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ALASKAN BOUNDARY TRIBUNAL.

THE

COUNTER CASE OF THE UNITED STATES

BEFORE THE

TRIBUNAL CONVENEED AT LONDON

UNDER THE

PROVISIONS OF THE TREATY BETWEEN THE UNITED
STATES OF AMERICA AND GREAT BRITAIN
CONCLUDED JANUARY 24, 1903.

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THE COUNTER CASE OF THE UNITED STATES.

INTRODUCTORY STATEMENT.

The United States, pursuant to the provisions of Article II of the treaty of January 24, 1903, herewith submits to the Tribunal created thereunder, its printed Counter Case and additional documents, correspondence and evidence, in reply to the printed Case, documents, correspondence and evidence presented to the Tribunal on behalf of Great Britain.

The United States, considering that the scope of the printed Cases was to set forth the positions of the respective governments as to the matters in controversy without reference to the attitude heretofore taken by the other, did not in its printed Case anticipate the claim which it was presumed would be advanced by the British Government, or adduce evidence to controvert the same. Furthermore, had such a course, in the opinion of the United States, been in accord with the intent of the treaty of January 24, 1903, that government would have been embarrassed in pursuing it by reason of the varied and conflicting claims, which have been from time to time in recent years advanced by public men and writers in Canada, as to the delineation of the boundary line now under consideration. As a further reason for avoidance of such a course by the United States, the Government of Great Britain had never officially indicated which, if any, of the several lines heretofore proposed by Canadian statesmen, writers and cartographers would receive its official approval and support.

Under these circumstances the United States deems that it would have been inappropriate on its part to have followed a method of treatment based solely upon conjecture as to the attitude which would be assumed by His Majesty's Government. Moreover, since the attitude of Great Britain was uncertain, the concessions which might be made on her part were equally so. It was, therefore, a matter of

speculation how relevant and how material, if at all, would be evidence establishing British and Canadian acquiescence in, and agreement with, the interpretation placed upon the treaty of 1825 by the United States, until the British Government had distinctly defined its position in the Case, which it has submitted to this Tribunal.

The United States, therefore, in this Counter Case presents to the Tribunal the evidence of such acquiescence by British authorities and subjects in the boundary line set forth in the Case of the United States, together with such other evidence as substantiates the reply of the United States to the claim of Great Britain or such as is in rebuttal of the evidence adduced in the British Case.

THE BRITISH NEGOTIATIONS OF 1823-1825.

The United States has no further evidence to present as to the course of the negotiations which took place between Great Britain and Russia during the years 1823, 1824 and 1825; but since there have been submitted to the Tribunal in the British Case certain documents bearing upon this subject it becomes necessary to consider them in connection with the statement already made in the Case of the United States. It is, however, contended that this additional evidence in no way alters any material allegation made in the Case, but on the contrary confirms and strengthens the position therein set forth.

The first document submitted by Great Britain and not included in the Appendix to the case of the United States is a memorandum enclosed in the letter of Mr. J. H. Pelly, the deputy governor of the Hudson's Bay Company, to Mr. Canning, dated September 25, 1822.^a It contains comments upon the grounds advanced by M. de Poletica in his correspondence with Secretary of State Adams,^b in support of Russia's claim to the Northwest Coast as far south as 51° north latitude. The memorandum, while it forms part of the correspondence, does not bear upon any question at issue before this Tribunal, other than to show that the officers of the Hudson's Bay Company examined the narratives of Cook, Vancouver, Meares, and Portlock for the purpose of traversing the argument of M. de Poletica, which it was natural to suppose would be reiterated in the approaching negotiations between Great Britain and Russia.

The second document demanding attention is a letter of July 25,

^a British Case, App., p. 25.

^b U. S. Case, App., pp. 32-38.

1823, from Mr. Canning to Sir Charles Bagot^a modifying a minor point in the instructions given the latter on July 12, 1823.^b It in no way affects any statement made in the Case of the United States.

The third document is the text of the full power of the United States minister at St. Petersburg.^c It establishes no new fact, only emphasizing the object sought by the United States in its negotiations with Russia, as set forth in the Case.

The fourth document is an unsigned memorandum dated January 13, 1824, and addressed to Mr. Canning.^d In this memorandum there appears to have been enclosed "a Russian Chart (copied from Vancouver's survey)" for the purpose of proving that Sitka was located upon an island. From the suggestion as to a boundary line through Chatham Strait and Lynn Canal being similar to the one proposed by Mr. Pelly, January 8, 1824,^e it would appear that this memorandum, like others utilized by the British Government, originated with the Hudson's Bay Company, the real party in interest. The chart mentioned is not produced, but it establishes the important fact, that there were Russian copies of Vancouver's charts, which, it may be presumed were consulted by the Russian representatives during the negotiations, and from which by retranslation were derived the names used in the correspondence and treaty drafts.

The fifth document is also a memorandum from the Hudson's Bay Company, dated January 16, 1824.^f It appears in the British Case as an enclosure to Sir Charles Bagot's instructions, though the latter are dated January 15, 1824.^g one day previous to the date of the memorandum. It is to be presumed, however, that if the document was not enclosed in that letter, it was forwarded in the letter of January 20, 1824,^h from Mr. Canning to the British minister at St. Petersburg, which "enclosed certain information and suggestions" respecting the negotiation, which Mr. Canning stated he had received since his "despatch on that subject was prepared".

In this memorandum the writer, Mr. Pelly, said that, "as in the conversation he had with Mr. Canning, he [Mr. Canning] seemed to consider Mr. Faden's map as the most authentic (an opinion which in so important a question as that of settling a national boundary, it may, perhaps, be dangerous hastily to admit) Mr. Pelly has had the posts

^a British Case, App., p. 43.

^b U. S. Case, App., p. 123.

^c British Case, App., p. 48.

^d *Ibid.*, p. 59.

^e *Ibid.*, p. 64.

^f *Ibid.*, p. 65.

^g *Ibid.*, p. 59.

^h *Ibid.*, p. 65.

of the Hudson's Bay Company, in that part of the territory under consideration, marked on it; he has likewise had coloured the proposed line from Lynn Canal, the northern extremity of Chatham Strait, as well as the less objectionable one from Mount Elias."

The map, which was thus endorsed by Mr. Canning and which he, on account of his opinion as to its authenticity, doubtless forwarded to Sir Charles Bagot, would appear to have been the one published by James Wyld, the successor of W. Faden, London, June 1, 1823.^a The other so-called Faden map^b was not published until June 1, 1824, at which time the boundary line had been substantially agreed upon up to 56° north latitude. The first of these maps, therefore, was undoubtedly consulted both at London and at St. Petersburg as to the entire boundary, while the second could only have been used in determining the line northward from the 56th parallel. These two maps will be considered more in detail in the discussion of the line of demarcation drawn by the treaty.

The sixth document is the letter of Mr. Canning to Sir Charles Bagot of January 20, 1824,^c to which reference has just been made. The enclosures, which are not produced, appear to have been additional memoranda, containing information and suggestions, which, because of the extravagance of the views expressed, Mr. Canning was unwilling to endorse, as he was also unwilling to modify, in accordance therewith, his instructions of January 15, 1824. The nature of these suggestions can only be conjectured from the colors placed upon the Faden map, which made Cross Sound and Lynn Canal the southeastern boundary of the Russian possessions.

The seventh document is a letter from the Hudson's Bay Company to Mr. Canning under date of April 19, 1824.^d Mr. Pelly had received from Mr. Canning a few days previously the despatch and papers sent to the Foreign Office on March 29.^e These he laid before the Committee of the Hudson's Bay Company, and he stated to Mr. Canning in this letter, that, if the British Government considered it advisable to accede to the last proposition made by Russia, his committee could see no reason to object to it. He suggested, however, that, on account of the lack of accurate geographical information, there should be inserted in the article of the treaty, "providing

^a British Case, Atlas, No. 10.

^d *Ibid.*, p. 78.

^b *Ibid.*, No. 11.

^e *Ibid.*, p. 66.

^c British Case, App., p. 65.

for the boundary on the mainland the nearest chain of mountains, not exceeding a few leagues of the coast."

The eighth document is another letter from the Hudson's Bay Company to the Foreign Office, dated May 26, 1824.^a To Mr. Pelly had been submitted for comment, on May 25, the copy of a communication, presumably, from the context, the one sent on May 29, 1824, by Mr. Canning to the Russian minister at London.^b This letter, containing his views, states that the proposed communication "embraced all the points which appear necessary to secure the objects of the Hudson's Bay Company, with the exception of a more particular description of how the mountains range with the sinuosity of the coast, as it is possible that those mountains represented in the charts as closely bordering on the sea, and described by the Russians as a 'très-petite distance,' may really be at a very considerable distance from the coast; and to provide for which case the distance ought to be limited, as Sir Charles Bagot proposed, to a few leagues, say, not exceeding 10 from the shores."

The remainder of the letter contains a discussion of the question in the light of the treaty of April 5 17, 1824, between the United States and Russia. Since Russia had agreed not to establish any settlements below 54° 40', Mr. Pelly stated that she had nothing to concede to Great Britain, and for that reason he was at loss to understand "why Great Britain should cede to Russia the exclusive right to the islands and the coast from lat. 54° 40' northward to Mount Elias."

The ninth document is a letter of Lord F. Conyngham to Mr. Pelly, dated October 19, 1824,^c transmitting copies of papers received by the Foreign Office from Count Lieven, the Russian minister at London, with a request for Mr. Pelly's observations upon them. The papers enclosed were undoubtedly Count Nesselrode's important despatch of August 31, 1824,^d to Count Lieven, which the latter was authorized to communicate to Mr. Canning,^e together with the enclosures which it contained.^f

The tenth document is Mr. Pelly's reply to the letter of Lord Conyngham, dated October 20, 1824,^g containing his comments upon the Russian papers. In it he stated that the counter draft of Russia^h

^a British Case, App., p. 80.

^c *Ibid.*, p. 204.

^b U. S. Case, App., p. 180.

^e British Case, App., pp. 100, 107, 108.

^c British Case, App., p. 110.

^d *Ibid.*, p. 110.

^d U. S. Case, App., p. 200.

^f *Ibid.*, p. 94.

(which was enclosed to him) did not appear to him to be so essentially different from the British draft as to warrant its rejection, "except in in the 2nd Article, which should more accurately define the eastern boundary from the Portland Canal to the 61st degree of north latitude to be the chain of mountains at a 'très-petite distance de la côte' but that if the summit of those mountains exceed 10 leagues, that the said distance be substituted instead of the mountains".

Of the ten other documents relating to the negotiations, which are produced on behalf of Great Britain and do not appear in the Appendix to the Case of the United States,^a but one is important in a review of the correspondence. The one referred to is the treaty draft enclosed in Mr. Stratford Canning's instructions of December 8, 1824,^b which formed the basis of the draft which he subsequently submitted to the Russian plenipotentiaries. The language of Article III of Mr. George Canning's draft becomes of material value in determining the intent of Great Britain in the negotiations and in ascertaining the meaning of certain words and expressions which appear in the treaty finally signed.

It is a significant fact that of the eleven documents mentioned in detail seven are communications between the Hudson's Bay Company and the Foreign Office. These not only fully sustain the assertions made in the Case of the United States that in fixing a line of demarcation the British Government acted solely in the interests of the Hudson's Bay Company,^c but they establish other facts, which the United States was unable to state with certainty until the production of the documents,—that is, that *every* proposal advanced by a British negotiator upon the subject of the boundary, originated at the Hudson's Bay House in London; that the historical and geographical facts employed by the British Government were obtained from the memoranda from time to time furnished the Foreign Office by Mr. Pelly, the deputy governor of the company; that all the important correspondence was delivered to the directing committee of the company, and its opinion solicited by the Foreign Office; and that the Hudson's Bay Company advised and in a measure controlled the British Government in each step of the negotiation relating to the boundary.

^a British Case, App. (*one*) p. 110; (*three*) p. 111; (*one*) p. 115; (*three*), p. 117; (*one*) p. 118; and (*one*) p. 133.

^b *Ibid.*, p. 115.

^c U. S. Case, pp. 64-66.

As shown in the Case of the United States, the territorial question was, so far as the British Government was concerned, subsidiary to that of maritime jurisdiction,^a and this newly produced evidence proves the assertion that "it was not the British Government, but the Hudson's Bay Company which had given it such prominence"^b in the negotiations. The importance of this fact, now conclusively established, is that the Foreign Office and the British minister at St. Petersburg relied for their information, outside of the maps which they examined, upon the data furnished them by the Hudson's Bay Company. The reference of despatches and papers to Mr. Pelly and his committee by Mr. Canning, before being acted upon by the British Government, shows that it was dependent upon that company for the facts relative to the region in dispute.

The Faden map of 1823 was furnished to the Foreign Office by Mr. Pelly at the time the letter of instructions of January 15, 1824, was prepared and sent to Sir Charles Bagot.^c It embodied geographical information in accord with the memoranda of the Hudson's Bay Company enclosed to the British minister, and also showed the boundary desired by the Company. It undoubtedly played an important part in the negotiations of February and March, 1824, as well as in the subsequent conferences which took place and in the preparation of draft conventions at London and at St. Petersburg.

There can be no doubt that this map was before the negotiators. In the memorandum of the Russian plenipotentiaries upon the amended proposal of Sir Charles Bagot appears the following statement: "According to the most recent and best maps published in England the establishments of the Hudson Bay Company approach the coast only along the fifty-third and fifty-fourth degrees, and it can not be proved that they reach the Great Ocean at any point".^d No other map, published at that time, shows the posts of the Hudson's Bay Company west of the Rocky Mountains, which had been placed on the Faden map under the direction of Mr. Pelly.^e This assertion of the Russian representatives could, therefore, have been made only after an examination of this map.

Besides the Faden map there were before the negotiators the map of

^a U. S. Case., pp. 59-60.

^d U. S. Case, App., p. 161.

^b *Ibid.*, p. 60.

^e British Case, App. p. 65.

^c British Case, App., p. 65.

1802, published by the Russian quartermaster-general's department,^a probably Vancouver's charts (either a Russian, English, or French edition),^b one or more maps by Arrowsmith,^c and possibly the Langsdorff map of 1803-1805.^d Other than these publications there is no evidence that any were consulted or examined during the negotiations. Nevertheless the following statement is made in the British Case:

The answer [to what was Vancouver's Portland Canal] must depend on the evidence to be found in Vancouver's book and charts, *known to have been before the negotiators*, and the sole, or, at any rate, the main and best sources of information on this head.^e

No citation is given to substantiate the assertion that Vancouver's book was "*known to have been before the negotiators*" or that it and the charts were probably the "*sole*" sources of information as to Portland Canal. The fact and the presumption as well are unsupported by any evidence as yet produced by either the United States or Great Britain. An assertion of such importance in the present controversy demands affirmative and conclusive proof. Upon the establishment of the fact that Vancouver's narrative was read and relied upon by the Russian negotiators rests the entire materiality of the extracts from that work which appear in the Appendix to the British Case.^f

The United States denies that evidence of any nature whatsoever, from which this assertion can be deduced, has been presented to the Tribunal. On the contrary there is proof that Sir Charles Bagot, the British minister at St. Petersburg, was not familiar with the Vancouver narrative.

The expedition under the command of Captain George Vancouver was sent out to acquire accurate information as to the existence of "any water-communication" between the Northwest Coast and the British territory on the opposite side of the continent "by means of any considerable inlets of the sea, or even of large rivers."^g He was instructed especially to survey "the direction and extent of all such considerable inlets, whether made by arms of the sea or by the mouths of large rivers." And he was informed that "the discovery of a near communication between any such inlet or strait and any river running into, or from the lake of the woods, would be particularly useful."^h

^a U. S. Case, App., p. 127; British Case, Atlas, No. 5.

^b U. S. Case, Atlas, Nos. 4 and 5.

^c *Ibid.*, Nos. 8 and 10.

^d British Case, Atlas, No. 7.

^e British Case, p. 50.

^f pp. 139-149.

^g U. S. Counter Case App., p. 251.

^h *Ibid.*, p. 251.

With fidelity and perseverance Vancouver accomplished the task set before him; and in the dedication of his published narrative it is announced that, within the limits of his researches, there was no "navigable communication" with the Atlantic seaboard.^a

There had existed for many years prior to his voyage the tale of a great river of Northwestern America up which De Fonta was said to have sailed 60 leagues after passing for 260 leagues through the tortuous channels of a vast archipelago. This river, known as "Rio de los Reyes," was placed by English geographers in latitude 53° north. For it Vancouver sought. At the close of his narrative he commented upon this traditional river. He stated that the archipelago did exist between 47° and 57° of north latitude, "yet the evidence of a navigable river flowing into it, is still wanting to prove its identity; and * * the scrupulous exactness with which our survey of the continental shores has been made within these limits precludes the possibility of such a river having been passed unnoticed by us, as that described to be Rio de los Reyes."^b

Turning now to the amended proposal of Sir Charles Bagot it is found that he opposed the granting of the continental shore below the 56th parallel to Russia, because it would deprive Great Britain of the bays and inlets between that parallel and 54° 45' "whereof several (*as there is every reason to believe*) communicate directly with the establishments of the Hudson's Bay Company and are, consequently, of essential importance to its commerce."^c

Again, in his reply to the observations of the Russian plenipotentiaries, Sir Charles Bagot said: "The head of Portland Channel may be *as there is reason to believe*, the mouth of some river flowing through the midst of the country occupied by the Hudson Bay Company, and it is, consequently, of great importance to Great Britain to possess the sovereignty of the two shores thereof."^d

Both of these statements show an ignorance of Vancouver's narrative, of the purpose of the expedition, and of the careful execution of its object. But as further proof that the British negotiator was unfamiliar with the text of Vancouver, when he made the above statement in regard to Portland Canal, attention is called to the fact that the explorer in his description of his reconnoissance of that inlet

^a U. S. Counter Case, App., p. 250.

^b *Ibid.*, p. 252.

^c U. S. Case, App., p. 159.

^d *Ibid.*, p. 163.

specifically stated that "it was found to terminate in low marshy land, in latitude 55° 45', longitude 230° 6'."^a

Furthermore, it should be noted that throughout the correspondence between the negotiators and in the treaty the astronomical locations are given in longitude *west* of Greenwich, while in the narrative of Vancouver the longitude given is *east*. On all the English maps referred to in the negotiations the longitude appears as *west* of Greenwich.

In addition to this evidence that the Vancouver narrative was not a source of information to the plenipotentiaries of Great Britain and Russia, much less one of "the main and best sources," the following pertinent questions may be asked: Would not the negotiators, if drawing the southern boundary with Vancouver's technical description before them, have stated accurately the astronomical locations? Would they not have traced the line from the place of beginning to the head of Portland Canal by landmarks, especially as the field notes of Vancouver did not appear to correspond with any one of the maps before them? Would not some reference to the Vancouver text have been made during the negotiations?

In the light of the evidence produced and in view of the silence of the correspondence upon the subject, the United States asserts that the text of Vancouver's narrative becomes irrelevant and immaterial in interpreting Articles III and IV of the treaty of 1825; and that, unless it can be shown that the representatives of *both* powers had the narrative as a guide in fixing names and places, allegations and arguments which rest upon Vancouver's text are valueless in determining the intention of the negotiators or the meaning of the treaty.

The chief omissions of Great Britain in the Case presented to the Tribunal are the documents (the majority of which had been made public) which relate to the treaty of April 5 17, 1824, between the United States and Russia. The negotiations which resulted in this treaty were conducted by the same Russian plenipotentiaries who conferred with Sir Charles Bagot and were carried on at the same time as the negotiations with Great Britain, namely during February and March, 1824. While the American negotiation directly affected the trading privileges secured for a term of ten years by Great Britain, it is principally important in determining what the Russian negotiators,

^a British Case, App., p. 143.

in their correspondence with Sir Charles Bagot, intended as the southern line of demarcation on the continent. A consideration of this factor in the negotiations between Great Britain and Russia will be more appropriate when that portion of the boundary is discussed.

As to the point of commencement of the line of demarcation, the United States understands that Great Britain concedes that it was the intention of the negotiators and it is the meaning of the treaty of 1825 that such point was Cape Muzon.^a It, therefore, deems further discussion of that subject unnecessary. Nevertheless, to the reasoning by which Great Britain reached this conclusion in the Case submitted, and to the deduced interpretation of certain clauses of Article III which appear in the discussion, the United States cannot assent.

The southern boundary was intended by the negotiators to be the parallel 54° 40', and the clause of Article IV, which states that "the island called *Prince of Wales* Island shall belong wholly to Russia,"^b was inserted for two obvious reasons—that in case any portion of the island lay below the boundary parallel named it should still form part of the Russian possession, and further that in the event of the eastern point being the most southern, then, even if both headlands extended below 54° 40', the one lying to the westward should nevertheless be Russian territory.

PORTLAND CANAL AND 54° 40' NORTH LATITUDE.

The subject of this southern boundary is directly connected with the location of Portland Canal, for if the parallel governs then the line of demarcation enters the passage sometimes called Portland Inlet. Conversely, if the boundary was intended to pass through that inlet then it would seem to be conclusive that the negotiators intended to draw the line along the parallel 54° 40'.

In a consideration of the identification of that portion of Portland Canal lying south and southwest of the eastern end of the channel now known as Pearse Canal, the United States does not deem that it is material to make "inquiry as to what was *Vancouver's* Portland Canal".^c The United States makes no contention as to "*Vancouver's* Portland Canal" or to the question "What was *Vancouver's* Observatory Inlet?"^d On the contrary it deems the consideration of these

^a British Case, p. 46.

^c British Case, p. 50.

^b U. S. Case, App., p. 15.

^d *Ibid.*, pp. 50, 51.

questions without profit in the present controversy. It conceives that the real question at issue is, What was the *negotiators'* Portland Canal?

In answering this question it becomes important to determine what geographical material was before Count Nesselrode, M. de Poletica, and Sir Charles Bagot when the negotiations took place, and what was shown therein as to the location of Portland Canal. In addition to this, the expressions used in negotiation or by the governments prior or subsequent to the treaty of 1825, and the understanding by geographers, publicists and officials of either Great Britain or Russia, as to the southern boundary established by the treaty, are material in locating the Portland Canal of the negotiators.

It should be borne in mind that all negotiations concerning that portion of the line of demarcation from the point of commencement to 56° north latitude ceased with the suspension of negotiations at St. Petersburg by Sir Charles Bagot, March 17 29, 1824,^a on which day the Russian plenipotentiaries delivered to him their final decision.^b From that time forward Great Britain offered no objection to the boundary proposed by Russia, except to that portion north of the 56th parallel as far as mount St. Elias.^c

The first mention of Portland Canal was in the counter draft of Russia delivered to the British minister February 24, 1824.^d Thus the negotiations on that subject occupied about six weeks. On the part of Great Britain Sir Charles Bagot was the only one who discussed Portland Canal with the Russians. He does not appear to have communicated with his government during this period; and not having done so he received no specific information in regard to that arm of the sea from the Foreign Office.

The negotiations conducted by Mr. Middleton, the American minister at St. Petersburg, commenced on February 9 21 and continued until April 5 17, 1824.^e On February 20 March 4 Count Nesselrode proposed 54° 40' as the southern line of the Russian possessions on the Northwest Coast, fixing on that parallel, as he said, so that the lower portion of Prince of Wales Island would belong to Russia.^f On the 7th Mr. Middleton accepted the proposal.^g A week before this the Russian plenipo-

^a U. S. Case App., p. 153.

^b *Ibid.*, p. 164.

^c *Ibid.*, p. 183.

^d *Ibid.*, p. 158.

^e *Ibid.*, pp. 71, 69.

^f *Ibid.*, p. 83.

^g *Ibid.*, p. 84.

tentiaries had proposed to Sir Charles Bagot to draw the boundary so as to make the southern extremity of Prince of Wales Island Russian territory.^a From this significant circumstance, from the fact that the subject of each negotiation was the same, namely, the Northwest Coast, from the fact that Russia recognized that the United States had as valid claims to the coast south of the Russian possessions as Great Britain had,^b and from the statement of Count Nesselrode that in his negotiations with the British minister he "proposed to carry the southern frontier of our domains to latitude 54° 40' "^c, it is manifest that it was the intention of the Russian plenipotentiaries to make the line of their southern boundary in the negotiation with Great Britain coincident with that agreed upon with the United States.

The geographical data which, according to the evidence, were before the negotiators, were the maps already mentioned. It is true that Sir Charles had been furnished by the Foreign Office with memoranda prepared by Mr. Pelly, the deputy governor of the Hudson's Bay Company;^c but when the memoranda were prepared Portland Canal had not become a factor in the negotiations, and, when the Hudson's Bay Company was again consulted by the British Government, it had ceased to be a subject of controversy. There is, therefore, in none of Mr. Pelly's correspondence any discussion of that channel.

The Russian map published in 1802 by the quartermaster-general's department shows a broad inlet, in which are several islands and from which two branches penetrate inland.^d Neither the inlet nor the branches are named, and it was not, therefore, from this map that the description of the line from Prince of Wales Island to the head of Portland Canal was derived, although it is probable that it was used to test the accuracy of others.

Incidentally, the purpose of Great Britain in reproducing a section of this map with a colored outline,^e is not understood, the color showing merely native tribal divisions, as is demonstrated by an examination of the large map, on which the dotted line running inland from Behm Canal, and which in the section reproduced is colored, is the supposed southern limit of the Kolosh tribes on the coast.

The Langsdorff map,^f if it were ever at St. Petersburg, could hardly

^a U. S. Case, App., p. 158.

^d British Case, Atlas, No. 5.

^b *Ibid.*, p. 174.

^e *Ibid.*, No. 6.

^c *Ibid.*, p. 173.

^f *Ibid.*, No. 7.

have been consulted by the negotiators, because it was so rudely drawn.

What Arrowsmith maps were examined during the negotiations it is difficult to determine. Four have been offered in evidence: two on behalf of the United States, one of 1818,^a the other of 1822 with additions to 1823;^b and two on behalf of Great Britain, one listed as "up to 1822," but showing on its face that it was corrected to 1824;^c the other, "up to 1824."^d Of these maps, the one of 1818 is on a small scale, but shows substantially the same details as the larger maps. In all these it is noticeable that the channel westward of Pearse Island is almost closed and the main course of Portland Canal runs between Point Ramsden and Pearse Island. The name "Portland Canal" extends along the shore of the channel "beyond the head of Pearse Island," as stated in the British Case.^e

One of two views must have been taken by the negotiators after examining the region about 54° 40' as shown on the maps. Either that the whole estuary bounded by the mainland on either side and comprising both Portland Inlet and Pearse Canal, was to be considered as Portland Canal,^f in which lay Pearse, Wales, and other islands; or that the estuary as far inland as Point Ramsden was an unnamed arm of the sea, from which diverged two branches, Portland Canal and Observatory Inlet.

The Arrowsmith maps, relied upon at St. Petersburg, would have conveyed the idea that the entire estuary was named "Portland Canal". No method of reasoning would have applied the name "Observatory Inlet", which extends at right angles to that branch from a point far above Ramsden Point, to any portion of the waters below that headland.

On the other hand the Vancouver chart of this region^g appears to name each branch without giving a name to the main inlet below their junction. But in any event an examination of this latter chart would never suggest that the name "Observatory Inlet", which appears in small letters on the western side of that channel and above Point

^a U. S. Case, Atlas, No. 8.

^b *Ibid.*, No. 10.

^c British Case, Atlas, No. 8.

^d *Ibid.*, No. 12.

^e p. 55.

^f For a large map of this region *see* U. S. Counter Case, Atlas, No. 30.

^g U. S. Case, Atlas, No. 4.

Ramsden, was intended to be applied to the body of water below the point. Nor would such an examination indicate that the name "Portland Canal", placed to the west of the channel, which is clearly delineated as passing Point Ramsden, was applicable to the passage behind Pearse and Wales Islands.

The Faden map^a which has already been referred to, conveys the idea which is suggested by the Arrowsmith maps. There is no distinct channel shown above Wales Island. The name "Portland Canal" begins on the western shore opposite Pearse Island. The words "Observatory Inlet" are placed at right angles to that branch about half way between its head and the Naas River. Another feature confirmatory of this view is that the character and size of the lettering of the two names indicate that Portland Canal was the main inlet and Observatory Inlet but a branch.

The United States, relying upon the maps *known* to have been before the negotiators, asserts that the position taken in the British Case is entirely untenable and does not conform to the established facts; and that the Portland Canal of the negotiators was either the whole inlet from mainland to mainland, or that branch entering between Pearse Island and Point Ramsden into the unnamed estuary. It is immaterial which of these two conclusions is reached, for in either case the line of demarcation between Cape Muzon and the head of Portland Canal would follow the course contended for by the United States in its printed Case.

The maps published since the treaty are, with scarcely an exception, corroborative of the southern boundary claimed by the United States. It is unnecessary here to refer to them all in detail, but an examination of those produced will confirm this assertion. Special attention is directed to the Arrowsmith map of 1833, dedicated to the Hudson's Bay Company,^b the Arrowsmith map produced in 1857 before the select committee to investigate the Hudson's Bay Company and ordered printed by the House of Commons,^c the British Admiralty map of 1865,^d the map prepared by the United States Coast Survey in 1867 for the Department of State at the instance of Senator Sumner,^e and the two charts of the British Admiralty of 1868, which cover the region under discussion.^f

^a British Case, Atlas, No. 10.

^d U. S. Case, Atlas No. 23.

^b U. S. Case, Atlas No. 12.

^c *Ibid.*, No. 24.

^e U. S. Counter Case, Atlas No. 35.

^f British Case, Atlas Nos. 23, 25.

The survey, the results of which are laid down in the two charts last mentioned, was undoubtedly made pursuant to specific instructions from the British Government as to the waters which it was to cover. It is therefore a significant fact that Pearse Canal and the channel between Wales and Pearse Islands were not surveyed, but are represented by dotted lines without pretense to accuracy. In the second of these charts the name "Portland Canal" appears in the channel between Pearse Island and Point Ramsden. In connection with the position taken in the Admiralty charts the following from the "Sailing Directions for Bering Sea and Alaska" published "by order of the Lords Commissioners of the Admiralty" in 1898 is important as showing the course of the southern boundary: "The boundary line between British Columbia and Alaska runs *east and west* through Dixon entrance."^a

A comparison of the maps produced shows that the cartographers in the years immediately following the treaty of 1825 and for a considerable time thereafter evidently considered Wales and Pearse islands as lying *in* Portland Canal, but that, later investigations having disclosed the narrow and insignificant character of the strait along the eastern shore of the continent, the two islands became recognized as part of the western limits of the waterway. It should be added that the application of geographic names, referred to in the treaty, on maps made subsequent to its signature, is of far more value in determining the intention of the parties, than any designation given by writers or map-makers prior to the negotiations, unless it can be established beyond controversy that such nomenclature was not only known to the negotiators but was relied upon by them in describing the boundary in the treaty.

Attention has already been directed to the influence which the negotiations and treaty between the United States and Russia had upon the negotiations and treaty between Great Britain and Russia, and to the fact that Russia intended, and the British minister understood that it was intended, to make the parallel $54^{\circ} 40'$, the southern boundary. In this connection the following statement of Mr. Middleton, the United States minister, in reporting the course and result of his negotiations at St. Petersburg, is important: "It was urgently pressed by the Russian plenipotentiaries [because the 55th parallel cut through Prince of Wales Island] to make the line of delimitation run upon the

^a U. S. Counter Case, App. p. 261; *see also* Ibid., p. 205.

parallel of 54° 40', a small deviation from the instructions I had received. To this I thought I could, without impropriety, accede. To show how much importance they [the Russians] attach to the parallel 54° 40' it may now be mentioned that *it is only upon this point that the negotiation with Great Britain has been broken off.*"^a

Count Nesselrode in his letter of August 31, 1824, to the Russian minister at London, stated that the *coast* which then was the subject of discussion extended from "59° of north latitude to 54° 40'"^b In the same letter the following expressions appear: "We have, consequently, confined them [Russia's rights of sovereignty] to the 54° 40':"^c "it must be well understood that this concession [of hunting and trading] will only comprise the space inclosed between latitude 59° and the southern boundary of our territory to wit, latitude 54° 40':"^d "our counter draft carries our *boundary* from the fifty-first degree of north latitude to 54° 40'."^e It is to be noted that the subject under discussion is the coast, not the islands, and that the boundary referred to is that upon the coast, which is repeatedly stated to be 54° 40'.

Count Lieven was directed to read this letter to Secretary Canning and to furnish him with a copy,^f and the latter undoubtedly gave a copy to Mr. Pelly.^g

A copy was also furnished to Mr. Stratford Canning upon departing on his mission to St. Petersburg.^h Thus the British Secretary of State for Foreign Affairs, the officer of the Hudson's Bay Company who had been directing the boundary negotiations, and the British plenipotentiary who negotiated the treaty, examined these statements, which so clearly set forth the intention of Russia as to the southern line. Yet there was no protest against and no comment upon the subject by any of them. The treaty was signed and ratified with the understanding upon both sides that the southern boundary of the Russian possessions reached Portland Canal at 54° 40'.

During the correspondence which took place at the time of the lease of the *Visière* to the Hudson's Bay Company in 1839, which will be considered later, the subject of the southern limits of the Russian territory is several times mentioned. It should be borne in mind that

^a U. S. Case, App., p. 78.

^b Ibid., p. 201.

^c Ibid., p. 202.

^d Ibid., p. 203.

^e Ibid., p. 204.

^f Ibid., p. 204.

^g British Case, App., p. 110.

^h U. S. Case App., p. 208.

none of the islands was included in the lease. Count Nesselrode, one of the negotiators of the treaty of 1825, reported to the Emperor that the Russian American Company believed that "it would be advisable to cede to the Hudson's Bay Company the exclusive right of trade *on the shore of the continent* between *latitude 54° 40'* and the Cross Strait".^a The territory covered by the lease is described in the Russian version of the lease as "the *coast* (the islands excluded) and the interior portion of the land * * * situated between Cape Spencer * * * and *latitude 54° 40'*."^b

In his narrative of a journey around the world, published in 1847, Sir George Simpson, the governor of the Hudson's Bay Company, who signed the lease on behalf of that company, stated: "Russia, as the reader is of course aware, possesses *on the mainland*, between *lat. 54° 40'* and *lat. 60°*, only a strip, never exceeding thirty miles in depth".^c When testifying before a select committee of the House of Commons in 1857, Governor Simpson said: "There is a margin of *coast* marked yellow in the map [U. S. Counter Case, Atlas, No. 35] from *54° 40'* up to Cross Sound, which we have rented from the Russian American Company for a term of years".^d

Mr. R. M. Martin, in his defense of the Hudson's Bay Company, published in 1849, states that the territory of the Russian American Company "includes all the Pacific *coast* and islands north of *54° 40'*".^e Again he writes that the lease provided that "the Hudson's Bay Company should enjoy for ten years the exclusive use of the *continent* assigned to Russia by Mr. Canning in 1825, and extending from *54° 40'* north, to Cape Spencer".^f

In the application, made in 1859 by the Russian American Company to the Russian Government, for the privilege to renew the lease, the territory is stated to be "a part of our possessions on the North West coast of America, a *strip of land* extending in a North Westerly direction from *54° 40'* north".^g In 1867 an American company attempted to enter into a lease with the Russian American Company,

^a U. S. Counter Case, App. p. 3.

^b Ibid., p. 6; *see also* report upon lease, Ibid., p. 7.

^c U. S. Case, App. p. 318.

^d U. S. Counter Case, App. p. 38.

^e Ibid., p. 46.

^f Ibid., p. 47.

^g Ibid., p. 21.

as the term of the agreement with the Hudson's Bay Company was about to expire. The Russian company reported the circumstances to its government and stated that the area desired by the Americans was enclosed by the following limits:

"Beginning at the point on the Pacific Ocean where 54° 40' north latitude intersects 134° 30' of west longitude," thence up Chatham Strait to the head of Lynn Canal, thence north to the boundary, thence southward along that boundary to "latitude 54° 40' and thence west to the point of beginning".^a The report further stated "that the said territory—excluding the islands—is exactly that which is now leased to the Hudson's Bay Company". It is manifest from this statement that the parallel 54° 40' was considered the Russian boundary to the south and that the astronomical rather than the geographical description was intended to control the line of demarcation until it entered Portland Canal.

Major D. R. Cameron's report, published in 1878, is submitted in evidence by Great Britain together with all the appendix which accompanied it, except an extract from the Journal of the Royal Geographical Society of 1869. An examination of this extract^b discloses that it is entirely at variance with the present claim of Great Britain as to the southern boundary and the course of the line to the head of Portland Canal. The expression used is "*Portland Inlet through the center of which runs the boundary between the British and lately acquired territory of the United States.*" Attention is called in the British Case to the location of "Portland Inlet".^c It is the name given to the main channel of the estuary, extending as far inland as Point Ramsden and bounded on the north and west by Wales and Pearse Islands.^d The boundary line, if drawn along the parallel 54° 40', would enter this inlet.

