantage of the dead season in order, at all events, to prepare the way for a settlement.

His Excellency then reminded me that he had supplied His Majesty's Government with a very full statement of his views on the boundary question in a letter dated January 1900, to which, so far as he was aware, no reply had ever been made.

I told him that we had thought it desirable to refer the letter in question to the Canadian Government, and that we had received their comments early in 1901. We had thereupon prepared a draft despatch containing a full rejoinder to his letter, but, before we had had time to issue it we had received from Washington the draft Agreement as to the Alaska boundary, communicated to Lord Pauncefoot by Mr. Hay.

The document seemed to us to open a new and promising phase in the negotiation; and we had, consequently, thought it better, for the time at all events, to concentrate our attention upon it, rather than pursue a discussion which might prove academical, of the points dealt with in his Excellency's note. Now, however, that we were given

to understand that the President was not disposed to accept the Hay-Pauncefote draft as a basis, I was prepared to resume the discussion of Mr. Choate's note, and I hoped to be able to send our rejoinder to it at an early date.

I am, &c.
(Signed) LANSDOWNE.

No. 20.

The Marquess of Lansdowne to Sir Wilfrid Laurier.

Dear Sir Wilfrid,

Foreign Office, July 30, 1902.

WITH reference to our recent conversations on the subject of the Alaska boundary, I inclose prints of—

1. Mr. Choate's letter of the 22nd January, 1900.
2. Letter from Colonial Office covering Sir L. Davies' Memorandum.
3. Draft of despatch to Mr. Raikes dealing with 1.

You will observe that at one or two points we have been obliged to modify the language of the Davies' Memorandum, in order to meet the situation as it now presents itself.

Please also note the insertion (page 4, lines 3 and 4 of paragraph 2) of the words "without some reciprocal concession or compensation." They seem to me useful and in accordance with views which you have expressed.

We should like to send the despatch by the mail of Tuesday next unless you desire further delay.

I shall, I need not say, be delighted to see you, should you wish to speak to me.

Yours sincerely,
(Signed) LANSDOWNE.

No. 21.

Mr. Raikes to the Marquess of Lansdowne.—(Received August 1.)

(No. 210.)

My Lord,

Bar Harbor, July 20, 1902.

WITH reference to my despatch No. 197 of the 2nd instant relative to the position of United States' miners in the district of British Columbia adjacent to the provisional Alaska boundary, I have the honour to report that I have received a further note from the Secretary of State of the United States informing me that he learns from the United States' Secretary of War that the proper officers of the United States' army in Alaska have been instructed to furnish copies of the records showing the location and extent of the rights of these miners in Glacier Creek.

I have communicated this information to the Administrator of the Dominion of Canada.

I have, &c.
(Signed) ARTHUR S. RAIKES.

No. 22.

Colonial Office to Foreign Office.—(Received August 4.)

Sir,

Downing Street, August 1, 1902.

WITH reference to your letter of the 8th April last, respecting the United States' storehouses marked upon a map of the Territory of Alaska, South-East section, No. 3091, issued by the United States' Coast and Geodetic Survey, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, copy of a correspondence with the Canadian Government on the subject.

2. It might be advisable in dealing with Mr. Hay's contention that no claim was

advanced to the territory now in dispute before the signature of the Protocol of the 30th May, 1898, to refer to the remarks on this point contained in Lord Salisbury's despatch to Mr. Tower of the 14th October, 1899, as well as to the correspondence of 1891, cited in the Minute of the Canadian Privy Council.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 22.

Mr. Chamberlain to Governor-General the Earl of Minto.

My Lord,

Downing Street, April 18, 1902.

I HAVE the honour to acknowledge the receipt of your despatch of the 31st October, relative to certain United States' storehouses, marked on the Chart No. 3991, published by the United States' Coast and Geodetic Survey, and to state that representations in the sense desired by your Ministers have been duly made to the United States' Government by His Majesty's Ambassador at Washington.

2. A copy of a letter which has been received from the Foreign Office communicating Lord Pauncefote's Report of the result of these representations is inclosed for the information of your Ministers. Before causing a reply to be returned to it, I shall be glad to be furnished with any further observations which they may have to offer on the subject.

I have, &c.
(Signed) J. CHAMBERLAIN.

Inclosure 2 in No. 22.

Sir H. Strong to Mr. Chamberlain.

Sir,

Canada, Ottawa, June 19, 1902.

WITH reference to your despatch of the 18th April last on the subject of the erection of certain storehouses by the United States in the neighbourhood of the disputed Alaska Boundary, I have the honour to inclose a copy of a Minute of the Privy Council containing the further observations of Ministers upon the reply of the United States' Government to Lord Pauncefote's communication, calling attention to the erection of these storehouses.

Referring to the statement of Mr. Secretary Hay that he was not aware of any claim having been advanced by Great Britain to the territory in question previous to the signature of the Protocol of the 30th May, 1898, you will observe that attention is directed to the despatch addressed by Her Majesty's Minister at Washington to the United States' Secretary of State on the 15th June, 1891, in which in view of a certain passage in the Report of the United States' Coast and Geodetic Survey, Mr. Blaine was reminded that the question of the boundary in the neighbourhood referred to was the subject of some difference of opinion, and that the actual line could only be properly determined by an International Commission.

I have, &c.
(Signed) HENRY STRONG.

Inclosure 3 in No. 22.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by his Excellency on the 12th June, 1902.

THE Committee of the Privy Council have had under consideration a despatch dated the 18th April, 1902, from the Right Honourable the Secretary of State for the Colonies, covering a copy of a Report by His Majesty's Ambassador to the United States of the result of the representations which he made on behalf of the Government

'of Canada to the United States' Government on the subject of certain storehouses which have been erected by the United States upon the shores of Portland Canal and Wales and Pearse Islands.

The Minister of the Interior, to whom the despatch in question was referred, submits that in relation to the statement made in the Minute of Council, dated the 22nd October, 1901, that the territory on which these storehouses stand was, at the time of their erection, the subject of diplomatic negotiations, the Secretary of State of the United States states that he is not aware that the Government of His Britannic Majesty ever advanced any claim to this territory before the signature of the Protocol of the 30th May, 1898, preliminary to the appointment of the Joint High Commission.

The Minister further submits that on the 18th March, 1891, however, the Government of Canada called the attention of the Right Honourable the Secretary of State for the Colonies to a passage in the Report of the Superintendent of the United States' Coast and Geodetic Survey, in which it was said that Congress had placed in charge of that Bureau a Preliminary Survey of the frontier line between Alaska and British Columbia, that such survey would have to be carried through the Portland Canal to the 56th degree of north latitude, thence northwestwardly following as nearly as may be practicable the general trend of the coast, at a distance of about 35 miles from it, to the 141st degree of west longitude. The Minute pointed out that the question of the boundary at this point was at the time the subject of some difference of opinion and considerable correspondence, and asked that the attention of the Government of the United States should be called to this fact. This was done in a note, dated the 5th June, 1891, addressed by Sir Julian Pauncefote to Mr. Blaine, Secretary of State of the United States. The representations of Her Majesty's Minister, it will be seen, had direct and precise reference to the subject of the present Minute of Council.

The Minister states that shortly after this followed the negotiations of February 1892, and the Convention of the 22nd July of that year, by which provision was made for the delimitation of the boundary line in accordance with the "spirit and intent of the Treaties," and Agreement was entered into that, "as soon as practicable after the Report or Reports of the Commissioners shall have been received, they will proceed to consider and establish the boundary-line in question."

That the Report of the Commissioners was signed on the 31st December, 1895, and laid before the Parliament of Canada and the Congress of the United States early in 1896, but, in the same year, before the High Contracting Parties had met to consider the boundary-line, and while the matter was still *sub judice*, the United States erected these storehouses on part of "the territory adjacent," which was the subject of the operations of the joint survey and of the diplomatic negotiations.

The Minister, without going into the arguments upon which the claims of Canada to this part of the territory are based, with which His Majesty's Government is already fully acquainted, desires to say that he conceives that occupation effected under the circumstances above detailed would not in international law have any validity, but he is of opinion that, nevertheless, the Government of Canada should not allow it to pass without protest.

The Committee concurring in the above Report advise that his Excellency be moved to transmit the substance of this Minute to His Majesty's Secretary of State for the Colonies, with the request that the Government of the United States may be informed of the views of the Government of Canada.

All which is respectfully submitted for his Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

No. 28.

Mr. Raikes to the Marquess of Lansdowne.—(Received August 5.)

(No. 87. Commercial.)

My Lord,

Bar Harbour, Maine, July 24, 1902.

I HAVE the honour to transmit to your Lordship herewith a copy of a note from the Acting Secretary of State of the United States, requesting me to bring to the attention of the Government of Canada, with a view to obtaining the assent of the Governments of the Provinces concerned, a proposal made by the United States'

Secretary of the Treasury, relative to the treatment of goods in transit through British territory from the United States to Alaska.

I have forwarded a copy of this communication to the Administrator of the Dominion of Canada, with the request that he will inform me what answer he would desire to be returned to the proposal of the United States' Government.

I have, &c.

(Signed) ARTHUR S. RAIKES.

Inclosure in No. 23.

Mr. Hill to Mr. Raikes.

Sir,

Department of State, Washington, July 22, 1902.

UNDER date of the 18th instant, the Secretary of the Treasury writes that section 3006 of the revised Statutes provides that "imported merchandize in bond, or duty paid, and products or manufactures of the United States, may, with the consent of the proper authorities of the British provinces or Republic of Mexico, be transported from one port in the United States to another port therein, over the territory of such provinces or Republic, by such routes, and under such rules, regulations, and conditions as the Secretary of the Treasury may prescribe; and the merchandize so imported shall, upon arrival in the United States from such provinces or Republic, be treated in regard to the liability to or exemption from duty or tax, as if the transportation had taken place entirely within the limits of the United States."

Mr. Shaw adds that it is desirable that goods may be shipped from the United States to points in Alaska through the British north-west territory under regulations analagous to those for merchandize in transit between ports of the United States through Canada, contained in Article 700 *et seq.* of the Customs Regulations of 1899.

I have the honour, therefore, to request that you will be good enough to bring Mr. Shaw's proposal to the attention of the Government of the Dominion with a view to obtaining "the consent of the proper authorities of the British provinces."

I have, &c.

(Signed) DAVID J. HILL,
Acting Secretary.

No. 24.

Sir Wilfrid Laurier to the Marquess of Lansdowne.—(Received August 12.)

My dear Lord Lansdowne,

Hôtel Cecil, London, August 12, 1902.

I AM sorry that I have not been able before this day to return you the papers which you have been kind enough to send me with regard to the Alaska boundary.

I have now the honour to inclose them to you.

1. Mr. Choate's letter of the 22nd January, 1900.
2. Letter from Colonial Office covering Sir L. Davies' Memorandum.
3. Draft of despatch to Mr. Raikes.

I have read the papers carefully, and I think that your draft of despatch will answer the purpose, and can be forwarded.

I am leaving to-morrow for the continent, but as I shall have to pass through London again on my return, I shall take that opportunity of calling at the Foreign Office, if your Lordship is in the city at that time.

Yours very sincerely,

(Signed) WILFRID LAURIER.

No. 25.

The Marquess of Lansdowne to Mr. Raikes.

(No. 157.)

Sir,

Foreign Office, August 13, 1902.

I COMMUNICATED to the Secretary of State for the Colonies a copy of Lord Pauncefote's despatch No. 81 of the 20th March last, which contained the reply of the United States' Government to the enquiry as to the nature of certain storehouses marked on a chart of part of the Pacific Coast, issued by the United States' Coast and Geodetic Survey, and the reason for their erection in territory, the title to which is still the subject of diplomatic negotiations between this country and the United States.

I transmit to you, herewith, copy of a letter from the Colonial Office,* inclosing copies of further correspondence with the Canadian Government on the subject.