The location of this portion of the boundary seems to have remained substantially unquestioned until the meeting of the Joint High Commission in 1898. It is true that theories and claims of an extravagant character had from time to time been advanced by Canadian writers in support of changing the accepted boundary and causing it to run up Clarence Strait and Behm Canal, up Clarence Strait and Ernest

^a U. S. Counter Case, App. p. 34; *see also* Ibid., pp. 178, 204, 262.

^b Ibid., p. 52.

^c British Case, p. 59.

^d British Case, Atlas, No. 25.

Sound, or up the eastern side of Revilla Gigedo Island. These claims, which will be later discussed, originated in British Columbia and were never adopted or apparently even countenanced by the British Government.

In 1885 Mr. Bayard, the Secretary of State, wrote Mr. Phelps, the United States minister at London, upon the subject of the Alaskan boundary. He referred to the fact that some recent British (presumably meaning Canadian) geographers had deflected the line from "the main channel known as Portland Inlet" and caused it to pass through "a narrow and intricate channel lying north-westward from Portland Inlet."^a Secretary Bayard proceeded to show the untenable character of such a claim and the unwarranted deflection of the line to Pearse Canal, and added, "It is not, therefore, conceived that this water part of the boundary line can ever be called in question between the two Governments."^b

Mr. Phelps enclosed this letter on January 19, 1886, to the Marquis of Salisbury.^c To the assumption on the part of the United States that the boundary, which had been unquestioned for sixty years and accepted as passing east of Pearse and Wales Islands, was not in controversy, the British Government made neither denial nor comment, leaving the United States for over twelve years to conclude that its statement as to the southern boundary was in accord with the views of Great Britain. Having no indication from the British Government that it did not fully agree with the statement made by Mr. Bayard, and having received apparent confirmation of that government's acquiescence, in the fact that the joint survey of 1893 and 1894 commenced its operations at the head and not at the entrance of Portland Canal, the United States in 1896 erected store houses on Pearse and Wales islands and the western shore of the upper reach of Portland Canal.^d

Captain Gaillard, in charge of this work, visited during its prosecution the British port of Port Simpson near the entrance to Portland Canal, making no secret of the purpose of his visit to the region. On November 3, 1896, he made his report, which was transmitted to Congress and by that body ordered printed as a public document on

^a British Case, App., p. 250.

^b *Ibid.*, p. 251.

^c *Ibid.*, p. 253, *footnote*.

^d *Ibid.*, p. 301.

December 11, 1896.^a Yet to these sovereign acts of the United States the British Government made neither protest nor objection till some time after the course of the southern boundary line had been brought in question by the British High Commissioners in 1898.

It may be even a matter for conjecture whether the British representatives on the commission of 1898 could, under their instructions, have committed their government to any claim advanced by them in regard to Portland Canal. There is no intimation in their instructions^b that the line from the point of beginning to the head of Portland Canal was in question. On the contrary they are informed that "from Portland Channel to Glacier Bay" there are difficulties in tracing the line; and "that steps should be taken as early as possible for arriving at an agreement as to the intention of the parties to the Treaty of 1825 as to how the boundary line along the strip, from Portland Canal to Mount St. Elias should be drawn."^c

Four years after the meeting of the Joint High Commission, the Marquis of Lansdowne at the instance of the Canadian Privy Council directed the British ambassador at Washington to make inquiry of the United States Government "as to the nature of these storehouses, and the reason for their erection in this territory the title to which was, and still is, the subject of diplomatic negotiations between Great Britain and the United States."^d (The language of the Report of the Privy Council and of Lord Pauncefote's despatch is the same.)

To the inquiry of the British ambassador Secretary Hay replied, February 28, 1902,^e stating that he was not aware that the British Government had "ever advanced any claim to this territory before the signature of the Protocol of May 30, 1898, preliminary to the appointment of the Joint High Commission". On September 6, 1902, the British chargé d'affaires addressed a note to the acting Secretary of State,^f calling his attention to a note of the British minister, dated June 5, 1891, and stating that it raised an issue as to the boundary in the region where the storehouses had been erected. An examination of the note referred to^g shows it to consist of a quotation from a

^a British Case, App. p. 300; U. S. Counter Case, App. p. 240.

^b British Case, App., pp. 297-298.

^c *Ibid.*, p. 298.

^d *Ibid.*, pp. 293, 294.

^e *Ibid.*, p. 294.

^f *Ibid.*, p. 295.

^g *Ibid.*, p. 268.

report of the United States Coast and Geodetic Survey stating that acts of Congress had provided for a preliminary survey of the whole of the Alaskan boundary, from Cape Muzon to the Arctic Ocean, and a remainder, made at the instance of the Dominion Government, "that the question of the boundary *at this point* is, *at the present time*, the subject of some difference of opinion and of *considerable correspondence*",^d and could only be determined by an international commission.

The only "point" at which the boundary at that time had been the subject of "considerable correspondence" between the two governments was the Stikine River. There had been no stated difference of opinion then as to the location of Portland Canal. In fact the note of Sir Julian Pauncefote, having failed to specify in what particular there was disagreement between the governments, was considered by the United States so general in character as to require no answer, and no reply was made by the Secretary of State to his note.

The United States, therefore, contends that the storehouses upon Pearse and Wales Islands were erected prior to a time when that territory was a subject of diplomatic negotiations; that previous to that time the British Government had not given any intimation that it questioned the universally accepted boundary between Cape Muzon and the head of Portland Canal; and that, in fact, that government had never officially made any claim to Pearse and Wales Islands until the submission of its printed Case to this Tribunal, unless the verbal and unrecorded claims of the British High Commissioners in 1898 can be termed official.

The entire contention set out in the British Case as to the location of the southern boundary rests upon four points: (1) that the parallel $54^{\circ} 40'$ was not to be considered in drawing the southern boundary from Cape Muzon to Portland Canal; (2) that Vancouver's narrative was before the negotiators and therefore the nomenclature used therein must be followed; (3) that Sir Charles Bagot spoke of the coast between 56° and $54^{\circ} 45'$ as necessary to Great Britain; and (4) that the United States on taking possession of the territory in 1867 failed to establish a military post on Wales Island but instead erected one on Tongass Island, northwest of Pearse Canal.

The United States contends that it has shown that the course of the southern boundary was along $54^{\circ} 40'$ to the entrance of Portland Canal (or Inlet), and that such course was almost universally recog-

nized. It further repeats its contention that Vancouver's narrative was not before the negotiators, and that all reference to it is, therefore, irrelevant to the question at present under discussion.

The quotation from the amended proposal of Sir Charles Bagot in his negotiations at St. Petersburg in February and March, 1824, does not end, as quoted in the British Case, with a period.^a The remainder of the sentence is most material in determining the application. He stated that the line proposed by the Russian plenipotentiaries through Portland Canal "would deprive His Britannic Majesty of sovereignty over all the inlets and small bays lying between latitudes 56° and 54° 45', [thus far the quotation from the British Case] *whereof several (as there is every reason to believe) communicate directly with the establishments of the Hudson's Bay Company and are consequently of essential importance to its commerce; while on the other hand, the Russian-American Company possesses no establishment on the mainland (terre ferme) between the two above-mentioned parallels, or even on Prince of Wales Island, or the islands located between the latter and the mainland.*"^b

The maps before the negotiators, that located the strait now known as Pearse Canal, showed that its eastern extremity opened into Portland Canal. It could not, therefore, have been said to be one of "the inlets and small bays," of which there was every reason to believe several communicated "directly with the establishments of the Hudson's Bay Company" and were "consequently of essential importance to its commerce."

Sir Charles was directing attention to the possibility of water communication with the interior, and it was therefore the coast of the mainland and supposed rivers emptying into its inlets and bays to which he referred, not to a narrow channel separating from the adjoining shores islands lying in an estuary. Under these circumstances the quotation has no bearing upon the location of the Portland Canal of the negotiators, but only fixes the southern limit of the mainland.

It is noted in the British Case^c that the "appellation, given in the Treaty to the canal, of 'passe', is in itself indicative of a narrow channel". The United States does not conceive that this statement

^a British Case, p. 56.

^c p. 57.

^b U. S. Case, App. p. 159.

can be seriously relied upon by Great Britain, since on the preceding page of the British Case the quotation from Sir Charles Bagot above discussed contains the expression "*de là par le milieu de ce canal*", referring to Portland Canal.

Attention might also be called to the fact that Count Nesselrode used the expression "*la passe dite Duke of Clarence Sound*"^a; that the expression "the channel called Portland Channel", in Mr. Canning's draft convention of July 12, 1824, was rendered into the French "*la passe dite le Portland Channel*"^b; and that in the draft accompanying the instructions to Mr. Stratford Canning are the words, "along the channel called Portland Channel".^c If there is any significance to the use of "*passe*", "*canal*" or "channel", the United States may confidently assert that such usage in the negotiations is strongly in favor of the broad and natural channel south of Wales Island. In this connection the following statement appearing in *L'Univers* (Paris, 1849) is material. The boundary is said to begin at the most southern point of Prince of Wales Island and "to proceed eastward *along the parallel of 54° 40'* as far as the *great inlet* of the continent which is called Portland Channel".^d And Dr. Henry Wheaton in describing the line of demarcation said that it was drawn "eastward to the *great inlet*" named Portland Channel.^e

In regard to the fourth point upon which Great Britain relies, that by establishing a military post at Tongass Island the United States practically admitted that the boundary line passed through Pearse Canal, then unnamed and unsurveyed, the sketch map^f accompanying Lieutenant Colonel R. N. Scott's report,^g upon whose recommendation the Tongass post was located, names the broad inlet "Portland Channel." An examination of the report shows that Tongass Island was selected by Lieutenant Colonel Scott as a convenient location, because it was peculiarly fitted for the establishment of a military station.^h In "Schedule A" of the report appears the statement: "Naas River empties into Portland Channel at about 55° north latitude and about thirty miles to the northward and eastward of Fort Simpson."ⁱ From these statements and the tracing accompanying the report, it is appar-

^a U. S. Case, App., p. 170.

^f U. S. Counter Case, Atlas, No. 31.

^b *Ibid.*, 183.

^g U. S. Case, App., p. 349.

^c British Case, App., p. 115.

^h *Ibid.*, p. 349.

^d U. S. Counter Case, App., p. 254.

ⁱ *Ibid.*, p. 351.

^e *Ibid.*, p. 283.

ent that the selection of Tongass Island was not from any belief that the boundary line passed through the narrow channel immediately south of that island.

In view of the evidence submitted on behalf of the United States and also on behalf of Great Britain, the United States contends that the Portland Canal of the negotiators was the broad navigable channel, recently termed "Portland Inlet;" that the British Government has never officially questioned that fact until the submission of its Case in the present controversy; and that the position now assumed by Great Britain fails completely through want of evidence to support it.

Besides the definite claim advanced in the British Case as to the location of Portland Canal, the statement is made that any argument based upon the facility of navigation of the main channel east of Pearse and Wales Islands in comparison with that to the westward of those islands "must be dissipated by the precise and unmistakable description of Portland Channel already given; to overbear which, on any such ground, would be to refuse all respect for, or adherence to, the terms of the treaty".^a

It is fair to presume from this statement that, in case "the precise and unmistakable description of Portland Channel" should fail, Great Britain concedes that a legitimate argument might be advanced as to the comparative navigability of the two channels in question. The United States, having shown that "Vancouver's Portland Canal" was not the same as "the negotiators' Portland Canal" and that it is the former and not the latter which has been so precisely and unmistakably described in the British Case, claims that a statement as to the navigability of these waters should receive due consideration in determining the southern boundary of Alaska.

It is not to be understood that the United States presents this statement because of the failure of Great Britain to make the Portland Canal of Vancouver and that of the negotiators coincide, but rather because mutual convenience and principles of international comity guided the plenipotentiaries of Great Britain and Russia in the negotiation of the treaty of 1825.

An examination of the map^b of the region shows that Dixon Entrance and its inland continuation between Point Wales and Comp-

^a British Case, p. 57.

^b U. S. Counter Case Atlas, No. 30.

ton Island is a natural sea boundary between the coast and islands to the north and those to the south. The channel to the east of Pearse and Wales Islands is broad and deep and suitable at all times for the passage of vessels. It is, moreover, the natural outlet of the upper portion of Portland Canal, for at least ninety per cent. of the tides in the latter ebb and flow between Point Ramsden and Portland Point.^a

Pearse Canal, through which Great Britain claims the boundary should pass, is a narrow and tortuous strait with no well defined channel. It is at several places less than a quarter of a mile wide, and at one point immediately south of Tongass Island the channel is less than 250 yards across and does not exceed five fathoms in depth.^b Furthermore, the canal, particularly north and west of Wales Island, is made exceedingly perilous by the presence of numerous rocks, some exposed, others submerged, rising abruptly in mid-channel, while the tidal currents have often a velocity of three or four miles an hour, causing dangerous eddies and swirls at the junctions of the various channels.^c The best pilots in Alaskan waters have declined to take steam vessels through these narrows on account of the known and unknown dangers.^d These conditions, to which should be added the prevalence of fogs and bad weather in those regions, make the waters, through which Great Britain proposes to draw the boundary line, impassable for sailing craft and practically so for steam vessels.^e

Thus the only way the United States could reach the upper portion of Portland Canal, if the contention of Great Britain were allowed, would be through the territorial waters of that power. According to the rule announced by the British commissioners during the negotiation of the treaty of Washington in 1871, the navigation of inland waters by the citizens of another nation could not be claimed as a right.^f Thus to draw the boundary line through Tongass Narrows and Pearse Canal would substantially debar the United States from all communication with its territory lying along the western shores of Portland Canal above 55° north latitude.

That such was the intention of the negotiators of the treaty, it is

^a U. S. Counter Case, App., p. 239.

^b U. S. Counter Case, Atlas, No. 30.

^c U. S. Counter Case, App., pp. 239, 242; British Case, App., p. 144.

^d U. S. Counter Case, App., p. 240.

^e *Ibid.*, p. 242.

^f British Case, App., p. 211.

not believed Great Britain will contend. Sir Charles Bagot in the negotiations at St. Petersburg vigorously urged that it was of great importance to Great Britain to possess the sovereignty of the two shores of Portland Canal." His attempt to secure the desired boundary failed and the Russian proposal was accepted by the British Government. But, if the line of demarcation should now be drawn through the narrow strait from Tongass Island to Portland Canal, Great Britain would as practically control the two shores of Portland Canal as if she had obtained the title to them for which Sir Charles Bagot unsuccessfully contended.

To demark the southern boundary as claimed in the British Case would, therefore, be contrary to the intention of the negotiators of the treaty of 1825 and against the meaning of its provisions.

The statement made in the British Case, that the admission of the United States to the sovereignty of Pearse and Wales islands and to the navigation of the channel southeast of them "would give [that government] domination of the continental coast opposite, and the important point of Port Simpson, to the great prejudice of Great Britain,"^b is substantially a declaration that in case both shores of that inlet come under British sovereignty the United States will be excluded from navigating those waters.

As to the argument advanced that these islands are valuable to Great Britain for defense, it seems needless to point out that they are of far greater importance to the United States. Excluded from its possessions along Portland Canal, with the possible establishment of a British military post at the southern entrance to its inland waters, the territory of the United States would be menaced far more than the British possessions would be by a mutual right of navigating the broad arm of the sea extending inland from Dixon Entrance.

The British Case presents to the Tribunal several other ways of running the boundary line from Cape Muzon to the 56th parallel, if its definition of Portland Canal is rejected." They are based upon the theories and speculations of Canadian writers, to which reference has already been made. As they are manifestly the very propositions, in substance, which Sir Charles Bagot made in his negotiations and which were rejected by Russia, and as they are chiefly based in

^a U. S. Case, App., p. 163.

^c *Ibid.*, pp. 61-63.

^b British Case, p. 58.

the British Case upon a hypothetical mountain boundary approaching the shore of the mainland near the northern end of Revilla Gigedo Island, the United States deems it unnecessary to consider them in detail or to traverse the logic upon which they rest.

**THE BOUNDARY FROM PORTLAND CANAL TO THE 56TH
PARALLEL OF NORTH LATITUDE.**

The United States in its printed Case claimed that the line of demarcation from the head of Portland Canal should follow the same course, on which the line touched the mainland, until it intersected the 56th parallel of north latitude. " This claim, in case the Tribunal shall find that there is no mountain range, such as was contemplated in the treaty of 1825, within ten marine leagues of the shore, the United States understands that Great Britain substantially concedes^b. The boundary at this place, as drawn in the British Case (Map No. 26 in the Atlas accompanying this Counter Case) depends upon a mountain boundary intersecting the 56th parallel within ten marine leagues of the western shore of the continent. In case such range is more than ten marine leagues from the shore, or in case it should not intersect the 56th parallel, then the line proposed by Great Britain would fail.

Though this portion of the line seems hardly of sufficient importance to warrant an extensive discussion, the peculiar interpretation placed upon the language of the treaty and the resulting line now claimed by Great Britain are so much at variance with the general acceptance and understanding of the boundary for three quarters of a century, that they demand at least a passing notice.

It is asserted in the British Case that the line should be drawn to the place where a mountain range extending along the coast touches the 56th parallel, or in the case of there being no such mountain range, then to the point where a line drawn ten marine leagues from, and parallel to, the western continental shore would cross that degree of latitude. This interpretation of the language of the treaty the United States conceives to be contrary to the intent of the article and at variance with the usual method of tracing a boundary.

It is established by the Russian text of this portion of the treaty^c that the "it" of the English version and the "*elle*" of the French refer to the line, not to the canal. This also appears from the lan-

^a U. S. Case, p. 104.

^c U. S. Case, App., p. 7.

^b British Case, p. 70.

guage of the treaty itself, as any other interpretation would violate the grammatical rules of the French language. The terms of the treaty, if changed to correspond with this interpretation, would read, the said line shall ascend to the north along the channel called Portland Channel as far as the point of the continent where *the line* strikes the fifty-sixth degree of north latitude. There is no suggestion here that the line should turn abruptly to the east or the west; on the contrary it is to continue "to ascend to the north". It is apparent that by a natural reading of this description, without distorting it to meet some preconceived theory as to the rest of the boundary, the line would pursue the same course, which it was then following, until it intersected the 56th of north latitude.

Besides being the natural and not the forced interpretation of the treaty, such delineation is favored by the physical conditions existing at the head of Portland Canal. Beyond the "low marshy land" described by Vancouver, there extends a clearly defined valley for several miles inland from the termination of the fiord, which coincides with its general trend, thus forming a natural boundary as far as the 56th parallel."

In contrast to this convenient line of demarcation, Great Britain claims that on reaching the head of Portland Canal the boundary should turn abruptly toward the west at right angles to the course of the channel, mounting the precipitous side of the fiord, and should follow this course for a distance of almost sixty miles before reaching the 56th parallel, instead of five miles if drawn through the open valley of the Bear River.

It seems that, in attempting to reach a suitable starting point for a theoretical mountain boundary near the continental shore, Great Britain has failed to observe that this portion of the proposed line actually intersects the northern part of Behm Canal, in fact cutting in two Bell Island, thus giving to Great Britain an outlet to the sea below the 56th parallel. Sir Charles Bagot had opposed the boundary, which was finally agreed upon in the treaty, on the very ground that Great Britain would be deprived of "sovereignty over *all* the inlets and small bays lying between latitudes 56° and 54-45."^b Great Britain now proposes to secure some of these very inlets and small bays, which the British minister in 1824 failed to obtain and on account of which he suspended the negotiations at St. Petersburg.

^a U. S. Counter Case, App., p. 241.
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^b U. S. Case, App., p. 159.

The area (south of 56° north latitude), between the line proposed in the British Case and the one which the United States requests the Tribunal to find, forms a narrow wedge-shaped strip of territory not exceeding 150 square miles, bounded on the north by the 56th parallel and on the east by the valley of the Bear River. The area in dispute seems insignificant, but the determination of the line in accordance with the contention of Great Britain forms an important factor in the theory of the boundary presented in the British Case. If the line reaches 56° north along the course contended for by the United States, it is not to be supposed that the negotiators, without mentioning a change of direction, intended that it should turn on that parallel due west for sixty miles. The mountain chain which they stated that it was to follow must have been, in their minds, approximately near the point where the line reached the parallel, though not necessarily intersecting it. It is obvious that the hypothetical coast range of the British Case, if a series of isolated peaks can be so called, does not meet this condition.

In connection with this portion of the boundary the Tribunal is requested to examine the maps submitted in evidence by both the United States and Great Britain, which show that the universal understanding of the treaty by cartographers and by governments for seventy five years was the same as that now claimed by the United States.

Particular attention is directed to the Admiralty chart of 1868 of Portland Canal.^a It will be observed that the mountains lying to the eastward of the channel were named by Staff Commander Pender (the officer in charge of the survey) in honor of distinguished British subjects, while those along the western shore were named after citizens of the United States, by this means indicating to which nation the territory belonged. The Bear River valley is shown as far as the 56th parallel; to the *west* of this valley and *north* of Portland Canal appear Mount Johnson and the Reverdy Mountains. They lie directly in the area now claimed by Great Britain.

From the text of the treaty, from the evidence before the Tribunal, and from the long acquiescence of Great Britain as to the meaning of the treaty, the United States submits that the line between the head of Portland Canal and 56° of north latitude should be drawn

^a British Case, Atlas, No. 23.

directly to that parallel along the axis of the valley, which forms a continuation of Portland Canal, and not diverted to a point sixty miles to the westward in order to meet a chain of mountains, the existence of which is denied by the United States, and the absence of which is affirmatively established.

THE LISIÈRE AND ITS EASTERN BOUNDARY LINE.

The United States, in considering that portion of the line of demarcation, described in Articles III and IV of the treaty of 1825, between the 56th parallel of north latitude and the 141st meridian of west longitude, contends that the claims made in the British Case and the boundary drawn therein (Map No. 26 of the Atlas accompanying this Counter Case) are based upon false premises, which are in direct conflict with the evidence adduced and contrary to the intention of the high contracting parties and the meaning of the treaty.

The claim of Great Britain and the authority to draw the line of frontier as is done in the British Case rest upon the assumption of a "datum line"^a based upon an erroneous meaning given to the words "*côte*" and "*océan*;" upon the assumption that "*la crête des montagnes*" means the "summits" instead of the "crest" of the mountains;^b upon a further assumption that distinct peaks can be said to parallel a coast line; upon ignoring the value of the word "*sinuosités*" in the negotiations and treaty;^c and, above all, upon a misconstruction or a failure to construe the plain intent of the negotiators as evidenced in the correspondence.

The word *côte* or *coast* may be employed in three distinct ways; (1) geographically, to designate the *physical coast*, the line where water ends and land begins; (2) legally, to designate the *political coast*, the line adopted in international law as the basis for the extension of municipal jurisdiction over portions of the high seas contiguous to the territory of a nation; and (3) descriptively, as *the name* of a particular region.

(1) The physical coast line of the mainland under discussion, of which *rivage* and *shore* are synonyms, follows the limits of salt-water along all the meanderings of the continental margin, without reference to the adjacent islands.

(2) The political coast line (since all arms of the sea not exceeding

^a British Case, p. 73.

^c Ibid., pp. 16, 73.

^b Ibid., pp. 27, 81.

six miles, and in some cases more, in width, and all islands are practically treated as portions of the mainland) extends outside the islands and waters between them. In the present instance the political or legal coast line drawn southward from Cape Spencer would cross to the northwestern shore of Chichagof Island and follow down the western side of that island and of Baranof Island to Cape Ommaney; at this point it would turn northward for a short distance and then cross Chatham Strait to the western shore of Kuiu Island; thence again turning southward along that shore and along the outlying islets west of Prince of Wales Island, the line would round Cape Muzon and proceed eastward to Cape Chacon; thence following northward along the eastern shore of Prince of Wales Island to Clarence Strait it would cross the latter at its entrance and proceed southeastward to the parallel of $54^{\circ} 40'$ at the point where it enters Portland Canal. Thus the political coast line of Southeastern Alaska does not touch the mainland between Cape Spencer and 55° of north latitude.

It should also be noted that there are no "inland waters" composed of salt water within the physical coast line, but within the political coast line there are a great number of straits, sounds and inlets, formed by the contour of the continent and the proximity of the islands to it and to one another.

(3) The coast used in a descriptive way is found in the names the "Northwest Coast", "the coast of Northwest America", and "the Coast" when used as a proper name or as the synonym of such name. It may or may not in this sense include the islands adjacent to the territory so named.

The word *océan*, of which *mer* and *sea* are synonyms, is similarly used in three ways; (1) *physically*, to designate the entire body of salt water which surrounds all the continents and islands on the globe; (2) *politically*, as the waters beyond the legal coast line; and (3) *descriptively*, as a proper name of a particular expanse of the high seas.

The United States contends that the words "côte" and "océan" in Articles III and IV of the treaty of 1825 are used in their physical and descriptive senses only, and that to draw their limits artificially as is done in the case of a political coast is inconsistent with their meaning and with the intention of the parties to the convention. It would appear that a similar use of the word "coast" is to be found

in the proclamation and statutes of Great Britain, which granted to the Province of Newfoundland jurisdiction over the adjacent coast of Labrador,^a and which is interpreted in the map of the Dominion of Canada issued in 1902 by the Canadian Department of the Interior.^b

As an example of the use of the word "coast" in the negotiations, attention is directed to the following, which appears in Mr. Canning's draft convention of July 12, 1824, "the line of frontier * * * shall ascend northerly along the channel called Portland Channel, till it strikes the *coast* of the continent."^c The same expression is again used in the draft accompanying the instructions to Mr. Stratford Canning, December 8, 1824.^d It is evident that the "coast" referred to at the head of Portland Canal was the physical coast of the continent.

Sir Charles Bagot, in a paper which he delivered to the Russian plenipotentiaries at St. Petersburg, used in the same sentence the expressions, "*distant de la côte de 10 lieues marines*" and "*à la distance de 10 lieues marines du rivage*."^e Sir Charles thus used the words "*côte*" and "*rivage*," synonymously. The latter word could never be construed so as to refer to a political coast line. It is invariably applied to the physical coast.

The same use of the word is found at the present time, the word "coast" being applied to the margin of inlets far beyond the artificial coast of the British Case. Dr. George M. Dawson, who was familiar with the Canadian contention in its early stages, and informally discussed the question with Dr. W. H. Dall in February, 1888, stated, in a narrative of his exploration in the Yukon region, made in 1887: "We began the ascent of the Lewes, and from its head-waters we crossed the mountains by the Chilcoot Pass and reached *the coast at the head of Lynn Canal* on the 20th September."^f He wrote of the White Pass: "It leaves *the coast at the mouth of the Shkagway River* five miles south of the head of Taiya Inlet."^g And again: "The passes connecting *the coast* with the interior country, from the heads of Lynn Canal to the upper waters of the Lewes, were always jealously guarded by *the Chilkat and Chilkoot Indians of the coast*."^h

Thus Dr. Dawson, before his conference with Dr. Dall, employed

^a U. S. Counter Case, App., pp. 283-285.

^b *Ibid.*, p. 250, No. 130.

^c U. S. Case, App., p. 183.

^d British Case, App., p. 116.

^e U. S. Case, App., p. 159.

^f U. S. Counter Case, App., p. 258.

^g *Ibid.*, p. 261.

the natural and customary meaning of the word "coast," in the same way that it was used by the negotiators of the treaty of 1825.

The British Case asserts that "it is clear that 'côte' and 'Océan' refer to the same thing."^a If this statement is correct, then if the latter word is applied to the waters at the head of Lynn Canal it confirms the meaning of "coast" contended for by the United States. In 1898 Sir Wilfrid Laurier, during a debate in the Dominion House of Commons, said: "But if we had adopted the route by the Lynn Canal, that is to say, had chosen to build a railway from Dyea by the Chilkat Pass up to the waters of the Yukon, we would have to place the *ocean* terminus of the railway upon what is now American territory."^b A little later in the same debate he spoke of "that strip of territory *on the sea which has Dyea as its harbour*;" and repeated the expression "ocean terminus."^c

It is clear that the Canadian Prime Minister used "sea" as a synonym of "ocean," and that he considered them applicable to the salt water in the neighborhood of Dyea, that is, at the head of Lynn Canal.

In connection with the meaning of "côte" adopted in the British Case, much importance is given, and considerable space is devoted to the instructions issued in 1893 by Dr. T. C. Mendenhall, superintendent of the United States Coast and Geodetic Survey, to his subordinates who were to take part in the joint survey to be undertaken under the convention of July 22, 1892: in which he directed them to carry their operations inland "thirty nautical miles from the coast of the mainland in a direction at right angles to its general trend."^d

While the United States appreciates the fact that this official used an expression which might be construed into an admission on his part that he coincided with the Canadian view, it emphatically denies that such was his intention. In an article subsequently published he clearly defined his attitude upon the construction of the treaty,^e which he, as an official, had no authority to do under the instructions issued to him prior to the joint survey.^f His position in regard to the boundary, as shown by this article, was directly opposed to the construction which has been placed upon his words by Great Britain.

^a British Case, p. 72.

^a British Case, pp. 73, 74.

^b U. S. Counter Case, App., p. 171.

^c U. S. Counter Case, App., pp. 269-276.

^c *Ibid.*, p. 172.

^f *Ibid.*, p. 268.

Furthermore, Dr. Mendenhall was superintendent in 1894 and issued instructions to the United States surveying parties, which were in the field that year. Several of the surveyors were assigned to the region about the heads of Chilkat and Taiya Inlets. In their instructions the following appear: "As the trigonometrical survey of the Chilkat and Taiya Inlets to the 10 marine league limit is of the greatest importance, the topography (of the lower portions at least) being secondary, you will first assist in the triangulation."^a "On receipt of these instructions you will please arrange to proceed to Alaska and make a topographical reconnoissance of the country to the northward and eastward of Taiya Inlet and River to the 10 marine league limit. * * * The party of Assistant Pratt will be engaged in the survey of the Chilkat Inlet and river to the boundary."^b "On receipt of these instructions you will please arrange to proceed * * * to Lynn Canal, where you will execute the triangulation and topographical reconnoissance of the Chilkat and Taiya Inlets to the 10 marine league limit. * * * Parties under the charge of Messrs. J. A. Flemer and H. P. Ritter will be operating in the mountain region adjoining Chilkat and Taiya Inlets. * * *. It will be borne in mind that the triangulation to the 10 marine league limit and the topographical reconnoissance of the upper portions of the inlets are of first importance."^c

According to the British contention the artificial coast line would cross Lynn Canal some 60 nautical miles south of the heads of Taiya and Chilkat Inlets which would, therefore, be over 25 miles beyond a *lisière* of 10 leagues in width based upon such a coast line. The United States parties in 1894 were assigned by Dr. Mendenhall to survey Taiya Inlet and River and Chilkat Inlet and River,^d "with a view to the ascertainment of the facts and data necessary to the permanent delimitation" of the boundary; and it should be noted that an attaché of the British commissioner accompanied one of the United States parties which surveyed both inlets and rivers.^e

The instructions issued to the Canadian surveying parties in 1894 have not been made public nor have they as yet been produced before

^a U. S. Counter Case, App., p. 279.

^b *Ibid.*, pp. 280-281.

^c U. S. Counter Case, App., p. 276.

^d British Case, App., p. 284.

^e *Ibid.*, p. 282.

^f *Ibid.*, p. 284.

the Tribunal. Their contents, therefore, can only be conjectured from the localities in which the parties operated. These are shown by the charts of their survey,^a and the joint report of the Commissioners.^b The significant fact is, that they surveyed the shores and head of Lynn Canal.^c It appears, therefore, that the Canadian officials deemed it essential to obtain data for determining the boundary far beyond a line drawn ten leagues from the "coast", which is now contended for in the British Case.

It is needless to comment further upon the argument in the British Case, founded upon Dr. Mendenhall's words "the general trend" of the mainland coast. His instructions of 1894 are conclusive against the interpretation placed upon them by Great Britain; and the acts of the Canadian surveyors in operating about the head of Lynn Canal are far more confirmatory of the position of the United States than Dr. Mendenhall's inadvertent expression is of the British contention.

The "argument in support of the British contention * * * based upon Article VII of the Treaty" is that the inland seas, gulfs, havens and creeks of the possessions of each power, to which the subjects of the other could resort for the term of ten years,^d were confined to the mainland coast of the *lisière*, and that it was, therefore, implied that some of these waters were within the British dominions. This assertion rests upon interpreting "the coast mentioned in article three" to be the coast used in determining the limits of the *lisière* and not "the coast of the continent and islands of America to the Northwest";^e which is the use of the word in its descriptive sense and refers to the region commonly known as the "Northwest Coast".

Article VII of the British treaty is merely a repetition of Article IV of the American treaty of 1824. Mr. George Canning, in his instructions to Mr. Stratford Canning, said that the stipulation for reciprocal privileges of trade could "be best stated precisely in the terms of article 4 of the American convention."^f The two articles are as follows:

^a British Case, Portfolio of Charts.

^b British Case, App., p. 282-286.

^c *Ibid.*, p. 284.

^d U. S. Case, App., p. 16.

^e *Ibid.*, p. 15.

^f *Ibid.*, p. 211.

BRITISH TREATY.

VII. Il est aussi entendu que, pendant l'espace de dix Ans, à dater de la signature de cette Convention, les Vaisseaux des deux Puissances, ou ceux appartenans à leur sujets respectifs, pourront réciproquement fréquenter, sans entrave quelconque, toutes les Mers intérieures, les Golfes, Hâvres et Criques sur *la côte mentionnée dans l'Article III*, afin d'y faire la pêche et le commerce avec les Indigènes.^a

AMERICAN TREATY.

Il est néanmoins entendu que pendant un terme de dix années à compter de la signature de la présente convention, les Vaisseaux des deux Puissances, ou qui appartiendraient à leur citoyens ou sujets respectifs, pourront réciproquement fréquenter sans entrave quelconque, les mers intérieures, les golfes, hâvres et criques sur *la Côte mentionnée dans l'article précédent*, afin d'y faire la pêche et le commerce avec les naturels du pays.^b

The coast mentioned in the "preceding article" of the American treaty is "*la Côte nord ouest d'Amérique*,"^b which is stated to be both north and south of the parallel 54° 40'. It is evident that the intention of these articles is the same. British subjects were privileged to frequent the waters of the Russian possessions north of 54° 40'; Russian subjects had a similar privilege in regard to the waters of the possessions of Great Britain south of that line.

It should be added that the position now assumed in the British Case is directly opposed to that taken by Great Britain in the Fur Seal Arbitration. The British Counter Case, filed in that arbitration, stated, that it had been proved in the British Case "that the words 'northwest coast' were used, throughout the negotiations, to include not less than the whole of the North American coast from Behring Strait to latitude 51° north."^c After referring to the words of Mr. Canning, which are quoted above, it is asserted: "This shows that Mr. Canning did not understand the term 'northwest coast' to be confined to the 'lisière,' the proposals relating to which had one unvarying condition, namely, that it was to belong to Russia."^d

In the printed argument of Great Britain submitted to the tribunal at Paris, the following appears: "Article VI dealt only with the *lisière* * * * Article VII, on the other hand, dealt with the coast of the continent mentioned in Article III: it gave to the two parties a reciprocal right of visit to all the inland waters, harbours, etc., on this coast: it applied, therefore, to the coast of the whole Russian possessions, as well as to the whole of the coast of the British posses-

^a U. S. Case, App., p. 13.

^b *Ibid.*, p. 9.

^c U. S. Counter Case, App., p. 191.

^d *Ibid.*, p. 192.

sions."^a In the oral argument before the tribunal, one of the learned counsel on behalf of Great Britain was asked: "What do you say is the point of the shore referred to as the 'coast' in article VII?" To which he replied: "The 'coast' is the whole of coast up to Behring Straits."^b It is needless to point out further that the present position of Great Britain is utterly inconsistent with that taken ten years ago in the Fur Seal Arbitration.

As to the course of the boundary described in the treaty, the United States asserts that it must be read in connection with the maps which were known to have been before the negotiators at St. Petersburg and London. In the Russian map of 1802,^c the Faden map of 1823,^d the Vancouver charts,^e and in one of the Arrowsmith maps,^f (the others showing no mountains) there is a clearly defined continuous range of mountains extending from 56° north latitude, in the neighborhood of the head of Portland Canal, to 141° west longitude and following approximately the physical coastline of the continent around all the inlets. It was, beyond controversy, to this range of mountains, shown on the maps, that the negotiators referred in their conferences and correspondence and along the crest of which they intended that the line of demarcation should run.