You will observe that in reply to the statement of Mr. Hay, recorded in Lord Pauncefote's despatch above referred to, that he was not aware of any claim having been advanced by Great Britain to the territory in question, previous to the signature of the Protocol of the 30th May, 1898, preliminary to the appointment of the Joint High Commission. The Dominion Government call attention to the note addressed by His Majesty's Minister at Washington to the United States' Secretary of State, on the 5th June, 1891, in which, in view of a certain passage in the Report of the United States' Coast and Geodetic Survey, Mr. Blaine was reminded that the question of the boundary in the neighbourhood referred to, was the subject of some difference of opinion, and that the actual line could only be properly determined by an International Commission.

The Canadian Government point out that shortly after that date, provision was made, in the Convention of the 22nd July, 1892, for the delimitation of the boundary line in accordance with the "spirit and intent of the Treaties," and agreement was entered into that the boundary was to be considered and established as soon as practicable after the receipt of the Report of the Commissioners.

That Report was signed on the 31st December, 1895, and laid before the Parliament of Canada and the United States' Congress early in 1896, but, in the same year, before the High Contracting Parties had met to consider the boundary line, and while the matter was still *sub judice*, the United States erected the storehouses on part of the "territory adjacent," which was the subject of the operations of the joint survey and of the diplomatic negotiations. The Dominion Government conceive that occupation effected under such circumstances would not in international law have any validity, but they are of opinion that, nevertheless, the matter should not be allowed to pass without protest. They, therefore, desire that the United States' Government may be informed of their views of the subject.

I have accordingly to request you to make a communication to Mr. Hay in the sense suggested, and I would draw your attention to the opinion expressed in the inclosed letter from the Colonial Office that in dealing with the contention of the United States' Government, it might be advisable to refer to the observations with regard to the boundary line contained in Lord Salisbury's despatch No. 213 of the 14th October, 1899, to Mr. Tower, as well as to the correspondence of 1891, cited in the accompanying Minute of the Canadian Privy Council.

I am, &c.,
(Signed) LANSDOWNE.

No. 26.

Foreign Office to Colonial Office.

Sir,

Foreign Office, August 13, 1902.

I AM directed by the Marquess of Lansdowne to transmit to you herewith copy of a despatch from His Majesty's Chargé d'Affaires at Washington, inclosing copy of a note from the United States' Government,† with regard to the treatment of goods in transit through British territory from the United States to Alaska.

* No. 22.

† No. 22.

As requested by the Secretary of State of the United States, Mr. Raikes has brought the matter to the notice of the Canadian Government.

Lord Lansdowne would be glad to be favoured with any observations which Mr. Chamberlain may be disposed to offer in the proposal of the United States' Government.

I am, &c.
(Signed) F. H. VILLIERS.

No. 27.

The Marquess of Lansdowne to Mr. Raikes.

(No. 158.)

Sir,

Foreign Office, August 18, 1902.

THE communication relative to the Alaska boundary addressed to me by the American Ambassador on the 22nd January, 1900, received careful attention and a reply had been prepared, when Lord Pauncefoot reported that Mr. Hay had handed to him the draft of a Treaty for determining the question by arbitration.

This important proposal appeared to denote the commencement of a new phase in the negotiations, and it seemed to His Majesty's Government that in the end no useful purpose would be served by presenting, at such a moment, a rejoinder to the Ambassador's argument.

The Government of Canada were accordingly consulted with regard to the draft Treaty, and, in March last, Lord Pauncefoot, in accordance with his instructions, presented to Mr. Hay a Memorandum stating that His Majesty's Government, while most anxious to reach a solution by means of arbitration, felt bound to indicate some points on which they dissented from the terms of the draft.

No definite reply was returned to this communication, but His Majesty's Government were given to understand that the President was not disposed to continue negotiations on the basis of Mr. Hay's draft. It was, therefore, considered desirable to take advantage of the presence in this country of the Governor-General of Canada and of Sir Wilfrid Laurier and some of his colleagues to discuss the present position of the question.

I took an opportunity of mentioning this to the American Ambassador, and, in the course of our conversation, he reminded me of his note of January 1900, and remarked that, so far as he was aware, no reply had ever been made to it.

As the absence of a rejoinder might be considered to imply inability to meet the arguments advanced it is desirable that I should place on record the following observations:—

His Majesty's Government learned with satisfaction from his Excellency's note that the Government of the United States were not averse to a reference of the main difference between Great Britain and the United States to the adjudication of an independent Tribunal, but rather contemplated the probability of such a mode of settlement of this long-pending controversy. They agree that what the Ambassador describes as the paramount issue, namely, whether the line should be drawn across inlets or round their heads, can best be decided by this means, but they are unable to share the view that the particular course which the line is to take when the above question has been settled can be satisfactorily determined by a joint survey. A joint survey has already been made, and if the differences between the two Governments could not be settled by the aid of the very complete maps thereby afforded, it is scarcely to be anticipated that a fresh survey would achieve a more definite result. It seems rather that the "minor or secondary" though "highly important" questions, namely, the exact location of the boundary line and its precise distance from the coast, are analogous to those involved in the main issue, and can only be determined by a similar process. For instance, assuming that the question of inlets had been decided, and a joint survey dispatched to lay down the boundary in conformity with the provisions of the Treaty of 1825, which prescribes that the line shall follow the summit of the mountains situated parallel to the coast, the British surveyors would naturally interpret this to mean the summit of the mountains nearest the coast, while it is possible that the United States' surveyors might contend for the highest range. How could this point be decided? Yet upon the decision would depend the possession of part of the town of Skagway, even supposing the ownership of the heads of inlets

was decided adversely to the British contention. Again, if there should be a break in the mountain range which it is decided to follow, should the line across the break be drawn parallel to the coast-line between the same degrees of latitude as the terminals of the break or parallel to the general trend of the coast-line. Controversies over these points, and others of a similar character, the least of which might turn out to be of far-reaching importance, would, it is to be feared, arise, and it is scarcely to be expected that surveyors in the field could reach an agreement upon them, nor, indeed, would it be expedient to allow them such latitude. With regard to the question relative to the heads of inlets, Mr. Choate observed that of the two absolutely distinct interpretations which have been presented by Great Britain and the United States, "one or the other is right, and can and should be ascertained and determined so to be to the exclusion of the other." The same argument is equally applicable to many occasions of difference which surveyors sent to lay down the boundary would encounter. For these reasons His Majesty's Government are of opinion that all questions which depend for their solution upon the interpretation of the Treaty should be simultaneously referred to arbitration, to determine the true meaning of that instrument, and this, not merely with regard to the Lynn Canal or any other particular point, but in respect of the whole line, throughout its entire length, from the southernmost point of Prince of Wales Island to Mount St. Elias. What is desired by both Governments is the termination of the dispute, and this appears to be the only way in which it can be satisfactorily and permanently settled.

The objection recorded by Mr. Choate to the application of the Venezuela Treaty to the adjustment of the present controversy seems to be directed against the provision for compromise which that arrangement affords, and the latitude given to the Tribunal constituted under it; but, for the reasons which have been already adduced in Lord Salisbury's despatch of the 14th October, 1899, His Majesty's Government still consider that the circumstances of the Alaska boundary controversy are such as to warrant an unqualified submission to an impartial Tribunal, and it was solely with the desire to meet the objections of the United States' Representatives that the British members of the Joint High Commission of 1898-99 proposed to allow that continued adverse possession should be recognized and full regard had to the equities of the case. With this object in view, it appeared to them that the Venezuela Treaty offered a convenient and suitable precedent. Accordingly, they proposed arbitration on those lines; but His Majesty's Government are not wedded to a particular formula, and are prepared to consider any reasonable modifications to the rules suggested (not inconsistent with finality of decision) which the United States may consider the special circumstances of the case to call for. Towards such questions as the composition of the Tribunal and its organization, as well as the terms of reference, His Majesty's Government have, with the qualification above mentioned, adopted no fixed attitude, nor have they declined to reconsider the original proposal of the British side of the Joint High Commission, which, at the same time, they conceive to be eminently fair to the United States.

But while they are thus prepared to acquiesce in every reasonable concession, it would be difficult to include in that category without some reciprocal concession or compensation the stipulation contained in the last paragraph of the Ambassador's note, to the effect that all settlements made by American citizens in the disputed territory under the authority of their Government up to a very recent period shall remain the property of the United States. The main question in this controversy is that which involves the ownership of the heads of inlets in general, and of the Lynn Canal in particular. That Canal derives its present importance from the fact of its forming the natural approach to the gold-bearing regions of the Canadian interior, which are accessible by sea in those latitudes through the ports of Dyea, Skagway, and Pyramid Harbour. The valleys in the rear of these ports are the only known avenues of approach to the interior which come down to the Lynn Canal, and are consequently the measure of its value. Their ownership must therefore constitute, in the view of the United States' Government, the chief object of the arbitration. There cannot be a doubt that the proposal of the United States' Plenipotentiaries at the meeting of the Joint High Commission, renewed by Mr. Choate, to except from the "perils of any arbitration all towns or settlements on tide-water settled under the authority of the United States and under the jurisdiction of the United States at the date of this Treaty" was put forward with the object of securing Dyea, Skagway, and Pyramid Harbour, for they are the only settlements on tide-water that can possibly be embraced by the definition. The suggested reservation therefore seems equivalent to a declaration on the part of the United States' Government

that they will accept arbitration only on condition that the principal objects of the reference shall be theirs in any event, and that Great Britain will so covenant before the parties go into Court.

The proposal seems based on the assumption that the settlements at the head of the Lynn Canal were established under the authority of the United States prior to the announcement of any claim to the territory in question on the part of Great Britain. So confidently is the soundness of this contention assumed, that several times in his Excellency's note it is emphasized by the express inclusion of Canada, as distinct from the mother-country, in the charge of having said or done nothing prior to 1898 to indicate her claim.

I will not recapitulate the arguments to the contrary which have been previously advanced. There is one point, however, with which I must deal in some detail. Mr. Choate suggested that too much weight has been given to Mr. Dawson's letter of the 7th February, 1888, laid before the Fisheries Commission of that year, and argues that the meetings between that gentleman and Professor Dall were wholly informal; that neither possessed any delegated authority whatever, and that their opinions could not be held to commit anybody but themselves. While it is true that the conferences between Messrs. Dawson and Dall were informal, these gentlemen were experts specially selected by their respective Governments, and their views must therefore be held to be those of the Governments which they represented. That this was so understood at the time is evident from the map (No. 16) which accompanies the Reports of both experts submitted to Congress by President Cleveland on the 2nd March, 1889. That map is a reproduction of one prepared in Ottawa for the purposes of the Conference of 1887-88. As originally published it showed no boundary-lines, but upon a few copies lines were drawn in ink by Dr. Dawson, showing (1) a boundary-line as given on the United States' Coast Survey Map of Alaska, 1884; (2) a boundary-line approximately following the summits of mountains parallel to the coast, in presumed conformity with the text of the Convention of 1825, as understood by the Canadian Government; (3) one of the conventional lines discussed during the conferences, and referred to in the printed correspondence between Dr. Dawson and Sir C. Tupper, which the latter laid before the Commission. It was not possible to draw the second conventional line, as this depended upon geographical details not determined at the time. A note upon the face of the map states that the line from the United States' Coast Survey Map "disregards both the Treaty reference to mountains and that to the ocean coast." A copy of the lithographed map, with the lines and notes above referred to, was supplied to Professor Dall, and is reproduced in *fac-simile* as Map No. 16 above referred to.

That the line following the mountains parallel to the coast, crossing all the larger inlets, must at the time have been accepted as embodying the Canadian view of the meaning of the Treaty of 1825 is shown by the addition by the United States' authorities to the *fac-simile* (at the top and outside the border of the map) of the words "Dawson's Canadian Map, 1887, showing conventional lines *proposed by Canada*." This map, as originally prepared, and also with Dr. Dawson's additions, was published by the United States' Government and submitted to Congress.