In the "observations" of the Russian plenipotentiaries handed to Sir Charles Bagot on March 7, 1824,^g the phrase "*la chaîne de montagnes*" twice appears. Count Nesselrode in commenting upon the boundary fixed by the treaty wrote to the Russian Minister at London on May 20, 1825, of "*une chaîne de montagnes*". In his letter of April 19, 1824,^h Mr. Pelly of the Hudson's Bay Company, having examined the despatch of Sir Charles Bagot giving an account of the negotiations at St. Petersburg, used the phrases "the supposed *chain* of mountains" and "the nearest *chain* of mountains". Again Mr. Pelly, in commenting upon the Russian counter draft, which had been submitted to him for criticism, wrote on October 20, 1824, to the Foreign Office,ⁱ objecting to the second article on the ground that it "should more accurately define the eastern boundary from the Portland Canal to the 61st degree of north latitude to be the *chain* of mountains at a

^a U. S. Counter Case, App., p. 194.

^b *Ibid.*, p. 196.

^c U. S. Case, Atlas, No. 6.

^d British Case, Atlas, No. 10.

^e U. S. Case, Atlas, No. 4 and 5.

^f *Ibid.*, No. 8.

^g U. S. Case, App., p. 160.

^h British Case, App., p. 78.

ⁱ *Ibid.*, p. 110.

‘très-petite distance de la côte,’ but that if the summit of those mountains exceed 10 leagues, that the said distance be substituted instead of the mountains”.

In the last quotation from Mr. Pelly it is apparent that the phrases “the chain of mountains”, “those mountains” and “the mountains” are used synonymously; and this same use is observable throughout the correspondence prior to the signature of the treaty.

It is submitted that the British contention that “the phrase ‘la crête des montagnes’ signifies the tops of the mountains adjacent to the sea”^a is directly opposed to the evidence before the Tribunal, and that the use in the British Case of the plural “summits”,^b thereby conveying the idea of distinct and separate mountains rather than a continuous mountain ridge, is unwarranted. Throughout the correspondence the singular only is employed. The phrases used are “*la crête*”,^c “*la cime*”,^d and “the summit”.^e The literal translation of *crête* in the Russian version of the treaty is “backbone”,^f which implies extension and can only be applied to a mountain range or chain and not to isolated mountains. It is, moreover, impossible to conceive of mountains, except in a range, *paralleling* a coast. The word “parallel” conveys the idea of extension and continuity.

The United States does not understand that it is asserted in the British Case that the line of demarcation proposed therein follows a continuous chain of mountains, but that it rests upon the contention that “*la crête*” signifies “tops.” If this definition fails, the boundary between the 56th parallel and the 141st meridian as now drawn by Great Britain must be abandoned, for no evidence has been adduced of the existence of a continuous dominant range of mountains approximately paralleling the physical coast of the continent and within ten leagues therefrom, while on the contrary the proof that no such range exists is conclusive.^g

The purpose of Russia in demanding a *lisière* on the continent was, as has been shown in the Case of the United States,^h to prevent the

^a British Case, p. 81.

^b *Ibid.*, p. 27.

^c U. S. Case, App., pp. 13, 213, 214, 218, 219, 226, 229.

^d *Ibid.*, pp. 185, 188.

^e *Ibid.*, p. 211; British Case, App. pp. 110, 116.

^f U. S. Case, App., pp. 7, 8.

^g *Ibid.*, pp. 529-538; U. S. Counter Case, pp. 257, 262-265.

^h p. 45.

Hudson's Bay Company from securing a foothold on the seashore, from which their trappers and traders could successfully compete with the Russian American Company and their Indian hunters along the mainland and among the islands. An examination of the frontier of the *lisière*, now proposed by Great Britain (Map No. 26 in the Atlas accompanying this Counter Case), shows that every important inlet and bay would, by such demarcation, have belonged to Great Britain, and only the peninsulas and promontories would have been Russian territory. Great Britain shows that the force of this fact, so evident in the negotiations, is appreciated; and to meet it declares that "the truth is that the only difficulty is that caused by reading into the Treaty a controlling principle that British territory shall nowhere touch salt water, and by rejecting every application of the Treaty which does not produce a result in conformity with that assumption. It is submitted that no vestige of any such principle is to be found in the Treaty."^a

The United States asserts that the intention of the parties to the treaty is vital to its true interpretation; that such intention between nations is the very essence of the agreement; and that any material variance from the intention must give place to an interpretation in accordance with it. Besides the facts which have been set forth in the Case of the United States, a statement in the British Case shows that substantially the same opinion as that held by the United States concerning the purpose of the *lisière* has been reached by Great Britain. It reads as follows: "In the third place, the extent and the function assigned to the *lisière* which Russia desired to possess, are worthy of note. It was to be a mere fringe, as a *protection* and a 'point d'appui.' It will be found that this conception of the *lisière* was not departed from."^b How the "mere fringe," which Great Britain now claims to have been the extent of Russia's continental possessions below mount St. Elias, was to form "a protection and a 'point d'appui'" is not explained.

The United States agrees that the *lisière* was to protect and support the interests of Russia in the archipelago and inland waters along the mainland shore, but it denies that the *lisière* of the British Case would have performed those services.

Incidental to a consideration of the inland boundary of the *lisière*,

^a British Case, p. 75.

^b Ibid, p. 19.

for which Great Britain is now contending, the assumption that mount St. Elias is within British territory^a is, it is submitted, entirely unwarranted. Throughout the negotiations it is apparent that that mountain was to form a conspicuous landmark of the frontier;^b and the northern boundary, along the 139th meridian of west longitude, which had been substantially agreed upon by the negotiators, was changed to the 141st in order that its lofty peak might mark the termination of the *lisière*, since the latter meridian more nearly approached the mountain.^c

Mount St. Elias lies within ten marine leagues of the ocean and overtops all other mountains intervening between it and the coast. The United States submits that to draw the line of demarcation along the southern spurs of the great mountain would be in conflict with the evidence and with the manifest intention of the parties to the treaty of 1825.

The extent of the *lisière*, as interpreted by both of the treaty powers and by other nations for substantially seventy-five years is directly opposed to the present contention of Great Britain.^d The particular attention of the Tribunal is directed to the following British, Canadian, and British Columbian Maps: the Arrowsmith map of 1833;^e the Bouchette map of 1853;^f the Cauchon map of 1857;^g the British Admiralty chart of 1861, corrected to 1866;^h the Hudson's Bay Company's map of 1850;ⁱ the Arrowsmith map of 1863;^j the official map of British Columbia, 1884;^k the map of the Canadian Geological Survey of 1884;^l Sir George Simpson's map of 1847;^m map of Select Committee of House of Commons, 1857;ⁿ official map of British Columbia.

^a British Case, p. 6.

^b U. S. Case, App., pp. 163, 178, 180, 181; *See also* U. S. Counter Case, App., pp. 178, 200.

^c U. S. Counter Case, App., p. 211.

^d U. S. Case, App., pp. 511-523; U. S. Case, Atlas; British Case, Atlas; U. S. Counter Case, App., pp. 243-250; U. S. Counter Case, Atlas.

^e U. S. Case, Atlas, No. 12.

^f *Ibid.*, No. 17.

^g *Ibid.*, No. 19.

^h *Ibid.*, No. 23.

ⁱ British Case, Atlas, No. 19.

^j *Ibid.*, No. 22.

^k *Ibid.*, No. 31.

^l *Ibid.*, No. 32.

^m U. S. Counter Case, Atlas, No. 33.

ⁿ *Ibid.*, No. 35.

1859;^a the British Admiralty chart of 1878;^b and the official Canadian map of 1883.^c

On examination of these maps, together with the others offered in evidence, although they may differ in minor details, it will be found that they all agree in the fundamental principle of drawing the boundary line about the heads of all inlets from Portland Canal to the 141st meridian of longitude. Upon this point there is no disagreement. It was universally understood that such was the meaning of the treaty, and the same method of demarking the line was pursued by both the British and Canadian Governments in their official publications. Great Britain thus openly and unreservedly proclaimed to the world the intention of the parties to the treaty of 1825 and the meaning of its terms.

Besides the maps and charts, which were officially issued by the Imperial and Dominion Governments, every act of those governments up to a comparatively recent period was in accord with the meaning of the treaty as interpreted in their maps and charts.

THE LEASE OF THE LISIÈRE BY THE HUDSON'S BAY COMPANY.

The controversy known as "the affair of the *Dryad*" has been discussed in the Case of the United States,^d and its result, the leasing of the *Lisière* to the Hudson's Bay Company noted. The claim of the Hudson's Bay Company for £22,150 had been presented and pressed with much earnestness by the British Government through its minister at St. Petersburg.^e The Russian Government finally, in the latter part of the year 1838, directed the Russian American Company, as there seemed no further pretext for avoiding payment of the claim, to "enter into friendly negotiations with the Hudson's Bay Company" looking towards a settlement.^f The Russian company at once took steps to comply with the directions of its government.

Preliminary to official negotiations Baron Wrangell communicated privately with Governor Simpson of the Hudson's Bay Company suggesting a lease of the *Lisière* for a term of years to the British company in consideration of a fixed annual rental and the abandonment of the claim for damages in the affair of the *Dryad*.^g To this

^a U. S. Counter Case, Atlas, No. 36. ^e U. S. Case, App., pp. 285-307.

^b *Ibid.*, No. 39.

^f *Ibid.*, p. 308.

^c *Ibid.*, No. 43.

^g *Ibid.*, p. 311; U. S. Counter Case, App., p. 4.

^d pp. 77-80.

proposal a favorable reply was received from Mr. (afterwards Sir George) Simpson and a meeting between the governors of the companies was arranged to complete the agreement.^a The meeting took place at Hamburg about February 1, 1839;^b and, on February 6, the lease was signed by the representatives of the companies.^c

By the terms of this instrument "the whole mainland coast and Interior country belonging to Russia" situated between Cape Spencer and latitude 54° 40' was leased for the term of ten years to the Hudson's Bay Company, "together with the free navigation and trade of the Waters of that Coast, and Interior Country situated to the Southward and Eastward of a supposed line to be drawn from the said Cape Spencer to Mount Fair Weather". The Russian American Company also included in the lease Fort Dionysius (termed Point Highfield in the instrument) situated on Wrangell Island, and further agreed not to trade in "any of the Bays, Inlets, Estuaries, rivers or lakes in that line of the Coast and in that Interior Country". For this lease the Hudson's Bay Company was to pay 2000 seasoned land otter skins annually and to relinquish the *Dryad* claim.^d The agreement contained certain other provisions, by which the British company was to furnish the Russian colonies with supplies at fixed charges.

The chief reason for the Russian American Company entering into this arrangement was the pressure brought to bear upon it by the Imperial Government in demanding a settlement of the *Dryad* claim, which the British representatives at St. Petersburg had been urging vigorously upon Count Nesselrode.^e That it secured certain commercial benefits was incidental.

The Hudson's Bay Company apparently had two reasons for desiring the lease: (1) it secured thereby the rivers of the *Lisière* in which it could trap and hunt the river beaver, which were found only in fresh water;^f and (2) it also obtained control of the entrances to the inland territory of Great Britain east of the line of demarcation.

(1) The skins of the river beaver had in 1832 become the principal article of the fur trade in the southern part of the Russian possessions, and formed the unit of barter. In this particular trade the Americans in their vessels, and the British, operating from their recently estab-

^aU. S. Case, App., p. 311; U. S. Counter

^dIbid., pp. 150, 152.

Case, App., p. 4.

^eU. S. Counter Case, App., p. 35.

^bU. S. Counter Case, p. 5.

^fIbid., p. 48.

^cBritish Case, App., p. 150.

lished post at Naas, were the chief competitors.^a In the desire to secure these skins Mr. Ogden in charge of the Naas station attempted to make an arrangement to supply the Russians with "merchandise to be paid for with river beavers."^b It would appear to have been this particular trade which induced the Hudson's Bay Company to attempt the erection of a post on the Stikine River, which attempt brought about the affair of the *Dryad*, for Baron Wrangell reported, before that event, that he particularly feared the navigation of the rivers by the Hudson's Bay traders and hunters," for it is the region neighboring upon the rivers which furnishes us with beavers and not the coast."^c A year later he reported that "without doubt Mr. Ogden's only aim is to occupy the region where the natives living on the coast obtain river beavers, and then with their Canadians to hunt for these furs. It is in this manner that the Hudson's Bay Co. obtains the greater part of their furs wherever they have settlements, since they have almost no need whatever to trade with the natives."^d The Russian governor proceeded to show how the Canadian trappers carried on their operations in taking the beaver, and asked "Does not this mode of hunting resemble the robbery of a band of brigands who trample on the rights and property of the aborigines? If the Hudson's Bay Co. are allowed to trap river beavers in all the localities where the coast Kolosh of our possessions obtained their furs for trade, then the Kolosh will be brought to the deepest misery."^d

To secure the right to hunt and trap in the rivers of the *lisière* was earnestly sought by the Hudson's Bay Company.

(2) The Stikine Indians, besides hunting in their river and streams, carried on with the tribes further inland an extensive traffic in land furs, which they in turn sold to the white traders, and the same methods were employed by the Chilkats and other coast Indians.^e The mutual trading privileges granted by the treaties of 1824 and 1825 had expired, and in spite of the efforts of the United States minister at St. Petersburg they had not been renewed.^f Thus the Russians had substantially monopolized this branch of the trade in these regions since February, 1835, when the British right of navigation and traffic within the Russian possessions ceased.

^a U. S. Counter Case, App., p. 1; U. S. Case, App., p. 265.

^b U. S. Counter Case, App., p. 2.

^c U. S. Case, App., p. 267.

^d *Ibid.*, p. 277.

^e *Ibid.*, pp. 273, 366.

^f U. S. Case, pp. 69-72.

To obtain control of this trade in land furs was, therefore, desired by the Hudson's Bay Company's factor at Naas, for he was thoroughly familiar with its profitable character.

The lease of the mainland of the Russian possessions between Cape Spencer and 54° 40', was negotiated by Governor Simpson for these two reasons. That they were deemed of value to the company is evident from the fact that in order to obtain them the Hudson's Bay Company was willing to withdraw a claim of £22,150 and to pay annually for the monopoly of the trade 2000 land otter skins, equivalent to over £2000.^a The valuable character of the rights secured is further evidenced by the efforts of an American company, through the minister of the United States at St. Petersburg, to obtain a lease (that of the Hudson's Bay Company being about to expire) for which the Americans offered to pay five per cent of their gross receipts from the trade.^b

The United States asserts that these facts conclusively establish that the Hudson's Bay Company considered all the inlets and estuaries of the mainland between Cape Spencer and 54° 40' to be under Russian dominion, together with a considerable extent of the rivers emptying into the sea in that region.

If Great Britain secured by the treaty of 1825 the heads of all the principal inlets and the rivers, except the estuary of the Stikine, as now claimed in the British Case, the Hudson's Bay Company would have had no object in leasing the *Lisière*, much less in abandoning a large claim and paying a considerable rental for the privilege. British subjects had the perpetual right to navigate the rivers crossing the Russian mainland; they could, therefore, enter these for the purpose of hunting the river beaver, since the habitat of the animal was fresh water streams and ponds, and all the fresh water of the coast was, according to the present British contention, within British territory.

If Great Britain owned the heads of the main inlets along the coast, nothing was to be gained by leasing from Russia the promontories and precipitous outer shores of the mainland. The routes from the interior, by which the Coast Indians carried on their trade in furs with the tribes inland, connected with the heads of the larger inlets, the best example being at the extremity of the Lynn Canal where trails led across the mountains from the Chilkat and Chilkoot Inlets.

^a British Case, App., p. 151.

^b U. S. Counter Case, App., p. 34.

The Hudson's Bay Company, if the line of demarcation contended for in the British Case was the correct one, would have gained no advantage by the lease that it did not already possess. The reciprocal trade privilege had expired and it could have retained a monopoly of the trade in river beaver and land furs, without paying large sums for the exclusive right. That the company did not possess such monopoly except by title from Russia through the lease is apparent.

It is asserted in the British Case^a that the lease of the *lisière* to the Hudson's Bay Company "cannot be put forward as affecting the boundary", that the "lease sets up no boundary", and that it is "impossible to detect the recognition of any sovereignty on the part of Russia, except over the portion of the territory given her by the Treaty". To the last proposition the United States agrees, but from the others it dissents. It has already been shown that a boundary was set up in the lease, the southern boundary of 54° 40' north latitude. It is submitted that the lease, interpreted by the acts and utterances of the parties, directly bears upon other portions of the line in controversy.

Two years after Governor Simpson signed the lease at Hamburg he visited the ceded territory. A narrative of his journey was published in 1847, in which he mentioned the lease, and added: "Russia, as the reader is, of course, aware possesses on the mainland, between lat. 54° 40' and lat. 60°, only a strip, never exceeding thirty miles in depth; and *this strip, in the absence of such an arrangement as has just been mentioned, renders the interior country comparatively useless to England*".^b If Great Britain had possessed the heads of the inlets, Governor Simpson would never have written the last clause of the foregoing sentence.

The summer before the lease was executed the Russians made surveys of the mouth of the Chilkat River and of Taku Inlet.^c This region came within the leased territory and, therefore, the Russian American Company was prohibited from trading with the natives of that region. The chief factor of the Hudson's Bay Company in 1840 complained to the Russian governor that he had been informed that the Indians in the neighborhood of Cross Sound had been selling their peltry to a Russian trading vessel, and that, if it was true, it was sufficient reason for the lessee to withhold its rental. This charge Governor Etholine

^a p. 85.

^b U. S. Case, App., p. 318.

^c U. S. Case, pp. 80, 81.

denied, but stated that, through some of the tribes living on the islands, furs had been purchased which came originally from Chilkat, and that these would be kept for the Hudson's Bay Company.^a Later in the year, he wrote: "After June 1, there came only one canoe here from Chilcat, from which we bought 18 river beavers (sent to you with the last steamer)."^b

This action of the Russian governor was in compliance with the provisions of the lease, that the Russian American Company "shall not have any communication for the purposes of trade with any of the tribes of Indians occupying or inhabiting that Coast or Interior Country [described as between Cape Spencer and 54-40']. And shall not receive in trade, barter or otherwise any of the Furs, Peltries or produce whatsoever of the Mainland Coast or Interior Country already described."^c If Chilkat was not within the leased "mainland coast and Interior country belonging to Russia," then the Russian American Company was not violating its covenants by trading through other Indians for the furs secured there; and, if Chief Factor Douglass had not, likewise, understood the head of Lynn Canal to be within the Russian possessions, he would not have entered his complaint against the Russian traders. Both parties to the lease thus recognized that it embraced that inlet and its branches.

The agreement was renewed in 1849, the Russian American Company having secured imperial sanction for its continuance^d and was subsequently extended by several renewals until the territory was transferred to the United States.

In the year 1857 a select committee of the House of Commons conducted an investigation of the affairs of the Hudson's Bay Company.^e During the sessions of the committee a map was produced, which was later published as part of the report of the committee (Map No. 35 in the Atlas accompanying this Counter Case). The territories occupied by the company were an essential part of the investigation, and this map was referred to and relied upon constantly. It distinctly shows the extent of the *lisière* leased from Russia, the boundary line being drawn about all the inlets and approximately ten marine leagues from their heads.

^a U. S. Counter Case, App., p. 10.

^d U. S. Counter Case, App., pp. 12-14.

^b *Ibid.*, p. 12.

^e *Ibid.*, p. 36.

^c British Case, App. p. 150.

The lease and the leased territory were investigated by the committee and the evidence in regard to them was published as part of the report made to the House of Commons. John Rae, Esq., one of the witnesses before the committee, stated that the "strip of land" leased was shown on the charts "running along the shore."^a Sir George Simpson was asked: "Besides your own territory, I think you administer a portion of the territory which belongs to Russia, under some arrangement with the Russian company?" To which question he replied: "There is a margin of coast marked yellow in the map from 54° 40' up to Cross Sound, which we have rented from the Russian American Company for a term of years."^b In response to another question he replied: "The British territory runs along inland from the coast about 30 miles; the Russian territory runs along the coast; we have the right of navigation through the rivers to hunt the interior country."^c It is apparent that Sir George Simpson, who had visited the region and was thoroughly familiar with its topography, believed that the only way to reach the British territory lying behind the *lisière*, was by the rivers.

The lease, which had been extended from time to time, was to expire May 31, 1867.^d In March the Russian American Company made a report upon the subject to its government.^e By this report it appears that the minister of the United States at St. Petersburg, acting on behalf of a Californian company, had proposed to obtain the grant of exclusive fishing, hunting and trading within certain limits. This area included Lynn Canal and the region *north* of it "to the boundary between Russian and English possessions."^d The territory desired by the American company, the report stated, was, with the exception of the islands, "exactly that which is now leased to the Hudson's Bay Company."^d It is apparent, and there is no evidence to the contrary, that all parties to the lease fully understood that the boundary line of the *lisière* extended around all the inlets and indentations of the coast, and that for over twenty-five years they acted in accord with that understanding.

But there is even stronger proof that the Hudson's Bay Company considered all the inlets within Russian domain. Every year during

^a U. S. Counter Case, App., p. 37.

^d *Ibid.*, p. 34.

^b *Ibid.*, p. 38.

^e *Ibid.*, p. 33.

^c *Ibid.*, pp. 39, 44.

the latter years of the lease the trading vessels of the company made three or four visits to Taku, Lynn Canal and Chilkat. When the United States came into possession of the region under the treaty of 1867, the company ceased its operations, withdrew from the territory and sent out an agent to close all accounts with the natives.^a If the Chilkat, Chilkoot and Taku Inlets, the great highways of trade into the interior, had been, as Great Britain now claims them to be, within the British possessions, the Hudson's Bay Company would never have abandoned them, but would have taken steps for their permanent occupation.

The British Case, anticipating that the events in connection with the lease and occupation by the Hudson's Bay Company of the *Lisière* under that instrument could be employed as evidence to substantiate the position of the United States, has endeavored to weaken their force by declaring that the Hudson's Bay Company was not, "during the period in question, in any sense a representative of the British Government, and no action of the Company could possibly affect the question at issue."^b

From this declaration in regard to the materiality of evidence relating to the lease of the *Lisière*, the United States dissents: and affirms that such evidence is material, not only because it shows the interpretation placed upon the treaty by the party most in interest, but because west of the Rocky Mountains the company was the *de facto* government and, therefore, the agent and representative of Great Britain upon the Pacific coast.

It has been shown in the Case of the United States that the Hudson's Bay Company was substantially the directing power in the negotiations which related to the boundary and which resulted in Articles III and IV of the treaty of 1825; and the proof of this fact has been materially strengthened by the additional correspondence published, for the first time, in the British Case.

Mr. R. M. Martin, whose work on the Hudson's Bay Company was published in 1849, stated that the company "materially aided Mr. Canning in 1825, in the restriction of the Russians to their present northern territories"; and that but for it "Great Britain would probably have been shut out from the Pacific" through the operation of

^aU. S. Counter Case, App., p. 228.

^bBritish Case, p. 87.

the treaty of 1824 between the United States and Russia.^a It has been shown^b that Mr. Canning was indifferent to the delimitation of the boundary, and that it was the Hudson's Bay Company which was the active force in urging British interests in this particular.

In all the vast area, lying westward of Hudson's Bay and extending from the Columbia River to the Arctic Ocean, the Hudson's Bay Company was the only representative of British sovereignty. Lieutenant Colonel Scott in 1867 in reporting on the Indian policy of the company declared: "There is not a regular soldier in all British Columbia (excepting marines on shipboard and at Esquimalt)."^c Throughout the entire region the government was in the hands of the governor of the company and a council composed of its chief factors^d who made ordinances and directed the territorial affairs.^e Justice was administered in accordance with the laws of England by the factors, whose commission as such was "understood to answer the purpose of a commission as magistrates."^f Over the Indians of those territories the company exercised absolute authority, arresting and punishing offenders.^g These facts were brought out in the investigation conducted by the select committee in 1857. And, knowing that the company had been the only representative of British sovereignty in "those extensive regions, whether in Rupert's Land or in the Indian Territory," the committee declared it to be its opinion that the privileges of the Hudson's Bay Company should be continued, the primary consideration being, "the great importance to the more peopled portions of British North America *that law and order should, as far as possible, be maintained in these territories.*"^h In fact the region west of the Rocky Mountains was known in 1823 as the "*possessions* of the North-West Company"ⁱ and was, in 1854, designated by the British Foreign Office "*possessions* of the Hudson's Bay Company."^j

^a U. S. Counter Case, App., p. 47, also p. 48.

^b U. S. Case, p. 59.

^c U. S. Case, App., p. 350.

^d U. S. Counter Case, App., pp. 37, 40.

^e *Ibid.*, p. 41.

^f *Ibid.*, pp. 38, 42, 45.

^g *Ibid.*, p. 38; U. S. Case, App., p. 350.

^h U. S. Counter Case, App., p. 36.

ⁱ British Case, Atlas, No. 10.

^j U. S. Counter Case, App., p. 18.

Having for a long period had no other officials in its Indian territories than the factors of the Hudson's Bay Company, having maintained British rule over the aborigines through that company, and having, in fact, delegated to it sovereign rights or at least permitted their exercise in the preservation of "law and order", the British Government cannot now, it is submitted, declare that the company was in no sense its representative. Having secured the benefits of such relationship, it is too late to repudiate the company's acts and to deny its public character.

At the time when the lease was in contemplation the British Government was earnestly pressing for the payment of the *Drygul* claim, and must have been in constant communication with the representatives of the Hudson's Bay Company in London. The correspondence between the Foreign Office and Governor Pelly, which is produced in the British Case, appears to end in February, 1836,^a although the matter was a subject of discussion at St. Petersburg throughout the two succeeding years.^b It cannot be doubted that the British Government was fully cognizant of the proposed lease, and gave its assent to its execution by the Hudson's Bay Company.

The company, dependent for its privileges upon the will of the British Government, would not have entered into an agreement to obtain control of the territory of another power without obtaining the definite assent of Her Majesty's Government to such a course, especially when such action might involve the political relations of the two powers. Nor would it have entered into such an agreement, which was clearly *ultra vires*, without first securing governmental sanction. The lease, furthermore, involved the settlement of a claim in the hands of the minister of Great Britain at St. Petersburg, and the Foreign Office must have been notified of the proposed method of its settlement. The governors of the two companies also arranged to meet by reporting to their respective embassies in Berlin.^c

The United States submits that the presumption that the British Government gave its assent to the lease, is too strong to be dismissed by the statement made in the British Case that "there is no evidence that Great Britain either approved or disapproved the lease."^d In confirmation of the conclusion, which must be reached from the

^a British Case, App., p. 158.

^c U. S. Counter Case, App., p. 5.

^b U. S. Case, App., pp. 292-307.

^d British Case, p. 87.

known relations existing between the British Government and the Hudson's Bay Company, Mr. R. M. Martin states that, "after negotiations between the two governments, and the two chartered Companies, it was agreed in 1839 that from 1st June, 1840, the Hudson's Bay Company should enjoy for ten years the exclusive use of the continent assigned to Russia by Mr. Canning in 1825."^a

Mr. Martin, in his book, was defending the Hudson's Bay Company from the numerous attacks which were in 1848 being made upon it. He undoubtedly had every facility offered him to confirm his statements. On this account, his assertion carries the added weight of being to all intents endorsed by the company itself.

In any event, the subsequent course of the British Government in offering no objection to the lease, and in recognizing the mutual interests of the two companies by agreeing with Russia in 1854 to preserve neutrality on the Northwest Coast^b constituted a substantial confirmation of the lease, which described the Russian possessions as extending south as far as 54° 40' and comprising not only the mainland coast but the "Interior country" as well.

Moreover, as has been stated, a map showing the Russian territory was before the select committee of the House of Commons, and that territory was pointed out by witnesses. The map was published with the report. In attendance upon that investigation was Honorable William H. Draper, Chief Justice of the Court of Common Pleas of Upper Canada.^c He had been sent to London by the Canadian Government to watch the investigation. Thus both Great Britain and Canada were fully notified of the interpretation placed upon the treaty by the Hudson's Bay Company. Yet the following year^d the company was permitted to renew the lease without protest or objection by either the British or the Canadian Government as to the extent of the Russian territory and the course of the boundary around the inlets.

The United States, therefore, contends that the Hudson's Bay Company, being from the first the party in interest in the fixation of the boundary and the best informed as to the region, was the most competent British authority to interpret the meaning of the treaty; that the admissions made by that company in the lease and in its interpretation were made by the only representative of the Brit-

^a U. S. Counter Case, App., p. 47.

^c *Ibid.*, p. 45.

^b *Ibid.*, p. 18.

^d British Case, p. 87.

ish Government on the Pacific Coast; that the contents of the lease were known to that government at the time of its inception; that the interpretation of it by the contracting parties in regard to the territory leased was brought to the knowledge of both the British and Canadian Governments by the map and evidence published by the House of Commons; and that Great Britain, having failed to reject such interpretation at the time and having permitted it to be made public without reservation, must be deemed to have conceded its correctness.

RUSSIAN OCCUPATION.

The positive and strong proofs of the occupation and sovereignty exercised by Russia between 1825 and 1867 over the *lisière*, submitted in the Case of the United States, would seem to make it unnecessary to add thereto further evidence, but for the doubt sought to be thrown upon such occupation and sovereign acts in the British Case.^a

It is suggested that no more conclusive proof could be produced to establish the dominion of Russia over the *lisière* than the lease which was accepted by the Hudson's Bay Company. It has already been shown that the limits of the *lisière* were definitely established before the British parliamentary committee in 1857, and that the operations of the Hudson's Bay Company under the lease extended to the inlets of the mainland and especially to the head of Lynn Canal. A further proof of this latter fact is to be found in the report of the Ogilvie Canadian surveying party of 1887 and the depositions of J. J. Healy, United States Deputy Collector, and others.^b From these it appears that Ogilvie found it difficult to induce the Chilkat Indians to transport his party across the mountain passes, because of the ill-feeling against the British on account of the killing of some of the tribe by the Hudson's Bay Company during the time of their trading operations in that vicinity.

Reference was made in the Case of the United States to the practice of Russia in conferring upon the native chiefs who signalized their loyalty to that government silver badges or medals, with such inscriptions as "Allies of Russia."^c Three of these medals which were presented by the Russian Government to the head chief of the Chilkat tribe, and which have descended through his family and are now the

^a British Case, p. 85.

^c U. S. Case, p. 74.

^b U. S. Counter Case, App., pp. 216, 228, 234.

property of a Chief resident at Klukwan, have been obtained and photographic reproductions of them will be found in the Appendix to this Counter Case.^a

In confirmation of the authority exercised over the inhabitants on the Russian mainland, even during the lease, the statement of Sir George Simpson is herewith submitted.^b He narrates that in 1841, as his vessel approached Fort Wrangell, he saw the Russian and British flags flying at half-mast from the Hudson's Bay Post, and in landing he found that the chief trader, Mr. McLoughlin, had been killed by a Canadian in a drunken row, and that the fort was besieged by two thousand Indians. He was of the opinion that Canadian criminal jurisdiction did not extend to the leased Russian territory, and he decided to carry the murderer to Sitka, although the Russians had no court of criminal jurisdiction in America. He also assembled the native chiefs and warned them that for any overt acts of hostility "they would be most severely punished both by the Russians and by ourselves."

The discovery of gold placers on the Stikine River in 1862 led to a great influx of adventurers, and the Russian Government became alarmed lest it might lead to the loss of its territory in that region, the newspapers at Victoria, B. C., claiming that the mouth of that river should be held by Great Britain in the interest of the miners. An investigation by the Russian Government developed the fact that the gold fields were "not less than 165 Italian miles from the mouth of the Stikine, far beyond the Russian possessions which extend only 30 miles (52½ versts) from the shore." It was decided that the best way to protect the Russian territory was to renew the lease to the Hudson's Bay Company, a question then pending; and this was accordingly done.^c

These facts, in rebuttal of the assertions in the British Case, show that Russia exercised control over the native tribes on the mainland, that it exercised and was accorded jurisdiction by the British over the leased territory, and that it knew the extent of that territory and was prepared to enforce its authority therein. Taken in connection with the evidence submitted in the Case of the United States, it is conclusively established that for forty-two years after the treaty of 1825

^a U. S. Counter Case, App., facing p. 214.

^c *Ibid.*, App., pp. 27-31.

^b *Ibid.*, pp. 35-36.

Russia, under its interpretation of that treaty, held undisputed sovereignty on the mainland which it had publicly demarked upon its official maps, and which it transferred with an unimpaired title to the United States in 1867.

THE PROPOSED BOUNDARY SURVEY OF 1872-1874.

The British Case devotes considerable attention to the correspondence which took place between 1872 and 1878 respecting a suggested survey of the boundary from the head of Portland Canal to mount St. Elias and thence to the Arctic Ocean. The object had in view in discussing this correspondence seems to have been to show "the unwillingness" or "failure of the United States Congress to provide for [the] Survey."^a It is suggested, however, that facts much more pertinent to the issues before the Tribunal are established by this correspondence.

It conclusively discloses the fact that, during the period named, there was no controversy between the two Governments as to the interpretation of the treaty of 1825, nor as to the general course which the boundary line should follow. The Legislative Assembly of British Columbia of 1872, which initiated the suggestion, asked the Dominion Government "to have the boundary line properly laid down."^b The action of the succeeding Legislative Assembly of 1874 (which is omitted from the correspondence in the British Case) is more specific as to the line that it desired to have demarked, which it described as "the boundary of the 30 mile belt of American territory running along a part of the seaboard." It again urged upon the Dominion Government the necessity of having "the said boundary established and defined."^c The Privy Council of the Dominion of Canada and the Governor General approved of the action of the Legislative Assembly, and asked the British Government "to take the necessary steps to have the boundary determined and marked;" and the British minister in Washington was instructed to bring the matter to the attention of the Government of the United States.^d

Accordingly he inquired of the Secretary of State if his Government would be willing to agree to the appointment of a Commission "for the purpose of defining the boundary line between Alaska and British

^a British Case, p. 29.

^c U. S. Counter Case, p. 50.

^b British Case, App., p. 162.

^d British Case, App., p. 164.

Columbia." The Secretary "was perfectly satisfied of the expediency of such a measure," but expressed some doubt, for reasons given, as to whether Congress would make the necessary appropriation. But on a second call the minister learned that the President was so impressed with the advantage "of having the boundary line laid down at once," that he would recommend favorable action on the part of Congress.^a

In his next annual message President Grant referred to the happy result of the arbitration which adjusted the water boundary from the 49th parallel, and said "the award leaves us, for the first time in the history of the United States as a nation, without a question of disputed boundary between our territory and the possessions of Great Britain on this Continent." He then referred to the difficulties attending "the determination of our admitted line of boundary" after occupation and settlement, and in view of the sparsely occupied condition of Alaska, he recommended Congress to provide for a joint Commission to determine the line between that territory and British Columbia.^b

In no part of the correspondence is there any indication of the existence of a controversy over the terms of the treaty, but on both sides it was agreed that it was desirable to have the line laid down and marked by a joint survey and this fact seems to be recognized in the British Case. There was, however, a further fact established by the correspondence of special significance in the determination of the questions submitted to the Tribunal—to wit, certain points were approximately indicated through which the boundary line should be drawn between the head of Portland Canal and mount St. Elias.

After the President's message had been sent to Congress and a bill introduced to carry out his recommendation, the British Minister called upon the Secretary of State and was informed by him that the subject of the joint survey had been under investigation by the engineer department, and it had been found that for the United States alone it would cost one million and a half of dollars, and would require ten years of labor; and he feared that Congress would not authorize such an expenditure. Under the circumstances it was believed that it would be quite sufficient "to decide upon some particular points to be marked," and these it was suggested "should be the head of the Portland Canal, the points where the boundary line crosses the rivers Skoot, Stiekeen, Taku, Islecat [Chilkoot] and Chilkahit, Mount

^a British Case, App., pp. 164-5.

^b U. S. Counter Case, p. 145.

St. Elias, and * * * the rivers Yukon and Porcupine." The determination of these points alone it was estimated would occupy four years of time and cost the United States a half a million of dollars.^a

These suggestions were accepted by the British Minister without dissent, forwarded by him to London and thence communicated to the Dominion Government, with instructions to report upon the cost of the last proposed survey. The Privy Council took it under consideration and referred it for an estimate to Captain D. R. Cameron, the commissioner engaged in the survey of the boundary along the 49th parallel, transmitting to him the American proposition, including the points to be fixed and a list of the rivers named.^b The subject also engaged the attention of the Dominion Surveyor General, J. S. Dennis, who, in a report to the Minister of the Interior, enumerated the rivers which were to be crossed by the boundary, giving the list which the British Minister had furnished.^c Later the Secretary of State sent to the British minister a written report on the subject, prepared by Gen. Humphreys, Chief of Engineers, in which were enumerated the "Staken, Taku, Chilkat, the Alsekh rivers," on which were to be fixed "the points of intersection with boundary line;" and this latter was also sent to Captain Cameron,^d as well as to the Foreign Office in London.^e In making his report in 1875, Captain Cameron included this list of rivers on which the boundary was to be marked. The next year the Prime Minister of Canada in a report to the Privy Council mentioned the rivers named by the Secretary of State as the particular points whereon the boundary line should be marked;^f and a year later, 1877, the Privy Council, in a Minute, repeated the list.^g

Neither the British representative at Washington, the Foreign nor Colonial Office in London, the Prime Minister of Canada, its Privy Council, nor the Surveyor General entered any dissent from the proposition that the boundary line when laid down was to cross the rivers named. The British Case quotes a sentence from Captain Cameron's report in which he stated that the Government of Canada "expect the terms of the Treaty to be fully and strictly carried out."^h

^a British Case, App., p. 168.