The statement by Mr. Choate that the meetings between Messrs. Dawson and Dall were not held during the sittings of the Joint High Commission of 1888 seems to have been made under a misapprehension. An examination of the Protocols of the Commission discloses that on the 9th January, 1888, Mr. Chamberlain suggested that Dr. Dawson and Professor Dall should meet and endeavour to agree upon some definite suggestions for the consideration of the Conference. On the 23rd January, Mr. Bayard concurred in this suggestion, and on the 30th it was arranged that Dr. Dawson should be summoned by telegraph. On the 2nd February, Mr. Chamberlain announced that Dr. Dawson had arrived at Washington, and Mr. Bayard informed the Conference that the necessary arrangements would be made at once for him to meet Professor Dall. On the 7th February, Mr. Chamberlain reported to the Commission that Dr. Dawson and Professor Dall had not made any progress on the question of the Alaska boundary. The Commission sat on the 2nd, 3rd, 6th, and 7th February. The Conference between Messrs. Dall and Dawson were therefore held during the sittings of the Joint High Commission. The inference that Sir C. Tupper dissociated himself from Dr. Dawson, because in the former's note of transmission he referred to the latter's views as "his"—*i.e.*, Dr. Dawson's—"own," appears to be based upon a misconception of Sir C. Tupper's meaning. Bearing in mind that on the same day on which Dr. Dawson's letter was written Mr. Chamberlain reported to the Conference that the two experts had failed to come to any agreement, it is not surprising that

Sir C. Tupper should allude to Dr. Dawson's views as "his own," meaning thereby his own, not as distinct from those of the Government which he was there to represent, but from those of his fellow-expert with whom he could not reach any agreement. They were his individual views in the sense that they were not shared by Professor Dall. These views were known to the Government of which Sir C. Tupper was a member before Dr. Dawson was summoned to Washington. If the Canadian Government were not in accord with them it is scarcely likely that he would have been selected to confer with the American expert, nor is it probable that Sir C. Tupper would have placed them before Mr. Bayard without, at any rate, some distinct and explicit disavowal of responsibility for them. Moreover, as His Majesty's Government can confidently state, it is not the case, as suggested that Sir C. Tupper was in no mood to adopt General Cameron's opinions on the subject of the Alaska boundary, for it was at the instance of Sir C. Tupper, at the time High Commissioner for Canada, that General Cameron was selected by the Secretary of State for the Colonies to investigate and report upon this question of the Alaska boundary. Sir C. Tupper, in the year 1888, attached great weight to General Cameron's views on the subject of the Alaska boundary, and, in a letter addressed to the Secretary of State for the Colonies on the 1st August, 1888, he entirely concurred in protesting against any attempt on the part of the United States to disregard Canada's claim to the heads of inlets. He fortified the protest of the Canadian Government by a Memorandum from General Cameron's pen, of which a copy is herewith inclosed.

Attention must also be given to the Message of the President of the United States, transmitting these Reports and Maps of Dr. Dawson to Congress, and to the Memorandum of his Secretary of State, which accompanied them, in which Mr. Bayard expresses the opinion that these documents are "of value as bearing upon a subject of great international importance, and should be put in shape for public information."

It appears to His Majesty's Government that the President thus publicly acquainted the people of the United States of Canada's claim to the heads of the inlets more than eight years before anything in the nature of settlement was begun at the head of the Lynn Canal, for beyond a few trifling acts of occupation on the part of private individuals, at periods separated by considerable intervals of time, no settlement was attempted in those localities until the mining rush to the Klondike in the spring of 1897.

It is desirable, before concluding this despatch, to allude to the statement in Mr. Choate's communication that the United States' Government are not aware that at the Conference held in Washington in February 1892 the Canadian Ministers proposed, as recorded in Lord Salisbury's despatch of the 14th October, 1899, "that a reference to some impartial authority be made by Great Britain and the United States for the purpose of ascertaining and deciding finally the true boundary, regard being had to the Treaties relating to the subject, and likewise to the case which may be presented by either Government, and to the testimony which may be adduced as to the physical features and conditions of that country."

The accuracy of this record is confirmed by the Minutes of the proceedings of this Conference, signed by the Canadian Delegates and concurred in by Her Majesty's Minister at Washington. These Minutes, which were published by order of the Canadian Parliament in the Sessions of 1892 and 1893, also record that on the 12th February, 1892, "the various contentions relating to the boundary were then explained," thereby indicating that the existence of a divergence between the views of the respective Governments as to the true meaning of the Treaty was recognized at that date, and that each Government was acquainted with the claim of the other.

The main facts in support of the British claim have already been fully set forth in previous communications, and it seems unnecessary, as I have before said, to repeat them; but His Majesty's Government desire to place on record the foregoing supplementary observations in further elucidation of some points of their contention, and in disproof of the suggestion that neither the Imperial nor the Canadian Government adopted or put forward the British claim to the heads of the inlets "until after the Protocol of the 30th May, 1893."

You are authorized to read this despatch to Mr. Hay, and to hand him a copy of it should he so desire.

I am, &c.
(Signed) LANSDOWNE.

Inclosure in No. 27.

Memorandum.

BY way of Lynn Canal, of which the entrance is about 135° west longitude, 58° 20' north latitude, is at present the only practical route to gold mines being worked on tributaries of the Pelly River, some in British and some in United States' territory.

The northern extremity of Lynn Canal forks—the western and eastern branches being formed respectively by the inflow of the Chilkat and Chilkoot Rivers.

The route hitherto followed by miners entering the country has been by the valley of the Chilkoot—across the height of lands called Perrier or Payer portage.

The ascent to the portage is extremely tedious, but once overcome, there is gained navigable water connected with the Pelly River and the Yukon River. Lieutenant Schwatka noted Perrier portage as the point at which the boundary between United States' and British territory passed, the United States' territory lying seaward, the British territory inland. Lieutenant Schwatka had been employed to make a reconnaissance in Alaska, but finding that country most accessible through Lynn Canal, continued his exploration down the Pelly River in British territory until it passed the meridian of 141° west longitude into United States' territory. Lieutenant Schwatka's Report was published as a Congressional Paper.

It is not known that there has been any other official claim to Perrier Pass as the point at which the international boundary runs.

From the ocean entrance to Lynn Canal, the head of boat navigation up the Chilkoot is about 80 miles; from this point to Perrier Pass is somewhat in excess of 30 miles, or 10 marine leagues.

Lynn Canal has water-ways of less than 6 miles in breadth at no great distance from its entrance.

It is contended on the Canadian side that the 10 marine leagues given as the maximum breadth of the United States' coast territory in the second subsection of Article IV, Russo-British Convention of 1825, may not be measured from any point within an inlet not exceeding 6 miles in breadth, and that, consequently, it is not, under any circumstances, possible that the international boundary can be anywhere so far inland as Perrier Pass.

To avoid the inconvenience of the ascent to the Perrier portage, a diverging route called White Pass, a little to the eastward of Perrier Pass route, has recently been explored.

Speculators interested in the gold mines in the interior, and in transit of miners and their goods have for some time had their attention turned to the desirability of opening up the White Pass route.

The greater part, if not all, of this divergent line is, it is contended, within British territory; and as affecting the principles which are ultimately to determine the whole of the British Alaskan boundary, as well as seriously affecting a British route which may hereafter, with advantage of the greatest importance, be opened through the Taku River Valley, it is submitted that the United States' contention should be emphatically protested against.

No. 28.

Colonial Office to Foreign Office.—(Received August 22.)

Sir,

Downing Street, August 21, 1902.

WITH reference to the correspondence respecting the Convention with the United States, negotiated in 1897, but not subsequently ratified for the demarcation of the Alaska Boundary along the 141st meridian of west longitude, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, copy of a despatch from the Governor-General of Canada, submitting the request of his Ministers that negotiations may be renewed with the United States' Government for the demarcation of meridian mentioned.

2. It will be observed that the Dominion Government are of opinion that in view

of recent explorations, it will not be necessary to deflect the southern portion of the meridional line so as to range with Mount St. Elias.

3. Mr. Chamberlain will be glad if the British Representative at Washington can be instructed to act in accordance with the wishes of the Canadian Government in this matter.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 28.

Governor-General the Earl of Minto to Mr. Chamberlain.

*Government House, Ottawa, Canada,
June 5, 1902.*

Sir,

I HAVE the honour to inclose herewith a copy of an approved Minute of the Privy Council representing the urgent desirability in view of recent discoveries of gold and copper near to the international boundary between Yukon territory and Alaska, of the official demarcation of the 141st meridian west longitude in the neighbourhood where these discoveries have been made, and suggesting that negotiations with this end in view be entered upon with the United States' Government.

You will observe that reference is made to the Treaty between Great Britain and the United States, signed at Washington on the 30th January, 1897, by which provision was made for the demarcation of the whole of the 141st meridian, but which not having been ratified within the prescribed time, is no longer binding; and Ministers now desire that the provision therein embodied authorizing the deflection of the line so as to range with Mount St. Elias be omitted from any future Treaty, the considerations which seemed to justify its inclusion having lost their weight in the light of further explorations.

I have, &c.
(Signed) MINTO.

Inclosure 2 in No. 28.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 31st May, 1902.

ON a Report dated the 17th April last from the Minister of the Interior, submitting that extensive discoveries of gold and copper are reported in the region lying near the head of White River, a tributary of the Yukon from the south west, and on the upper branches of Copper River.

The Minister observes that the 141st meridian of west longitude, which, by Treaty, is the international boundary, but has not yet been marked in this vicinity, appears to pass at or near the height of land between these rivers, and the reported discoveries to be on both sides of the undetermined boundary.

The Minister desires, for the purpose of avoiding possible conflict of interests, to urge the necessity of an official demarcation of the line under a formal Convention, and he recommends that the United States' Government be communicated with to that end.

The Minister states on the 30th January, 1897, a Treaty providing for the survey and demarcation of the whole of the 141st meridian, from the St. Elias range of Mountains to the Arctic Ocean, was signed by Lord Pauncefote, His Majesty's Ambassador to the United States, and Richard Olney, Secretary of State of the United States, and submitted to the United States' Senate. This Treaty had previously been submitted to his Excellency's advisers and by them approved.

That no action of consent, or the contrary, has been taken by the Senate, and, under the provisions of the Treaty that ratification should be made within twelve months of its date, the Signatories are no longer bound.

The Minister submits that, in reviving the negotiations for this Treaty, the provision empowering the Commissioners charged with the survey to deflect the southern portion of the line so as to range with Mount St. Elias should be omitted.

At the time the Treaty was negotiated, it was believed that Mount St. Elias was of equal prominence when seen from the north as it is from the ocean. Recent explorations, however, have developed the fact that north of it lie massive mountains, little inferior to it in elevation, and of considerable extent in a north and south direction, so that Mount St. Elias is not, in fact, a "convenient visible landmark" whereby the initial portion of the meridian may be established. The proposed deflection is therefore useless, while it would involve a surrender of some 25 or 30 miles of Canadian territory.

The Committee advise that his Excellency be moved to forward a copy of his Minute to the Right Honourable His Majesty's Secretary of State for the Colonies, and to His Majesty's Ambassador to the United States.

All which is respectfully submitted for his Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

No. 29.

Colonial Office to Foreign Office.—(Received August 25.)

Sir,

Downing Street, August 23, 1902.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 13th instant, inclosing copy of a note from the United States' Government with regard to the treatment of goods in transit through British territory from the United States to Alaska.

2. In reply, I am to request you to inform the Marquess of Lansdowne that before offering any observations Mr. Chamberlain will await an expression of the views of the Canadian Government, who have been asked to communicate their opinion on the subject as soon as possible.

I am, &c.

(Signed)

H. BERTRAM COX.

No. 30.

The Marquess of Lansdowne to Mr. Raikes.

(No. 166.)

Sir,

Foreign Office, August 29, 1902.

WITH reference to the late Lord Pauncefote's telegram No. 7 of the 19th February, 1898, and to previous correspondence on the subject of the Convention signed on the 30th January, 1897, but not subsequently ratified, providing for the demarcation of the Alaska Boundary along the 141st meridian of west longitude, I transmit to you a copy of a letter from the Colonial Office inclosing copy of a despatch from the Governor-General of Canada,* in which his Excellency submits the requests of his Ministers that negotiations on this matter may be reopened with the United States' Government.