^c Ibid., p. 189.

^b Ibid., p. 173.

^f British Case, App., p. 238.

^e Ibid., p. 178.

^g British Case, p. 30.

^h U. S. Counter Case, App., pp. 50-51.

It is not clear, from the context, to what he refers. He was called upon for an estimate of the cost and time required for the survey, not to construe the treaty, and whatever may have been his meaning, he did not dissent from the enumeration of the rivers, but included them in his report.

Other official declarations are found in the correspondence under review, which show that the rivers upon which the boundary was to be marked, were streams which had their origin in British territory and which reached the ocean in American territory. In a despatch of the British minister at Washington to the Secretary of Foreign Affairs in London, he reported an interview with the Secretary of State in which he recalled the proposition made by the latter that if the whole survey could not be made, "the points where the territories met could be fixed on *the rivers which run through both of them.*"^a This proposition received the approval of the British minister,^b and had the concurrence of the Canadian Prime Minister and Privy Council.^c In considering the subject, the Surveyor General of Canada referred "to the *mouths of the rivers* in question as points from which the necessary triangulation surveys should commence, in order to determine the ten marine leagues back."^d

This correspondence furnishes further evidence of the interpretation placed upon the treaty by the British and Canadian authorities respecting the boundary line from Portland Canal to mount St. Elias. The discussion which arose over the case of Peter Martin, an American who was being conveyed as a prisoner from British territory, caused an examination to be made by the British Government of the question whether Article VI of the treaty of 1825 was still in force. By the terms of that article British subjects had forever "the right of navigating * * * all the rivers and streams, which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the coast described in article three of the present convention." By the last clause of Article VI of the treaty of cession of 1867, Russia sought to dis-annul Article VI of the Anglo-Russian treaty of 1825. Article XXVI of the British-American treaty of 1871 gave to the citizens of the United States the free navigation of the St. Lawrence, and declared the Yukon, Poreupine and Stikine free and open,

^a British Case, App., p. 183.

^c British Case, App., pp. 188, 190.

^b U. S. Counter Case, App., p. 67.

^d *Ibid.*, p. 178.

for the purposes of commerce, to the citizens and subjects of both nations. The law officers of the British Crown held that the Stikine was open for the purposes of commerce only, and that in accepting Article XXVI of the treaty of 1871, Great Britain had lost for her subjects the right, secured by Article VI of the treaty of 1825, of "the free and unrestricted navigation of the rivers flowing through that territory [Alaska] to the sea". It is to be noted that the crown lawyers assumed that these rivers flowed through American territory.^a This opinion was bitterly attacked by Canadian statesmen and jurists as surrendering valuable rights. Honorable Edward Blake, then Minister of Justice, in a report to the Canadian Privy Council in 1877, stated that the "so-called concession by the United States was in fact a concession by Great Britain to the former country, which gave nothing and got everything"; and he added that he had never been able to form a plausible conjecture as to the reason for the action of the British Commissioners", who negotiated the treaty of 1871.^a His successor as Minister of Justice, in a further report on the same subject, after quoting the opinion of the British law officers, stated that it was "the painful conclusion that our rights existing at the time of the treaty of Washington [1871] have been lost through that treaty."^b

In 1879 the opinion of the law officers was made the subject of an animated debate in the Canadian Parliament. The member from Victoria, British Columbia, referred to the loss of British rights in Alaska by the treaty of 1871, and pointed out that "under the convention of 1825 with Russia, we had the right to navigate all the *rivers that ran out of our territory and through Alaska*, but by the act of Russia in 1867, in transferring the territory of Alaska to the United States, we lost the right of navigating the rivers. This was because the negotiators of the treaty of 1871 neglected their duty." Honorable David Mills, late Minister of Justice in the cabinet of Sir Wilfrid Laurier, pointed out the effect of the treaty of 1825, "which gave to Russia a narrow strip of territory upon the coast south of Mt. St. Elias, extending as far south as Portland Canal, upon the express condition that all the *rivers flowing through this Russian territory* should be open to navigation by Great Britain, for all purposes whatsoever"; and, citing the opinion of the law officers of the crown, he said that,

^a British Case, App., p. 211.

^b Ibid., p. 233.

“ if the people on the western coast were now in a worse position than they were before, it was due to the negotiations which took place at Washington”. Sir John A. Macdonald, the Prime Minister, while conceding that there existed two opinions on the subject, stated that the best international lawyers in England, Mr. Montague Bernard and Lord Tenterden, “ were united in the opinion that, by the transfer of Alaska, the effect of the treaty of 1825 was gone ”.^a

It is submitted that the correspondence of the two governments between 1872 and 1878, establishes, 1st, that there was no controversy as to the interpretation of the treaty of 1825, and that all that was contemplated at that period was a survey to fix and mark the boundary line; 2nd, that it was conceded that this line should cross the rivers Iskoot, Stikine, Taku, Chilkoot, Chilkat and Alsek; 3rd, that the rivers and streams which had their origin in British territory between Portland Canal and mount St. Elias and emptied into the ocean passed through American territory before reaching the sea; and, 4th, that, when it was decided that the right to navigate these rivers and streams had been lost to British subjects, it was regarded as a serious injury to British interests. It is hardly necessary to point out how inconsistent are these facts with the contention in the British Case, that all these rivers and streams, except the Stikine, flow entirely through British territory, and empty into the sea within British waters. Mr. Alexander Begg, the British Columbian historian, who is recognized by Canadians as a careful student of the boundary question and who has written much upon it,^b states that he has no doubt that, if the boundary had been surveyed at the time under consideration, the line would have been drawn on the rivers named, in accordance with the proposition of the United States. Mr. Gosnell, author of the British Columbia Year Book, after quoting the proposition of the United States Government in 1873 as to marking the line upon the rivers named, adds, “ the Canadian Government was quite willing to accept the proposition.”^c

The reason why the Congress of the United States failed at the time to make the appropriation necessary for the survey is fully set forth in the correspondence, and it seems to have been properly understood in Canada. Honorable Richard W. Scott, at that time Commissioner of Crown Lands and now Secretary of State in the Canadian

^a U. S. Counter Case, App., pp. 164-166.

^c *Ibid.*, p. 201.

^b *Ibid.*, p. 210.

Cabinet, stated in the Senate in 1892 that "the only reason why it [the line] was not settled twenty years ago was that the expense was too heavy. The United States at one time proposed a vote for the purpose and it was then said that it would cost about two million dollars. The population was small, and they did not feel warranted at the time in making that particular survey." "It will be shown later that remissness as to a joint survey cannot be charged against the United States alone.

THE BOUNDARY ON THE STIKINE.

The Stikine River is the only stream crossing the *lisière* which is navigable for any considerable distance by steam vessels, and since the cession it has been the chief water communication with the British possessions beyond the boundary. While the correspondence between the two governments initiated in 1872, respecting the joint survey, was in progress, various questions arose regarding the navigation of this river. These are treated at some length in the British Case, but not in such a way as to greatly aid the Tribunal in determining the boundary in that region. With the latter object in view, it has been thought necessary to publish some of the documents found in the Canadian Sessional Paper No. 125 of 1879, and others pertinent to the subject.^b

It has been seen that in the proposed survey one of the points of the boundary to be marked was to be on the Stikine River. An examination of the papers produced in the British Case and those to be found in the Appendix to this Counter Case, will enable the Tribunal to ascertain the views of the two governments, and of the various authorities representing them, as to the point on the Stikine River at which it should be crossed by the international boundary. It is believed that the facts so established will materially assist the Tribunal in fixing the course of the international line between the head of Portland Canal and mount St. Elias.

Reference has been made to the questions which arose as to the navigation of the Stikine after the cession to the United States and up to the year 1874. The local customs authorities of the United States at first held that the lower portion of the river was not open to British subjects, and a few years later the British customs officials sought to

^a U. S. Counter Case, App., p. 167.

^b *Ibid.*, pp. 33-86.

exclude American vessels from the navigation of the upper part of the river, but when the questions reached the higher authorities, both governments promptly decided that the river was free throughout its whole extent to their citizens and subjects for commercial purposes.^a That discussion is only useful at the present time to show that, in the minds of the officials of the two governments, the river flowed for a considerable distance through the territory of both countries.

The Stikine is navigable for river steamers for upwards of one hundred miles, and for light draught vessels and at a certain period of the year for a considerable distance further.^b From an early period its navigability and topography became known. In 1833 Peter Ogden, the Hudson's Bay Company's agent, made a journey up the river for a considerable distance above the point fixed by him as ten marine leagues from the ocean coast.^c In 1837 the Russian Government made a survey of the river and published a map of it.^d In 1867 a Hudson's Bay post existed presumably at the place selected by the company in 1833.^e In 1862 gold was discovered on the river above the boundary as marked by the Russian survey. In 1863 the Russian Government dispatched a government vessel to investigate the facts as to the gold deposits, and a full survey of the river was made. This expedition was accompanied by Professor Blake of Yale University and his report and map were published by the United States in 1868.^f From 1862 onward the locality was continuously visited by many hundreds of miners.^g In 1872 extensive gold deposits were found in the Cassiar district, reached from the headwaters of the Stikine, and for successive years it was a popular mining resort. Several steamers were kept employed, carrying from two to three thousand passengers annually. In 1875 and 1876 the yield of gold exceeded \$1,000,000 per year. The British authorities caused the river to be accurately surveyed at different dates. In 1868 a survey was made by Professor Leach for the Hudson's Bay Company to ascertain the boundary.^h In 1875 the entire river including

^a U. S. Counter Case, App., pp. 53-61, 182.

^b *Ibid.*, p. 85; British Case, App., p. 228.

^c U. S. Case, App., pp. 272, 283, 313.

^d *Ibid.*, p. 514.

^e *Ibid.*, p. 339.

^f See map in Atlas accompanying this Counter Case, Map sheet No. 29.

^g U. S. Counter Case, App., p. 28.

^h *Ibid.*, pp. 73, 79.

the Cassiar District was surveyed for the British Columbian Government by Gustavus A. Wright, a civil engineer, employed in the Cassiar mines, and a map of it was published at San Francisco by the British consul.^a American and British officers likewise made journeys up the river and submitted reports upon its topography and geographical features.^b

Notwithstanding the great traffic which had been carried on for several years on the river and the frequent surveys and reports which had been made, the point where the international boundary crossed it had not as yet been marked by the joint action of the two governments. Ogden, the agent of the Hudson's Bay Company, had fixed it for the purposes of his company; the Russian Government had marked it: in 1868 a survey had been made and the line located by the Hudson's Bay Company;^c and the local customs authorities of the two governments had from time to time sought to observe a conventional line.^d But as there was no uniformity in their attempts to mark the boundary, confusion and disputes arose.

In 1875 the subject was brought to the attention of the two governments through a report of the United States collector of customs of Alaska to the Treasury Department "that citizens of British Columbia had surveyed and laid out a town five or six miles below Boundary post," where the British Customs House was established on the Stikine River.^e The Secretary of State, in an interview with the British minister in Washington, informed him of the contents of the collector's report, and stated that American officers on the spot asserted that both the town site and the British custom house were within the territory of the United States, "that is, within the ten marine leagues from the coast at which the boundary should be," and he suggested that the settlers should be called upon to suspend operations until the question of territory could be decided.

Through the Foreign Office in London the matter was laid before the Canadian Government, and it became the subject of deliberation by the Privy Council of the Dominion. The result of its deliberations was embodied in a report and made public. After referring to the terms of the treaty which required the line to follow the summit

^a U. S. Counter Case, App., pp. 76, 77, 78, 265.

^b British Case, App., pp. 176, 185, 192; U. S. Counter Case, App., pp. 76, 78, 79, 164.

^c U. S. Counter Case, App., pp. 73, 77.

^d British Case, App., pp. 185, 192, 197; U. S. Counter Case, App., pp. 66, 70, 79.

^e U. S. Counter Case, App., p. 66.

of the mountains, the report said: "The Stikine River intersects the International boundary in the vicinity of the 57th degree of north latitude:" and it recommended that the true line should be accurately determined on the Stikine without further delay, in view of the possible increase in settlements along its banks. It therefore recommended that the United States Government be invited to join with the British Government in fixing the boundary at the single point indicated.^a

The following year a new case arose. One Choquette had established a trading post in the vicinity, and the United States collector gave him notice that he must pay duties on his goods or move his post beyond the American side of the boundary. He refused and appealed to the Canadian authorities for protection.^b

The same year the case of Peter Martin occurred. While encamped on the banks of the Stikine, he assaulted the guard in an attempt to escape, was overpowered, taken to Victoria, tried for the offense, convicted and imprisoned. Upon being informed of the facts, the Government of the United States made a demand for his release.^c

These occurrences pressed upon the governments the advisability of at least agreeing upon a boundary on the Stikine. When the demand for the release of Martin was made, a surveyor, Joseph Hunter, was dispatched to the Stikine by the Canadian Government, was furnished with a copy of the treaty of 1825 and certain charts, and was instructed "to ascertain, with approximate accuracy, the boundary on the said river between the Dominion and the territory of Alaska."^d

When the British minister presented at Washington the suggestion of the Privy Council for a survey of the Stikine, he was met by the offer to send an engineer on each side, who should agree to the best of their ability to a provisional boundary on the Stikine. On receipt of this proposal, the Privy Council reported that Hunter had already made his survey and asked that it might be provisionally accepted as to the boundary.^e

A comparison of Hunter's map with the map published by the British Government in 1876, known as Wright's Map,^f (see Atlas accom-

^a U. S. Counter Case, App., pp. 66-69.

^d *Ibid.*, p. 224.

^b *Ibid.*, App., pp. 69-71.

^c *Ibid.*, pp. 239-241.

^e British Case, App., pp. 198.

^f U. S. Counter Case, App., pp. 76, 77, 78.

panying this Counter Case, Sheet No. 29) will show that the point fixed by Hunter as the boundary was some distance nearer the mouth than any point previously indicated by any other authority, and likewise below the localities which had hitherto been in dispute. Major Wood, of the United States Army, after a journey up the river, reported to the War Department that the Russian monument was at a point on the river 135 miles from its mouth.^a Hunter's map shows the old Hudson's Bay post was more than sixty miles above the mouth. His survey also shows that the point stated by the Canadian Privy Council in 1875 as the boundary line near the 57° was almost in conformity with a straight line of ten marine leagues from the coast.

Notwithstanding these facts, and with a full knowledge that the line fixed by Hunter was much below that indicated by the Privy Council of Canada and by other British authorities, the Government of the United States, with the spirit of conciliation which later marked its conduct in agreeing to the provisional line at the head of Lynn Canal, consented to regard the point fixed by him as the temporary boundary on the Stikine for customs and jurisdictional purposes, with the understanding that it was not to be construed as affecting the rights under the treaty.^b This was done with the full knowledge on the part of the United States that its own officers, who had visited and were acquainted with the river topography, differed from Hunter, and also that the Canadian Privy Council and Surveyor General had indicated a line more favorable to the United States.

Mr. Hunter claimed to have found the point where the mountain range described in the treaty as "parallel to the coast" touched the Stikine. This he fixed at a distance of 24.74 miles from the mouth or Rothsay Point, and from the coast in a direct line 19.13 miles.^c In this action he was in direct conflict with the United States Army officers who had visited the river^d and of the members of the United States Coast Survey who have examined and reported upon its topography.^e Nevertheless, the fact reported by Hunter as to the mountain range has up to a very recent date been accepted by the Canadian authorities and writers. For instance, the Executive Council of British Columbia, in 1885, in the course of an exhaustive review of

^a U. S. Counter Case, App., p. 79.

^d U. S. Counter Case, App., pp. 79, 80.

^b U. S. Foreign Relations, 1878, p. 346.

^e *Ibid.*, p. 263; U. S. Case, App., p. 535.

^c British Case, App., p. 230.

the boundary question, stated that there was not "the slightest uncertainty" as to where it crossed the Stikine. "The survey of Mr. Hunter, C. E., * * * conclusively establishes the coast line range of mountains at the crossing of the Stikine to be about 20 miles from the sea."^a

THE CORRESPONDENCE OF 1886.

Following the arrangement as to the provisional line on the Stikine River in 1878, the British Case introduces the correspondence of 1886 with a personal letter of Dr. W. H. Dall to Dr. George M. Dawson. It shows upon its face that it is part of a previous correspondence, not produced in the British Case. No record of it exists in the Office of the Coast Survey, and it has no special significance even if it had been clothed with official authority. The correspondence which passed between the two governments in 1886 was initiated by an instruction sent by the Secretary of State, Mr. Bayard, to the United States minister in London. The latter was informed that in the judgment of the President the time had come for an understanding looking to the establishment of the boundary line, and the minister, Mr. Phelps, was instructed to propose the appointment of an international commission for that purpose.

Mr. Bayard dwelt at some length upon the difficulties which presented themselves to the accurate demarcation of the line by monuments, especially in the mountainous section between the head of Portland Canal and mount St. Elias, and he seemed to favor a conventional line, which, while in substantial accord with the intent of the negotiators of the treaty, could be readily laid down by astronomical and topographical surveys. As the proposal was not acted upon, the correspondence has little present application, and its chief value today is in the declaration made by Secretary Bayard that he "was not aware that any question concerning the true location of the line so stipulated [in the treaty of 1825] ever arose at any time between Great Britain and Russia prior to the cession of Alaska to the United States. * * *

It is certain that no question has arisen since 1867 between the Governments of the United States and Great Britain in regard to this boundary."^b

This declaration was communicated by Mr. Phelps to Lord Salisbury and received by him without dissent.^c It is true that some

^a U. S. Counter Case, App., pp. 181, 188. ^c *Ibid.*, 253; U. S. Counter Case, App., 91.

^b British Case, App., 249.

months later Lord Iddesleigh, in sending to Mr. Phelps a Canadian official map which he had requested, called his attention to the boundary line as marked on the Stikine River, which was higher up than that fixed by Hunter in 1877 and accepted as the provisional line, and entered a disavowal of the recognition of its correctness; but his note had no reference to the previous correspondence and did not in any way qualify or dissent from it.^a The Iddesleigh map is No. 32 in the Atlas of the British Case and is also shown in the comparative collection of the Stikine River in the Atlas of this Counter Case. (Sheet No. 29). It was discussed in the correspondence between Lord Salisbury and Mr. Choate, to which reference is here made.^b The British Case concludes its review of this subject as follows: "No survey was made as suggested by Mr. Phelps." This assertion calls for some qualification.

Between the notes of Mr. Phelps and Lord Iddesleigh some correspondence occurred which is printed in the Appendix to this Counter Case, and from which it is learned that the Canadian Government, while unwilling to agree to the appointment of a joint commission, was "prepared to take part in a preliminary investigation" or survey. The President thereupon recommended to Congress that an appropriation be made for the purpose.^c On October, 1888, Congress voted the necessary funds to begin the survey, which was to be conducted under the general direction or approval of the Secretary of State. There is printed in the British Case a letter from the Superintendent of the United States Coast Survey addressed to the Canadian Minister of the Interior, in which the latter is informed of the action of Congress and of the plans being made by the superintendent for carrying out the proposed survey. He further stated that the object of the preliminary work was to collect such data as would enable the two governments to agree upon a treaty establishing a boundary. He then invited the Minister of the Interior, to whom he had been referred as the proper official, to arrange the detail of the Canadian parties who would join or coöperate with those of the Coast Survey. All the correspondence which passed upon this subject between the two officers named has been obtained from the office of the United States Coast Survey and will be found in the Appendix to this Counter Case. It will there be seen^d that the Minister of the Interior

^a British Case, App., 255.

^c *Ibid.*, 91-93.

^b U. S. Counter Case, App., 134, 149.

^d *Ibid.*, 174-177.

acknowledged the receipt of the superintendent's letter, stated that the matter had been submitted to his government and was then under consideration. With this letter the correspondence ended, and the Canadian Government took no part in the survey, which was conducted by the United States alone.

THE DALL-DAWSON DISCUSSION.

What is termed the "Dall-Dawson Conferences" has been given such importance in the British Case that it has been deemed proper to complete the correspondence which is there only partially produced.^a

The meeting of these two scientists was brought about at the time of the sessions of the Atlantic Fisheries Commission. The object has been so fully discussed by Ambassador Choate and the British Secretaries for Foreign Affairs that a reference to that correspondence^b need only to be supplemented by two remarks.

In Lord Lansdowne's despatch of August 18, 1902, reference is made to what appears in the "Protocols of the Commission" during the Fisheries negotiations of 1888. His Lordship must have intended to refer to the minutes kept by the British members of that Commission, as the officially signed Protocols of the Joint High Commission were communicated in full to the Senate of the United States at the time the Fisheries Convention was submitted to that body, and printed as an Executive Document (see S. Ex. Doc. 113, 50th Cong. pp. 117-126). An examination of these will show that no mention is made of the "Dall-Dawson Conferences" or of the Alaskan boundary question. This fact confirms the position taken by the United States that the Fisheries Commission professed no authority to consider that question, and whatever was done by its members was purely extra-official and was not intended to commit either government.

It will be seen from the following extract that Dr. Dall fully understood the character and effect of his meeting with Dr. Dawson: "It was announced and agreed that the meeting was entirely informal; that neither party had any delegated powers whatever, and that its object was simply the arrival at a consensus of opinion as to some reasonable and business-like way of settling upon a line satisfactory to both countries, and the most practicable means of demarkating the line if one was accepted." It cannot seriously be claimed that what

^a U. S. Counter Case, App. pp. 94-113.

^b *Ibid.*, pp. 135, 150, 159.

was said at such a meeting could be regarded as official, or that any government would adopt such a method of making its position known upon so important a question as a boundary line, if it was held to be in dispute.

THE RECIPROCITY CONFERENCE OF 1892.

A brief reference is made in the British Case^a to the reciprocity conference which was held in Washington in February 1892, but in view of the importance attached to it by the British Foreign Office in the discussion with Mr. Choate, the subject seems to call for an explicit statement on the part of the United States. The correspondence respecting that conference will be found in the Appendix to this Counter Case.^b

It is asserted by Great Britain that a distinct statement of the British claims to the boundary, substantially as now presented, was made by the Canadian delegates at that conference. The correspondence shows that the main object had in view by the Dominion Government in holding the conference was to discuss commercial reciprocity, and that all other questions mentioned were of slight importance compared with that matter. The subject of the Alaskan boundary was presented, but from the same point of view as in 1872-8 and in 1886-8, to the effect that a marking of the line was desirable; and out of the conference grew the convention of July 22, 1892, providing for a preliminary survey "with a view to the ascertainment of the facts and data necessary to the permanent delimitation of said boundary line"; a survey similar to the one which had been considered in 1888, but in which Canada, though invited, failed to participate. From the American reports of the conference it is manifest that there was no discussion of divergent views, and that "no assertion was hinted at of a British claim to the heads of inlets or of any rights on Lynn Canal."

But there is other evidence to establish this fact. The correspondence between Lord Salisbury and Mr. Choate shows that when the subject of the Alaskan boundary was under discussion in the Joint High Commission at Quebec in 1898, a map was introduced by the British commissioners with the boundary drawn upon it, giving the Portland Canal peninsula and the heads of all the inlets to Canada; and that an American member of the commission, who had also participated in

^ap. 38.

^bUnited States Counter Case, Ap pp. 114-123; 135, 151, 161.

the conference of 1892, stated that the view then advanced "was the first distinct statement of the British claim." The only qualification made by the British commissioners upon this statement was that the claim was put forth in the instructions to the British commissioners, copies of which had been sent to the Secretary of State of the United States on August 1, 1898.^b

A further proof from British sources that no divergence of views respecting the interpretation of the treaty of 1825 was developed in the reciprocity conference of February 1892, is to be found in the Debates in the Canadian Parliament. Upon the return of the delegates to Ottawa, the speech from the throne of February 25, 1892, announced the results of the conference and among other things said, "an amicable understanding was arrived at respecting the steps to be taken for the establishment of the boundary of Alaska." During the debate in the Senate on the speech from the throne Honorable Richard W. Scott, the leader of the Liberal party of the Dominion, who had acted as Commissioner of Crown Lands when the proposition for a survey was under discussion between the two governments in 1873, and therefore well informed on the subject, spoke as follows:

It is quite true that an amicable understanding was arrived at respecting the steps to be taken for the establishment of the boundary of Alaska. It was not necessary to go to Washington to discuss that. The question has been discussed in despatches for twenty years. There was no dispute as to the boundary of Alaska. * * * It was settled in the treaty of 1825. The line was defined but not marked out. There is no dispute as to where it goes. It commences at Portland Channel and extends along the summit of the mountains, where these mountains do not extend more than 10 marine leagues inwards, and if they are more than 10 marine leagues, then 10 leagues are the limit to a certain meridian, and from that point it is a straight line to the Frozen Ocean. * * * No doubt it is a very expensive boundary. The expensive part of it is, of course, the fringe of land that runs along the coast up to a particular part where the meridian runs, because it is entirely a matter of cost; I have never heard of any dispute as to the interpretation to be given to the treaty, because the treaty is plain and speaks for itself.^c

This view of the state of the boundary question in 1892 and of the interpretation of the treaty should commend itself to the consideration of the Tribunal, from the fact that the distinguished statesman who advanced it in Parliament is now a member of the Canadian Cabinet.

^a U. S. Counter Case, App., pp. 154-5.

^b *Ibid.*, p. 154.

Ibid., pp. 167-8.

THE ALLEGED BRITISH PROTESTS.

An effort is made in the British Case to show that protests have been made to the Government of the United States at various times against its real or supposed claim to the boundary line. Noticing them in the order of time, the first advanced is the representation made respecting the report of Lieutenant Schwatka of a reconnaissance in 1883 conducted by him in Alaska and adjoining British territory. The report was published in full with maps in 1885. From this it appears that he was sent by the general commanding one of the military departments on the Pacific coast, to examine into the condition of the Indians of the Territory of Alaska, and to report upon the resources of the country in view of possible military operations against the tribes.^a His instructions contemplated no survey of the boundary and his report does not develop any intention or attempt to do so.

Two years after the report appeared the British minister in Washington enclosed a memorandum in a note to the Secretary of State, without making any comment upon it, and added that "he (Schwatka) traversed British territory for a considerable distance without any intimation having been given the British authorities of his intention to do so;" but he stated that "no doubt had their acquiescence been asked it would not have been refused."^b The chief allegation of the memorandum was that in his report he had indicated Perrier Pass "as defining the international boundary." The statement which gave rise to this assertion was, "the country beyond Perrier Pass, in the Kotusk mountains, lies in British territory."^c The context shows that there was no intention to define the boundary, and this was so apparent that the minister did not feel called upon to make any comment. His note was regarded as of so little importance that it did not evoke a reply from the Secretary of State, and nothing further was heard of the incident until after the adjournment of the Joint High Commission in 1899, when the subject of the boundary became a matter of discussion between Lord Salisbury and Mr. Choate. This is styled "Canada's Protest" in the British Case.^d

In 1888 the British Minister brought to the notice of the Secretary of State "a rumour * * * that a charter is about to be granted by the authorities of Alaska for certain privileges in a part of that coun-

^a U. S. Counter Case, App., p. 89.

^c U. S. Case, App., p. 89.

^b British Case, App., p. 257.

^d British Case, p. 94.

try which is claimed by Great Britain." without giving the slightest information as to the locality. Secretary Bayard naturally responded that "the rumour * * * is, as stated by you, certainly vague and indefinite;" that his department had no notice of it; but that he would make inquiry of his colleague, the Secretary of the Interior. In a few days he informed the minister that the official named had no information on the subject, and there the correspondence closed.^a This is termed "a further protest of Her Majesty's Government."^b

In June, 1891, the British minister in Washington addressed the Secretary of State a note in which he inserted an extract from the last report of the Superintendent of the United States Coast and Geodetic Survey, stating that, in accordance with recent enactments of Congress, a preliminary survey of the Alaska boundary had been made, and described the line very much as it had been drawn in the Coast Survey map published by the Secretary of State at the time of the cession in 1867, and as it had been marked on every map issued by the Government of the United States since that date. The minister followed the extract with the following statement: "The Dominion Government have expressed a desire that the Government of the United States may be reminded that the question of the boundary at this point is, at the present time, the subject of some difference of opinion and of considerable correspondence, and that the actual boundary line can only be properly determined by an International Commission."^c

As the extract described the line from the southern extremity of Prince of Wales Island to the Arctic Ocean, a distance of 1,400 miles, it was difficult to determine the locality referred to as "at this point." The survey was the one which grew out of the correspondence initiated by Secretary Bayard in 1885, and in which the Canadian Government had been invited but had failed to participate. The note in 1888 was so vague and indefinite that no reply seems to have been made to it, and neither government again alluded to it until eleven years afterwards, when it was cited by the British chargé in 1902 as evidence of dissent from the claim of the United States to the water boundary along the Portland Canal.^d This is styled "The British Protest of June, 1891."^e

^a British Case, App., pp. 265-67.

^d Ibid., p. 295.

^b British Case, p. 94.

^e British Case, p. 98.

^c British Case, App., p. 268.

Had it been the serious intention of the British Government to enter a protest against the claim of the United States to the boundary as indicated in the Coast Survey maps, an appropriate time would have occurred when the latter government issued the map of 1867, while the treaty of cession was pending and before the transfer of Alaska was made. Another suitable occasion presented itself when, at the request of Earl Granville, on November 17, 1883, the annual reports of the United States Coast and Geodetic Survey for the year 1874, 1875, 1876, 1877, 1878, and 1879, were delivered to the British legation in Washington for the information and use of its government.^a These reports contained maps marking the boundary in the same manner as in the report which was made the subject of the legation note of June 5, 1891.

Again the British Case asserts that "the Canadian Government, in the early part of the year 1898, formally protested to the Imperial Government that the United States had established a sub-port of customs at Dyea, in territory which they claimed was rightfully British,"^b but it is not alleged that this protest ever reached the Government of the United States. The British ambassador, on February 23, 1898, wrote the Secretary of State, that "the great traffic which is now attracted to the valley of the Yukon in the Northwest Territory by the recent discovery of gold in that region finds its way there from the coast, principally through *certain passes at the head of the Lynn Canal*, and it has become more important than ever for jurisdictional purposes that the boundary, especially *in that particular locality*, should be ascertained and defined."^c Out of that note grew the *modus vivendi* of 1898-9 respecting White and Chilkoot Passes and the Klehini River; but there is no indication in it of a protest even at that late date against the occupancy of Dyea by the United States authorities.

The foregoing constitute a review of all the allegations in the British Case that the attention of the United States has been called to the fact that the Government of His Britannic Majesty entertained views as to the interpretation of the treaty of 1825 opposed to those of the United States, and that His Majesty's Government has made protest against the claims of the United States and against the occupancy of the territory now in controversy.

^a U. S. Counter Case, App., p. 88.

^c British Case, App., p. 291.

^b British Case, p. 96.

The United States submits that the acts stated and the so-called protests fall far short of the requirements of international law and the practice of nations, in cases of such importance and gravity as those involving large areas of territory and rights of navigation and commerce of the highest value. When matters of such moment are involved it is not the custom of governments to make known their views by means of an informal meeting of two citizens or subjects, clothed with no authority either to speak or act for them. Neither is it usual when an unwarranted assumption of territorial sovereignty is charged to present protests in language so vague and indefinite as to fail to make them understood by the offending government.

The contention of the United States is that up to August 1, 1898, it had no distinct and official announcement that the British Government entertained view respecting the interpretation of the treaty of 1825 materially at variance with those uniformly put forth and maintained by the United States from the date of the acquisition of Alaska. It admits that there has existed some uncertainty as to the exact point where the line should be drawn on the rivers and streams which flow from British through American territory into the sea; but not until a copy of the instructions of the British members of the Joint High Commission were sent to the Secretary of State on August 1, 1898, was any special assertion of a claim to the heads of the inlets made by the British Government; and not until the British Case was delivered on May 2, 1903, was there a distinct and formal averment made by that government that it contested the water boundary as laid down upon all of the official maps of the United States since 1867.

On the other hand the United States submitted to the Tribunal in its Case a mass of evidence to show that Russia and the United States have since the treaty of 1825 been and remained in uncontested possession of the *lisière* as claimed by them; and it herewith submits further evidence to show not only the acquiescence of Great Britain in this peaceful possession, but the recognition of this possession by various of its authorities and their declarations that no protests have been made against the American occupation.

In addition to other acts, cited in this Counter Case, of acquiescence by the British authorities in the occupation of the United States, attention is called to the declaration of Lord Lansdowne, the present

head of the British Foreign Office. In his reply to Mr. Choate he says: "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."^a In the Case of the United States and elsewhere in this Counter Case the facts of the American occupation of that portion of Alaska are fully discussed. It is now desired to submit to the Tribunal the testimony of the highest British authorities as to what has been the character of the protests, if any, which have been made to the American occupation of the inlets at the head of Lynn Canal.

During the debate in the Canadian House of Commons on the Yukon railway bill, February 11, 1898, the Minister of the Interior, Honorable Clifford Sifton, was questioned as to the ownership of the territory in the vicinity of the passes about the head of Lynn Canal, and he replied as follows:

Difficulties also arose in the White Pass, behind the village of Skagway, and at Chilkat Pass behind Dyea. I believe our contention is that Skagway and Dyea are really in Canadian territory, but as the United States have had undisputed possession of these for some time past, we are precluded from attempting to take possession of that territory.

SIR CHARLES HIBBERT TUPPER. May I be excused for saying that I do not think the Honourable Minister meant to say "undisputed possession".

THE MINISTER OF THE INTERIOR. There have been no protests made. It must be taken as undisputed when there has been no protest made against the occupation of that territory by the United States.

SIR CHARLES HIBBERT TUPPER. A claim, I suppose, was made and adhered to?

THE MINISTER OF THE INTERIOR. There is nothing in the records to show that any protest has been made—an unfortunate thing for us, but it is a fact. I do not know that that particularly affects the discussion, because there has been no real discussion about that particular point. * * * ^b

Five days later the Prime Minister, Sir Wilfred Laurier, was asked by the member from Victoria, British Columbia, respecting a report that the United States was about to send troops to Dyea and Skagway. The Prime Minister stated that he was not informed as to the intentions of the Government of the United States and added:

My honourable friend is aware that, although this is disputed territory, it has been in the possession of the United States ever since they acquired this country from the Russian Government in 1867, and, so far as my information goes, I am not aware

^a U. S. Counter Case, App., p. 158.

^b *Ibid.*, p. 169.

that any protest has ever been raised by any Government against the occupation of Dyea and Skagway by the United States. It is only in recent years that the attention of the public has been drawn to it.^a

The foregoing are the declarations of the Minister to whose department the subject of the boundary specially pertained, and of the head of the Dominion Government—the two officials best qualified and most fully authorized to make a public statement of the facts involved. It is not to be presumed that they spoke unadvisedly or without a proper investigation of the official records. But the published “Debates” show that in the month following, after ample time had elapsed for examination, the subject was before the House of Commons again, upon a motion by the leader of the opposition, Sir Charles Tupper. In his reply, the Prime Minister, Sir Wilfred Laurier, said:

Now I will not recriminate here; this is not the time nor the occasion for doing so; but so far as I am aware no protest has ever been entered against the occupation of Dyea by the American authorities; and when the American authorities are in possession of that strip of territory on the sea which has Dyea as its harbour, succeeding the possession of the Russians from time immemorial, it becomes manifest to everybody that at this moment we can not dispute their possession, and that before their possession can be disputed, the question must be determined by a settlement of the question involved in the treaty.^b

When it is remembered that all the acts which are cited as “protests” in the British Case, with one exception, had a presumed relation to the territory about the passes at the head of Lynn Canal, the Tribunal may determine, in the light of the public declarations of the Prime Minister and the Minister of the Interior of the Dominion of Canada, relating to what Lord Laudsdowne terms “the main question in this controversy,” what weight should be attached to the averments now made on behalf of Great Britain.

AMERICAN OCCUPATION.

The United States submitted in its Case an overwhelming array of evidence to establish its complete, continuous and uncontested occupation and control over the territory which it received from Russia, and upon that evidence it would be quite content to leave to the Tribunal the decision of the question, how far that occupation and control, in connection with the acts of the litigant parties respecting it, affect the true interpretation and meaning of the treaty.

^a U. S. Counter Case, App., p. 170.

^b *Ibid.*, p. 172.

But the British Case, in treating upon this subject, contains some strange assertions of fact and conclusions, which it is deemed proper should receive attention. It contends that, up to a recent day, there has been a marked absence of control by the United States throughout the *lisière*:^a it is able to cite but two cases between 1869 and 1890 "to show the very slight nature of the control occasionally exercised by the United States over the inhabitants of Alaska"^b; it states that the isolated acts of possession of citizens of the United States at the head of Lynn Canal bear no importance in the present case and that they were in violation of law; that the primitive condition of the country remained unchanged until about 1896, which date is fixed as the beginning of the mining exploitation; and that the assumed claim of the United States, that the possession about Dyea and Skagway should influence the Tribunal in its decision, "is wholly disputed."^c

By reference to the Case of the United States it will be seen that for several years after the cession of Alaska it was held, so far as the *lisière* was concerned, mainly as an Indian territory and that the laws of the United States, except so far as was necessary for the preservation of order and the protection of commerce and the revenue were concerned, were not extended over it. This naturally had a restraining influence upon immigration and white settlement. But it was shown by indubitable official evidence that during that period the authority of the United States was continuously exercised by the army, the navy and the revenue service throughout the whole of the *lisière*, and especially along the Stikine River and up to the heads of all the inlets; that peace and order was enforced among the Indians in those regions, and they were made to recognize the unquestioned authority of the United States; and that the customs regulations were in operation throughout the territory. It also was shown that during the same period surveys of all the coasts of the *lisière*, including the inlets and the rivers emptying into them, were made.

It was not until 1884 that the Congress of the United States decided to give the territory a civil government, but a considerable white settlement had existed at Wrangell at the mouth of the Stikine from the date of the cession: in 1880 the town of Juneau on the mainland was founded, and about the same time a mission school was established at Haines at the head of Lynn Canal and white settlers began to enter

^a British Case, p. 89.

^b *Ibid.*, p. 90.

^c *Ibid.*, pp. 92, 93.

that region. Thenceforward, as has been shown in the Case of the United States, the reign of law and the administration of justice, under the undisputed authority of the United States has continued.

In view, however, of the statements in the British Case, it has been determined to submit to the Tribunal, in rebuttal of these statements, further evidence relating to the occupation of the districts at the head of Lynn Canal since 1880, and more particularly the depositions of officials as to the character of the authority exercised in that region.

It was not deemed necessary to adduce further proof of the absolute control of the Indians, so fully established in the Case of the United States, but there are added certified copies of several documents, still preserved, given to Indian chiefs and others by the officials of the United States^a which, with those in the Case, show the presence in the inlets of Lynn Canal of naval and other authorities of the United States annually for the first twenty years after the cession.

In addition to evidence already submitted, depositions are now produced showing that a trading post was established at Haines on Chilkoot Inlet in 1880, another soon followed, and in 1886 a third trading post was located at a place since called Dyea; that a small permanent settlement of Americans existed at Haines in 1888; and that "during the 80's" from one to two hundred American miners were passing to and from the Yukon region, and making this point their place of supply,^b and they constantly increased in numbers until the great "rush" occurred about 1897. It is also shown that in 1883 there were three canneries in operation at and in the vicinity of Pyramid Harbor; that by 1888 their annual output amounted to 55,000 cans; and that they were among the first and most important in Alaska.^c It appears in the Case that immediately after the civil government was established in 1884 the Presbyterian mission at Haines was surveyed and the survey filed in the land office at Sitka. Depositions now submitted show that surveys were made of the early trading posts and notice of their location filed with the United States collector at Sitka, and that various official surveys were made by the United States deputy surveyor from 1889 to 1891, and a map of the surveys in Pyramid Harbor in 1891 will be found in the Atlas accompanying this Counter Case, Map No. 32.^d

In 1887 a Canadian exploring survey party to the Yukon, under the direction of William Ogilvie, arrived at Haines. This party was

^a U. S. Counter Case, App., pp. 212-214, 288. ^c *Ibid.*, pp. 220, 230, 231.

^b *Ibid.*, pp. 220, 230, 233.

^d *Ibid.*, pp. 220, 229, 231, 235.

operating with another Dominion party under Dr. George M. Dawson, which had entered upon its work through the Stikine route. The boats of the party were towed up from Juneau to Taiya Inlet by the United States naval vessel "Pinta," Commander Newell. While waiting there for supplies Ogilvie made some surveys at the head of the inlets; Commander Newell reported, "having previously asked authority from me to begin these, which request I cheerfully granted."^a Mr. Ogilvie had much difficulty in inducing the Chilkoot Indians to transport his supplies and instruments over the mountain passes on his way to the interior on account of their anger at the British because the Hudson's Bay people had killed some of the tribe. It appears there was a party of Stick Indians from the interior of British territory trading at Haines, who were ready to do the packing over the trail, but they were not permitted by the Chilkoots who held them to be foreigners. Mr. Ogilvie had to appeal to Commander Newell, who, Ogilvie in his official report says, "kindly aided me in making arrangements with the Indians. * * * Commander Newell told him [the Chilkoot chief] I had a permit from the Great Father at Washington to pass through his country safely, that he would see that I did so, and if the Indians interfered with me they would be punished for doing so. * * * I am strongly of the opinion that these Indians would have been much more difficult to deal with if they had not known that Commander Newell remained in the inlet to see that I got through without accident."^b

Mr. Ogilvie on his return from the Yukon again passed through Haines where he was joined by Dr. Dawson. United States Deputy Marshall Healy deposes: "I had considerable talk with them during their visit. They made no protest against the occupation at the head of Lynn Canal by Americans, and made no claim to the region as belonging to Canada."^c

In view of the voluminous official reports of the surveys made by Messrs. Ogilvie and Dawson, and of their visit to the head of Lynn Canal in 1887, it can not be seriously maintained that "until 1896 the Governments of Great Britain or Canada knew little or nothing"^d of that region, or that they were ignorant of the exercise of sovereignty by the United States over that district.

^a U. S. Case, App. p. 391.

^c *Ibid.*, p. 235.

^b U. S. Counter Case, App., pp. 215-217, 234, 235.

^d British Case, p. 92.

In the year 1887 Francis H. Poindexter was appointed justice of the peace for the district in and about Pyramid Harbor, and acted in that capacity until he left Alaska in 1891. In the discharge of his duties he took cognizance of both civil and criminal cases arising on the shores of Chilkat Inlet and in the country adjacent thereto. Poindexter after leaving Alaska resided in California until his death in October, 1898.^a

About the year 1889 John J. Healy was appointed United States deputy marshal, and in 1890 he was also commissioned as deputy collector of customs, and exercised the functions of these offices over the country about the head of Lynn Canal, including Chilkat, Chilkoot, and Dyea Inlets.^b Other officials in the enforcement of the revenue laws about the same time seized and confiscated liquors in the vicinity of the summit of Chilkoot Pass.^c

In 1897 John U. Smith was appointed by the President of the United States commissioner for the judicial district of Alaska. He states that he reached Dyea, Alaska, in July of that year. Soon after his arrival, being informed that a number of Canadian officials were stationed at Skagway, he went to that place and found them located in tents; that he addressed the person who represented himself to be in charge of the party, and who was dressed in the uniform of a Canadian mounted police, stating that he hoped there would be no difficulty between them as to the exercise of jurisdiction and authority at Skagway and Dyea; that the Canadian official said there should be none, and that he and his party withdrew beyond the mountain pass to Lake Tagish. He further deposes that he was present as United States commissioner when the resident citizens of the United States met to locate the town of Skagway under the United States laws, and likewise at Dyea when similar proceedings were had, and that neither then nor at any time before he ceased to act as commissioner in May, 1898, was any protest made by Canadian officials or subjects who visited these localities, against these proceedings, nor any claim made by them that those towns were within Canadian territory.

Commissioner Smith states that on the trail which extended from Skagway over White Pass to Lake Bennett, a distance of about thirty-five miles, and on the trail from Dyea to Lake Linderman a distance of thirty miles he exercised jurisdiction and that on numerous occasions he sent deputy marshals over those trails to make arrests; that

^a U. S. Counter Case, App., pp. 218, 230, 282.

^c *Ibid.*, p. 221.

^b *Ibid.*, p. 235.

he has no knowledge that any Canadian officials made arrests on these trails; that Canadian officials often visited Dyea and Skagway and knew that he was holding court and exercising such jurisdiction, but so far as he was informed never made any protest against his acts; that in the month of September 1897, under instructions from his government, he visited Lake Linderman to investigate an alleged cutting of timber on American territory, and that he assumed at that place jurisdiction of an offense there, in the presence of the Canadian official in charge in that vicinity and without his protest; and that in October 1897, he was visited in Dyea by one Bevan, who represented himself to be, and he believes him to have been, an inspector of Canadian police, who agreed with him that the limit of exercise of jurisdiction over the trails named should be at a point between Lakes Bennett and Linderman fixed upon between them and so indicated on a sketch, which is reproduced in his deposition.^a

It also appears from the deposition of the United States officials cited, the superintendent of the canneries, the owners of the trading posts, and other residents that from the first location of white settlers at the head of Lynn Canal in 1880 up to the year 1898, all persons regarded and accepted all the localities in that vicinity as the territory of the United States, that all locations entry and record of titles were made under the laws of the United States, that jurisdiction and authority was in all cases exercised by United States officials; and that no British or Canadian official or subject during the period named ever made any claim of territory or filed or uttered any protest against the exercise of authority by the United States.

It is contended on the part of the United States that the facts herein set forth, and in its Case, establish beyond controversy that the United States has been in complete and peaceful occupation and control of the territory about the head of Lynn Canal from 1867; that this occupation and control were well known to the Canadian Government and its officials; and that no claim was advanced by them to this territory or any protest made against the American occupation previous to 1898. In the presence of these facts and of the public declarations of the present Prime Minister of Canada and of the Minister of the Interior that Russia had been in possession of the territory in question from time immemorial, and that in 1867 it passed into the hands of

^a U. S. Counter Case, App., pp. 222-227.

the Americans, by whom it was held in undisputed possession up to 1898, it is suggested that the contention in the British Case is not well founded that these facts should have no influence upon the Tribunal.

THE BOUNDARIES PROPOSED BY GREAT BRITAIN.

A serious embarrassment which has in the past presented itself to the United States in the consideration of the informal or unofficial claims of Great Britain and Canada respecting the boundary has been the variable and conflicting character of those claims advanced from time to time. The British Case presents for the first time in the history of the controversy a distinct, complete, and formal announcement of its claim respecting the boundary of the *lisière*. And this claim differs from every other claim which has been set forth by British or Canadian officials or subjects. A brief review of the various phases which the question has undergone at the hands of those officials and subjects, when they attempted to depart from the long-accepted interpretation of the treaty, may be useful in a consideration of the claim of Great Britain now before the Tribunal.

For about twenty years after the United States took possession of Alaska and published its official map of 1867, there was a general acceptance by British and Canadian officials, cartographers and writers of the line marked out by Russia and so explicitly and publicly laid down by the United States. It has been seen that when a movement was initiated in 1872 for a survey and delimitation, there was no dissent in the public offices either at London or Ottawa from the proposition that the line was to be drawn, under the treaty, across all the rivers and streams which empty into the inlets and straits of the sea. When gold was discovered near the headwaters of the Stikine in paying quantities a few years later, and an effort was made to push down the line which had heretofore been observed by the Hudson's Bay Company and determined by the Canadian Privy Council, no suggestion was made that the line crossing the rivers should be abandoned. As Lord Iddesleigh, directing the foreign affairs of the British Government in 1886, expressed it, in referring to the boundary marked as laid down by the United States, it was admitted that the boundary was "somewhere in that region".

The first indication of a change in the views of Canadians on the subject was manifested in British Columbia. A report of the Execu-

tive Council of the Provincial Government published in 1885^a shows that a very full and detailed discussion of the boundary took place in the Council, with a copy of the treaty of 1825 published in McCulloch's Commercial Dictionary before it. This text of the treaty did not contain in Article III the words "*called Portland Channel.*" Upon this text the Council reached the following conclusion: "The Government of British Columbia contends that any recognition of the words 'Portland Channel' as being in the Treaty, was a grave mistake, and most injurious to the interests of British Columbia." The official map makers of the Province were accordingly directed to prepare a map to conform "to the interests of British Columbia," and it appeared with the boundary drawn from Cape Chacon up Clarence Strait, thus giving the Portland Peninsula and the Revillagigedo Archipelago to Canada. On this new map, however, the line crossed the Stikine at the point fixed by Hunter, and passed about 10 leagues around the heads of the inlets. It is a curious fact that the genesis of the Canadian claims had its origin in a false text of the treaty of 1825.

In 1888 Dr. Dawson, who was in Washington seeking to impress upon Dr. Dall the views of General Cameron, produced a new map, also originating in British Columbia. The hallucination seemed still to exist that "Portland Channel" did not exist in the treaty, but a step further had been taken to protect "the interests of British Columbia." Hunter's range of mountains disappeared, all the rivers were pushed back into Canada by the pencil of the draughtsman, and the line was drawn across the heads of all the inlets. A still further advance was made in British Columbia, in the contention that the political coast line outside the Alaskan archipelago was the line from which the treaty limit of ten leagues from the coast was to be drawn, a contention which effaced the *lisière* from the mainland. This latter claim was probably of the class referred to in the semi-official Ottawa article in the Edinburgh Review, as "the extravagant claims put forward by over-zealous British Columbians," although it is reproduced and insisted upon in the British Columbia Year Book for 1901.^b

From about 1888 the Canadian official maps ceased to appear, as formerly, with the boundary marked in accordance with the official maps of the United States, although it was asserted in the Dominion House of Commons on May 6, 1901, that the large official map of the

^aU. S. Counter Case, App., p. 180-190.

^bIbid., p. 204.

Dominion of Canada exhibited by the Canadian commission at the last Paris Exposition had the boundary marked as claimed by the United States.^a On the other hand, it will be seen by an examination of the Appendix to this Counter Case^b that the British map publishers continued almost uniformly even up to a very late date, to mark the boundary as it appears on the official maps of the United States. This is especially noticeable in the British Admiralty charts. The British Colonial Office List, although not an official issue, is understood to be the only publication of the kind, and to be circulated by the Colonial Office; and it is professedly "compiled from official records," etc. In 1869 this publication contained a general map of the British Dominions showing the Alaskan *lisière* substantially as claimed by the United States. Similar maps appeared in its annual issues up to and including 1902. In the issue of 1903 the map was omitted.^c

There has been as much variance and modification of views on the boundary question by the public men and writers of Canada, as in the map publications. Extracts from some of the recent published articles are given.^d Hon. David Mills, in 1879, in the Dominion Parliament, combatted the opinion of the British law officers that the right had been lost to navigate the rivers and streams which flowed through Russian territory to the sea,^e but in an article printed in 1899^f he claimed that the true boundary line should be drawn across the inlets, thus placing all the rivers except the Stikine in British territory. In the same article he contended that the ten years' privilege of trade granted by Article VII of the treaty of 1825 was confined to the *lisière*, and yet the British Government in the Fur Seal Arbitration at Paris in 1893 maintained that it applied to the whole of the Northwest Coast of America.^g He asserted in 1899 that the true interpretation of the treaty required that the boundary line should pass up Clarence Strait, while the government of which he was a minister has now asserted that the true interpretation of the treaty requires it to pass up Pearse and Portland Canals.

It has been seen that Hon. R. W. Scott, Minister of State in the present Canadian Cabinet, declared in the Dominion Senate in 1892

^a U. S. Counter Case, App., p. 173.

^b *Ibid.*, pp. 243-250.

^c *Ibid.*, p. 245.

^d *Ibid.*, pp. 200-211.

^e *Ibid.*, p. 165.

^f *Ibid.*, p. 204.

^g *Ibid.*, pp. 190-194.

that there was no dispute as to the boundary, and he described the line, according to the treaty, as follows: "It commences at Portland Channel and extends along the summit of the mountains, where those mountains do not extend more than 10 marine leagues inwards, and if they are more than 10 marine leagues, then 10 leagues is the limit to a certain meridian, and from that point it is a straight line to the frozen ocean."^a How radically that line differs from the one his own government has now submitted to the Tribunal may be seen by reference to Map No. 37 of the Atlas accompanying the British Case.^b

Attention has been called to the parliamentary declarations of the Prime Minister and the Minister of the Interior of Canada that there has been undisputed American possession about the head of Lynn Canal, and that it has been held from time immemorial by Russia and the United States; nevertheless the British Case has occupied considerable space in the attempt to show repeated protests by Great Britain against this occupation, and a line is insisted upon which places the larger portion of that arm of the sea in British territory. Without dwelling further upon the inconsistencies and conflict of views of the statesmen of Canada, attention is called to extracts from various recent articles published by prominent Canadians,^c showing similar inconsistencies and as marked conflict with the position in the British Case as those already cited.

In order to illustrate more graphically these inconsistent claims, a comparative reproduction on a reduced scale is presented, in the Atlas accompanying this Counter Case, of five British Columbian maps and of three British maps to which official authenticity has been given at different times. (See Sheet No. 28.) An examination of them will show the appropriateness of the following colloquy which took place in the Dominion Parliament, February 11, 1898:

SIR CHARLES HIBBERT TUPPER. * * * I do not know how far the government would be warranted in marking what is disputed territory, nevertheless I think it would not confound any proper conception to mark the points they [the United States] have already occupied in the territory with customs officers.

THE MINISTER OF MARINE AND FISHERIES (SIR LOUIS DAVIES). It might be as hard to find the disputed boundary as the real boundary.

SIR CHARLES HIBBERT TUPPER. I do not press for any impropriety being committed, but I think this can be done * * * *d*

^a U. S. Counter Case, App., p. 167.

^c U. S. Counter Case, App., pp. 200-211.

^b U. S. Counter Case, Atlas, No. 26.

^d *Ibid.*, pp. 168-9.

The ocular comparative study of the maps reproduced on Sheet No. 28 of the Atlas may be aided by a comparison of figures.

The first map on the Sheet (marked *a* in the table of contents), issued by the Government of British Columbia has the line drawn approximately as it appeared on all British and Canadian maps up to the date of its publication in 1884. This line is in substantial agreement with the interpretation placed upon the treaty by the United States.

It will be found that the second British Columbia map of 1884 (marked *b*), which may not have been issued until 1885, has given to the United States as its *lisière* approximately 16,640 square miles. Dr. Dawson's Map of 1887 (marked *c*) which was used by him at Washington in 1888 and which Lord Lansdowne has stated represented the views of the British Government,^a draws a "line approximately following summits of mountains parallel to the coast" and gives to the United States as its *lisière* approximately 8,930 square miles.

The Joint High Commission Map of 1898 (marked *g*) was a map with the boundary traced upon it in red ink, which was submitted to that commission by the British members at Quebec on August 30, 1898. It is presumed to represent the views and wishes of the British Government at that time. It is somewhat similar to the map (marked *f*) just above it on the sheet, except that the boundary line on the latter crosses over to Douglas Island and takes in the Treadwell gold mine. The British Commissioners' map gives to the United States as its *lisière* approximately 3,340 square miles.

The Map No. 37 in the Atlas to the British Case (marked *h*), which is the ultimate and most formal presentation of the British claim, gives to the United States as its *lisière* approximately 7,900 square miles.

Contrasted with these varying claims of the British authorities is the uniform *lisière*, as shown on the official maps of the United States since 1867, which contains approximately 32,000 square miles.

An examination of Map No. 37 in the Atlas accompanying the British Case, and which is reproduced in the Atlas accompanying this Counter Case as No. 26 and on a reduced scale in No. 28, will show:

(1) That it is inconsistent with the positions heretofore occupied by the British and Canadian Governments, its officials, historians, cartographers and writers. These inconsistencies appear in what has

^a U. S. Counter Case, App., p. 159.

already been stated in this Counter Case, and need not here be repeated. Attention, however, is called to the fact that practically all the rivers which were supposed to cross the *lisière* have been placed in British territory. Such an interpretation of the treaty of 1825 is at variance with the former attitude of the British and Canadian Governments and their statesmen, and renders meaningless the provision contained in Article VI of that treaty.

(2) That it also conspicuously ignores the acts of its own officials respecting the Stikine River. It has been shown that the Canadian Privy Council and various British and Canadian officials recognized the crossing of that river by the boundary line somewhere in the vicinity of 57° of latitude; but that later under the pressure of the gold mining interests of the Cassiar district an officer was sent to survey that river, and that he reported to the Canadian Government that he had located "the summit of the mountains parallel to the coast" as stated in the treaty; and he fixed the point where the river cut through that mountain range. For more than twenty years this alleged topographical fact has been insisted upon by Canadian officials. But in constructing the new map of the *lisière* in the British Case, all these historical facts are ignored and the mountain range, apparently so surely established by the Hunter survey of 1877, disappears, and a new line is invented to follow the peaks on the coast.

(3) That an examination of the new line shows not only its inconsistency, but its impracticable, even absurd, character. In drawing the boundary from the head of Portland Canal in search of a coast range, the line leaves the mainland, cuts off a portion of Bell Island, and extends British dominion over a part of the ocean admittedly belonging to the United States. In Endicott Arm another island is appropriated which contains valuable gold mines now being worked by Americans; and elsewhere, along the coast, islands of unknown value are transferred to British domain.

(4) That it also appropriates all the inlets, and almost all of the harbors and safe anchorages along the *lisière*, leaving the United States without proper localities along the mainland to moor its vessels or establish bases for its commerce. The "*point d'appui*" so stoutly and so successfully contended for by Russia in the negotiations has no existence in the *lisière* marked out in the British Case.

(5) But a more serious condition is developed by this new map. For more than twenty years past citizens of the United States have

been engaged in the exploitation of the mineral wealth which their enterprise, under the protection of their government, has brought to light in the *lisière*.^a A list of the location of the mines now in operation will show how they are affected by the new line proposed by Great Britain. Taken in their geographical order, the first to be noted are those in what is known as the Porcupine district. They are situated on the creeks of the Klehini River and are on the American side of the provisional line agreed upon in 1899. They carry placer gold, and extensive exploitation and development have been going on there for four years. These would all be placed within British territory by the new line. In the Berners Bay district are grouped a number of important gold and silver quartz mines. The first of these was located in 1885 and others in the next following years.^b They represent heavy investments of capital. The British line seems to cut directly through the district, and it is difficult to state just how many of the mines would be affected by it. Back of Juneau on the mainland is situated a group of important gold and silver quartz mines which for twenty years past have produced largely. The British line in that vicinity runs close to the shore, and seems to place some of those mines in peril. In the Snettisham district there are several groups of gold and silver mines now being actively worked. Nearly all, if not all, of these seem to be transferred to British territory. In the Sundum district there are valuable groups of gold and silver mines, all of which are placed on the British side of the line, including the rich mines of Sundum island. The gold placer beds at the head of Windham Bay share the same fate. The Unuk River gold and silver bearing quartz lodes beyond peradventure become British by this line. The Ketchikan district located in the extreme southwest, partly on the islands and partly on the mainland, seems to include the only gold and silver mines in the *lisière* which have escaped the rapacity of the scientists who have constructed the line along the coast peaks; but even these mines would lose their nationality if the alternative line suggested in the British Case should be adopted.

To enable the Tribunal to more fully understand the location and character of the mines in question an official report from the United States Geological Survey is herewith submitted.^c

^a U. S. Case, App., pp. 492-495.

^c U. S. Counter Case, App., p. 266.

^b *Ibid.*, p. 494.

(6) Finally, by the aid of the Canadian scientists and cartographers, the United States is given a *lisière* broken up into disconnected and worthless fragments, the burden of whose possession and control no government would be willing to assume. The map shows that these isolated promontories and mountainous shores number sixteen in all, scattered along a coast of three hundred miles. Some of these are only from one half a mile to two and a half miles in width and from two and a half to three miles in length. Two of them contain only three and five square miles respectively; five of them less than one hundred square miles each; and of the sixteen, thirteen contain less than six hundred square miles each. In the presence of such facts, how attenuated and useless becomes the *barrier on the mainland* which the Russian negotiators demanded should be assured to them by the treaty of 1825. During the Fur Seal Arbitration of 1893, this treaty was the subject of a thorough examination and discussion, and in the course of it one of the distinguished counsel of Great Britain defined this oft-used word "*lisière*." His language was: "*Lisière*" is 'selvage'—'strip'—like the edge of cloth". What becomes of this apt definition in the presence of the torn and raveled fringe upon the map presented in the British Case?

In contrast with the inconsistent, variable, and impracticable boundary lines which have attended the British and Canadian treatment of this question, stands the uniform and consistent attitude of the United States. The map which was carefully prepared and published to the world at the cession in 1867 has remained unchanged in any essential respect in the many official editions which have been issued since that date, with only such slight modifications as the gradually obtained geographic knowledge made necessary, and which in no degree modified the interpretation which the United States from the beginning has placed upon the treaty. An effort is made in the British Case,^b to establish

^a U. S. Counter Case, App., p. 195. (Extract from Oral Argument in Fur Seal Arbitration.)

MR. JUSTICE HARLAN.—What are the English words in Article VI corresponding to *lisière*?

SIR RICHARD WEBSTER.—I will read it:

"May cross the line of demarcation upon the line of coast."

The expression "line of coast" is not the proper translation—it ought to be "*strip* of coast." "Strip" is the correct translation of "*lisière*," if I may be permitted to say so Mr. President, and no doubt if I am wrong you will correct me. "*Lisière*" is "selvage"—"strip"—like the edge of cloth—"border."

^b British Case, pp. 103, 104.

some discrepancy in two maps published with the tenth census of the United States. As to the first of these, even admitting the statement as made, it does not affect the character of the map as being in substantial agreement with the other maps of the government. It was not prepared in the office of the United States Coast and Geodetic Survey and for that reason some slight variance was natural. The second map (No. 30 in the British Atlas) is on a very reduced scale and was drawn for the purpose of indicating timber distribution, &c. The British Case states that it "shows the boundary line apparently crossing the head of Lynn Canal, leaving a portion of it on the British side of the boundary line." A careful examination will make apparent the erroneous character of this statement. The westernmost point of Lynn Canal is approximately in longitude $135^{\circ} 34'$, while the census maps show the boundary as crossing the Chilkat River, exaggerated in breadth, not Lynn Canal, in longitude 136° .

The United States has from the time of the cession of Alaska to the present day maintained but one interpretation of the treaty of 1825. Its position has been open and known to the world. It is the same which was presented to the Tribunal in its Case and which it now reiterates in this Counter Case.

STATEMENT IN CONCLUSION.

The United States, having reviewed the evidence produced in the British Case together with that herewith submitted, affirms that such evidence fully substantiates the statement of facts set forth in the Case of the United States; and it, therefore, asserts that such facts are conclusively established, and that, in addition to thus confirming the declared position of the United States as to the meaning of Articles III, IV, and V of the treaty of 1825, this evidence further establishes the following:

(a) That the channel, described in Article III of the treaty of 1825 as "Portland Channel," is not the narrow passage lying northward of Kannaghanut and Sitklan islands and the passage lying northwestward of Pearse and Wales islands; and that it was not the intention of the high contracting parties or the meaning of the treaty that the boundary line between the British and Russian possessions on the Northwest Coast should be drawn through those passages.

(b) That the course of the boundary line between the head of Portland Canal and the 56th parallel of north latitude, as claimed in the

British Case, is contrary to the intention of the high contracting parties to the treaty of 1825 and to the meaning of that treaty.

(c) That the peaks of the mountains, which are adopted in the British Case as limiting the eastern and northern boundary of the *lisière*, are not "*la crête des montagnes situées parallèlement à la côte*" referred to in Article III of the treaty of 1825.

(d) That the words "*côte*" and "*océan*" used in Articles III and IV of the treaty in describing the *lisière* were so used in their physical and not in their political sense; and that such was the intention of the high contracting parties and the meaning of the treaty.

(e) That the interpretation of Articles III, IV and V of the treaty of 1825 by the United States since the cession of the territory in 1867, and by Russia prior thereto, has been uniformly and consistently maintained to the present time, and is the same interpretation set forth in the Case of the United States.

(f) That, until a comparatively recent period, the British and Canadian Governments, by their official acts, declarations, and publications, interpreted the meaning of Articles III, IV, and V of the treaty of 1825 in accordance with the interpretation placed upon such articles by the United States and Russia.

(g) That Great Britain has admitted that the interpretation of the treaty of 1825 by the United States and Russia is in accord with the intention of the high contracting parties to the treaty and with its meaning, in failing to enter official protest against the occupation by Russia, and subsequently by the United States, of the *lisière*, in accordance with such interpretation.

(h) That the facts leading up to the treaty, the text of the instrument itself, the interpretation of it by the acts of the United States and of Russia which were acquiesced in by Great Britain, and the acts of Great Britain show that it was the original and effective understanding of the high contracting parties that, under the provisions of the treaty of 1825, Russia was to have a continuous strip of land upon the continent from the 56th parallel of north latitude to the 141st meridian of west longitude, bounding the shores of all inlets and bays, and that the line of demarcation, when actually located upon the ground, was to be so drawn as to include within the territory of Russia all of the waters of such inlets and bays and of the shores bounding them.

(i) That His Britannic Majesty's Government has never, until its Case was submitted to this Tribunal, officially declared a claim as to the manner in which the boundary line should be drawn between the Territory of Alaska and the Province of British Columbia, contrary to the interpretation placed upon the treaty of 1825 by the United States and Russia.

(j) That the boundary line claimed in the British Case is at variance with and contradictory of the various interpretations of Articles III, IV and V of the treaty of 1825, which have been, from time to time, advanced by Canadian statesmen and writers, and which have formed the bases of various boundary lines appearing upon certain maps published in Canada since 1885 and upon others published in Great Britain since 1898:

(k) That the boundary line claimed in the British Case is in direct conflict with the evidence submitted to this Tribunal and is contrary to the manifest intention of the high contracting parties to the treaty of 1825 and to the meaning of such treaty.

The United States upon the facts established by the evidence submitted in its Case and confirmed by the evidence adduced herein and in the British Case, and upon the further facts established as above set forth, reasserts its claims as to the answers and decisions which should be made by this Tribunal to the questions propounded in Article IV of the treaty of January 24, 1903, and repeats the specific requests therefor, as set forth in the Case of the United States.

ALASKAN BOUNDARY TRIBUNAL.

APPENDIX

TO THE

COUNTER CASE OF THE UNITED STATES

BEFORE THE

TRIBUNAL CONVENED AT LONDON

UNDER THE

PROVISIONS OF THE TREATY BETWEEN THE UNITED
STATES OF AMERICA AND GREAT BRITAIN
CONCLUDED JANUARY 24, 1903.



WASHINGTON:
GOVERNMENT PRINTING OFFICE,
1903.

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PAPERS RELATING TO THE LEASE OF THE LISIÈRE TO THE HUDSON'S BAY COMPANY.

*Report of Governor to Board of Directors of the Russian American
Company, May 6, 1832, No. 181.*

[Translation.]

Schooner "Cadboro" of the Hudson's Bay Company arrived here on April 26 with Mr. Ogden, a shareholder of this company, who established a new settlement at Naas (Observatory Inlet) and is the chief manager of the company's establishments to the north of the Columbia River.

The true purpose of his visit was to have an interview with me and to persuade me that there was nothing in the information diffused by the Americans that the Hudson's Bay Company trades liquor, guns and powder for furs and intends to establish a settlement within our boundary at Stachin. Mr. Ogden declared to me that with regard to a settlement at Stachin he had been telling on purpose to the Americans about this intention, and that as to trading in articles prohibited by the Convention he, Ogden, assured me that neither guns nor powder had been furnished to the Kolosh. As to liquors he had begun to sell some this year and reported this to his chiefs, not seeing any other means of crowding the Americans out of the straits. For it is the second year that he pays the Kolosh for furs twice and three times as much as the Americans (two and three blankets per river beaver), thus losing considerable sums, but sees that allowing the Americans to pay in liquors and fire arms, it is not possible to hope to crowd them out of this competition, and he therefore resolved in spite of the prohibition of the Convention, to pay in liquors, however abstaining so far from selling the natives firearms.

I have the honor to report this circumstance to the Board of Directors and leave for it to decide if it is possible for us alone to keep to the strict fulfilment of the Convention when the British and Americans break it without any limitations and thus reap benefits of which we are deprived.

Mr. Ogden injured the Americans quite considerably this year in the straits in the following way. Having always on hand at the new settlement of Naas and on the Columbia river a large supply of merchandise for *one year in advance* (the yearly expenditure of blankets is calculated at Naas at 8,000 and on the Columbia river 35,000) he sends three vessels to the straits to such localities where the Americans are putting in and begins to pay twice and three times as much as the

Americans who never hold out very long but hasten to leave the place and proceed to another, where they are immediately followed by Ogden's ships. His blankets are better than those of the Americans, weigh $10\frac{1}{2}$ pounds, and are dyed in dark blue, green, light blue, also striped, but no white ones; he has moreover a large quantity of old men's and women's woolen clothing of pretty good material, old officers' uniforms, coats, swallow tails, trousers, waistcoats, theatrical costumes, renovated by tailors and bought very cheap in London, so it looks as if he can pay very high for a river beaver. In the present year he succeeded, however, in obtaining only 2,000 beavers, hoping to increase the trade considerably during the future years. The Americans, who had eleven vessels in the straits this year, succeeded in obtaining about 12,000 river beavers, this success being due to their selling liquors and fire arms.

It may be seen from this report why we cannot cooperate actively with the Hudson's Bay Company in the crowding out of the Americans; principally we have no merchandise; as to vessels, in time we will be able to scrape through; I repeat once more we need merchandise and better than that of the British if possible, we need good colored and white blankets, various clothes and ornaments, cheap in value, but catching the eye of the Kolosh and not worse than those of the foreigners. Is the Company strong enough and does it deem it necessary to meddle in that trade, or is it willing to suffer that the British and Americans should alone take advantage of trading in our possessions—this is not a matter for me to judge and I only report the circumstances in their true light, humbly requesting to be enlightened in a most detailed manner how to act. The hope that the Americans will cease to visit the straits at the expiration of the Convention is, according to my opinion, a very illusory one.

Mr. Ogden endeavored to get my consent for the establishment of a settlement in Clarence Strait, i. e. within our boundary, which I naturally refused; he also hinted that they might in time occupy a convenient point on the Stachin river at a distance of 30 miles from the coast for trading purposes and that the Company would establish on their territory a settlement at Port Essington (?) and on Queen Charlotte Island. He repeated his proposition to supply us with merchandise to be paid for with river beavers and received a negative answer, with the explanation that if the Hudson's Bay Company desires our cooperation against the Americans, it ought to take upon itself the obligation of supplying us with merchandise at advantageous conditions, so that we might be so much the more able to do without the Americans and unite our efforts with those of the Hudson's Bay Company for the purpose of crowding out our rivals. It seems that Mr. Ogden has written a letter in that sense to his chiefs and I suppose that the Hudson's Bay Company will again propose to the Board of Directors with regard to the supplying of our Colonies. In such a case my latest transactions with the Americans may serve to the Board of Directors as guidance in the determination of rates and conditions. In compliance with Mr. Ogden's request I enclose herewith a letter from him to London for further delivery. He left the bay on May 1st, receiving from me all hospitality and assistance that it was in my power to give him.

Report of Count Nesselrode.^a

[Translation.]

Acting upon the last note of the English Ambassador concerning the satisfaction of the claim of the Hudson's Bay Company which was forwarded by me to the Minister of Finance, the latter sent me the report of the Board of Directors of the Russian American Company explaining, that Rear-Admiral Baron Wrangell was already in correspondence with the Directors of the Hudson's Bay Company. From this correspondence it is evident that the Company would be willing to lease for a term of twenty years or thereabouts, that part of our dominions, adjacent to their frontiers north and south of the river Stikine accepting in payment a certain number of furs yearly.

Our Company believes that, in order to avoid further causes of discord it would be advisable to cede to the Hudson's Bay Company the exclusive right of trade on the shore of the continent between latitude 54° 40' and the Cross Strait, for such annual payment in furs as would prevent our Company from suffering any loss. The Hudson's Bay Company would gain thereby in that it would get rid of a dangerous rival in its trade with the natives. That Company proposes moreover to provide our Colonies at moderate prices with a full annual supply of goods and victuals. For the final signing of the contract the Hudson's Bay Company will send one of its members in the middle of January to Berlin, on condition that our delegate shall meet him there. The Board of Directors of the Russian American Company suggests that in this way the much disputed Stikine affair may be settled in a manner satisfactory to both parties, but it has no right to decide independently or to sign any agreement without the special sanction of the Government, which permission it now asks for.

In reply to Count Kankreen, I said that from a political point of view the wish to establish friendly relations with the Hudson's Bay Company through the lease of the above-mentioned territory is, in my opinion, worthy of the fullest consideration. In attaining this end we should gain this advantage of doing away with all rivalry in the fur trade and of putting an end to the frequent occasions of friction with the English and with the citizens of the United States of America which have already often led to unpleasant correspondence with those Governments.

This agreement would especially be desirable because it would enable us to avoid all further explanations with the Government of the United States as to its ceaseless demands, disadvantageous to our interests, for the renewal of Article IV of the Treaty of 1824, which granted to the American ships the right of free navigation for ten years in all the seas and straits, adjacent to our dominions on the northwest coast of America.