You will observe from the Minute of the Canadian Privy Council, inclosed in the Governor-General's despatch, that the Ministers desire that the provision embodied in the Convention of 1897, authorizing the deflection of the line of demarcation so as to range with Mount St. Elias, be omitted from any future Treaty.

I have to request that you will communicate with the United States' Government and propose that negotiations should be reopened for the demarcation of the 141st meridian, and that you will suggest to them the omission of paragraph 3 of Article I of the Convention of 1897, on the ground of the facts established by recent explorations as explained in paragraph 6 of the Minute of the Canadian Privy Council

I am, &c.

(Signed)

LANSDOWNE.

No. 31.

Mr. Raikes to the Marquess of Lansdowne.—(Received September 12.)

(No. 238.)
My Lord,

Bar Harbour, Maine, September 1, 1902

WITH reference to my despatch No. 128 of the 17th May, I have the honour to transmit to your Lordship herewith an extract from the "New York Times" of yesterday's date, giving an account of the result of the inquiries made by Lieutenant Emmons, United States' Navy, who had been ordered to Alaska to investigate ancient landmarks said to have been erected by the Russian Government.

The article states that the result of Lieutenant Emmons' inquiries are favourable to the claims put forward by the United States, and that a formal Report of his investigations will shortly be made to the State Department.

I have, &c.
(Signed) ARTHUR S. RAIKES.

Inclosure in No. 31.

Extract from the "New York Times" of August 31, 1902.

LIEUTENANT GEORGE T. EMMONS, the United States' Commissioner sent north by this Government to search for monuments and other evidences demarking the international boundary between Alaska and British Canada, is finding much in support of the contention of the United States, namely, that the true line follows the summit of the coast range where the latter does not extend back more than 30 marine leagues from the sea. Passengers arriving from the north on the steamers "Cottage City" and "Dolphin" say there is no doubt that Lieutenant Emmons has found the ruins of a Russian stone-house monument on the summit of the range, and situated near the headwaters of a tributary of the Chilcat River. This discovery was made through the aid of the Chilcat Indians and Jack Dalton, the noted Alaskan pioneer. Dalton, it is now known, accompanied Lieutenant Emmons to the site of the stone-house. The house was found all tumbled down. It was never a pretentious structure, though some of the stones now in the ruins weigh materially in excess of a ton.

If this is really the ruin of a Russian monument, as Lieutenant Emmons believes it is, it throws the entire Porcupine mining district within the United States' domain; also the rich Rainy Hollow placer gold and copper camps.

The discovery of the monument but confirms the contention of its existence made for years by the Chilcat Indians. The information came from the older Indians, who in their youth were with the Russians when the house was erected. Full details of its construction and its purpose were given to Dalton and Lieutenant Emmons, both of whom converse in the tongue of the Chilcat as fluently as they do in their own. Emmons has seen eighteen years' service for the Government in Alaska, and the daring Dalton penetrated the Chilcat region and fought his way through the hostile natives of that section nearly two decades ago. He established the Dalton Trail from Pyramid Harbour to the Yukon, and in so doing incurred the enmity of many of the Chilcats.

Lieutenant Emmons extended his research to Lake Bennett, and he is reported to have found many other evidences of the encroachment of the British on United States' soil in the Far North. He was detailed to make this investigation by Secretary Hay upon the instructions of President Roosevelt, and a formal Report of the result of his labours will be made to the State Department some time next month. The Lieutenant was last heard of at Taku. Telling of the discovery of Lieutenant Emmons, the "Junea Mining Record" of the 8th August says:—

"Lieutenant Emmons has just returned from the summit down the Klakhenia River, and announces that he has found the old stone-house on the summit which the Indians have always declared was called the 'boundary house' when the Russians had possession of this country. Lieutenant Emmons found some aged Indians on the Klakhenia River, who told him that they had gone up the river with the Russians when they were young explorers to the boundary-house, but that they had not been up there for years.

"They told the younger Indians as best they could where the stone-house was, but they could not find it. Finally, an old Indian woman, nearly 70 years of age, said she

would go and show them the way. She walked 35 miles up the river, and went directly to the site where the old house, which she had not seen since her childhood, once stood. The walls of the old building are falling down, but there is every evidence of habitation at one time, and it established beyond doubt that the Russians did occupy the now disputed territory, and that the boundary-line, according to the Treaty, is where the Americans claim it to be.

"Lieutenant Emmons has secured the affidavits of two or three of the Indians familiar with the facts of the Russians having lived with them, and has now gone to Bennett to procure still more evidence, which, if successful, he says will be even more convincing than what he has already procured."—"Seattle (Washington) Post-Intelligencer."

No. 33.

Mr. Raikes to the Marquess of Lansdowne.—(Received September 25.)

(No. 244.)

My Lord,

Washington, September 12, 1902.

I HAVE the honour to inform your Lordship that I to-day read your Lordship's despatch No. 158 of the 18th ultimo respecting the Alaska boundary to Mr. Adee, the Acting Secretary of State, and at his desire left a copy of the despatch with him.

He assured me that it should have his careful consideration.

I have, &c.

(Signed) ARTHUR S. RAIKES.

No. 33.

Mr. Raikes to the Marquess of Lansdowne.—(Received September 29.)

(No. 248.)

My Lord,

Bar Harbour, Maine, September 18, 1902.

I HAVE the honour to inform your Lordship that upon receipt of your Lordship's despatch No. 157 of the 13th ultimo, I addressed a note to the United States' Acting Secretary of State, copy of which is inclosed herewith, informing him of the views of the Canadian Government on the subject of the erection of certain storehouses in territory, the title to which is still the subject of diplomatic negotiations between Great Britain and the United States, and drawing his attention to the observations contained in Lord Salisbury's despatch to Mr. Tower, No. 213, of the 14th October, 1899.

I have also the honour to transmit to your Lordship herewith copy of a note which I have now received from Mr. Adee, acknowledging the receipt of my communication.

I have, &c.

(Signed) ARTHUR S. RAIKES.

Inclosure 1 in No. 33.

Mr. Raikes to the Honourable A. Adee.

Sir,

Bar Harbour, Maine, September 8, 1902.

LORD PAUNCEFOTE communicated to His Majesty's Government copies of Mr. Hay's notes of the 28th February and the 2nd March last, in which he replied to the inquiry made by Lord Pauncefote as to the nature of certain storehouses marked on a chart of part of the Pacific Coast, issued by the United States' Coast and Geodetic Survey, and the reason for their erection in territory, the title to which is still the subject of diplomatic negotiations between Great Britain and the United States.

In his note of the 28th February Mr. Hay stated that he was not aware of any claim having been advanced by Great Britain to the territory in question previous to the signature of the Protocol of the 30th May, 1898, preliminary to the appointment

of the Joint High Commission. In reply to this statement, I am directed by the Marquess of Lansdowne to inform you that the Canadian Government, to whom copies of the correspondence have been forwarded, call attention to the note addressed by His Majesty's Minister at Washington to the United States' Secretary of State on the 5th June, 1891. In view of a certain passage in the Report of the United States' Coast and Geodetic Survey, your Government was reminded in this note, at the desire of the Government of Canada, that the question of the boundary in the neighbourhood referred to was the subject of some difference of opinion, and that the actual line could only be properly determined by an International Commission.

The Canadian Government point out that shortly after that date provision was made, in the Convention of the 22nd July, 1892, for the delimitation of the boundary-line in accordance with the "spirit and intent of the Treaties," and an agreement was entered into that the boundary was to be considered and established as soon as practicable after the receipt of the Report of the Commissioners.

That Report was signed on the 31st December, 1895, and laid before the Parliament of Canada and the United States Congress early in 1896; but, in the same year, before the High Contracting Parties had met to consider the boundary-line, and while the matter was still *sub judice*, the United States erected the store-houses on part of the "territory adjacent," which was the subject of the operations of the joint survey and of the diplomatic negotiations.

The Canadian Government conceive that occupation effected under such circumstances would not in international law have any validity, but they are of opinion that nevertheless the matter should not be allowed to pass without protest, and they have therefore expressed the desire that your Government should be informed of their views on the subject.

In making this communication, and with reference to Mr. Hay's above-mentioned statement, I have also the honour to draw your attention to the remarks contained in Lord Salisbury's despatch No. 213 of the 14th October, 1899, to Mr. Tower, copy of which was left with Mr. Hay on the 30th of that month.

I have, &c.
(Signed) ARTHUR S. RAIKES.

Inclosure 2 in No. 33.

The Honourable A. Adee to Mr. Raikes.

Sir,
Department of State, Washington, September 16, 1902.
I HAVE the honour to acknowledge the receipt of your note of the 6th instant, relating to the erection by this Government of certain store-houses on a part of the Pacific Coast, the ownership of which is in dispute between the United States and Canada.

I have, &c.
(Signed) ALVEY A. ADEE, *Acting Secretary.*

No. 34.

Mr. Raikes to the Marquess of Lansdowne.—(Received October 13.)

(No. 257.)
My Lord,
Washington, October 2, 1902.
I HAVE the honour to transmit to your Lordship herewith an extract from the "Boston Herald,"* containing the text of a speech delivered in Boston by Senator Lodge on the 27th ultimo. As the leaders of the Republican party have refrained during the autumn from expressing any opinion on reciprocity or Tariff revision, which has recently been the subject of discussion on the platform and in the press, the speech of Senator Lodge, dealing mainly with this question, has aroused much interest; while his remarks on the Alaska question are of peculiar importance in view of his influence with the Republican party and his close friendship with the President.

* Not printed.

In discussing reciprocity, Mr. Lodge touched upon the attempts to arrive at a satisfactory arrangement with Canada, maintaining that negotiations on this and other subjects had broken down on account of the attitude taken up by Canada with regard to the Alaskan question, "a claim which no self-respecting nation could possibly admit," and that "no President could ever go into the White House who would dare or who would wish to yield up American territory for any purpose in the world."

While maintaining that reciprocity with Canada would mainly redound to the advantage of that country, Mr. Lodge declared that any such arrangement was impossible "while she held over us that monstrous claim to our territory in the North-west."

Mr. Lodge pointed out the immense difficulties of Tariff revision owing to the conflicting interests of the various States of the Union. As regards the general question of reciprocity, he considered that the most satisfactory manner of dealing with the question was by legislation, providing that countries which admitted the United States to their markets on the same basis as everybody else should be in turn admitted to the United States at a certain rate, while an extra duty of 25 per cent. should be imposed upon nations discriminating against United States' goods.

Mr. Lodge concluded by stating that the Republican party was firmly pledged to the principle of protection.

I have forwarded a copy of Senator Lodge's speech to his Excellency the Governor-General of Canada.

I have, &c.

(Signed) ARTHUR S. RAIKES.

No. 35.

Mr. Raikes to the Marquess of Lansdowne.—(Received October 13.)

(No. 260.)

My Lord,

Washington, October 2, 1902.

I HAVE the honour to transmit to your Lordship herewith copy of a note which, in accordance with the instructions contained in your Lordship's despatch No. 166 of the 29th August, I have addressed to the United States' Government, proposing that negotiations should be reopened with a view to carrying out the demarcation of the Alaskan frontier along the 141st meridian of west longitude.

I have, &c.

(Signed) ARTHUR S. RAIKES.

Inclosure in No. 35.

Mr. Raikes to Mr. Adee.

Sir,

Washington, October 1, 1902.

WITH reference to previous correspondence on the subject of the Convention signed by Lord Pauncfote and Mr. Olney on the 30th January, 1897, but not subsequently ratified, providing for the demarcation of the Alaska boundary along the 141st meridian of west longitude from the St. Elias range of mountains to the Arctic Ocean, I have the honour to inform you that I have been instructed by the Marquess of Lansdowne to propose that negotiations should be reopened with a view to carrying out this demarcation.

A provision in the above-named Convention empowered the Commissioners charged with the survey to deflect the southern portion of the line so as to range with Mount Elias, as, at the time when the Convention was negotiated, it was believed that Mount St. Elias was of equal prominence when seen from the north as it is from the ocean.

Recent explorations, however, have developed the fact that north of it lie massive mountains, little inferior to it in elevation, and of considerable extent in a north and south direction, so that Mount St. Elias is not, in fact, a "convenient visible landmark" whereby the initial portion of the meridian may be established.

The proposed deflection is therefore useless, and I am directed to suggest to your Government, on the ground of the facts established by recent explorations, that paragraph 3 of Article 1 of the Convention of 1897 should be omitted from any future Treaty.

I have, &c.
(Signed) ARTHUR S. RAIKES.

No. 36.

Mr. Raikes to the Marquess of Lansdowne.—(Received October 14.)

(No. 263.)
My Lord,

Washington, October 4, 1902.

WITH reference to my despatch No. 257 of the 2nd instant, I have the honour to report that, at the Republican State Convention of Massachusetts, a motion was yesterday submitted calling for immediate Tariff revision and for reciprocity with Canada as well as with Cuba.

Senator Lodge, in replying, stated that there never would be reciprocity with the country that required the forfeiture of any part of the United States, and that there never would be reciprocity with Canada until the Alaskan boundary question was settled.

The Convention finally adopted the following resolution as regards the "Tariff plank in the platform": that "to the application of the policy of protection, as embodied in the Dingley Tariff, are due the high wages and constant employment of labour and in large measure our phenomenal national prosperity of the past five years. This policy should be adhered to; but changes which the world's progress and the interests of the American people may suggest should and will be made by the Republican party whenever they are of sufficient importance to justify the check to business which invariably attends any revision of the Tariff."

I have, &c.
(Signed) ARTHUR S. RAIKES.

No. 37.

Sir M. Herbert to the Marquess of Lansdowne.—(Received October 17.)

(No. 37. Secret.)
(Telegraphic.) P.

Washington, October 17, 1902.

IN a short conversation of an unofficial character which I had to-day with the Secretary of State, he alluded to the question of the Alaska boundary, and took a very gloomy view with regard to the prospects of arbitration. Mr. Hay inveighed bitterly against the Senate, who, he said, would not ratify any arrangement involving any concession by the United States at any point on the boundary line.

All that he could do was to renew the proposal made to Lord Pauncefote last March, viz., that a Tribunal should be appointed, the members of which should merely place their reasoned opinions on record.

While admitting that want of finality was an objection to this proposal, he said that he still held the opinion he had expressed to Lord Pauncefote, and considered that a settlement would be facilitated by the appointment of such a Tribunal.

No. 38.

Foreign Office to Colonial Office.

(Confidential.)
Sir,

Foreign Office, October 21, 1902.

WITH reference to your letter of the 23rd April last, I am directed by the Marquess of Lansdowne to transmit to you, for the consideration of Mr. Secretary Chamberlain, the accompanying copy of a telegram which has been received from His Majesty's Ambassador at Washington,* reporting an unofficial conversation which

he has had with the American Secretary of State in regard to the Alaska Boundary question. Mr. Hay has now renewed the proposal for the appointment of a Tribunal, of which the members should merely record their reasoned opinions, and Mr. Chamberlain will recollect that, when a similar proposal was put forward through Lord Pauncefote in March last, he decided to postpone any remarks on the situation pending further information.

No further communication has, however, in the meanwhile, been received from His Majesty's Embassy at Washington on the subject.

I am, &c.
(Signed) F. H. VILLIERS.

No. 39.

Foreign Office to Sir M. Herbert.

My dear Herbert,

Foreign Office, October 31, 1902.

WITH reference to your letter of the 15th, what we now call the Compromise Alaska Boundary line was proposed while the Joint High Commission was sitting at Washington.

The Committee appointed to discuss the question thought it desirable to take the opinion of experts. Mr. King acted for us, Professor Mendenhall for the United States, and the result was the line to which reference is made in Lord Herschell's despatch No. 1 of the 2nd February, 1899. You will see from that despatch (Inclosure J), that the line proposed by the experts was embodied in a draft Article, which was "handed to the American Commissioners." The negotiations, however, broke off, owing to the difficulty in effecting a settlement of the conflicting claims in the region of the Lynn Canal. There is no record in Lord Herschell's despatch, or elsewhere, that the experts' line was discussed in the full Commission, but, of course, it was the work of Professor Mendenhall, as well as of Mr. King. Moreover, as it was "handed" to the Commission, we presume it was adopted by the Committee, though Lord Herschell's despatch does not make even this point quite clear.

I am, &c.
(Signed) F. H. VILLIERS.

No. 40.

Sir M. Herbert to the Marquess of Lansdowne.—(Received November 1.)

(No. 285.)

My Lord,

Washington, October 24, 1902.

ON receipt of your Lordship's despatch No. 166 of the 29th August last, Mr. Raikes addressed a note to the United States' Government proposing that negotiations should be reopened for a renewal of the Convention of 1897, which was not ratified, providing for the demarcation of the Alaska Boundary along the 141st meridian of west longitude, at the same time suggesting the omission of paragraph 3 of Article I of that Convention.

Mr. Hay replied on the 11th instant that he would be pleased to confer with Mr. Raikes in regard to the renewal of the Convention, but he has since informed me, verbally, that he must consult certain Senators on the Foreign Affairs Committee before discussing the question with me.

I have, &c.
(Signed) MICHAEL H. HERBERT.

No. 41.

Sir M. Herbert to the Marquess of Lansdowne.—(Received November 13.)

(No. 139. Commercial.)

My Lord,

Washington, November 3, 1902.

WITH reference to Mr. Raikes' despatch No. 87, Commercial, of the 24th July, I have the honour to transmit herewith copy of a note and its inclosure which I have received from the Government of Canada, for communication to the United States'

Colonial Office to Foreign Office.—(Received November 3.)

Sir, *Downing Street, November 7, 1902.*

I AM directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, with reference to your letter of the 17th October, the accompanying copy of a despatch, with its inclosures, from the Governor-General of Canada on the subject of the re-opening of negotiations with the Government of the United States of America for the demarcation of the Alaska Boundary along the 141st meridian of west longitude.

2. Mr. Chamberlain proposes, if Lord Lansdowne see no objection, to inform Lord Minto that His Majesty's Government will have much-pleasure in acceding to the wish of his Ministers that they should be afforded an opportunity of considering any Convention with the United States on this point before it is finally approved.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 40 A.

Governor-General the Earl of Minto to Mr. Chamberlain.

Sir, *Government House, Ottawa, October 22, 1902.*

WITH reference to your despatch of the 6th ultimo, communicating the instructions given to His Majesty's Chargé d'Affaires at Washington, in regard to the re-opening of negotiations with the United States' Government for the demarcation of the Alaska Boundary along the 141st meridian of west longitude, I have the honour to inclose herewith a copy of an approved Minute of the Privy Council, from which you will observe that it is the wish of my Ministers that they may have the opportunity of considering any Convention with the United States regarding this matter before its final signature.

I have, &c.
(Signed) MINTO.

Inclosure 2 in No. 40 A.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by his Excellency on October 16, 1902.

THE Committee of the Privy Council have had under consideration a despatch dated the 6th September, 1902, from His Majesty's Secretary of State for the Colonies, covering copy of a draft addressed to His Majesty's Chargé d'Affaires at Washington, advising him of the desire of the Government of Canada that the unratified Convention of January 1897, providing for the demarcation of the 141st meridian of west longitude, where it forms the boundary line between Canada and the United States' territory of Alaska, should be revived, but with the omission of a certain provision, and requesting him to communicate accordingly with the United States' Government.

The Minister of the Interior, to whom the said despatch was referred, submits that the said draft, being in accordance with the Minute of Council of the 31st May last, requires no comment, but that it would be desirable that any Convention which may be agreed to with respect to this matter should be submitted to the Government of Canada before final signature.

The Committee advise that the Governor-General be moved to forward a request to this effect to His Majesty's Principal Secretary of State for the Colonies.

All which is respectfully submitted for approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

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No. 40 B.

Sir M. Herbert to the Marquess of Lansdowne.—(Received November 10.)

(No. 295.)

My Lord,

Washington, October 31, 1902.

WITH reference to Mr. Raikes' despatch No. 238 of the 1st September, I have the honour to transmit to your Lordship herewith an extract from the "New York Tribune,"* reporting that Lieutenant Emmons, United States' Navy, has returned from Alaska, after completing his investigation of ancient landmarks in that district.

Lieutenant Emmons has, it is alleged, established the existence of ruins either of Russian or Indian origin, some of which are within 30 miles of the coast and some beyond that distance from tide water.

I inclose at the same time an extract from the "Washington Star,"* in which it is stated that certain missing Russian landmarks have been recently discovered near Pleasant Camps by a man named Blondeau.

Lieutenant Emmons is now engaged in drawing up a report of his observations, a copy of which I shall not fail to forward to your Lordship, should it be made public.

The remarks in the "Tribune" are written in an uncompromising spirit, and I fear they accurately represent the general opinion in this country in regard to the Alaska dispute.

I have, &c.
(Signed) MICHAEL H. HERBERT.

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No. 41*.

Foreign Office to Colonial Office.

Sir, *Foreign Office, November 17, 1902.*
I AM directed by the Marquess of Lansdowne to acknowledge the receipt of your letter of the 7th instant, relative to the reopening of negotiations with the United States' Government for the demarcation of the Alaska boundary along the 141st meridian of west longitude.

Lord Lansdowne concurs in Mr. Chamberlain's proposal to inform the Canadian Government that they will be afforded an opportunity of considering any Convention with the United States on this point before its final signature.

I am, &c.
(Signed) F. H. VILLIERS.

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Government, relative to the treatment of goods in transit through British territory from the United States to Alaska. Your Lordship will observe that the Government of the Dominion consent to the transportation of such goods in bond, subject, however, to such Canadian Customs Regulations as may be deemed advisable for the protection of the revenue.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure 1 in No. 41.

Governor-General the Earl of Minto to Sir M. Herbert.

(No. 65.)
Sir,

Government House, Ottawa, October 31, 1902.

IN reply to Mr. Raikes' despatch No. 79 of the 24th July last, representing the desire of the United States' authorities to obtain the consent of this Government to the transportation in bond through Canadian territory of goods shipped to Alaska from other parts of the United States, I have the honour to inclose herewith, for communication to the United States' Government, a copy of an approved Minute of the Privy Council for Canada, expressing this Government's consent to such transportation, subject, however, to such Canadian Customs Regulations as may be deemed advisable for the protection of the revenue.

I am, &c.
(Signed) MINTO.

Inclosure 2 in No. 41.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 27th October, 1902.

THE Committee of the Privy Council have had under consideration a despatch, dated the 24th July, 1902, from Mr. Arthur S. Raikes, His Majesty's Chargé d'Affaires at Washington, transmitting copy of note from the Acting Secretary of State of the United States, respecting a proposal made by the United States' Secretary of the Treasury, relative to the treatment of goods in transit through British territory from the United States to Alaska.

The Minister of Customs, to whom the said despatch was referred, states that the Government of Canada consents that "imported merchandise in bond, or duty paid, and products or manufactures of the United States" may be transported between the United States and points in Alaska through the North-West Territories and other parts of Canada, under the Regulations prescribed in Articles 700 to 712, inclusive, of the Customs Regulations of 1889 of the United States, subject, however, while in transit in Canada, to such Canadian Customs Regulations as may be deemed advisable for the protection of the revenue.

The Committee advise that the Governor-General be moved to forward a copy this Minute to His Majesty's Ambassador to the United States.
All of which is respectfully submitted for approval.

No. 42.

Colonial Office to Foreign Office.—(Received November 18.)

Sir,

Downing Street, November 17, 1902.