The Minister of Finance thereupon wrote me that, as the affair does not admit of any delay, I might solicit Your Imperial Majesty's order to send Rear-Admiral Baron Wrangell to Berlin, to negotiate with the delegate of the Hudson's Bay Company, who will arrive there January 19 31st next. Prince Menshikov has no objection to Baron Wrangell's short absence of twenty-eight days.

COUNT NESSELRODE.

^aOn the original is written in the hand writing of His Imperial Majesty: "To be executed."

Mr. Simpson to Baron Wrangell.

[Translation.]

DEAR SIR: Some of our Directors being absent during the holidays, it was impossible to meet in order to consider your letter, dated December 2 14th and received by us yesterday. Consequently I can give no official answer, but as the time of my departure for America is drawing so near, that no further delay is possible, I have seen the Governor and those members of the Committee who are still in town and asked their private opinion about the proposal you make.

Your first proposition concerning the cession of the right of trade on the shores of Cross Strait was understood here, judging by the high rental you name, to include the islands within the leased area. Perceiving now, however, that you are not willing to include Sitka and the coast north of Cross Strait, the Hudson's Bay Company is also ready to yield these two points. But such being the new state of affairs, it is necessary to enter into the minutest considerations and details as to fixing the rental sum and in order to guarantee that we shall be protected from all direct or indirect rivalry in trading in the leased territory.

As to the Stakine affair we do not claim payment for any damage; we require nothing more than a just compensation for the material losses suffered, which I assure you, in all justice, were severe. You will believe me when I tell you that in 1833 a ship was kept busy in making the preliminary arrangements necessary for the establishment of a settlement near our frontiers on the Stakine River and since 1834 two ships with a crew of 80 men have been occupied in the same way. This crew was collected from various places a year ago and as the enterprise failed, they were unemployed and a charge upon us, their keep and salaries etc., amounting to a considerable sum. As to the detention of our ship in the estuary of Stakine, it is proven by your declaration and other documents. Upon this point our respective Governments are already agreed and therefore it would be useless to argue further.

In other respects too it seems that the Boards of our Companies are entirely of accord. It would be very unpleasant therefore if this one disputed question should prevent a further agreement and trouble our respective friendly relations, profitable alike for both parties and which would, if relapsing into rivalry, be injurious to both.

A definite conclusion on all these points can, I am sure, never be satisfactorily reached by correspondence. On the other hand, I think that several hours of personal conversation between you and me would decide the affair. For this reason it is proposed that I leave for Berlin in time to arrive there on the last day of this month (new style), entrusted with a full power of attorney from the Governor and the Committee of the Hudson's Bay Company to draw up a contract with the Russian American Company. I shall therefore hope to meet you there with similar powers on your part.

No other consideration would induce me to leave England and make such a journey at such a time of the year, when every hour before starting for an eight month's sojourn in America is of value to us. This may prove how willing the Hudson's Bay Company is to make friends with the Russian American Company. Not knowing at what hotel I shall stay, I shall present myself to the English Ambassador

where you can inquire for me. I beg you also to inform Your Ambassador of your arrival. Seeing that I cannot stay in Berlin more than two days, I hope you will be able and will do your utmost to meet me there on Thursday January 31st n. s.

G. SIMPSON.

Baron Wrangell to Mr. Simpson.

[Translation.]

HAMBURG, *January 25 February 6th, 1839.*

TO MR. GEORGE SIMPSON.

SIR: Supplementing the agreement we entered into in the name of the Russian American Company and the Hudson's Bay Company. I hereby agree that for the term of ten years beginning on June 1st, 1840, the Russian American Company shall not encourage foreigners to visit the northwest coast of America through the buying from them of different goods, excepting those of which the Russian Colonies may be in urgent need, and those taken in payment for different works and buildings on the northwest coast of America, or unless it should be found necessary to buy a ship or a vessel for the service of the Russian American Company. It is understood, that in case a foreign ship should land in Russian dominions, on the north-west coast, for shelter from bad weather or for purposes of illicit trade and if in such case the Russian American Company had neither means, nor right of compelling this ship to cease the traffic and to depart,—this should not be made a pretext for the Hudson's Bay Company to withhold from the Russian American Company the rental agreed upon in exchange for the right ceded to the Company of trading on a certain portion of the continent.

I am, Sir, yours truly,

BARON WRANGELL.

Mr. Simpson to Baron Wrangell.

[Translation.]

HAMBURG, *January 25 February 6, 1839.*

TO BARON WRANGELL.

I beg to inform you that I have received your letter of the above date, about the agreement concluded between us, the Hudson's Bay Company and the Russian American Company, February 6th, 1839, and I beg to reply that I am perfectly satisfied with your assurance, that during the existence of this agreement the Russian American Company will not encourage any foreigners to visit the northwest coast for purposes of trading, and further: that the Hudson's Bay Company will not keep back or avoid paying the rent due to the Russian American Company by agreement under the circumstances mentioned in your letter.

I am, Sir, Yours truly,

SIMPSON.

Translation from the Russian of a Portion of Article I of the Lease to the Hudson's Bay Company.^a

ARTICLE I. It has been agreed that the Russian American Company, having the permission of the Russian Government, cedes or gives up to the Hudson's Bay Company for ten years, beginning with June 1, 1840, for commercial establishments the coast (the islands excluded) and the interior portion of the land, belonging to His Majesty the Emperor of Russia, situated between Cape Spencer, which forms the northwestern cape at the entrance of Cross Sound, and latitude 54° 40', i. e. the whole of the coast of the continent and the interior part of the land, situated to the southeast of the line, traced from the above mentioned Cape Spencer to Fair Weather mountain, as well as exclusive trade in those places. And that the Russian American Company will evacuate all posts or redoubts occupied by it at the present time on that coast and in the interior of the country above mentioned, and will not establish new redoubts and posts for a duration of ten years, nor send its officers, officials, ships and vessels for trading to the bays, inlets, mouth of rivers or lakes on the above mentioned line of coast and interior country. And will have no relations whatever for trading with the Indians, living on that coast and in the interior of the country. And will not receive either in trade or in any other way furs, skins of animals and other products of the above described continental coast and interior of the country.

The Directors to the Chief Manager of the Russian American Colonies, Captain Ivan Antonovich Kupreyanoff, April 17, 1839. No. 230.

[Translation.]

You are cognizant through the dispatches of the Board of Directors, of the correspondence which arose on account of the claim of the English Hudson's Bay Company, which demanded for the non-admission of one of her vessels into the Stiekin River, compensation for damages to the amount of £22,150 from the Russian American Company.

The Board of Directors set up all possible evidence for the dismissal of the claim, but finally on account of a new demand from the English Minister, Mr. Milbank, an instruction was received on Oct. 15, 1838, from the Minister of Finances, the purport of which was that the Russian American Company should come to an amicable understanding with the Hudson's Bay Company.

The Board of Directors reported to the Minister of Finance on Dec. 20, that it was ready to come to an amicable understanding with the Hudson's Bay Company, on the basis stated in the above report, and that desiring to enter into relation with it, in order to conciliate mutual interests and prevent disagreeable encounters in the future, Rear-Admiral Baron Wrangell, member* of the Council of the Company, entered into correspondence with the Director of the Hudson's Bay Company, for the purpose of facilitating official negotiations by preliminary private explanations.

^aThe full text of the lease as produced by Great Britain will be found in the British Case, Appendix, Vol. I, page 153.

This correspondence disclosed that the Hudson's Bay Company, would agree to lease for a certain number of years, for an annual payment in furs, a certain area of contiguous Russian possessions in America, north and south of the Stickine, and at the same time it expressed its readiness to forward to our colonies for a moderate percentage, full yearly supplies of merchandise and provisions; for better association and agreement with regard to this matter and for the amicable arrangement of the Stickine affair, the Directors of the Hudson's Bay Company, proposed to send, at the beginning of January of the current year, one of its members to Berlin or Hamburg, for the purpose of meeting a plenipotentiary of the Russian American Company, for a final agreement on new treaties.

The Board of Directors, thinking that the debatable question might be satisfactorily settled for both sides, asked authorization to begin official transactions and conclude a contract on the basis proposed by this Board stating that Rear-Admiral Baron Wrangell agreed to take this mission upon himself.

On January 8th, the Minister of Finances informed the Board of Directors that, according to the report of the Vice-Chancellor, His Imperial Majesty expressed his approval of the proposition of this Board to enter upon an agreement with the Hudson's Bay Company, with regard to its indemnification for the Stickine affair, as well as with regard to its leasing to it for a certain number of years, a certain area of our possessions contiguous to the British frontier to the north and south of the River Stickine, also to the sending of Baron Wrangell abroad for the final negotiations with a plenipotentiary of the Hudson's Bay Company.

In compliance with this august will, Rear-Admiral Baron Wrangell, being furnished with a power-of-attorney for putting of the above mentioned proposition into execution, left St. Petersburg on January 8th to go abroad, and having concluded at Hamburg an agreement with the plenipotentiary of the Hudson's Bay Company, Mr. Simpson, on January 25th, (February 6th) forwarded this Act to the Board of Directors, and as an appendix to it, a copy of a letter of His Excellency to Mr. Simpson and the answer of the latter.

Rear-Admiral Baron Wrangell executed with decided success the august will, having induced the plenipotentiary of the Hudson's Bay Company, Mr. Simpson, to drop entirely the claim against the Russian American Company, with regard to the Stickine affair, and in general concluding with Mr. Simpson, an agreement promising for the Russian American Company useful results, on account of combinations fully detailed in the copy appended hereto, of the report of the Board of Directors to the Minister of Finances of March 3d, No. 40.

Informing you with regard to this, the Board of Directors has the honor to forward herewith a copy of the agreement concluded, in the English language, with the Hudson's Bay Company, with a translation into the Russian language, and copies of the supplementary letter of Rear-Admiral Baron Wrangell to Mr. Simpson and the latter's answer to the same, for your guidance and exact and strict observance, laying special stress upon:

First. Leased to the Hudson's Bay Company for 10 years, to begin on June 1, 1840, the coast (with the exception of the islands) and the inner portion of the territory belonging to Russia, situated between Cape Spencer, forming the northwestern cape of the entrance to

Cross Sound, and latitude 54° 40', i. e. the whole coast of the continent and interior part of the territory, as well as free navigation and trade in the waters of this coast and interior portion of the territory, situated to the southeast of the line made from the above mentioned Cape Spencer to Fair Weather Mountain, as well as exclusive trade in those localities,—order to be delivered to the Hudson's Bay Company by June 1, 1840, and by this time abolish all posts and redoubts occupied by us at present on that coast and in the interior of the above mentioned territory, taking upon yourself the obligation to see that all further contents of Article 1st of the agreement concluded with the Hudson's Bay Company be observed on the part of our colonial authorities, institutions and officials subordinate to them, in the strict and full sense, not only for the sake of appearance, but in the very essence of the matter. The Board of Directors requests you, on the surrender of St. Dyonisius redoubt, (from whence you will take the arms, materials and merchandise as movable property which is not liable to surrender to the English), to communicate in writing to the Chief appointed by the Hudson's Bay Company, your opinion as to the numbers of the garrison necessary to be maintained at the redoubt for the purpose of keeping the natives in due awe, in order that the English, relying on too weak a force, should not tempt the savages to hostile attempts, the consequences of which may be injurious to them and to us. Endeavor to explain to the Kolosh, that we are friends with the English, in order that, knowing this, they should not attempt any evil designs against these latter.

Executing in such a manner in all strictness and with due foresight Article 1 of the contract, you may nevertheless use (according to your opinion, and without losing sight of the advantages of the Russian American Company) your right to carry on trade in, and maintain relations with the islands and straits, according to Art. 2. By the terms of the latter, the English have not the right to trade sea-otters from hunters in the waters of our possessions, nor otters nor river-beaver caught within our frontiers. The Russian American Company must not purchase the furs of animals caught on the territory ceded to the English.

Second. The Hudson's Bay Company, for the above mentioned part of our possessions leased to it, obligated itself every year to pay or deliver to the Russian American Company as payment for the lease 2000 seasoned land otter skins, (not including cub or damaged skins) caught on the western side of the Rocky Mountains, the first delivery of the 2000 otters to be made on June 1st or before this date in 1841; in addition to this, it consented to sell to the Russian American Company during 10 years:—

(a) all the seasoned land otter skins that may be collected on the western side of the Rocky Mountains, not to exceed 2000 skins at the rate of 23 shillings sterling, and,

(b) 3000 seasoned land otter skins caught on the eastern side of the Rocky Mountains, at the rate of 32 shillings per skin, with delivery of the 2000 otter skins sold to the agent of the Russian American Company on the N. W. coast. The first delivery of the skins that are to be sold shall also be made on June 1st or earlier in 1841 and further deliveries on June 1st or earlier of the next years. You will not fail to take the necessary and appropriate steps with regard to the acceptance

on this account of these offers from the Hudson's Bay Company and their transportation to Okhotsk, with other furs.

Third. Take the necessary steps for the reception from the Hudson's Bay Company, of wheat and other provisions, in the quantity and at the prices mentioned in Art. 4. of the agreement; but if, on account of some unforeseen circumstance, the Hudson's Bay Company should not be able to fulfil this part of the contract, you may send one of our colonial vessels to the southern coasts for the purchase of these supplies through the intermediary of an agent of the Hudson's Bay Company: all the extra expenses that may be incurred by such a circumstance, (for the sending of our vessel and commands, their maintenance and the purchase of the supplies), shall be paid by the Hudson's Bay Company, with the exception of such case when there may be lack of (butter) (Maslo) with regard to which the Board of Directors will issue special instructions.

Fourth. Payment for the offers, as per Art. 3; payment for the wheat, as per Art. 4; payment for the freighting of the merchandise, as per Art. 5. of the agreement concluded with the Hudson's Bay Company; and payment for various purchases that may be made from time to time, shall be made to that Company as the above mentioned offers, wheat and other provisions, merchandise, freight, and other articles shall have been delivered to our agent at Ft. Simpson, at Sitka, or at such other locality of the northwestern coast to the north of Ft. Simpson, by means of a triplicate note from our colonial authorities in the name of the Directors of the Russian American Company in St. Petersburg, in favor of the Governor, Vice-Governor and Committee of the Hudson's Bay Company, the payment to be made sixty days after presentation.

Pointing out the principal articles of the agreement concluded with the Hudson's Bay Company, the Board of Directors hopes that these as well as the other articles of this agreement will be observed and maintained according to the full meaning of its present contents, for the avoidance of any complaints which might give a pretext for unpleasant consequences. If, through ignorance, misunderstanding, or as is wholly unlikely, with intention on the part of the English, the agreement concluded should be broken in any way, endeavor, without taking recourse to violent measures, to remove the misunderstanding by means of correspondence or personal interviews with the authorities, informing the Board of Directors of all such negotiations or incidents, giving full details, and forwarding the necessary proofs and documents.

N. PROKOPYEFF,

A. SEVERIN,

Directors.

The Governor of the Russian American Colonies to Mr. John Douglas.

[Translation.]

NORTH-WESTERN COAST OF AMERICA.

Port New-Archangel, November 12, 1840.

DEAR SIR: I had the honor of receiving your letter of August 24, of the current year from Taku, and in answer to this I deem it my

duty to inform you that I find your instructions given to your gentlemen at Stachin and Taku in entire conformity with the agreements which were concluded between us during your stay here; it remains now to hope that these agreements may be kept sacredly for our mutual advantage.—You may rest entirely assured, dear Sir, that on the part of the Russian American Company and its Agents nothing is being done that can in any case infringe upon the rights which it conceded to you by contract for which I, as the guardian of its operations appointed by Imperial order, do vouch.—I am at the same time fully convinced that the Hudson's Bay Company will not wish to appropriate rights which do not belong to it,—and I therefore deem it my duty to dwell somewhat in my answer on that part of your letter where you mention your unsuccessful trading visit to *Cross-Sound*.

You say: "The Kolosh (Indians) declared that they had sold all their sea-beavers and land furs to your steamer, and should this be confirmed this single case is sufficient for withholding payment of the lease." I avow that I did not expect any such summary sentence from you, especially as you are not quite sure that the Indians you met with belong to some continental tribe, which fact (if they really belonged to inhabitants living in the vicinity of Cross Sound, which, among others, you have not explained in your letter) allow me to doubt, for, as far as I know by my long residence (23 years) in this country, there are no other inhabitants in the vicinity of Cross Sound except those who have their permanent abode on the northern coast of the island of Sitka.

Not entering further into the examination of our mutual rights.—I have the honor to inform you of the following facts: our steamer during her trading trip this summer through the straits did not have any communications with any of the continental tribes belonging to you;—the only point where she traded is the small harbor of Aya near Cape Bingham on the northwestern coast of the island of Sitka with a tribe calling itself Kkhu-tsetl-khwan. This people hunts along the coast of Ltuya (Port Français) and farther to the north up to Yakutat (Bering Bay). The sea otters, forming their greatest trade, as well as a small quantity of otters, they obtain themselves, as already said, in our waters; land animal furs which may be had from them in small quantities at times, they obtain by purchase, trading them for sea otters, partly from the Yakutat people who go every year for trade to the Ugalakhmute tribe which inhabits the very backwoods of our possessions near the Chugat Bay (Prince William's Sound), and partly in the same way from the Chileat, Hootznoo and other Kolosh; it is undisputable that from among these furs those coming from Chileat belong to you: I understood the matter so and these furs have always and will always be kept for you.—In the vicinity of Cross Sound proper, on the southern as well as on the northern coasts, there are no animals constituting the trade with the Indians and consequently there is no hunt whatever here, only occasionally may some stray otter be met with.

I mentioned above that near Cross Sound along the continental coast from Cape Spencer to Lynn Canal there are no tribes or permanent settlements (with the exception of 4 or 5 huts (wigwams) situated on a small island near this coast, or some *nomadic* Indians who only temporarily put in at this coast on their journey); if the Indians told you

otherwise, I will say firmly that it is a downright untruth, as is in general the greater part of information received from the Kolosh who are, on account of their innate duplicity, always ready to tell you one thing and another to us, if not for the purpose of gaining some advantage, then from their unsurmountable propensity for lying.—As you refer in your letter to the settlement of Kaknau, I have the honor to explain to you that this settlement did really exist some 15 years ago, but it has been abandoned since then; part of the inhabitants migrated to Chilcat, the river Okoi (between Ltuya and the Bering Bay) and other places; the hereditary elder went with part of his people to the island of Sitka near the New-Archangel port, but the greatest part of all has been killed in the war with the Stachin people. There remains at present only the name of this settlement and you may see there every 8 years for several days the remaining population which assembles there from various localities of their present abodes for the commemoration of their dead relatives according to the Kolosh custom.

Such is the information I possess on Cross Sound and I could never imagine that any one should dispute our rights to trade with the natives. I agreed with you at your visit here, when Tongas was in question, and I hope that you will agree with me when you will be convinced of what I said to you about Cross Sound; even in the case of some continental tribe being here, I do not see why we should not have the same right here as you have in Tongas the circumstances being the same. To Cross Sound flow all the furs from the Russian possessions and to Tongas from the English. The principal foundation of the Treaty between the two companies explains all the remainder: the continental coast (of our possessions) from Cape Spencer and farther to the South-east, as well as the interior of that part of the Continent with all its tribes and exclusive trade with them belong to you while the islands remain ours as heretofore.

During your short stay at New-Archangel, it was not possible to foresee and expound all the conditions of the Kolosh trade, this is why I deem it indispensable to ask you, dear Sir, (hearing that you intend to come to the straits) if you do not foresee the possibility to honor me by a second visit for a personal interview and negotiations. I am fully convinced that after this explanation no misunderstandings will arise any more between us with regard to the trade with the Kolosh. Should circumstances hinder you from coming to New-Archangel, I am ready to come for a personal interview with you to any point in our straits which you might find convenient. I can give to it some time between September 1, and April 1, therefore I beg of you to inform me now of your intention.

I entrusted Captain Lindenberg, who is so well acquainted by experience with the whole procedure of our trade with the Kolosh, to explain it to you and to give you all the information you might desire on this subject; I instructed him at the same time, as the man in charge of our trade in the straits, for the continuity of friendly relations between the Russian American Company and the Hudson's Bay Company, to assure you of our ever most pure intentions and good faith towards the English.—I am sending with him to be delivered to you *all the land furs* which he traded last summer in Cross Sound which will remain in your hands until further agreement on the subject.

For your guidance I am forwarding to you our rates on all furs in general, bought last summer by Mr. Lindenberg in the Straits, as well

as of the furs purchased in Sitka beginning with June 1, until October 1, of the current year. You may ascertain from these lists the insignificance of our trade with the Kolosh, which at the present time, does not form even 1/10 of our former trade,—in one word, the above mentioned furs constitute the whole profit of the Russian-American Company on the northwestern coast of America! During the whole of last summer not one Kolosh came here from the English possessions and even not one canoe of the Keku or Henegau Kolosh who formerly always visited New-Archangel for trade;—there were also not more than two or three canoes from the Hootznoo Kolosh. I see from your Kolosh rates, transmitted to me by Mr. Kennedy, that you pay them more for furs than we do and if we are not going to keep to the same rates we will be forced to lose even the small number of furs which we collect at present! After June 1, there came only one canoe here from Chilcat, from which we bought 18 river beavers (sent to you with the last steamer). It is clear that it is more profitable for the Kolosh to trade with the English on account of the prices paid by them.

I close this letter with the information that the last news received by me from St. Petersburg through Okhotsk date as far back as April 15. Perfect peace reigns in Europe and the important affairs in the East which occupied the Cabinets of the first class Powers are coming to the wished for end of order and concord.

I beg of you to forward to Mr. John McLaughlin my letter to him herewith enclosed.

In expectation of having the pleasure to receive a communication from you, I have the honor, to be with perfect esteem, dear Sir, Your humble servant,

(s'g'd)

A. ETHOLINE,

*Captain of the Imperial Fleet, Knight and Governor
of the Russian Colonies in America.*

To Mr. JOHN DOUGLAS,

Agent of the Hudson's Bay Company.

Russian American Company to Minister of Finance

[Translation]

RUSSIAN AMERICAN COMPANY, BOARD OF DIRECTORS,

December 17th, 1848. No 1519.

Concerning the renewal of the agreement with the Hudson's Bay Company, with plan attached.

To His Excellency The Minister of Finance, Private Councillor and Knight, FEODOR PAVLOVITCH Vrontchenko.

By His Majesty's order, which was announced to the Board of Directors on January 8th, 1839, (No. 74) by Your Excellency's predecessor, the Russian American Company and the Hudson's Bay Company, which claimed damages for the loss arising out of the non-admission of a vessel, belonging to the latter Company, to the Stakine river, concluded an agreement for lease, for a fixed term, of a part of our possessions contiguous to the English frontier northwards and southwards from the Stakine river.

This agreement, concluded by Rear Admiral Baron Wrangel and

Sir Simpson as representatives of the two Companies, on January 25 February 6, 1839, for ten years, beginning from June 1st, 1840, was approved by His Majesty, as announced by your predecessor to the Board of Directors on May 18th, 1839. (No. 2523).

The results of this agreement were that our Company was relieved of the obligation to pay a very considerable sum to the Hudson's Bay Company and that all the causes of disagreement between the companies' agents were removed. Reciprocal feelings of hostility which are so dangerous in these remote countries, were changed into a feeling of friendship and it was understood that services should be rendered and civility be shown by each Company to the other. Moreover, as the State Chancellor of the Foreign Office had surmised would be the case, the United States ceased their constant solicitations for the renewal of the 4th Article of the Convention of 1824, granting to American ships the right of free navigation in the seas and straits of our possessions.

The agreement expires on May 31, 1850, but in the current year the Directors of the Hudson's Bay Company entered into correspondence with the Board of Directors regarding the renewal of the agreement for a term of nine years, until May 31, 1859; upon which date the franchise of the Hudson's Bay Company expires.

In the opinion of both Companies it was thought wise to renew the agreement on the previous conditions with certain changes, made absolutely necessary by altered circumstances and mutually beneficial to both Companies.

The principal reason of the Board for desiring the renewal of the agreement is the wish to maintain friendly relations between the Companies. This seems to be particularly necessary at the present time. It seems certain too that unless such friendly relations be maintained it will be impossible to avoid such hostilities and conflicts, as would not only have a bad influence on the affairs of the American Company, but might also lead to unpleasant correspondence between our Government and that of England.

Relying upon all these considerations, the Board of Directors, having first obtained the assent of the General Meeting of the Shareholders, has the honor of asking Your Excellency to use your good offices in order that the Company may obtain permission for the renewal of the agreement with the Hudson's Bay Company for nine years, until May 31, 1859, according to the plan hereto annexed which is in the same form as that approved of by the General Meeting of the Shareholders and adopted by the Directors of the Hudson's Bay Company.

For the President:

V. POLITKOVSKY.

Director Zaidelsky to Directors of Russian American Company.

[Translation]

JANUARY 29, 1849 No. 604.

TO THE BOARD OF DIRECTORS OF THE RUSSIAN AMERICAN COMPANY.

On December 17th, 1848, (1519), the Board of Directors of the Company applied to the Minister of Finance to obtain the permission for the renewal, for nine years, of the agreement between the Russian

American and the English Hudson's Bay Companies, for the lease of a part of our possessions in America.

The Minister of Finance communicated this application to the State Chancellor, who presently informed him that, acting on his report, dated January the 22nd, His Majesty was pleased to sanction the said proposal of the Board of Directors of the Russian American Company.

The Department of Trade and Manufactures has the honor of informing the Board of Directors in order that the necessary arrangements may be made.

For the Director:

ZACIELEJSKY.

Memorial of Count Nesselrode, January 23, 1854.

[Translation.]

The Board of Directors of the Russian American Company made a report concerning the necessity of adopting measures for protecting the Company's possessions from the danger they would be exposed to in case of a rupture between Russia and Great Britain.

On the North-Western coast of America and on the Island of Sitka, where a great part of the Company's property is concentrated, the Company has not at its disposal means of defense sufficient to sustain the attack of a British squadron. The Board of Directors therefore thought it advisable to enter into direct communication with the Hudson's Bay Company, whose settlement is close to our own; and invite that Company to obtain from the British Government a grant of neutrality for the ships of both Companies and their possessions on the North-West coast of America. Judging from the statements of the agents of the Hudson's Bay Company made when the lease to that Company of a strip of land, a part of our possessions, was negotiated, there is reason to believe that they will use their utmost endeavors to obtain the proposed grant of neutrality, especially since the condition of that Company is inferior to ours.

Finding that it would be advantageous in the present political situation to carry the proposal of the Russian American Company into effect, I take the liberty of asking whether Your Imperial Majesty is willing to allow such a proceeding, upon the condition that, when both companies shall have come to a mutual understanding upon the matter it shall be presented by them for the approval of their respective Governments.

COUNT NESSELRODE.

NOTE.—His Majesty ordered this to be done.

ST. PETERSBURG, *January 23, 1854.*

Senator Seniavine to Major-General Polikowsky, Chairman of Board of Directors of Russian American Company.

[Translation.]

MARCH 31, 1854. No. 1072.

The Imperial Ministry has had the honor of laying before His Imperial Majesty the letter you addressed to Mr. Colville, Director of the

British Hudson's Bay Company, as well as the original copy of the letter dated March the 22nd,^a in which Mr. Addington has informed the Company, by order of the Chief Secretary of State of Her Britannic Majesty, that Her Majesty's Government bound itself on condition of reciprocity, to respect during the continuance of the war, the possessions of the Russian American Company, but that this territorial neutrality should not extend to ships of the Company on the high seas and that Her Majesty's Cruisers should have the right of seizing them and their cargoes and of blockading their ports and shores.

Considering the peculiar position of the Russian Colonies in America, His Imperial Majesty graciously charged me to inform you, that the Imperial Government, likewise, acknowledges this neutrality of the territorial possessions of the Hudson's Bay Company in America and it agrees not to attack them during the continuance of this war, but it also reserves the right for its Cruisers of seizing the ships and cargoes of the afore-mentioned Company on the high sea, as well of blockading their shores and ports.

Will you please inform the Board of Directors of the Hudson's Bay Company, that due orders will be given without delay to all Imperial Authorities to carry out and to cause others to carry out this order of His Imperial Majesty, which renders operative the tentative obligations taken by the British Government concerning the territorial possessions of the Russian American Company.

Minister of Finance to Admiral of Fleet.

[Translation.]

MINISTRY OF FINANCE.
DEPARTMENT OF TRADE AND COMMERCE.
April 8th, 1854. No. 1759.

To His Imperial Highness LORD HIGH ADMIRAL OF THE FLEET.

In January last, the Minister for Foreign Affairs wrote to me to the effect:

1st. That the Board of Directors of the Russian American Company had set forth the necessity of taking proper steps for the protection of its territories from attack, should hostilities with England threaten its dominions, and at the same time pointed out the fact, that the North Western coast of America and the island of Sitka,—where the Company's chief possessions are,—were insufficiently protected to withstand an attack from the English squadron. The Board therefore thought it wise to apply to the adjacent English Hudson's Bay Company, begging it to secure from its own government a declaration of neutrality for the possessions and ships of both Companies. Judging by the expressions of the agents of the Hudson's Bay Company at the time of the lease of the strip of land in our possession, we may rely upon their utmost endeavours to secure the grant of neutrality—its position being much weaker than our own.

2nd. That the Chancellor of State, provided he approved, and moreover found the Russian American Company's proposals wise in the present state of political affairs,—should have the honor of reporting the same to His Imperial Majesty and when His Majesty should have

^aSee *post* page 18.

graciously sanctioned those proposals, the State Chancellor was to inform the Russian American Company that with the approval of the Hudson's Bay Company, that Company should also solicit its Government to accept the proposals. The Russian American Company was informed of the fact.

At present the Minister for Foreign Affairs has informed me (1st) that the Chairman of the Board of Directors of the Russian American Company has received from the Directors of the Hudson's Bay Company an answer, "written by the Secretary of State for Foreign Affairs, Mr. Addington, by order of the Chief Secretary of State, to the following effect—that the English Government willingly sanctioned the neutrality of the possessions of both Companies on the American coast, adding thereto, that the said neutrality does not extend to the ships of the Russian American Company on the high seas and that eventually the harbors and shores of the Company may be subjected to a blockade; (2nd) that His Imperial Majesty, in accordance with this report has graciously permitted our Government to consent to the neutrality of the possessions of the Hudson's Bay Company but on the same conditions, these facts have been duly presented to the Company for proper consideration.

The Privy Councillor Seniavine has forwarded to me, with His Majesty's sanction, a copy of the document for the Chairman of the Board of Directors of the Russian American Company, with data for carrying out this resolution.

Having informed the Governor-General of Eastern Siberia of all the above-mentioned facts I have the honor of laying them before Your Imperial Highness, enclosing a copy of the document and the report of the Minister for Foreign Affairs.

Secretary of State,

P. BROCK.

Board of Directors of Russian American Company to Chief Manager of Colonies.

[[Translation]]

APRIL 16, 1854. No. 395.

To Post-Captain and Knight STEPAN VASILVITCH VOEVODSKI,
Chief Manager of the Russian American Colonies.

As a supplement to its despatch of January 14, 1854, the Board of Directors encloses herewith copies of the replies of Privy Councillor Seniavin, Assistant Minister of Foreign Affairs, and of the Secretary of State for Foreign Affairs, Addington, from which Your Excellency will see that our Government and that of England have recognized the neutrality of the two Companies during the present war, and, therefore, the property of the Company on the coast may be regarded as safe.

In communicating this to Your Excellency, the Board of Directors instructs you to take such measures as, upon the closest examination on the spot, you may find practicable, for the security of the Company's property on board ship and on the passage from the Districts.

The Board of Directors, on its part, intends to send to the Colonies, for your use in this year's navigation, a screw steamer belonging to the Company, but furnished with Hamburg papers and flag, to be used in the Company's business.

In addition to this, the Board of Directors, for the purpose of supplying its vessels with neutral flags, has sold (according to their papers) the vessels Nicholas, Sitka and Kamchatka, and it consequently, places part or all of these vessels at your disposal, to be sent to San Francisco, if there is any necessity for it, for which you must select a safe time, to wit, the autumn, when the presence of hostile cruisers on the sea is not to be expected. At San Francisco, these vessels will receive neutral flags and papers, in accordance with an arrangement made to that effect, and, under these neutral flags, these vessels may be employed at your discretion, for voyages outside of the Colonies.

At the same time, you are instructed to keep in view the fact that, these vessels, being under a neutral flag, must perform their voyages under the instructions of the firm to which, according to their papers, they have been sold; and, hence, when sending any of these vessels to San Francisco, you will have to give information to Mr. Kostromitinoff as to the voyages which have been assigned to the vessels by you; and Kostromitinoff will see that the vessels receive the proper documents from the firm to which they are supposed to belong.

With regard to your relations with the Hudson's Bay Company, the Board of Directors requests you to remember that those relations must remain friendly, as heretofore, and that, as the Hudson's Bay Company co-operated efficiently with us in the attainment of the neutrality of our possessions, it is proper for the Colonial Government to be particularly obliging in its intercourse with the agents of the Hudson's Bay Company, and to show them all possible courtesy in all matters.

In conclusion, the Board of Directors hopes that, during the continuance of the war with England, when the external activity of the Company must necessarily be greatly diminished, Your Excellency will pay special attention to the development in the colonies of the ice, lumber and stone industries, as those articles can always be exported from the colonies in foreign vessels.

V. KASHIRIN, *Chairman*.

A. ETHOLINE.

F. WRANGEL.

[Enclosure.]

ST. PETERSBURG, *March 31, 1854.*

SIR: The Imperial Minister has had the honor to bring to the knowledge of His Majesty the Emperor the letter addressed to you by Mr. Colville, Director of the English Hudson's Bay Company, and the certified copy of that dated March 22 last, in which Mr. Addington informed him, in the name of the Principal Secretary of State of Her Britannic Majesty, that the Government of the Queen, on condition of reciprocity, undertook to cause the possessions of the Russian American Company to be respected during the whole continuance of the war; but that that territorial neutrality would not be extended to the Company's vessels which might be met on the high seas by Her Britannic Majesty's cruisers, which would be authorized to capture them with their cargoes, and which would have the right to blockade its coasts and ports.

His Imperial Majesty, taking into consideration the peculiar situation of the Russian colonies in America, has deigned to authorize me to inform you, Sir, that, as a matter of reciprocity, the Imperial Government permits the neutrality of the territorial possessions of the Hudson's Bay Company in America, and engages not to cause them to be attacked during the whole continuance of the war, but that he likewise reserves to his cruisers the right to seize such vessels of the said Company, as

they may meet on the high seas, and to capture them and their cargoes, as well as to blockade its coast and ports.

Have the goodness, Sir, to inform the Directory of the Hudson's Bay Company that the necessary orders will be given immediately to all the Imperial Authorities, to execute and cause to be executed, so far as they are concerned, these determinations of His Imperial Majesty, which render definitive the engagements taken conditionally by the British Government with regard to the Russian American possessions.

Accept, Sir, the assurance, etc.,

(The original is signed):

LEON SENIAYINE.

Major-General POLITKOWSKI,

President of the Directory of the Russian American Company.

[Enclosure.]

FOREIGN OFFICE, *March 22, 1854.*

SIR: I am directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 28th of February, enclosing a copy of a letter from the Russian American Company, suggesting that an arrangement should be entered into for a state of neutrality being observed as regards the possessions and ships of the Hudson's Bay Company and the Russian American Company on the North West coast of America.

You state that it would be satisfactory to the Governor and Committee of the Hudson's Bay Company if some such arrangements as that suggested could be made, as it would relieve them from anxiety and risk.

I am to state to you in reply that, under the peculiar circumstances of the case, Her Majesty's Government will consent to the proposed arrangement being entered into between the two Companies, and instructions will, accordingly, be given to Her Majesty's Naval Officers and others not to commit hostilities on land within the Russian dominions on the coast of America.

I am to add, however, that the proposed neutrality will as far as Her Majesty's Government is concerned, be territorial only, and confined to the land, and that its operation will not extend to the high seas, but that all Russian vessels and goods thereon, whether the property of the Company, of the Government or of individuals, and whether going to or from the possessions of the Russian American Company, will be liable to capture by Her Majesty's ships, and that the coasts and ports of those possessions will be liable to naval blockade.

I am, Sir, your most obedient humble servant,

H. U. ADDINGTON.

(Not Addressed).

A true copy with the Governor of the Hudson's Bay Company.

Deputy Governor of Hudson's Bay Company to the Directors of the Russian American Company.

HUDSON'S BAY HOUSE,

London, May 16th, 1854.

TO THE DIRECTORS OF THE RUSSIAN AMERICAN COMPANY.

St. Petersburg.

GENTLEMEN: I have the honor to acknowledge the receipt of your letter of the 5 17th ultimo transmitting a copy of a communication from Mr. Leon Seniayine the Assistant Minister for Foreign Affairs to the President of the Russian American Company, containing the concurrence of His Imperial Majesty to the proposed neutrality on the North-West coast of America upon the same conditions as those assented to by Her Majesty's Government.