I AM directed by Mr. Secretary Chamberlain to transmit to you, for the information of the Marquess of Lansdowne, with reference to the letter from this Office of the 23rd August, the accompanying copy of a despatch from the Governor-General of

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Canada, transmitting an approved Minute of his Privy Council, expressing the consent of the Dominion Government to the transportation in bond over Canadian territory of goods shipped to Alaska from other parts of the United States of America.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 42.

Governor-General the Earl of Minto to Mr. Chamberlain.

Sir,
Government House, Ottawa, October 31, 1902.
WITH reference to my despatch of the 30th July last on the subject of the request of the United States' Government for the consent of the Canadian Government to the transportation in bond over Canadian territory of goods shipped to Alaska from other parts of the United States, I have the honour to inclose herewith, for your information, a copy of an approved Minute of the Privy Council, expressing the consent of this Government to the course proposed.

I have, &c.
(Signed) MINTO

Inclosure 2 in No. 42.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by his Excellency on October 27, 1902.

THE Committee of the Privy Council have had under consideration a despatch, dated the 24th July, 1902, from Mr. Arthur S. Raikes, His Majesty's Chargé d'Affaires at Washington, transmitting copy of note from the Acting Secretary of State of the United States, respecting a proposal made by the United States' Secretary of the Treasury, relative to the treatment of goods in transit through British territory from the United States to Alaska.

The Minister of Customs, to whom the said despatch was referred, states that the Government of Canada consents that "imported merchandise in bond, or duty paid, and products or manufactures of the United States" may be transported between the United States and points in Alaska through the north-west territories and other parts of Canada, under the Regulations prescribed in Articles 700 to 712, inclusive, of the Customs Regulations of 1889 of the United States, subject, however, while in transit in Canada, to such Canadian Customs Regulations as may be deemed advisable for the protection of the revenue.

The Committee advise that the Governor-General be moved to forward a copy of this Minute to His Majesty's Ambassador to the United States.

All which is respectfully submitted for approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

Inclosure 3 in No. 42.

Mr. Hill to Mr. Raikes.

Sir,
Washington, July 22, 1902.
UNDER date of the 18th instant, the Secretary of the Treasury writes that Section 3006 of the Revised Statutes provides that "imported merchandise in bond, or duty paid, and products or manufactures of the United States may, with the consent of the proper authorities of the British provinces or Republic of Mexico, be transported from one port in the United States to another port therein, over the territory of such provinces or Republic, by such routes, and under such rules, regulations, and conditions as the Secretary of the Treasury may prescribe, and the merchandise so imported shall, upon arrival in the United States from such provinces or Republic, be treated in regard

to the liability to or exemption from duty, or tax, as if the transportation had taken place entirely within the limits of the United States."

Mr. Shaw adds that it is desirable that goods may be shipped from the United States to points in Alaska through the British north-west territory under Regulations analogous to those for merchandise in transit between ports of the United States through Canada, contained in Article 700 *et seq.* of the Customs Regulations of 1889.

I have the honour, therefore, to request that you will be good enough to bring Mr. Shaw's proposal to the attention of the Government of the Dominion, with a view of obtaining "the consent of the proper authorities of the British provinces."

I have, &c.
(iSigned) DAVID J. HILL,
Acting Secretary.

No. 43.

Colonial Office to Foreign Office.—(Received November 24.)

(Confidential.)

Downing Street, November 24, 1902.

Sir,

I AM directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, with reference to your letter of the 21st ultimo, the accompanying copy of correspondence with the Governor-General of Canada on the subject of the proposal of the United States' Secretary of State for the appointment of a Tribunal of Arbitration, the members of which should merely record their reasoned opinions in connection with the question of the Alaska Boundary.

2. Mr. Chamberlain would suggest, if Lord Lansdowne sees no objection, that a communication should be made to the United States' Government in the sense of Lord Minto's telegram of the 18th instant.

I am, &c.
(Signed) R. L. ANTROBUS.

Inclosure 1 in No. 43.

Mr. Chamberlain to Governor-General the Earl of Minto.

(Telegraphic.)

Downing Street, October 31, 1902.

UNITED STATES' Secretary of State unofficially renews proposal for appointment of Tribunal members of which should merely record their reasoned opinions. See my Secret despatch of the 23rd April last. Are your Ministers disposed to consider this suggestion which would at least afford opportunity to public in United States, and Canada of comparing respective cases?

Inclosure 2 in No. 43.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Telegraphic.) P.

November 18, 1902.

IN reply to your telegram of the 31st ultimo as to the Alaska question, I have to state that my Ministers, while declining to give their final assent to the proposal mentioned, would be disposed to consider it favourably, provided that the reference to a Tribunal should include all aspects of the question. I think such a reference as that contained in my Secret despatch of the 6th of November last might be accepted.

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No. 44.

Sir M. Herbert to the Marquess of Lansdowne.--(Received November 29.)

(No. 308.)

My Lord,

Washington, November 19, 1902.

WITH reference to Mr. Raikes' despatch No. 210 of the 20th July, reporting that the proper officers of the United States' army in Alaska had been instructed to furnish copies of the records showing the position and extent of the claims of United States' miners on Glacier Creek, I have the honour to transmit to your Lordship, herewith a copy of a note from the Secretary of State of the United States, in which he has forwarded to me the promised documents, duly certified, which have been furnished by the Recorder of the Porcupine land district.

Mr. Hay adds that he expects to forward later copies of other claims which have been recorded at Juneau.

I have forwarded a copy of this note, with its inclosures, to the Governor-General of Canada.

I have, &c.

(Signed) MICHAEL H. HERBERT.

Inclosure in No. 44.

Mr. Hay to Sir M. Herbert.

Excellency,

Washington, November 17, 1902.

LORD PAUNCEFOTE in his note of the 5th May last, referring to previous correspondence which had passed between the Department and the Embassy relative to the claims of American miners on Glacier Creek in the Porcupine district, forwarded copies of an approved Minute of the Privy Council for Canada, with appended copies of a despatch from the Lieutenant-Governor of British Columbia and of its inclosures, from which documents it was observed that the British Columbian Government disclaimed any purpose of extinguishing claims of United States' citizens assured by the *modus vivendi* of the 20th October, 1899, because of the failure of the holders to record their locations with the Commissioner appointed to receive and enter such records, that Government fully recognizing that such rights and privileges cannot be diminished by local legislation, and that it concurred in the suggestion made in the concluding paragraph of this Department's note of the 30th March, 1901, that the United States should supply information as to the rights and privileges to which American miners were entitled at the date of the *modus vivendi*, in order that they may receive due recognition.

The Department at once took steps to obtain copies of the records showing the location and extent of the rights of American miners on Glacier Creek, and it is only now enabled to forward to you, certified under the seal of the Department of State, copies of such records furnished by the Recorder of the Porcupine land district.

In addition to these, I am informed that there are possibly a number of other claims which have been recorded at Juneau, and of which copies will be sent to you later if the surmise be correct.

I have, &c.

(Signed) JOHN HAY.

No. 45.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, November 29, 1902.

I AM directed by the Marquess of Lansdowne to acknowledge the receipt of your letter of the 24th instant, forwarding copies of telegraphic correspondence with the Governor-General of Canada on the subject of the proposal of the United States' Secretary of State for the appointment of a Tribunal of Arbitration, the members of

No. 47*.

Sir M. Herbert to the Marquess of Lansdowne.—(Received December 8.)

(No. 54.)

Washington, December 8, 1902.

(Telegraphic.) P.

I COMMUNICATED to Mr. Hay this morning the substance of your Lordship's telegram No. 55 of the 6th instant relative to the Alaska Boundary question. He will let me have an answer as soon as possible after he has consulted the President.

Mr. Hay would be willing that the decision of the Judicial Tribunal should be final, in the event of an agreement being arrived at by it. This would be preferable if the Senate will ratify such a stipulation.

I should be grateful if I might be informed of your Lordship's opinion on this point.

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which should merely record their reasoned opinions in connection with the question of the Alaska boundary.

I am to transmit to you the copy of a telegram which has been drafted in accordance with what is understood to be the wish of the Secretary of State, and which will, if Mr. Chamberlain concurs, be sent to His Majesty's Ambassador at Washington on the subject.

I am, &c.
(Signed) F. H. VILLIERS.

No. 46.

Colonial Office to Foreign Office.—(Received December 4.)

Sir,

Downing Street, December 3, 1902.

I AM directed to acknowledge the receipt of your letter of the 29th November, transmitting a copy of a telegram, which the Marquess of Lansdowne proposes to address to His Majesty's Ambassador at Washington, on the subject of the proposed reference to arbitration of the question of the Alaska Boundary.

2. In reply, I am to suggest that the latter portion of the draft should read "provided that the terms of reference, like those suggested in my despatch No. 25 of the 5th February last, are so framed as to include all aspects of the question."

I am, &c.
(Signed) R. L. ANTROBUS.

No. 47.

The Marquess of Lansdowne to Sir M. Herbert.

(No. 55.)

(Telegraphic.) P.

Foreign Office, December 6, 1902.

ALASKA Boundary.

With reference to your Excellency's telegram No. 37 of the 18th October, His Majesty's Government are ready to give their favourable consideration to the proposal again put forward by Mr. Hay for the appointment of a Tribunal of Arbitration, of which the members should merely record their reasoned opinions. This would, however, be on the understanding that the terms of reference are drawn up, like those suggested in my despatch No. 25 of the 5th February last, in such a way that all aspects of the question are included.

No. 48.

Colonial Office to Foreign Office.—(Received December 9.)

THE Under-Secretary of State for the Colonies presents his compliments to the Under-Secretary of State for Foreign Affairs, and is directed by the Secretary of State to transmit, for the information of the Secretary of State, with reference to the letter from the Foreign Department of the 22nd November, a copy of the despatch (with enclosure) from Governor-General Lord Minto on the subject of the investigations of Lieutenant Eamons in connection with the Alaska Boundary in the neighbourhood of the Lynn Canal.

Downing Street, December 8, 1902.

Inclosure 1 in No. 48.

Governor-General the Earl of Minto to Mr. Chamberlain.

Sir,

Government House, Ottawa, November 15, 1902.

WITH reference to your despatch of the 26th September last, inclosing a newspaper account of investigations made by Lieutenant Eamons in connection with the disputed Alaska Boundary in the neighbourhood of Lynn Canal, I have the honour

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to transmit herewith a copy of an approved Minute of the Privy Council, pointing out that the stone house said to have been erected by the Russian Government, the ruins of which Lieutenant Emmons is reported to have discovered, appears to be situated much more than 10 marine leagues from tide-water and to be in a region of which Canada has been for several years, and is now, in full possession, and to the possession of which, so far as this Government is aware, no claim has ever been made by the United States.

I have, &c.

(Signed) MINTO.

Inclosure 2 in No. 48.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by his Excellency on November 12, 1902.

THE Committee of the Privy Council have had under consideration a Colonial Office despatch, dated the 26th September, 1902, transmitting copy of a despatch from His Majesty's Chargé d'Affaires at Washington, with an extract from an account given in the "New York Times" of a certain stone house or houses said to have been erected by the Russian Government, and of the investigations relative thereto made by Lieutenant Emmons, which, it is asserted, have resulted favourably to the claims of the United States, in the territory adjacent to Lynn Canal.

The Minister of the Interior to whom the said despatch was referred observes that it appears that the stone house in question is situated at, or near, the summit of the "Dalton Trail," and much more than 10 marine leagues from tide-water.

The Minister further observes that Canada has been for several years, and is now, in full possession and occupation of the regions in question, and, so far as the Minister of the Interior is aware, no claim has ever been made by the United States to its possession.

The Committee advise that the Governor-General be moved to forward a copy of this Minute to the Right Honourable His Majesty's Principal Secretary of State for the Colonies.

All which is respectfully submitted for approval.

(Signed)

JOHN J. MCGEE,
Clerk of the Privy Council.

No. 49.

Sir M. Herbert to the Marquess of Lansdowne.—(Received December 13.)