The Hudson's Bay Company lost no time in communicating this information to the Foreign Office in order that the necessary instructions might be given to carry out this arrangement and I beg to assure

you, that it is always our wish to reciprocate those feelings of amity and good understanding so essential to the interests of the two Companies.

I have the honor etc.,

JOHN SHEPHERD,
Deputy Governor.

Report of Board of Directors of Russian American Company, October 21, 1855.

[Translation.]

TO HIS IMPERIAL MAJESTY.

REPORT OF THE BOARD OF DIRECTORS OF THE RUSSIAN AMERICAN COMPANY, UNDER YOUR IMPERIAL MAJESTY'S PATRONAGE.

Lieutenant-Captain Kashevarov, Commander of the harbor of Aian, supplementing his former reports in regard to the stay of the enemy's ships in the port entrusted to his care, informs us, under date of August 5th, that on July 30th, a French frigate "La Constantine", joined the English ships in the bay. She was commanded by Captain Tardy de Montravel, Chief of the squadron in the Indo-Chinese seas. When the Captain and the officers of the frigate came on shore, they were exemplary in their demeanour; they did not search the port or its neighborhood or the store-houses of the Company. They said, that although they were perfectly aware that cannon were buried underground, they would be ready to take them from the batteries but considered it beneath their dignity to dig them up. They took only timber, water and a small quantity of fish, which the sailors caught near the coast.

In general, the English, as well as the French officers, were always civil to the Company's Agent. Commodore Eliot invited him to dine with him on board the frigate and although Mr. Freiberg at first refused this invitation under different pretexts, he finally accepted it to avoid giving offence. He was kindly greeted both by the Commodore and his officers. On this occasion Mr. Freiberg had an interview with the Russian officers who were prisoners taken from the frigate "Diana", namely: Prince Urousoff, Kovalevsky and Michaeloff. They stated that they had been treated politely and with great consideration by the English.

In confirmation of Commodore Charles Frederick's proclamation issued at Aian during the first stay of the English ships, Commodore Eliot gave the Company's Agent a letter for Captain Tardy de Montravel to be presented to him in the event of his arriving at Aian after the departure of the English, begging the latter not to commit any hostile acts against Aian. Acting upon this letter Captain Tardy de Montravel gave the Agent a written document to be presented to the Commanders of the French ships, arriving at Aian, and entailing the security of the port and property of the Company.

On August 1st, the English ship put to sea and on the 3rd, the French frigate followed. This squadron is supposed to have sailed towards Okhotsk; no hostile ships remained in the port of Aian.

Lieutenant-Captain Kashevarov adds that according to what the officers of the aforesaid ships had said, the French squadron sailed

to Sitka with the intention of not observing the neutrality of the Colonies. This statement, however, in the opinion of the Board of Directors deserves no notice, in view of the fact that the allied squadrons had already been in Sitka during the month of June and the allied Admirals had declared that the neutrality would not be violated. It is even probable that this circumstance was as yet unknown to the crews of the ships then lying at Aian.

The Board of Directors of the Russian American Company has the honor of informing Your Imperial Majesty concerning these matters.
President:

MAJOR-GENERAL POLITKOVSKY.

OCTOBER 24, 1855.

*Report of the Board of Directors of the Russian American Company,
November 16, 1855.*

[Translation.]

TO HIS IMPERIAL MAJESTY:

REPORT OF THE BOARD OF DIRECTORS OF THE RUSSIAN AMERICAN
COMPANY UNDER YOUR IMPERIAL MAJESTY'S PATRONAGE.

By the report dated September 10th last, the Board of Directors had the honor of bringing to Your Imperial Majesty's notice the news received from the Company's Agent in California concerning the visit of the Anglo-French squadron to Sitka during the last part of June. The particulars, however, were unknown before a report reached us from our Colonies.

The Chief Director of the Colonies, Captain Voevodsky states the following circumstances in a despatch, dated August 28th, which comes by the way of California. On the morning of June 29th, two ships were seen on the horizon of Sitka bay. Although without flags, they were known to be warships. About noon they were both out of sight. On the morning of June 2nd an English steam frigate "Brisk" was seen in the gulf on its way towards the bay, displaying at the fore-mast a Russian Vice-Admiral's flag of the 2nd division. A Secretary and a translator attached to the Chief Director were sent from Novo-Archangel to meet the ship and ascertain the cause of its arrival. They were received on the frigate by the English Admiral Bruss and the French Admiral Fourichon. The former states that he respected the neutrality of the Colonies and that he had come with the friendly intention of delivering to the Director some newspapers containing interesting European news. He said that the squadron was returning from the port of Petropavlovsk, where the only persons it had found were two Americans, all the Russian soldiers and inhabitants having left the place. He mentioned at the same time that the ships seen near Sitka on June 29th, belong to the allied squadron under his command, among them being the flag-ship "President" and that not far from the entrance of the gulf there were some ships of the squadron, among them the French frigates "la Forte," "l'Alceste" and "l'Euridice." Admiral Fourichon, on his part, asked what ships were staying in the harbor of Sitka, the masts of which were visible from beyond the islands and upon being told that they belonged to the

Company, asked if there were among them any war-ships, was pleased to receive an answer in the negative. After this, the Secretary of the Chief Director, having received from Admiral Brass some English newspapers left the frigate which instantly put out to sea. She was soon out of sight as well as all the other ships which had been visible on the horizon.

The Board of Directors has the honor of informing Your Imperial Majesty of these matters.

President Major-General:

POLITKOVSKY.

16 NOVEMBER 1855.

The Directors of the Russian American Company to the Minister of Foreign Affairs.

[Translation.]

BOARD OF DIRECTION OF THE
RUSSIAN AMERICAN COMPANY,
January 26, 1859. No. III.

TO THE MINISTER OF FOREIGN AFFAIRS.

In the year 1839 the representatives of the Russian American Company and the Hudson's Bay Company, with the High assent of His Majesty, concluded an agreement between the two said Companies providing for the lease by the former to the latter, for a term of ten years, from June 1, 1840, of a part of our possessions on the North West coast of America, a strip of land extending in a North Westerly direction from latitude 54° 40' north, along a line drawn between Cape Speneer, in the Cross bay, and Mount Fair Weather.

The reasons which induced the Russian American Company to enter into the said agreement, were as follows:

(1) The strip of mainland so leased is ten marine leagues in breadth and is sea-coast land, rather unproductive of fur bearing animals, but with a certain importance in a commercial sense, because since the establishment there of our fort St. Dionysius a certain portion of the hunting product of the natives living within the limits of the British possessions came into our hands. But the benefits which our Company thus derived from the situation were seriously reduced by the operations of the Hudson's Bay Company which availed itself of the right granted for ever to British subjects by the Convention of 1825, to navigate freely on all streams running across our territory from the British possessions into the Ocean. It took measures to occupy (and did partly occupy) all the most important points on the border of our possessions. The rivalry and conflicts between the agents of both Companies, which must inevitably arise under such circumstances would certainly have resulted in loss to both Companies.

(2) We desired also to adjust amicably the claim for 135,000 Roubles which the Hudson's Bay Company made as an indemnity for our having prevented a ship of the Hudson's Bay Company from entering the river Stakine.

The Hudson's Bay Company declared that act to be a breach of the stipulations of the aforesaid Convention of 1825. We resisted that claim under the stipulations of the said Convention, but it became evident from the long correspondence which took place in this connection

between our Government and that of Great Britain, that the Russian American Company would be forced ultimately to satisfy the said claim.

The agreement entered into between the two Companies contained among other stipulations one which bound the Hudson's Bay Company to furnish to the Russian American Company, as a yearly rental, 2000 sea-otter [*s/z*] skins and to withdraw the aforesaid claim for damages.

When the term of the said lease expired, it was agreed by the assent of both Companies to renew the same for a further term of nine years from June the 1st, 1850, on the former conditions, but with certain modifications which were rendered necessary by the circumstances of the time and were demanded by the mutual interests of the Companies.

The renewal of the said lease, in the form of which an original copy is herewith enclosed, took place under the High Imperial assent, given on January the 22nd, 1849, upon a report submitted to His Majesty by the State-Controller.

The chief cause upon the part of the Russian American Company for renewing this lease, viz. its desire to maintain friendly intercourse between the Companies made necessary by the local conditions of close neighborhood, was fully justified during the last war, and proved to be as important as the Board of Direction had anticipated. For it was undoubtedly this friendly understanding which assisted the Companies to obtain (in 1854) the neutrality that each Company asked for and obtained from its own Government and which protected their property by exempting each Company's possessions respectively from the hostile attacks of the enemy.

As the termination of the last prolongation of the said lease is now approaching, the Board of Direction of the Russian American Company deemed it just to inform the Hudson's Bay Company that, by a contract concluded with a syndicate of trading firms of San Francisco, the Russian American Company had bound itself to trade exclusively with the said syndicate in the sale of certain colonial products, to wit: ice, coal, timber and salt fish; and consequently that upon the expiration of the lease to the Hudson's Bay Company, the Russian American Company could no longer grant to the Hudson's Bay Company the export trade in the said articles; but, with the permission of the Russian Government, it could renew the other stipulations of the said lease, for the remaining term of the Company's concessions, viz. till January 1, 1862.

The Board of Direction of the Hudson's Bay Company replied in a letter dated December 28, 1858, that, notwithstanding so considerable a limitation of the Company's trading right the Company was quite willing to renew the lease for another period on the former conditions, because the Company was desirous to continue the same friendly relations which had subsisted for so long a time between the Companies.

The question was then submitted to the Russian American Company's Committee for political affairs, and by mutual agreement between the Committee and the Chief Board of Direction, it was decided to report the case to Your Excellency, with the request that the High approval of His Majesty to a renewal of the said lease to January 1, 1862, be obtained on the same conditions, excluding the right of exporting the aforementioned colonial products.

The Chief Board of Direction of the Russian American Company

announces to Your Excellency the said decision and has the honor to request an answer, with the return of the enclosed original agreement.

Done in London on the 26th April 8 May, 1849.

W. POLITKOVSKY, *President.*

[Signed by four members whose signatures are illegible.]

A. TIMKOVSKY, *Chief of Chancery.*

Minister of Foreign Affairs to Minister of Finance.

[Translation.]

No. 582.]

FEBRUARY 26, 1859.

The Board of Directors of the Russian American Company requests that His Majesty may grant his permission to the extension until January 9th, 1862, of the agreement concluded between that Company and the Hudson's Bay Company in the year 1839 and renewed in 1849, by which a part of our possessions on the North-Western coast of America were leased to the Hudson's Bay Company.

The Board of Directors is of the opinion that it is not advisable to grant to the said company the right of foreign trade in ice, coal, timber, and salt fish.

In view of the facts that the leases of 1839 and 1849 were confirmed by our Government, that the proposed lease contains no new stipulations, but on the contrary curtails the right of the Hudson's Bay Company; and that its term is to be less than three years—I, for my part, see no objection to asking His Majesty's approval to the extension of the Agreement.

I have the honor to lay the matter before Your Excellency, annexing the original request of the Board of Directors, (No. III) and a copy of the contract of 1849. I beg you to inform me whether the Ministry of Finance finds any objection to granting the permission asked for by the Russian American Company.

MINISTER OF FOREIGN AFFAIRS.

Director of Department.

Minister of Finance to Minister of Foreign Affairs.

[Translation.]

MINISTRY OF FINANCE, DEPARTMENT OF FOREIGN TRADE,

March 3, 1859. No. 3452.

To the MINISTER OF FOREIGN AFFAIRS.

In answer to the report No. 582 dated February 26, last, returning the enclosures, I have the honor to inform Your Grace that the Ministry of Finance sees no reason for refusing the request of the Russian American Company, requesting the High permission of His Majesty for the renewal, in its new form, of the agreement concluded by the said Company with the Hudson's Bay Company.

Minister of Finance:

A. KNIAJEVITCH.

For the Chief of the Department:

(signed)

GENERAL-LIEUTENANT PASHKOW.

Report of Minister of Foreign Affairs, March 14, 1859.

[Translation.]

REPORT TO HIS MAJESTY FROM THE MINISTER OF FOREIGN AFFAIRS.

The Board of Directors of the Russian American Company most respectfully requests Your Majesty to grant Your High permission to the extension, until January 1, 1862, being the remainder of the term of the Company's franchise, of the contract concluded with the Hudson's Bay Company in the year 1839, and renewed in 1849, by which a part of our possessions on the North-Western coast of America is leased to the said Company.

The Board of Directors, however, believes it would be advisable not to grant to the said Company the right of export trade in ice, coal, timber and salt fish.

After having asked the opinion of the Minister of Finance in regard to the matter, I see no objection to granting to the Russian American Company permission to renew the contract, especially in view of the fact that the leases of 1839 and 1849 were confirmed by our Government. The proposed lease, also, contains no new stipulations but, on the contrary, curtails the rights of the Hudson's Bay Company, and its term is to be less than three years. I have therefore no hesitation in requesting for it Your Majesty's sanction.

The original bears the annotation in His Majesty's own handwriting: "Let it be done."

ST. PETERSBURG, *March 14, 1859.*

Directors of Russian American Company to Minister of Finance.

[Translation.]

MARCH 26, 1859. No. 386.

TO THE MINISTER OF FINANCE:

On account of the expiration on June 1st, 1859 of the agreement sanctioned by His Imperial Majesty and concluded between the Russian American and the English Hudson's Bay Companies, for the lease of a part of our possessions on the northwest coast of America, the Board of Directors of the Russian American Company deemed it advisable to announce to the management of the Hudson's Bay Company, that, according to the contract entered into with the Tradesman's Society at San Francisco we had agreed to trade exclusively with that society in such colonial products as ice, coal, timber and salt fish and that, therefore, we could not, after the expiration of the term mentioned, allow the Hudson's Bay Company to retain the right of foreign trade in these products. Nevertheless we have no objection, provided the sanction of the Government be obtained, to the renewal of the other clauses of the agreement until the expiration of the term of our franchise, that is, until January 1st, 1862.

The Directors of the Hudson's Bay Company on December 28th 1858 replied that, notwithstanding such a material limitation of its right to trade in the aforesaid colonial products, it would consent to

the renewal of the contract for the term recently mentioned, and on the previous terms, as far as the rest of the conditions were concerned, wishing particularly to maintain the same friendly feeling which has so long existed between the Companies.

This question was presented for the consideration of the Committee on political affairs, established according to articles of the Company and, by the mutual agreement of that Committee and the Board of Directors, it solicited the good offices of the Minister for Foreign Affairs in order to obtain His Imperial Majesty's sanction to the prolongation of all the articles of the agreement until January 1st, 1862, except the one concerning the right of carrying on the foreign trade in the above-mentioned local products.

At present, the Minister for Foreign Affairs has informed the Board, in his report dated March 17th, (No. 870) that His Imperial Majesty was pleased to sanction the renewal of this agreement for the term and on the conditions proposed by the Company.

Informing you, Sir, of all these matters, the Board of Directors begs to add, that due measures for the carrying out of the said resolution have been adopted.

President:

V. POLITKOVSKY.

Report of Minister of Foreign Affairs.

[Translation.]

REPORT OF THE MINISTER OF FOREIGN AFFAIRS TO HIS MAJESTY CONCERNING THE CONTRACT CONCLUDED BETWEEN THE RUSSIAN AMERICAN COMPANY AND THE HUDSON'S BAY COMPANY.

Your Imperial Majesty, acting upon my most respectful report of March 14, 1859, has granted to the Russian American Company permission to extend the contract between that Company and the Hudson's Bay Company, leasing a part of our possessions on the North-Western coast of America until January 1, 1862, on which date the franchise of the said company expires.

Now, conforming to the opinion of the Council of State dated May 29 last approved by Your Majesty, which permitted the Russian American Company to continue its business on the former terms until the question of the Company's franchise should be finally decided: namely, until June 15, 1863, the Board of Directors of the Russian American Company, finding it impossible in so short a period of time to make any modifications in the agreement, proposed to the Hudson's Bay Company an extension until June 1st, 1863, of the present agreement upon its former terms, and has received the consent of the Hudson's Bay Company to that proposal.

Accordingly the Board of Directors requests Your Majesty's High permission to an extension of the said agreement upon the former conditions until June 1, 1863.

Having been informed by the Minister of Finance that there are no objections to granting the request of the Russian American Company, I take the liberty of asking for it Your Majesty's High approval.

The original bears the annotation in His Majesty's own handwriting: "Let it be done."

TZARSKOE-SELO, *October 19, 1861.*

Minister of Foreign Affairs to Board of Directors of Russian American Company.

[Translation.]

MINISTRY OF FOREIGN AFFAIRS.

October 21, 1861. No. 3162.

TO THE BOARD OF DIRECTION OF THE
RUSSIAN AMERICAN COMPANY.

His Imperial Majesty, having taken into consideration my report of the request of the Board of Directors of the Company, dated September 11, No. 876, has granted his high permission to the extension, until June 1, 1863, and in its former terms, of the agreement concluded by the Russian American Company with the Hudson's Bay Company.

I deem it my duty, in reply to the said request, to inform the Board of Directors of the Company of this Imperial order.

MINISTER OF FOREIGN AFFAIRS.

Board of Directors of Russian American Company to Minister of Finance.

[Translation.]

NOVEMBER 6TH, 1861. No. 1062.

TO THE MINISTER OF FINANCE:

In the report dated March 26th, 1859, No. 386, the Board of Directors had the honor of informing you, Sir, that the term of the agreement of lease with the Hudson's Bay Company has been prolonged, with the sanction of His Imperial Majesty, until the expiration of the term of the American Company's franchise, that is to say until January 1st, 1862.

At present according to the permission given to the Company by the Council of State and confirmed by His Imperial Majesty on May 29th last to prolong its operations on the previous basis until the question concerning the Company's franchise be definitely settled, that is to say until June 15th, 1863, the Board, finding it inconvenient in so short a time to effect any alteration of the contract, proposed to the latter Company that the lease be extended on the present basis until June 1st, old style, 1863. To this the Board of Directors have given their consent. Therefore the Board of Directors have again solicited His Imperial Majesty's sanction to the prolongation of the above-mentioned agreement and the Minister for Foreign Affairs informed the Board, on October the 21st (sub No. 3162.) that in consequence of his report, His Imperial Majesty was pleased to grant the permission, for the prolongation on the previous terms, until June 1st, old style, 1863, of the contract concluded between the Companies.

The Board of Directors is bound to inform you, Sir thereof and to add that arrangements to that effect have been made by the Company.

President:

V. POLITKOVSKY.

The Board of Directors of the Russian American Company to Minister of Finance.

[Translation.]

JANUARY 9th, 1863. No. 37.

TO THE MINISTER OF FINANCE:

Before the expiration on January 1st, 1862, of the term of the agreement with the Hudson's Bay Company for the lease of a part of our possessions on the North-Eastern coast of America, the Company's Board of Directors—bearing in mind the permission of the Council of State, sanctioned by His Imperial Majesty on May 29th, 1861, to prolong the operations of the Company on the previous conditions until the question of its franchise should be settled, that is to say till June 15th, 1863.—applied to the Minister of Foreign Affairs asking him to secure His Imperial Majesty's permission for the renewal of that agreement, with the consent of the Hudson's Bay Company, on the previous conditions, until June 1st, old style, 1863.

In his report to the Board of Directors, dated October 21st, 1861, (No. 3162), the Minister for Foreign Affairs stated, that His Imperial Majesty had graciously sanctioned the renewal of this agreement and the Board had the honor of informing the ex-Minister of Finance of this fact in his report dated November 6th, (No. 1062).

In July last the management of the Hudson's Bay Company informed the Board of Directors that the Governor and Council of that Company's dominions, intended to put an end to the agreement which had so long existed between the two Companies. Their intention being due to the unfavorable conditions of trade during these two last years which seemed to show little prospect of improvement. Notice was therefore given us that upon the expiration of the term of the agreement its renewal would not be accepted.

The Board of Directors, attributing this refusal not so much to the conditions of trade, which upon investigation showed no material change, but to local difficulties, arising out of the discovery of gold deposits in the Stakine river, did not hurry to inform its Government of this communication and instructed its agents to carefully investigate the matter, believing that with time and further developments the ideas of the Hudson's Bay Company might still be changed.

This view of the matter was very soon justified and towards the end of the year, information came from the Board of Directors of the Hudson's Bay Company, that, in view of the present unsettled condition of the country, it was too soon to expect trade to be carried on without encouragement. The Directors were therefore willing to renew the agreement for two years longer, on the previous conditions until June 1st, old style, 1865.

Therefore relying upon the actual general state of affairs and on the report of our Ambassador in London, who considers the further renewal of our agreement with the Hudson's Bay Company of great importance towards preventing any complications in the Stakine river question,—which, in the opinion of the Board, will no longer require such close attention and watchfulness on our part,—the Board of Directors, after having submitted the question to the consideration of the Committee for political affairs, has the honor of asking for your good offices in obtaining His Imperial Majesty's sanction to the renewal

of the aforesaid contract with the Hudson's Bay Company, on the former terms until June 1st, old style, 1865.

In conclusion, the Board of Directors considers it its duty to add, that in 1859, on the renewal of the agreement until January 1st, 1862, it was agreed that the Hudson's Bay Company should not have the right to trade in local products such as: coal, ice, timber, and salt-fish, and that the same condition is now to be observed. Therefore, in the present instance, should gold deposits be discovered in the leased strip of land, the right to work them should belong to our Company or be made the subject of a special agreement.

Chairman:

V. POLITKOVSKY.

Report of Minister of Finance, January 25, 1863.

[Translation.]

MINISTRY OF FINANCE.
DEPARTMENT OF TRADE AND MANUFACTURE.

The Board of Directors of the Russian American Company, in compliance with the offer made by the management of the British Hudson's Bay Company, asks permission to renew for two years more, till June 1st, 1865, the agreement with that Company for the lease of a part of our possessions in America. In this way it is thought that certain difficulties, arising out of the discovery of the new gold fields on the Stakine River beyond the borders of our possessions, can be averted,—in view of the fact that these gold fields attract a great number of new comers of different nationalities which necessitates constant care and watchfulness on our part.

1. In 1839 permission was granted to the Russian American Company to make an agreement with the Hudson's Bay Company, for the period of ten years, commencing in June 1840, for the lease, at a fixed annual rental, of a part of the Russian possessions in America adjacent to the English frontier and north and south of the Stakine river. Upon the expiration of this term, the agreement was renewed, with His Imperial Majesty's sanction, first for a term of nine years, until June 1st, 1859, afterwards until January 1st, 1862 and finally till June 1st, 1863.

2. The privilege granted to the Russian American Company expired on January 1st, 1862 and by permission of the Council of State sanctioned by His Imperial Majesty on May 29, 1861, the Company was allowed to prolong its operations upon the previous conditions, until the question as to the further administration of the Russian American Colonies should be definitely settled.

3. The gold fields on the Stakine River were discovered at the beginning of 1862 and parties of diggers began coming there in March of the same year. From information obtained on the spot by the Colonial Board, the richest deposits lie not less than 165 Italian miles from the mouth of Stakine, far beyond the Russian possessions which extend only 30 miles (52½ versts) from the shore. The mines nearest our frontiers are the poorest, the nuggets being very small and in the best districts it is impossible to make more than five dollars a day profit. The Company's party, sent there under the command of the

technical engineer Andreev, succeeded in four days in getting only about five zolotniks, which were sent to the Chief Director of the Colonies. The news of this discovery, however, made a great impression on the colonists of Vancouver Island. Several articles appeared in certain papers edited in the harbor of Victoria claiming for Great Britain the mouth of the Stakine, upon the ground that if it belonged to Russia it would be inconvenient for the gold miners. All this alarmed the Colonial Management and the Board of Directors of the Russian American Company solicited the Government to take steps toward guarding the mouth of the Stakine River against the expected arbitrary proceedings of foreign traders and pointed out the necessity of sending there a war ship of the Pacific Fleet.

Accordingly, the Minister of Finance communicated with the Vice-Chancellor and the Minister of Marine (Lord High Admiral). Adjutant General Krabbe informed him that, on account of a great reduction of the naval appropriation, the squadron in the Pacific Ocean was then very small and would later be limited to but three vessels. Prince Gortchakov, finding it inconvenient to weaken this squadron by sending one of its ships to the Colony, wrote to the Russian Ambassador in London in reference to the question of the protection of our dominions on the Stakine River against arbitrary actions by the miners. The Ambassador informed him that, in his opinion, the best settlement of the matter would be a friendly agreement. He said that the agreement existing between the Hudson's Bay Company and our own had already averted many misunderstandings, and that the renewal of the agreement on the basis of the Convention of 1825, would no doubt be sufficient for the future. At this time Privy Councilor Baron Brunnov was sent out and a reference to the matter was received by the Ministry of Marine from Rear-Admiral Popov, one of His Majesty's suite, and Commander of the Pacific Squadron, who on his way from Petropavlovsk (Port of Avatebka) in August last, came into Novo-Archangel and held a conference with the Chief Director for the Colonies about the Stakine River Mines. Rear Admiral Popov observed that the mouth of the Stakine was too shallow for the entry of our war ships, but that such ships might be sent there not as police ships but to display our flag for a short time.

Taking into consideration all these facts, the Minister of Finance is of the same opinion as Baron Brunnov, that, owing to the great number of new comers of different nationalities, the question of guarding the Russian dominions at the mouth of the Stakine can be best settled by means of a friendly agreement and therefore he finds the request of the Russian American Company for the renewal, for two years more, of the agreement with the Hudson's Bay Company to be worthy of consideration. Moreover, the expiration of the term of the franchise of the former Company should be no obstacle to the renewal, inasmuch as by His Imperial Majesty's sanction, the Company has the right to act on the present basis till the question as to the renewal of its privileges is definitely settled and since the agreement being contracted in the name of and with the sanction of the Government, binds the latter for the short term of two years.

Moreover, in view of the fact that to introduce a consideration of this matter into the Council of State would be inadmissible on account of its involving a too open discussion of our foreign policy, the Minister of Finance, in conformity with the opinion of the Vice-Chancellor,

believes it necessary that preliminary conversations upon the subject should be had with Prince Gortchakov and the Lord High Admiral and then that the definitive sanction of Your Imperial Majesty should be asked for. This question he has the honor of submitting to Your Imperial Majesty's decision.

On the original, written with the hand of the Minister of Finance: "By Imperial command to be carried into effect." St. Petersburg, January 25th, 1863.

Secretary of State:

REUTERN.

Minister of Finance to Vice Chancellor.

[Translation.]

MINISTRY OF FINANCE,
DEPARTMENT OF TRADE AND MANUFACTURE,
January 31, 1863. No. 749.

By Imperial Order. In regard to the renewal of the lease between the Russian American Company and the Hudson's Bay Company.

To the VICE CHANCELLOR,

I have received Your Excellency's communication dated January 16th, No. 163, in regard to the proposal of the Board of Direction of the Russian American Company to extend for two years, to wit, until the 1st of June 1865, the term of the contract with the Hudson's Bay Company for the lease to that Company of a part of the Russian possessions in America along the British frontier, northward and southward of the river Stakhin. I am of the same opinion as our Ambassador in London, namely, that the best way to settle the question of protecting our possessions near the mouth of the Stakhin against the tide now flowing into that district of all classes of immigrants attracted thither by the newly discovered gold deposits is to come to an amicable agreement. I am in favor of granting the request of the Company aforementioned. But remembering that if this subject should in the usual course of affairs be brought up for discussion before the Council of State, inconveniences might arise because of certain political questions which ought not to be too freely discussed in public, I had the honor to report the case to His Majesty and His Majesty issued on January the 25th an Imperial order that the said proposal of the Russian American Company should be confidentially discussed beforehand by Your Excellency, the Minister of the Marine, and myself; and that after such discussion the final decision of His Majesty in regard to this matter be taken.

Having informed the General Aide-de-camp Krabbe of this Imperial order, I have the honor to communicate the same to Your Excellency herewith.

Minister of Finance, Secretary of State,

REUTERN.

Report of Minister of Finance, February 22, 1863.

[Translation.]

MINISTRY OF FINANCE,
DEPARTMENT OF INDUSTRY AND TRADE.

On the original is written by His Imperial Majesty: "To be executed"; and by the Minister of Finance, "St. Petersburg February 22, 1863".

In accordance with Your Imperial Majesty's order of January 25th last the Minister of Finance, together with the Lord High Admiral and the Director of the Asiatic Department, Adjutant General Ignatiev, acting for the Vice-Chancellor, met to discuss the question raised by the Board of Directors of the Russian American Company; to wit, the renewal for two years longer, until June 1st, 1865, of the agreement with the Hudson's Bay Company for the lease at a stipulated yearly rental, of a part of the Russian dominions adjacent to the English border in America, north and south from the river Stakine.

Upon consideration, the Minister of Finance and the Adjutant Generals Krabbe and Ignatiev came to the conclusion, that the lease of this strip of land, belonging to Russia, but inhabited by independent natives, to the Hudson's Bay Company, might avoid diplomatic difficulties between Russia and other Governments which might arise out of hostile demonstrations of the natives against foreign subjects. Such demonstrations are greatly to be feared on account of the great influx of gold prospectors of different nationalities. Therefore, in accord with the opinion expressed in the report of the Minister of Finance it is agreed that the question of guarding the Russian possessions on the Stakine River against the lawlessness of the various foreigners attracted there by the gold deposits, can best be settled by a friendly agreement, renewing the aforesaid contract for two years more. This contract should in no way prevent the consummation of those changes in the administration of the Russian American Colonies and of the Russian American Company's articles, which are to be introduced at the expiration of the term of their franchise,—inasmuch as those changes are not yet settled by legislative order and because to act upon them at once would take too much time. They cannot therefore be made effective before two years.

The Minister of Finance therefore finds it wise to allow the Board of Directors of the Russian American Company to renew until June 1st, 1865, the agreement with the Hudson's Bay Company, for the lease of the said part of our dominions in America. The Minister of Finance has the honor of submitting these facts for Your Imperial Majesty's decision.

Secretary of State:

RETURNS.

Minister of Finance to the Vice Chancellor.

[Translation.]

MINISTRY OF FINANCE,
DEPARTMENT OF MANUFACTURES AND TRADE.*February 23, 1863. No. 1309.*

To the VICE CHANCELLOR, by His Majesty's order:

In regard to the renewal of the contract between the Russian American Company and the Hudson's Bay Company.

After having received the report which was respectfully submitted to him by me on the 22nd of February, His Majesty directed that authority should be given to the Russian American Company to renew for a further term of two years, to wit, until the 1st of June, 1865, the contract concluded for a certain fixed consideration, with the Hudson's Bay Company providing for the lease to the said Company of a portion of the Russian territory situate along the English boundary line in America, Northward and Southward from the river Stakhin.

As I have already communicated this Imperial order to the Direction of the Russian American Company I now have the honor to inform Your Excellency of it also, in connection with the interviews which have been held heretofore upon this subject.

The Minister of Finance, Secretary of State:

REUTERS.

Director of Department:

A. BUTOVSKY.

Minister of Finance to the Board of Directors of the Russian American Company.

[Translation.]

FEBRUARY 23RD, 1863. No. 1307

TO THE BOARD OF DIRECTORS OF THE RUSSIAN AMERICAN COMPANY.

In consequence of my report dated February 22nd, His Imperial Majesty graciously ordered the renewal of the agreement of the Russian American Company with the Hudson's Bay Company for two years more, until June 1st, 1865, for the lease, at a stipulated yearly rental, of a part of the Russian dominions adjacent to the English border in America north and south from the river Stakine.

Having informed the Vice-Chancellor and the Lord High Admiral of this Imperial order, I likewise, in answer to the report of the Board, dated January 9th last (No. 37), inform it thereof, in order that proper directions may be given and proper action taken by the Company.

Secretary of State

REUTERS.

The Minister of Finance to the Vice Chancellor.

[Translation.]

Private.]

TO HIS EXCELLENCY PRINCE A. M. GORTCHAKOV.

SIR: By the enclosed Memorandum, sent to me by the President of the Board of Direction of the Russian American Company, Your Excellency will observe that in view of the approaching termination of the lease of the strip of land on the American continent which belongs to the Russian American Company the Hudson's Bay Company has proposed to it to renew the said lease on the same conditions for a further period of three years. On the other hand, the Minister of the United States of North America has offered to the Board on behalf of some persons in California to pay a greater sum for the land now leased to the Hudson's Bay Company, than the said company

pays, or to negotiate for the lease of the islands lying near the coast and not leased by the said company. The Director of the Russian American Company states that Mr. Clay offered further to enter into negotiations with a view of acquiring these lands by purchase.

Since the acceptance of either the one or the other of these said offers may have important political results and may oblige the Imperial Government to open negotiations with the Government of Great Britain or that of the United States, I consider it my duty to forward to Your Excellency the said Memorandum in order that you may give the subject a closer examination. In my opinion it would be well to communicate to our Minister at Washington for his information all the details relating to the subject, in view of the negotiations now being carried on in regard to the cession of our American Colonies to the United States; and also to instruct the Board of Direction of the Russian American Company to refrain from taking any decisive measures in the matter, until the decision of the Government shall have been made known to the said Board.

Awaiting instructions from Your Excellency as to further proceedings, I beg Your Excellency to accept the assurance of my perfect devotion and respect.

M. REUTERN.

March 16th, 1867.

[Enclosure.]

Memorandum.

Amongst other stipulations contained in the agreements entered into by our Government with the United States in 1824 and with Great Britain in 1825, by which the frontiers of our colonies were exactly defined, the right was granted to the citizens of both nations to navigate freely on all seas, bays and inlets within the limits of the Russian possessions in America, for the purposes of fishing and trading with the natives, during a period of ten years. It was also provided that British ships should enjoy the perpetual right of free navigation on all rivers and streams, which cross the boundary line of the territory on the coast belonging to Russia and flow into the Pacific Ocean.

About the time when the said Agreement with the United States was to terminate, in April 1834, the Chief Governor of our colonies in America, in order to execute the Provisions thereof commanded a ship belonging to the Russian American Company to be stationed in the Coloshen straits, near the mouth of the river Stakhin, where the Company has a fort. In June of the same year there arrived at that point from London a brig, belonging to the Hudson's Bay Company, called "Dryad," with the purpose of ascending the river Stakhin and founding a settlement within the line of the British possessions. The captain of the Russian American Company's ship prevented the execution of this plan and the brig "Dryad" was obliged to sail away without having fulfilled her errand.

In consequence of this, the Hudson's Bay Company claimed from the Russian American Company the sum of £22,150 for damages caused to the Company by the said refusal to allow the brig "Dryad" to enter the river Stakhin. A correspondence ensued thereupon between the two Companies, which resulted in an Imperial order to the Russian American Company directing it to end this dispute by some amicable arrangement.

Meanwhile the Board of Direction of the Russian American Company received an intimation from one of the members of the Hudson's Bay Company's Committee that this claim could be satisfied by means of a lease to the Hudson's Bay Company of a part of the Russian territory adjoining the British possessions. The Board of Direction of the Russian American Company asked for permission to execute such an agreement of lease and the vice-chancellor in his note to the Minister of Finance, dated January 4, 1839, answered as follows:

"Considered from a political point of view, the proposal to reach a friendly understanding with the Hudson's Bay Company by means of a lease of the territory in

question is in my opinion fully to be approved. If such an agreement were carried into effect, we should gain the immediate advantage of terminating the present rivalry in the fur trade with the natives, and should avoid those frequent conflicts with Englishmen and Americans which have led us before now into several unpleasant interchanges of opinion with their respective Governments. But above all, such an agreement would free us from further discussions with the Government of the United States in regard to its troublesome and incessant demands which conflict with our interests, relating to the renewal of the right granted to American citizens by the afore-said Convention to navigate freely all seas and inlets forming part of our possessions in America."

An agreement on that basis was concluded between the Russian American Company and the Hudson's Bay Company, according to which the former granted to the latter by lease, for a term of ten years, for the purpose of carrying on an exclusive trade with the natives, that part of the mainland belonging to Russia which lies between Cape Spencer in $54^{\circ} 40'$ northern latitude and Mount Fair Weather, in $59^{\circ} 20'$ north latitude [*sic*]. The Hudson's Bay Company on its part waived its claim for damages and undertook in consideration for the land leased, to furnish 2000 otter skins [*sic*] yearly.

The term of that lease expired on May 31, 1850; but before that date the Hudson's Bay Company offered to renew the agreement for nine years more, on the ground that, if the lease were extinguished it would be impossible, in spite of the sincere desire of the directors of both Companies to continue their former mutual good relations, to prevent conflicts and disputes between the agents of both parties. This is especially the case because the trade on the border territory would inevitably assume the character of an unfriendly competition and would be likely through the conduct of the natives to become injurious to both Companies.