(No. 329.)

My Lord,

Washington, December 5, 1902.

WITH reference to my despatch No. 328 of this day's date, transmitting the Report of the Secretary of the Treasury for 1902, I have the honour to call your Lordship's attention to Mr. Shaw's remarks in regard to the Alaska seal fisheries which will be found on pp. 29 and 30 of the Report.

The catch of seals on the Pribiloff Islands for 1902 is stated to be very gratifying and to show that the seal herd is not decreasing in numbers as rapidly as heretofore; and the diminished catch of the British Columbian fleet during the last two seasons undoubtedly accounts, in Mr. Shaw's opinion, for the more stable condition of the Pribiloff herd.

The discovery of a seal rookery on Buldir Island in the Aleutian group is also reported, and a sufficient appropriation for its protection from the unlawful depredations of the seal hunters is recommended.

I have, &c.

(Signed) MICHAEL H. HERBERT.

No. 50.

Colonial Office to Foreign Office.—(Received December 19.)

(Confidential.)
Sir,

Downing Street, December 19, 1902.

I AM directed to transmit to you, to be laid before the Marquess of Lansdowne, with reference to your letter of the 9th December, the accompanying copy of correspondence with the Governor-General of Canada on the subject of the proposed reference to arbitration of the Alaska boundary question.

2. I am to suggest that it would facilitate the discussion of the matter if the United States' Government would embody their proposals for a settlement of the question in a concrete form.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 50.

The Earl of Onslow (for the Secretary of State for the Colonies) to Governor-General the Earl of Minto.

(Telegraphic.) P. *December 11, 1902.*

REFERRING to your telegram of 15th November, Alaska boundary, presume that, in event of majority of Tribunal agreeing on answer to reference submitted, Ministers would be willing to accept their decision as final. Telegraph reply.

Inclosure 2 in No. 50.

Governor-General the Earl of Minto to the Earl of Onslow (for the Secretary of State for the Colonies).

(Telegraphic.) P. *[Received December 15, 1902.]*

MY Ministers ask me to state, in reply to your telegram of the 11th December as to the Alaska boundary question, that they are unable to give proper consideration to the matter until the text of the proposed reference and the composition of the Tribunal are communicated to them. On the receipt of this information they will communicate with the Prime Minister, now absent from Ottawa, and will reply with the least possible delay.

No. 51.

Sir M. Herbert to the Marquess of Lansdowne.—(Received December 19.)

(No. 65.)
(Telegraphic.) P. *Washington, December 19, 1902.*

SECRETARY of State submitted to me yesterday draft Treaty for reference of Alaska Boundary question to Arbitral Tribunal. He has consented, after discussion, to nearly all terms of reference. I am sending copy of the draft to your Lordship by messenger leaving to-day. Mr. Hay is anxious to receive an answer to it with as little delay as possible. Sir Wilfrid Laurier is now in Virginia. Does your Lordship approve of my sending the draft Treaty to him and to the Governor-General of Canada? Time would thus be saved.

No. 52.

The Marquess of Lansdowne to Sir M. Herbert.

(No. 247.)

Sir,

Foreign Office, December 20, 1902.

WITH reference to your Excellency's despatch No. 295 of the 31st October last, I transmit to you, for your information only, the accompanying copy of a letter from the Colonial Office,* forwarding a despatch from the Governor-General of Canada and an approved Minute of the Privy Council of the Dominion, on the subject of the investigations of Lieutenant Emmons in connection with the Alaska Boundary, which, it is asserted, support the contentions of the United States with reference to the territory adjacent to the Lynn Canal.

The Privy Council point out that the stone house or houses which are alleged to have been discovered by Lieutenant Emmons are situated at much more than 10 marine leagues from tide water, and in territory which has never been claimed by the United States.

I am, &c.

(Signed) LANSDOWNE.

No. 53.

Sir M. Herbert to the Marquess of Lansdowne.—(Received December 22.)

(No. 333. Confidential.)

My Lord,

Washington, December 8, 1902.

WITH reference to my telegram No. 54 of to-day I have the honour to report that, in obedience to your Lordship's instructions, I called on Mr. Hay this morning, and informed him that His Majesty's Government were prepared to entertain favourably the suggestion which he had made to me on the 13th October last in regard to the appointment of an Anglo-American Arbitration Tribunal, composed of an equal number of Judges nominated by each side. I stated at the same time that in agreeing to this proposal, your Lordship made it a condition that the terms of reference should be so framed as to include all aspects of the question, and I suggested that they should be formulated on the lines of the inclosed Memorandum, which I handed to him.

Mr. Hay expressed satisfaction at my communication and reiterated the opinion expressed to me on the 18th October in favour of the appointment of such a Tribunal as being the only means of settlement of the Alaska boundary dispute, which would be acceptable to the people of this country. He promised that he would consult the President at once, and, if he approved, would prepare the draft terms of reference as soon as possible for submission to His Majesty's Government.

I gathered from the conversation which subsequently took place that Mr. Hay is willing to consent, in the event of the Judicial Tribunal arriving at an agreement, that its decision shall be final, and I venture to express the opinion that, if the Senate will ratify such a stipulation, it would be preferable to the proposal that the members of the Tribunal should record their reasoned opinions only.

In discussing the composition of the Tribunal, I expressed the hope that all the American members would be Judges of the Supreme Court of the United States, as their appointment would give the Tribunal more weight.

Mr. Hay agreed with this view, but feared it would be difficult to carry out owing to the pressure of business before the Supreme Court, which could ill spare so many of its members at the same time.

In conclusion, Mr. Hay suggested, in view of the disinclination of certain Senators to refer the Alaska question to arbitration, that the Tribunal should be called a Judicial Commission.

I have, &c.

(Signed) MICHAEL H. HERBERT.

Inclosure in No. 53.

Memorandum.—(Extract from Lord Lansdowne's despatch No. 28 of February 5, 1902.)

REFERRING to Articles III and IV of the Convention of 1825 :—

1. What is intended as the point of commencement ?
2. What channel is the Portland Channel ?
3. What course should the line take from the point of commencement to the entrance to Portland Channel ?
4. To what point on the 56th parallel is the line to be drawn from the head of Portland Channel, and what course should it follow between these points ?
5. What, if they exist, are the mountains referred to as situated parallel to the coast, which mountains, when within 10 marine leagues from the coast, are declared to form the eastern boundary ?
6. In the event the summit of such mountains proving to be in places more than 10 marine leagues from the coast, should the width of the *lisière* which was to belong to Russia be measured (1) from the coast of the Ocean strictly so called, along a line perpendicular thereto; or (2) was it the intention and meaning of the said Convention that where the coast is indented by deep inlets forming part of the territorial waters of Russia, the width of the *lisière* was to be measured (a) from the line of the general direction of the coast, or (b) from the line separating the waters of the Ocean from the territorial waters of Russia, or (c) from the heads of the aforesaid inlets ?

No. 54.

The Marquess of Lansdowne to Sir M. Herbert.

(No. 58.)

(Telegraphic.) P.

Foreign Office, December 23, 1902.

WITH reference to your telegram No. 65 of the 20th instant.

Before the Alaska Treaty is sent either to Sir W. Laurier or to Canada, the Colonial Office would like to see the draft. We will deal as quickly as possible with it.

No. 65.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, December 23, 1902.

WITH reference to your letter of the 19th instant, I am directed by the Marquess of Lansdowne to transmit to you the accompanying copy of a telegram which has been received from His Majesty's Ambassador at Washington,* reporting that Mr. Hay has submitted to him the draft Treaty providing for the appointment of a Tribunal to deal with the question of the Alaska Boundary. Sir M. Herbert inquires whether, in order to save time, he should communicate the draft Treaty to the Canadian Government and to Sir W. Laurier, who is now in Virginia.

I am also to transmit to you a copy of a telegram which, after personal communication with your Department, was sent to Sir M. Herbert on the subject.†

I am, &c.

(Signed) F. H. VILLIERS.

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Sir M. Herbert to the Marquess of Lansdowne.—(Received December 27.)

(No. 347.)

My Lord,

Washington, December 19, 1902.

WITH reference to my despatch No. 333, Confidential, of the 8th instant, Mr. Hay handed me yesterday a draft Treaty for the settlement of the Alaskan Boundary by a Judicial Tribunal, which he said he had drawn up after consultation with the principal members of the Senate Foreign Affairs Committee. He stated that all the terms of reference suggested by your Lordship had been accepted except section 6 (see Memorandum inclosed in my despatch No. 333), which has been altered. I asked his permission to take the document home and study it, and I promised to let him know my views in regard to it as soon as possible. On examination of the Treaty I found that, with the exception of the addition of the words "if they exist" between the word "what" and the words "are the" in section 5 of my Memorandum, all the sections except No. 6 (which in Mr. Hay's draft was made No. 5) were couched in the same language as the references I had suggested. Section 5 of the draft, however, repeated exactly the wording of subsection 2 of Article IV of the draft Treaty submitted by Mr. Hay to Lord Pauncefote in May 1901, and I accordingly sent a note to Mr. Hay in the evening, copy of which I have the honour to inclose, stating that I felt sure your Lordship would be unable to accept this reference, as it only put forward the American contention, and that that of Canada would be excluded by it. I called at the Department of State this morning and repeated the arguments contained in my note, and, after a short discussion, Mr. Hay said that, in view of my objections and of his wish to arrive at a settlement, he was prepared to modify the draft in the following manner:—

To let the first five sections stand as proposed in his draft of yesterday, omitting the words "If not, how should said line of demarcation be traced to conform to the provisions of said Treaty?" at the end of section 5.

Then to take No. 6 as follows:—

"If the foregoing question (No. 5) should be answered in the negative, and in the event of the summit of such mountains proving to be in places more than 10 marine leagues from the coast, should the width of the *lisière* which was to belong to Russia be measured (1) from the mainland coast of the Ocean, strictly so called, along a line perpendicular thereto; or (2) was it the intention and meaning of the said Convention, that where the mainland coast is indented by deep inlets forming part of the territorial waters of Russia, the width of the *lisière* was to be measured (a) from the line of the general direction of the mainland coast; or (b) from the line separating the waters of the Ocean from the territorial waters of Russia; or (c) from the heads of the aforesaid inlets."

(Your Lordship will observe that the word "mainland" has been inserted before the word "coast" all through this section.)

Then to change the number of the original section 5 of Mr. Hay's draft of yesterday into Article VII in the new draft.

I consented to this modification, and said I was now prepared to send the draft home for your Lordship's approval.

The final paragraph of Article III is identical with the language of Article III of the May draft Treaty. I do not know whether your Lordship still objects to this Article.

Article VI provides that the decision shall be final, and Mr. Hay has consented to use the same language as that contained in Lord Pauncefote's Memorandum of February last.

I have the honour to transmit copy of the draft Treaty as amended, and I earnestly hope that its provisions will meet with the approval of His Majesty's Government and of that of Canada.

Mr. Hay has consulted upwards of thirty Senators in regard to it, and he informed me this morning that, so far as he was able to judge, it would receive the approval of the Senate.

I have, &c.

(Signed) MICHAEL H. HERBERT.

P.S.—Mr. Hay has apparently dropped his idea of calling the Tribunal a "Judicial Commission."

M. H. H.

Inclosure 1 in No. 56.

Draft Treaty.

HIS Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the United States of America, equally desirous for the friendly and final adjustment of the differences which exist between them in respect to the true meaning and application of certain clauses of the Convention between Great Britain and Russia, signed under date of the 28th (16th) February, A.D. 1825, which clauses relate to the delimitation of the boundary-line between the territory of Alaska, now a possession of the United States, and the British possessions in North America, have resolved to provide for the submission of the questions as hereinafter stated to a Tribunal, and to that end have appointed their respective Plenipotentiaries as follows:

His Britannic Majesty, the Right Honourable Sir Michael H. Herbert, K.C.M.G., C.B., His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary; and

The President of the United States of America, John Hay, Secretary of State of the United States;

Who, after an exchange of their full powers, which were found to be in good and due form, have agreed upon the following Articles:—

ARTICLE I.

A Tribunal shall be immediately appointed to consider and decide the questions set forth in Article IV of this Convention. The Tribunal shall consist of six impartial jurists of repute, who shall consider judicially the questions submitted to them, each of whom shall first subscribe an oath that he will impartially consider the arguments and evidence presented to the Tribunal, and will decide thereupon according to his true judgment. Three members of the Tribunal shall be appointed by His Britannic Majesty and three by the President of the United States. All questions considered by the Tribunal, including the final Award, shall be decided by a majority of all the members thereof.

In case of the refusal to act, or of the death, incapacity, or abstention from service of any of the persons so appointed, another impartial jurist of repute shall be forthwith appointed in his place by the same authority which appointed his predecessor.

The Tribunal may appoint a Secretary and a Bailiff to perform such duties as they may prescribe, and may employ scientific experts if found to be necessary, and may fix a reasonable compensation for such officers. The Tribunal shall keep an accurate record of all its proceedings.

Each of the High Contracting Parties shall make compensation for the services of the members of the Tribunal of its own appointment and of any agent, counsel, or other person employed in its behalf, and shall pay all costs incurred in the preparation of its Case. All expenses reasonably incurred by the Tribunal in the performance of its duties shall be paid by the respective Governments in equal moieties.

The Tribunal may, subject to the provisions of this Convention, establish all proper rules for the regulation of its proceedings.

ARTICLE II.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent.

The written or printed Case of each of the two Parties, accompanied by the documents, the official correspondence, and all other evidence in writing or print on which each Party relies, shall be delivered in duplicate to each member of the Tribunal and to the Agent of the other Party as soon as may be after the organization of the Tribunal, but within a period not exceeding two months from the date of the exchange of ratifications of this Convention.

Within two months after the delivery on both sides of the written or printed Case, either Party may, in like manner, deliver in duplicate to each member of the Tribunal, and to the Agent of the other Party, a Counter-Case and additional documents, corre-

spondence, and evidence in reply to the Case, documents, correspondence, and evidence so presented by the other Party. The Tribunal may, however, extend this last-mentioned period when in their judgment it becomes necessary, by reason of special difficulties which may arise in the procuring of such additional papers and evidence.

If in the Case submitted to the Tribunal either Party shall have specified or referred to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party shall demand it, within thirty days after the delivery of the Case, to furnish to the Party applying for it a duly certified copy thereof; and either Party may call upon the other, through the Tribunal, to produce the original or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Tribunal may require; and the original or copy so requested shall be delivered as soon as may be and within a period not exceeding forty days after receipt of notice.

Each Party may present to the Tribunal all pertinent evidence, documentary, historical, geographical, or topographical, including maps and charts, in its possession, or control and applicable to the rightful decision of the questions submitted; and if it appears to the Tribunal that there is evidence pertinent to the Case in the possession of either Party, and which has not been produced, the Tribunal may in its discretion order the production of the same by the Party having control thereof.

It shall be the duty of each Party through its Agent or Counsel, within two months from the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each member of the said Tribunal and to the Agent of the other Party a written or printed argument showing the points and referring to the evidence upon which his Government relies, and either Party may also support the same before the Tribunal by oral argument of Counsel. The Tribunal may, if they shall deem further elucidation with regard to any point necessary, require from either Party a written, printed, or oral statement or argument upon the point; but in such case the other Party shall have the right to reply thereto.

ARTICLE III.

It is agreed by the High Contracting Parties that the Tribunal shall consider in the settlement of the questions submitted to its decision the Treaties respectively concluded between His Britannic Majesty and the Emperor of All the Russias under date of the 28th (16th) February, A.D. 1825, and between the United States of America and the Emperor of All the Russias, concluded under date of the 18th (30th) March, A.D. 1807, and particularly the Articles III, IV, and V, of the first-mentioned Treaty, which in the original text are, word for word, as follows:—

“III. La ligne de démarcation entre les possessions des Hautes Parties Contractantes sur la côte du Continent et les Iles de l’Amérique Nord-ouest, sera tracée ainsi qu’il suit:—

“A partir du point le plus méridional de l’île dite *Prince of Wales*, lequel point se trouve sous la parallèle du 54° 40’ de latitude nord, et entre le 131° et le 133° degré de longitude ouest (méridien de Greenwich), la dite ligne remontera au nord le long de la passe dite *Portland Channel*, jusqu’au point de la terre ferme où elle atteint le 56° degré latitude nord; de ce dernier point la ligne de démarcation suivra la crête des montagnes situées parallèlement à la côte, jusqu’au point d’intersection du 141° degré de longitude ouest (même méridien); et, finalement, du dit point d’intersection, la même ligne méridienne du 141° degré formera, dans son prolongement jusqu’à la Mer Glaciale, la limite entre les possessions Russes et Britanniques sur le Continent de l’Amérique Nord-ouest.

“IV. Il est entendu, par rapport à la ligne de démarcation déterminée dans l’Article précédent—

“1. Que l’île dite *Prince of Wales* appartiendra toute entière à la Russie.

“2. Que partout où la crête des montagnes qui s’étendent dans une direction parallèle à la côte depuis le 56° degré de latitude nord au point d’intersection du 141° degré de longitude ouest, se trouverait à la distance de plus de 10 lieues marines de l’Océan, la limite entre les possessions Britanniques et la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie sera formée par une ligne parallèle aux sinuosités de la côte, et qui ne pourra jamais en être éloignée que de 10 lieues marines.

V. Il est convenu, en outre, que nul établissement ne sera formé par l’une des deux Parties dans les limites que les deux Articles précédents assignent aux possessions de l’autre. En conséquence, les sujets Britanniques ne formeront aucun établissement soit sur la côte, soit sur la lisière de terre ferme comprise dans les limites des possessions Russes, telles qu’elles sont désignées dans les deux Articles précédents; et, de même, nul établissement ne sera formé par des sujets Russes au delà des dites limites.”

The Tribunal shall also take into consideration any action of the several Governments or of their respective Representatives, preliminary or subsequent to the

conclusion of said Treaties, so far as the same tends to show the original and effective understanding of the Parties in respect to the limits of their several territorial jurisdictions under and by virtue of the provisions of said Treaties.

ARTICLE IV.

Referring to Articles III, IV, and V, of the said Treaty of 1825, the said Tribunal shall answer and decide the following questions:—

1. What is intended as the point of commencement of the line?
2. What channel is the Portland Channel?
3. What course should the line take from the point of commencement to the entrance to Portland Channel?
4. To what point on the 56th parallel is the line to be drawn from the head of the Portland Channel, and what course should it follow between these points?
5. In extending the line of demarcation northward from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast until its intersection with the 141st degree of longitude west of Greenwich, subject to the condition that if such line should anywhere exceed the distance of 10 marine leagues from the Ocean then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast and distant therefrom not more than 10 marine leagues, was it the intention and meaning of said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe, or strip, of coast on the mainland, not exceeding 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the Ocean, and extending from the said point on the 56th degree of latitude north to a point where such line of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich?
6. If the foregoing question should be answered in the negative, and in the event of the summit of such mountains proving to be in places more than 10 marine leagues from the coast, should the width of the *lisière* which was to belong to Russia be measured (1) from the mainland coast of the ocean, strictly so-called, along a line perpendicular thereto, or (2) was it the intention and meaning of the said Convention that where the mainland coast is indented by deep inlets forming part of the territorial waters of Russia, the width of the *lisière* was to be measured (a) from the line of the general direction of the mainland coast, or (b) from the line separating the waters of the Ocean from the territorial waters of Russia, or (c) from the heads of the aforesaid inlets?
7. What, if any exist, are the mountains referred to as situated parallel to the coast, which mountains, when within 10 marine leagues from the coast, are declared to form the eastern boundary?

ARTICLE V.

The Tribunal shall assemble for their first meeting at London so soon as practicable after receiving their commissions, and shall themselves fix the times and places of all subsequent meetings.

The decision of the Tribunal shall be made so soon as possible after the conclusion of the arguments in the Case, and within three months thereafter, unless His Britannic Majesty and the President of the United States shall by common accord extend the time therefor. The decision shall be made in writing and dated, and shall be signed by the members of the Tribunal assenting to the same. It shall be signed in duplicate, one copy whereof shall be given to the Agent of His Britannic Majesty for his Government, and the other to the Agent of the United States of America for his Government.

ARTICLE VI.

When the High Contracting Parties shall have received the decision of the Tribunal upon the questions submitted as provided in the foregoing Articles, which decision shall be final and binding upon all Parties, they will at once appoint, each on its own behalf, one or more scientific experts, who shall, with all convenient speed, proceed together to lay down the boundary-line in conformity with such decision.

Should there be, unfortunately, a failure by a majority of the Tribunal to agree upon any of the points submitted for their decision, it shall be their duty to so report in writing to the respective Governments through their respective Agents. Should there be an agreement by a majority upon a part of the questions submitted, it shall be their duty to sign and report their decision upon the points of such agreement in the manner hereinbefore prescribed.

ARTICLE VII.

The present Convention shall be ratified by His Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate, and the ratifications shall be exchanged in London or in Washington so soon as the same may be effected.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done at Washington, in duplicate, this 24th day of January, A.D. 1903.

(Signed) MICHAEL H. HERBERT.
(Signed) JOHN HAY.

Inclosure 2 in No. 56.

Sir M. Herbert to Mr. Hay.

Dear Mr. Secretary,

Washington, December 18, 1902.

SINCE our interview this morning I have had time to examine the draft Alaska Boundary Treaty which you then handed me.

You will remember that I told you on the 8th instant that Lord Lansdowne was prepared to entertain favourably the idea of a Judicial Tribunal, provided that the terms of reference were framed so as to include all aspects of the question.

Section 5 of Article IV of the draft Treaty does not, it seems to me, fulfil this requirement, for it only gives prominence to the American contention that the Treaty of 1825 was intended to give Russia a strip of coast of at least 10 marine leagues on the mainland, separating the British possessions from the bays, ports, inlets, havens, and waters of the Ocean. The point from which this strip of land is to be measured is not apparently mentioned as an issue, and the Canadian contention that the line shall follow the crest of the mountains parallel to the coast, but so as to include bays, ports, and inlets, would be excluded.

Under the reference the jurists would hold that the only point to decide would be the width of the strip which is to separate the British possessions from access to all waters, even to bays, ports, inlets, and havens.

I fear, therefore, that Lord Lansdowne could never accept this section as it stands, and I trust that it will be possible for your Government to agree to a modification of the draft so as to leave it to the jurists to decide whether the boundary-line should go round all bays, ports, inlets, and havens, or whether it should, following the crest of the mountains, pass across bays, ports, inlets, and havens.

As I have a messenger to-morrow afternoon, I should be glad to call at the Department of State to-morrow morning to discuss the matter, if you can spare time to receive me.

I am, &c.
(Signed) MICHAEL H. HERBERT.

No. 57.

Foreign Office to Colonial Office.

Sir, *Foreign Office, December 27, 1902.*
I AM directed by the Marquess of Lansdowne to transmit to you the accompanying copy of the Annual Report of the Secretary of the United States' Treasury for 1902,* together with a copy of a despatch from His Majesty's Ambassador at Washington,† in which he comments on certain remarks made therein with regard to the Alaska seal fisheries.

I am to request that you will call the attention of the Secretary of State for the Colonies not only to the remarks on the seal fisheries which will be found on pp. 29 and 30 of the Report, but also to those relative to Canadian Immigration into the States on p. 37.

I am, &c.
(Signed) F. H. VILLIERS.

No. 58.

The Marquess of Lansdowne to Sir M. Herbert.

(No. 60.) *Foreign Office, December 29, 1902.*
(Telegraphic.) P.

ALASKA. Copies of draft Treaty should be sent to Lord Minto and to Sir W. Laurier. Your despatch No. 347 of the 19th instant just received.

* Not printed.

† No. 49.