Having the same apprehensions and being equally desirous to continue the existing friendly intercourse the Russian American Company agreed to a renewal of the lease for nine years more on the former conditions. Since then the lease has been renewed for various terms in consideration of the payment of a rental of £1500, a sum equivalent in value to 2000 otter skins, instead of the furnishing of the skins themselves.

Now, as the last extension terminates May 31st of the present year, the Hudson's Bay Company has offered to renew the lease on the former conditions, for three years more, both parties having the right to withdraw from the contract on a notice of twelve months.

But before the Hudson's Bay Company made this offer, the Minister of the United States made the following proposition to the Board of Direction of the Russian American Company on behalf of certain merchants in California, to wit:

(1) To grant to them the exclusive right of fishing, hunting and trading with the natives within the following limits: Beginning at the point on the Pacific Ocean where the $54^{\circ} 40'$ north latitude intersects $134^{\circ} 30'$ west longitude, along the Christian Sound and Chatham strait, to the 59° of north latitude on the chief promontory of Chileate peninsula, shown on the charts under the name of Lynn Channel; thence northward to the boundary between Russian and English possessions; thence southward along the above-mentioned boundary to latitude $54^{\circ} 40'$ and thence west to the point of beginning; including all islands, headlands, rivers etc., within the said limits, with the right of navigation on the river Mackenzie, from its mouth to the British frontier.

(2) This grant to be made for a term of 25 years with the privilege of renewing the contract, if it be found to be to the mutual interest of the Companies for twenty-five years more or for a term coextensive with exclusive proprietary rights of the Russian American Company in the said territory; the Russian American Company to receive in consideration $\frac{5}{100}$ of the annual gross revenue arising from the trading operations.

In view of the fact that the said territory here described,—excluding the islands—is exactly that which is now leased to the Hudson's Bay Company, and of the consequent embarrassment under the circumstances in giving a decisive answer to this proposition, the Board of Direction of the Russian American Company informed the Hudson's Bay Company that its proposal should be acted upon as soon as the proper authority had been obtained for that purpose from our Government. And in the meantime, in order to avoid such local difficulties as might occur through postponement of the decision, the Board of Direction immediately instructed the colonial authorities to continue their intercourse between the companies on the former terms until receipt of further orders. The Minister of the United States was informed that as the said territory was then leased to the Hudson's Bay Company, it was impossible to enter at once into negotiations in regard to it.

Afterwards Mr. Clay went in person to the office of the Russian American Company's Direction, and proposed to pay a higher consideration for the mainland leased by the Hudson's Bay Company than that paid by it; and he added that if

the Russian American Company was unable to lease the main land he should propose to lease the islands included within the limits described which were not leased by the Hudson's Bay Company.

The original lease of the said territory was forced upon the Russian American Company by the necessity of quieting the Hudson's Bay Company's claim for indemnity. Although it offered no pecuniary advantage to the Russian American Company it served as a means to prevent conflict and dispute between the agents of both Companies. Under it the former disagreements were unknown and the intercourse between the companies was entirely harmonious and satisfactory. It was owing indeed to these mutually good relations that the two companies obtained from their respective Governments, before the last war, the decrees which made their property neutral ground and exempted it from hostile attack, it having been considered as property of private commercial companies.

But similar conditions are not likely to recur, because, since the appointment of a Governor by Imperial decree, the colonies will no longer retain their essentially commercial character which rendered such an agreement possible. Therefore the Russian American Company has no desire to continue the said contract with the Hudson's Bay Company in the future if a more advantageous arrangement offers itself. The importance of the proposal made by Mr. Clay will become evident upon a closer examination of the subject.

As the term of the aforesaid lease has now expired, and as the Russian American Company has replied to both offers made, the Company has a full right to choose the contract which presents the greater benefit. But as this transaction relates to so remote a territory and may have a political as well as a commercial importance, it becomes necessary, in order to deal wisely with both parties, to decide beforehand:

(1) Which of these offers is more acceptable to the Government, from a political standpoint; and

(2) Would it be in conformity with the policy of the Government to enter into agreements with both parties: with the one for the lease of the mainland, and with the other for that of the islands?

Extract from Narrative of a Journey Round the World, &c., by Sir George Simpson, London, 1847.

(Vol. II, pages 180-183.) Finding that the vessel, in which I was to proceed to Ochotsk, would not sail till two or three weeks later than I had been led to expect, I was anxious to employ the intermediate month as usefully as possible; and as Governor Etholine kindly afforded me the use of the Russian steamer to tow to Cowlitz, on her way to the Columbia, through the more intricate and dangerous portion of the inland navigation, I determined to embrace the opportunity, which this arrangement gave me, of visiting our establishment of Tako and Stikine.

Leaving New Archangel on the day after that of the bishop's arrival, we passed through Peril Straits into Chatham Sound, and, without having halted in the night, anchored at Tako next evening about seven. After shipping furs and getting a supply of fuel, we again started at noon of the following day. By daybreak on Monday the 25th of April, we were in Wrangell's Straits; and towards evening, as we approached Stikine, my apprehensions were awakened by observing the two national flags, the Russian and the English, hoisted half-mast high, while, on landing about seven men, my worst fears were realized by hearing of the tragical end of Mr. John McLoughlin, Jun., the gentleman recently in charge.

On the night of the 20th, a dispute had arisen in the fort, while some of the men, as I was grieved to hear, were in a state of intoxication; and several shots were fired, by one of which Mr. McLoughlin fell. My arrival with two vessels at this critical juncture was most

opportune, for otherwise the fort might probably have fallen a sacrifice to the savages, who were assembled round it to the number of about two thousand, justly thinking that the place could make but a feeble resistance, deprived, as it was, of its head and garrisoned by men in a state of complete insubordination: and, if the fort had fallen, not only would the whites, twenty-two in number, have been destroyed, but the stock of ammunition and stores would have made the captors dangerous to the other establishments on the coast. In fact, it was to the treacherous ferocity of the neighbouring tribes, that the recent catastrophe was indirectly to be imputed, inasmuch as the disposition in question rendered necessary such a strictness of discipline as would, in a great measure, account for Mr. McLoughlin's premature death.

From the depositions of the men, I ascertained beyond a doubt that a Canadian of the name of Urbain Heroux had discharged the fatal shot. How to bring the fellow to justice was the question. In my opinion, the jurisdiction of Canada, as established by 43 Geo. 3, ch. 138, and 1 and 2 Geo. 4, ch. 66, did not extend to Russian America; and, on the other hand, I knew that the Russians had no court of criminal jurisdiction in America; while, at the same time, I was by no means certain that, even if they had such a tribunal, they would take any cognizance of a crime that did not concern them. Under these circumstances, I determined to take Heroux with me to Sitka, a step which, besides being, at all events, a lesser evil than letting him go free, appeared to offer the only chance of making the man atone in some degree for his offence.

Having so far settled this matter, I demanded from four of the neighboring chiefs, with whom I had an interview, some explanation with respect to their designs on the establishment; and they, while repudiating any imputation of the kind for themselves, admitted that an attack on the fort had been recommended by some rash youths, but had been opposed by the wiser and older heads. I congratulated them on not having committed any overt act of hostility, assuring them that, in that case, they would have been most severely punished both by the Russians and by ourselves. The chiefs replied that, in future, they would so conduct themselves, as to merit our entire approbation, and would be security against any attacks on the part of any of the neighbouring tribes. I farther took this opportunity of preparing the natives for a measure which the Hudson's Bay Company was most anxious to introduce in this quarter, and which it had already introduced elsewhere with the happiest results, namely, the discontinuance of the use of spirituous liquor in the trade.

Extracts from Report from Select Committee on the Hudson's Bay Company, &c. Reports from Committee, House of Commons, 1857, Sess. 2, Vol. XI.

(Page IV.) 11. As to those extensive regions, whether in Rupert's Land or in the Indian Territory, in which, for the present at least, there can be no prospect of permanent settlement, to any extent, by the European race for the purposes of colonization, the opinion at which Your Committee have arrived is mainly founded on the following considerations: 1°. The great importance to the more peopled portions of British North America that law and order should, as far as

possible, be maintained in these territories; 2^o. The fatal effects which they believe would infallibly result to the Indian population from a system of open competition in the fur trade, and the consequent introduction of spirits in a far greater degree than is the case at present; and 3^o. The probability of the indiscriminate destruction of the more valuable fur-bearing animals in the course of a few years.

12. For these reasons Your Committee are of opinion that whatever may be the validity or otherwise of the rights claimed by the Hudson's Bay Company, under the Charter, it is desirable that they should continue to enjoy the privilege of exclusive trade, which they now possess, except so far as those privileges are limited by the foregoing recommendations.

Testimony of John Rac, Esq.

(Page 28.) 389. Are you aware of any arrangement which the Russian Company have made with the Hudson's Bay Company, by which the most valuable portion of their fur-trading territory is leased to the Hudson's Bay Company on certain conditions?—There was an arrangement of that sort some years ago; I cannot say whether it is still in force; it was a lease not of the whole, but of the strip of land which you will see in the charts running along the shore.

Testimony of Sir George Simpson.

(Pages 44–45.) 702. CHAIRMAN.] I believe you hold an important situation in the administration of the territories of the Hudson's Bay Company?—I do.

703. What is it?—I have been Governor of their territories for many years.

704. How long have you held that situation?—Thirty-seven years I have been their principal representative.

705. Mr. EDWARD ELLICE.] As governor the whole time?—Yes; I have held the situation of governor the whole time.

706. CHAIRMAN.] What is the nature of your authority in that capacity?—The supervision of the Company's affairs; the presiding at their councils in the country, and the principal direction of the whole interior management.

707. Where do you generally reside?—I have resided for several years at the Red River Settlement; I have resided in Oregon; I have resided in Athabasca, and latterly I have resided in Canada.

708. Is there any fixed seat of government within the territories of the Hudson's Bay Company?—There is no fixed seat of government, but there is a seat of council for the northern and the southern departments; one at Norwayhouse, at the northern end of Lake Winnipeg, and the other at Michipicoton, or Moose Factory, for the southern department.

709. Your authority extends, I imagine, as well over Rupert's Land as over the territory which the Company holds by license?—Over the whole of the Company's affairs in North America.

710. What is the nature of the council which you have mentioned?—The principal officers of the Company, the chief factors, are members of council. If there is not a sufficient number of chief factors the number is made up by chief traders, who are the second class of partners, and all matters connected with the trade are discussed and determined at this council.

711. What is the nature of the authority of the council as distinguished from your own: are they merely advisers?—They are advisers, and they give their opinions and vote upon any question that may be under discussion.

712. Does the ultimate authority and decision reside in you solely, or is it with you in conjunction with the council?—With me in conjunction with the council.

713. Do you mean that they could outvote you and prevent your doing anything which you thought proper?—They could outvote me, but it has never been so; in the absence of the council my authority is supreme; in travelling through the country, or giving any direction connected with the management of the business, my authority must be acted upon until it be annulled or disallowed by the council or the Company.

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(Page 59.) 1018. In what way is justice administered in that country which is under your control?—As nearly as possible according to the laws of England; we have a very competent legal officer, who fills the office of recorder at Red River Settlement.

1019. Supposing an outrage takes place in a distant part of the country, what happens?—The case would be tried probably at Red River or at Norway House.

1020. How can that be done: when a murder, for instance, takes place in a very distant part of the country, what is then done?—In one case three parties who were concerned in a murder, were removed to Canada for trial, all the way from Mackenzie's River, at great difficulty and great expense.

1021. I suppose in very distant parts of the country you administer justice as best you may?—In many instances we have brought cases to Red River, where the parties have been regularly tried by jury.

1022. For minor offences what proceedings do you adopt practically?—The Indian is reprimanded and held in disfavour for some time.

1023. MR. EDWARD ELLICE.] Will you illustrate that answer by giving a case which occurred at Norway House recently?—Some Indian lads broke into one of our stores and they were regularly tried, and two of them were transported from their own district 300 miles off to another district; that was the entire punishment; it was, in fact, no punishment; they were also severely reprimanded.

1024. CHAIRMAN.] What system do you adopt in the way of preserving discipline and proper subordination among your own officers, scattered over this vast extent of country, at the different posts?—I do not know that there is any particular discipline; we generally contrive to have respectable men; our officers are always highly respectable men, and we generally keep orderly servants; our servants are orderly and well conducted.

1025. Do you take care to keep a pretty strict supervision over them, and does their advancement depend altogether upon their conduct?—There is a very strict supervision.

1026. Besides your own territory, I think you administer a portion of the territory which belongs to Russia, under some arrangement with the Russian Company?—There is a margin of coast marked yellow in the map from 54° 40' up to Cross Sound, which we have rented from the Russian American Company for a term of years.

1027. Is that the whole of that strip?—The strip goes on to Mount Saint Elias.

1028. Where does it begin?—Near Fort Simpson, in latitude 54°; it runs up to Mount St. Elias, which is further north.

1029. Is it the whole of that strip which is included between the British territory and the sea?—We have only rented the part between Fort Simpson and Cross Sound.

1030. What is the date of that arrangement?—That arrangement, I think, was entered into about 1839.

1031. What are the terms upon which it was made; do you pay a rent for that land?—The British territory runs along inland from the coast about 30 miles; the Russian territory runs along the coast; we have the right of navigation through the rivers to hunt the interior country. A misunderstanding existed upon that point in the first instance; we were about to establish a post upon one of the rivers, which led to very serious difficulties between the Russian American Company and ourselves; we had a long correspondence, and, to guard against the recurrence of these difficulties, it was agreed that we should lease this margin of coast, and pay them a rent; the rent was, in the first instance, in otters; I think we gave 2,000 otters a year; it is now converted into money; we give, I think, £1,500 a year.

1032. MR. CHARLES FITZWILLIAM.] What otter is that?—The land otter from the east side of the mountains; we now pay £1,500 a year for the use of this margin of coast.

1033. CHAIRMAN.] Is it a lease for a term of years?—I think the term was originally 10 years.

1034. MR. KINNAIRD.] Have you the whole care of it, or are there Russian officers in the territory?—We have the entire care of it.

1035. MR. EDWARD ELLICE.] That was maintained through the last war, was it not, in order that there should be no disturbance among the Indians?—Yes.

1036. CHAIRMAN.] Was any inconvenience sustained before this arrangement was made with regard to the management of the Indians, inasmuch as it was found that spirits were introduced among them by parties competing with one another for the fur trade?—Yes, there was a great abuse of spirituous liquors.

1037. Was that the main inducement to you and to the Russian Company to make this arrangement?—It was not the principal inducement, but it was one of the inducements. A year or two afterwards I entered into an arrangement at Sitka with the Governor of Sitka that the use of spirituous liquors should be entirely prohibited. A murderous scene took place under our own eyes at Sitka, arising from a debauch among the Indians, and we came to an agreement then that liquor should no longer be introduced into the country.

1038. MR. KINNAIRD.] Has that agreement been rigidly kept on their part?—It has been rigidly kept, I believe, by them as well as by us.

1039. MR. GORDON.] With regard to the administration of justice, is it not the case that under the Acts by which the Company exercise jurisdiction, viz. the 43 Geo. 3, and the 1 & 2 Geo. 4, the Company are bound, under a penalty of £5,000, to transmit cases of felony for trial to Canada?—The ex-recorder of Rupert's Land will be here in the course of a day or two, and I should rather prefer that he should

answer the question, and explain all matters connected with the administration of the law.

1040. I suppose you would also wish to defer till the recorder is here, the answer to the next question which I should put, viz. how often that had been done?—There have only been two cases transmitted to Canada in my time; one is the case of those Indians in Mackenzie's River, a few years ago, of whom I spoke.

1041. How long has there been a recorder established at the Red River?—In 1839 the first recorder was appointed there.

1042. Mr. GROGAN.] What was the name of the recorder in 1839?—Adam Thom.

1043. Mr. GROGAN.] How was justice administered previously to a recorder being appointed?—There was never a criminal case within my recollection previously to 1839, except the case to which I am alluding, in Mackenzie's River.

1044. With regard to the introduction of spirits into the territory; are spirits allowed to those who are in the employment of the Company?—I may say that the whole importation of spirits, from the year 1847 to the year 1856, averaged under 5,000 gallons into the whole country.

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(Page 64.) 1112. Mr. ROEBUCK.] What do you mean by possessory rights; do you mean rights under the charter?—Rights as British subjects previously to the treaty.

1113. Had you possession of land?—We had possession of land.

1114. How did you acquire it?—Under the license to trade.

1115. But that is not possession of land?—Yes, under the license to trade we had various possessions in the country.

1116. Do you understand that a license to trade gives you possession of the land?—We understood so.

1117. What is the interpretation which you give to the words "a right to trade", that it gives you a right to the land?—We conceive so.

1118. In fee-simple?—I do not say under what tenure, but we consider that it gives us a right to the land.

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(Pages 65-67.) 1142. I think you said that the Government of the country was vested in a council?—Yes.

1143. Are the transactions secret?—Not at all.

1144. Are minutes kept?—Yes.

1145. And is it open to the public; may anybody have access?—All criminal and other legal cases are tried at Red River, and are open to the public. There was a trial by jury last year at Norway House which was open to the public; but our own deliberations with reference to the management of the trade of the country are not open to the public.

* * * * *

1150. Mr. LOWE.] In whom does the executive power reside; in the Governor exclusively?—The Governor and his council.

1151. The Council of Factors?—Yes.

1152. Consisting of 16?—Yes; and where there is not a sufficient number of chief factors, the number is made up by chief traders; that is as regards the Company's affairs, the business of the country.

1153. As regards the government of the territory, how is it gov-

erned; I am now speaking not of trade, but of the general government of the territory!—In the Red River Settlement, in the district of Assinibolia, the present recorder is the governor of the district.

1154. He has the executive power as well as the judicial?—Yes.

1155. What extent of territory is that over?—The district of Assinibolia takes 50 miles by the compass round the Red River Settlement.

1156. Has he any assistance in that, or does he do it entirely himself?—The fact is there is very little to be done in that respect.

1157. What there is to be done he does?—Yes; our goals are almost always empty; they scarcely ever have an inmate.

1158. As to the rest of the territory, how is that governed?—By myself and the council.

1159. Have you any legislative power?—No.

1160. You cannot make laws in the territory?—We can make laws as far as regards the management of our own affairs, which is the only case in which we have occasion to make laws.

1161. As to the tenure of land, how is it regulated; what law is in force in the territory?—The law of England, I imagine.

1162. Up to what period?—Up to the present time.

1163. You spoke of a lease of 999 years; why is the land not given in free-hold?—Our counsel in this country recommended that lease.

1164. Do you know why?—No.

1165. Who grants the lease?—The Company; generally the governor of the district.

1166. Under the seal of the Company?—Under the seal of the Company.

1167. Have you a seal of the Company out there?—Yes, as Governor-in-Chief.

1168. Has the Company in London any legislative power; can it make laws for the territory?—It gives instructions with regard to the mode of conducting the business.

1169. There is no power of making laws, then, at all, as I understand, for the territory?—On the subject of the laws, I would beg to refer to the recorder.

1170. Mr. EDWARD ELLICE.] Is it not the case that the directors in London have supervision of the acts of the council?—Yes.

1171. Mr. LOWE.] The Governor is the Executive?—Yes.

1172. All over the territory?—Yes.

1173. There is no legislative power at all, as I understand; there is no power to make laws in anybody?—We make such laws as are necessary.

1174. You do not make Statutes at all?—No.

1175. Do you make Ordinances?—No, we have never had occasion to make Ordinances; we have passed certain Resolutions of Council.

1176. Are they considered binding in the nature of laws on the inhabitants of the territory?—They are principally in reference to our own trade: the laws are administered as nearly as possible in accordance with the laws of England by the recorder of the country, and the late recorder is now on his way to London, and will be forthcoming in the course of a day or two.

1177. Where do these 16 factors, who form the council, live?—All over the country.

1178. Are they summoned every year to meet?—A sufficient number assemble for the purpose of holding a council every year.

1179. Where do they meet?—At Norway House.

1180. At what time?—Generally about the 10th, or 15th, or 20th of June.

1181. Mr. BELL.] What number is considered sufficient?—I think seven factors with the Governor.

1182. Mr. LOWE.] Does the public ever attend the discussions of this council?—No, never; the public would be our own servants.

1183. Mr. KINNAIRD.] There is a council at Red River?—Yes, at Assiniboia, where the recorder resides, and where the white population is assembled.

1184. Mr. LOWE.] Has the recorder and council?—Yes.

1185. What does that consist of?—Certain inhabitants of the colony. I think there are 10 or 12; the clergy, the Roman Catholic and Protestant Bishops, the principal inhabitants of the settlement.

1186. By whom are they selected?—By the Company, on the recommendation of the governor of the country, or the application of any of the parties.

1187. Mr. ADDERLEY.] Does the Governor-in-Chief sit with the council himself; is he a member of the council?—Yes; he is the president of the council, and the recorder is the law officer.

1188. The members of the council are nominated by him?—He suggests them.

1189. Mr. BELL.] Is there a recorder, independent of the Governor?—Yes.

1190. At the Red River and at Norway House also?—No; the recorder of Red River goes to Norway House.

1191. Mr. LOWE.] Have you any magistrates, justices of the peace?—We consider all our factors as magistrates.

1192. Do they hold any commission from the Crown, or from the Governor?—Their commission as factors is understood to answer the purpose of a commission as magistrates.

1193. Have they power to imprison, and to decide any matter?—We have never had any case of imprisonment.

1194. Mr. Grogan.] Does the charter specially confer on the Company a power of government, such as we are now speaking of, namely, of imprisoning parties, or is it only a license to trade?—I must beg to refer you to the charter.

(Pages 74-75) 1378. The Governor and Company in England appoint the Governor in Hudson's Bay?—They do.

1379. According to their will and pleasure, and his appointment is revoked at their will and pleasure?—It is so.

1380. So that, in fact, the Governor out there is the downright servant of the Governor and Company here?—He is positively their servant.

1381. And what they desire him to do he is bound to do?—He is.

1382. Where does he live usually when he gets to that country?—I have been the Governor for the last 37 years, and I have lived nearly all over North America. I have lived in Oregon, I have lived in Hudson's Bay, in Red River, at York Factory, and in Athabasca. I have travelled the whole country over.

1383. There are no headquarters of the Government, then, and the talk about the Governor and council is a mere idle statement?—No. The Governor of Assiniboia is resident upon the spot.

1384. I remark that you always allude to your Red River Government at Assiniboia; did you not just now say that that simply occupied a circuit of 50 miles by the compass?—Yes.

1385. And the whole country, you have told us, and the map tells us, also, is as large as Europe?—Yes.

1386. So that when you talk of that small territory, it is like talking of San Marino, in Europe?—Criminals would be sent down to Assiniboia.

1387. If a murder were committed on the shores of the Arctic Sea, would the man be sent down to Assiniboia?—Yes, in the first instance.

1388. Have you ever known an instance of a murder on the shores of the Arctic Sea?—Not on the shores of the Arctic Sea, but within the Arctic circle.

1389. Can you state that case to me?—I cannot give all the details from memory.

1390. Mr. EDWARD ELLICE.] Was that the case which you spoke of before to-day?—Yes; Creole Le Graisse was one; there were three.

1391. Mr. ROEBUCK.] So that in your long life there of 30 odd years you have known three cases?—That was one particular case; those three persons were accomplices; they were sent to Canada for trial.

1392. Are those the only cases which you recollect?—The only cases in the Arctic regions, that I recollect.

1393. How many criminals do you suppose are annually tried at Assiniboia?—I think the whole of the criminal cases within my recollection, are but 19 in the 37 years.

1394. And that you call administering justice in that country?—Yes.

1395. We may take that as a specimen of the administration of justice in those countries under the rule of the Hudson's Bay Company?—Of the absence of crime, I should hope; we claim to ourselves great credit.

1396. Do you mean to say that in your tenure of office there for 37 years there has been only in fact 19 criminals in that country?—I think so.

1397. Mr. EDWARD ELLICE.] Are those serious cases or minor offences?—Serious cases.

1398. Mr. ROEBUCK.] Take murders; do you mean to say that in all your term of office of upwards of 30 years, there have been only 19 murders committed in the whole of the Hudson's Bay territory?—There were 11 people killed in this particular case which I am referring to.

1399. Do you mean to say that in the 37 years of your government of that country, there have been only 19 murders committed?—19 cases; I said there were 11 murders in that first case which I spoke of.

1400. I want to ascertain what has been the administration of justice in that country; I want to know how many persons have been brought to justice; you tell me 19?—Since 1821 there have been 19 cases of homicide in which the Hudson's Bay Company's people were concerned; in 11 punishment was inflicted; one prisoner was tried and acquitted; one was a case of justifiable homicide; three accused parties died before being captured, and in three cases there was no evidence to proceed against them; those are the 19 cases.

1401. Do you say that that fairly represents the state of crime in that country?—I do.

1402. Do you mean to say that since 1821, the date that you have

quoted, there have been only those 19 cases of murder in that country?—In which the Company's people were concerned; in the wars that take place in the plains among the Blackfeet there are cases in which we can not interfere.

(Page 91.) 1732. (Chairman.) I think you made an arrangement with the Russian Company by which you hold under lease a portion of their territory?—Yes.

1733. I believe that arrangement is that you hold that strip of country which intervenes between your territory and the sea, and that you give them £1,500 a year for it?—Yes.

1734. What were your objects in making that arrangement?—To prevent difficulties existing between the Russians and ourselves: as a peace offering.

1735. What was the nature of those difficulties?—We were desirous of passing through their territory, which is inland from the coast about 30 miles. There is a margin of 30 miles of coast belonging to the Russians. We had the right of navigating the rivers falling into the ocean, and of settling the interior country. Difficulties arose between us in regard to the trade of the country, and to remove all those difficulties we agreed to give them an annual allowance. I think, in the first instance, 2,000 otter skins, and afterwards of £1,500 a year.

1736. Before that arrangement was made did you find that spirits got introduced, owing to a sort of competition between your traders and those of the Russian Company?—Yes; large quantities of spirits were used previously to that.

1737. And you found that very injurious?—Yes.

1738. During the late war which existed between Russia and England, I believe that some arrangement was made between you and the Russians by which you agreed not to molest one another?—Yes, such an arrangement was made.

1739. By the two companies?—Yes; and the government confirmed the arrangement.

1740. You agreed that on neither side should there be any molestation or interference with the trade of the different parties?—Yes.

1741. And I believe that that was strictly observed during the whole war?—Yes.

1742. Mr. BELL.] Which Government confirmed the arrangement, the Russian or the English, or both?—Both Governments.

Testimony of Mr. James Cooper.

(Pages 190-191.) 3572. What is your opinion of the soil and climate of Vancouver's Island, and of its capabilities for a settlement on a large scale?—Its climate, in every sense of the word, is superior to that of Great Britain, and its capabilities of agriculture are of a considerable extent. The land is partially wooded and partially open with prairie. There is plenty of room there for a large population.

3573. In point of fact the population has increased very slowly, I believe?—It has decreased since I have been there.

3574. To what causes do you attribute that?—The maladministration of the government of the Hudson's Bay Company.

3575. To what particulars do you especially refer?—There is no encouragement for immigration into the country. Many people have come to Vancouver's Island, and have left it; they have approved of

the soil, of the climate, and of the capabilities of the country; but they have objected to being subject to the Hudson's Bay Company. If the British Government were established there, that would be the only necessary step for the British Government to take. There are thousands of people in the neighborhood of San Francisco and California who would gladly go to a British colony, provided it was under a new administration.

3576. You mean if Vancouver's Island was administered directly as a British colony, and not indirectly under the control of the Hudson's Bay Company?—Directly.

3577. Do you believe that to be the general feeling of the inhabitants?—I am sure of it.

3578. Will you point out to the Committee in what manner the administration of the Hudson's Bay Company operates to check colonization?—In the first place, with respect to their courts of justice, the people have not confidence in them; there are only a small number, but nevertheless they are unanimous in their opinion, they have no confidence in the courts of justice; our supreme judge has not been educated to the bar; I believe all the knowledge that he gains is from books; for instance, before he can decide upon a case, he has to refer to his books even in the most common case.

* * * * *

(Pages 210-211) The Honourable WILLIAM HENRY DRAPER, C. B., called in; and Examined.

4038. CHAIRMAN.] What situation do you hold in Canada?—I am Chief Justice of the Court of Common Pleas of Upper Canada.

4039. How long have you held that situation?—I have held the office of Chief Justice a little more than a year, but I have been upon the Bench of Upper Canada for nearly 10 years.

4040. What other public situations have you held in Canada?—I was appointed to the Executive Council of Upper Canada in the year 1836. I was appointed Solicitor-general of Upper Canada in 1837. I was appointed Attorney-general of Upper Canada in 1840. I held that office until some time in the latter part of 1842; I was re-appointed in 1844; and I continued to be Attorney-general from that time until I was appointed to the Bench.

4041. How long have you been resident in Canada?—I landed in Quebec on the 16th or 17th of May 1820; I have been a continual resident in Canada since that period.

4042. Under what circumstances are you now visiting this country?—I was requested by the Government of Canada, through the medium of two of its members, to undertake the duty of coming to England for the purpose of watching the investigation which, it had been communicated to them, was to take place before a Committee of the House of Commons, with a view of pressing whenever I deemed it necessary for the interests of the province, certain views which the Government of the province adopted in reference to their rights and interests in this question. I had written instructions from the Government of Canada to that effect, which I can lay before the Committee, if they desire it. They were communicated to me through the provincial secretary, and emanating from the Government, giving me general directions what I was to do.

4043. Sir JOHN PAKINGTON.] As before this Committee?—In coming to England; generally pressing upon Her Majesty's Government

the views of the Government of Canada, as well as attending before the Committee from time to time to watch the nature of the proceedings and what is going on.

Testimony of Right Honorable E. Ellice, M. P.

(Page 328.) 5825. Do you conceive the rights of self-government to have been given by the charter?—Certainly; and the country has been governed, so far as the Hudson's Bay Company's territories are concerned, under those rights; there has never been any other authority for the government of the country or for the administration of justice: it being always understood that the Crown took the power, if it should see right, in the Act enabling it to grant the license, to constitute an independent magisterial power, which it has never exercised.

* * * * *

(Page 330.) 5836. Do you mean by that, that you think that it would be advantageous for the company to withdraw as it were to the more northern part of their territory, and to leave for gradual settlement the southern portion of their country?—I am of opinion that the existence and maintenance of the Hudson's Bay Company, for the purpose of temporarily governing this country, until you can form settlements in it, is much more essential to Canada and to England than it is to the company of adventurers trading to Hudson's Bay.

* * * * *

(Page 332.) 5848. Do you consider that the country which the company hold under license is very valuable as a fur-trading country?—Some part of it on the other side of the Rocky Mountains, especially on the rivers which flow up to these mountains, I believe to be very productive of good furs. I do not think that it is the most profitable part of their trade; the most profitable part of the trade is their old territory, and the licensed territory to the east of the Rocky Mountains.

* * * * *

Extracts from the Hudson's Bay territories and Vancouver's Island, &c., by R. M. Martin, London, 1849.

(Page 29.) Previous to an investigation of other branches of the subject, it will be advisable to examine the proceedings of the Russian American Fur Company, whose territory includes all the Pacific coast and islands, north of 54° 40', and the whole of the continent west of 141°, the Asiatic coast of the Pacific north of 51°, the islands of the Kurile group to the south point, in 45° 50'. This extensive territory has been granted to a Russian American Fur Company, which was established under charter from the Emperor Paul, 8th July, 1799, with power to occupy and bring under the dominion of Russia, all territories north or south of 55°, not previously occupied and placed under subjection by another nation. The Russian Company and Hudson's Bay Company were brought into collision, and the latter experienced considerable loss in their endeavour to prevent British territory and the adjacent regions being occupied by the Muscovites. In 1834, the Hudson's Bay Company expended several thousand pounds in an expedition to establish trading stations on the large river Stikine, in 56° 20'. The Russians resented by force this procedure of the Company, although England claimed the privilege of navigating the rivers

flowing from the interior of the Continent to the Pacific, across the line of boundary established under the treaty of 1825. The British Government required redress for this infraction of the treaty; and after negotiation between the two Governments, and the two chartered Companies, it was agreed in 1839, that from 1st June, 1840, the Hudson's Bay Company should enjoy for ten years the exclusive use of the continent assigned to Russia by Mr. Canning in 1825, and extending from 54° 40' north, to Cape Spencer, near 58° north, in consideration of the annual payment of 2,000 otter skins to the Russian American Company, whose head quarters are at Sitka. The charter of the Russian Company was renewed in 1839, when they had 36 hunting and fishing establishments. Their stock bears a high premium.

(Page 31.) The proceedings of the Russian American Company appear to be guided by political as well as by commercial motives. In 1809 the Russian Minister informed the United States Government that the Russian Fur Company claimed the whole coast of America on the Pacific and the adjacent islands, from Behring's strait southward to and beyond the mouth of the Columbia river. (Greenhow, p. 275.) An endeavour was also made by the Russians to occupy the Sandwich Islands. The Hudson's Bay Company materially aided Mr. Canning in 1825, in the restriction of the Russians to their present northern territories.

(Pages 111-112) After a careful examination of all circumstances, there can be no hesitation in saying, that the Hudson's Bay Company have well fulfilled the objects for which their Charter was granted in 1670. Without any aid from the Crown—without any drain upon the national exchequer,—opposed by American and even English rivalry,—subject to plunder and devastation by the fleets and forces of the French and Russian Governments,—struggling against an inclement climate, in a sterile soil,—shut out from maritime communication with England, except for a few months in the year,—and amidst hosts of wild, warlike, treacherous, and mere hunting savages, the Hudson's Bay Company have acquired and maintained for England, by a sagacious and prudent policy, by honourable, and, above all, by Christian conduct, that portion of the North American continent which lies between the Atlantic and Pacific Oceans, north of the 49th degree of latitude, extending over more than *three* million square miles—(3,060,000.)

But for the Hudson's Bay Company England, would probably have been shut out from the Pacific, for, on the 5th of April, 1814, [1824] a convention was signed between the United States and Russia, (to which England was no party,) making the 54th parallel the boundary of their respective dominions. The settlements on the Hudson's Bay Company on the Columbia River and in the Oregon region defeated this project.

Extract from The Year Book of British Columbia, R. E. Gosnell, Victoria, B. C.

(Page 14.) It is an interesting fact that the settlement of the Nootka affair left matters on this Coast in a very uncertain, indefinable *statu quo*. For some years a long stretch of the Pacific territory was in reality "No Man's" land, and it is not in any sense due to the presence or wisdom of British statesmen of those days that it is British territory to-day. To the enterprise of the North-West Company and

of its legitimate successor, the Hudson's Bay Company, is due any credit that may attach to an accomplishment we now appraise so highly. The traders of that powerful organization pushed their way through to the coast by way of New Caledonia and the southern passes of the Rocky Mountains, carrying with them the supremacy of the British flag and extending the authority of the Canadian laws, and finally occupied practically the whole of the Pacific Coast from Russian America to Mexico. That we do not occupy the whole of the Pacific Slope to-day was no fault of theirs. However, in placing an estimate upon the statesmanship of Great Britain, which permitted by a policy of *laissez faire* so much territory to slip through her hands, we must consider the circumstances and conditions of the times, the remoteness of the country, the almost total lack of knowledge concerning it, and the general indifference which existed regarding its future. Men oftentimes are, but cannot ordinarily be expected to be, wiser than they know. In view of all that has happened to, and in, the North American Continent since that time there is reason to be thankful that there has been left to us so glorious a heritage as we now possess.

Memorandum respecting the beaver, by C. Hart Merriam, Chief Biologist of the United States Department of Agriculture.

The American Beaver is an amphibious mammal, inhabiting fresh water streams and ponds, in which it builds its well-known houses and obtains a large part of its food. The food consists mainly of the roots of the fresh water pond lily and the bark of willows and poplars.

The Beaver is an animal of the interior. It does not live along the coasts or in salt or brackish water marshes or estuaries.

Audubon and Bachman in their great work "The Quadrupeds of North America", in speaking of the Beaver, state "the localities where its dams formerly existed are on pure running streams, and not on the sluggish rivers near the sea coast." (Vol. I, pp. 357-358, 1851).

The Encyclopedia Britannica (9th Ed.) states that the Beaver inhabits "lakes, ponds, and rivers, as well as those narrow creeks which connect the lakes together. They generally, however, prefer flowing waters, probably on account of the advantages afforded by the current for transporting the materials of their dwellings."

R. Lydekker of the British Museum, states in the Royal Natural History, "In America beavers generally select as their haunts a well timbered district traversed by a narrow stream." (Vol. III, p. 101.).

Sir John Richardson, the renowned British explorer, states in his great work, "Fauna Boreali-Americana" or the Zoology of the Northern Parts of British America, that the best account of the Beaver is that given by Samuel Hearne, whom he quotes. Hearne states: "Where the Beavers are numerous they are found to inhabit lakes, ponds, and rivers, as well as those narrow creeks which connect the numerous lakes with which this country abounds. The Beavers that build their houses in small rivers or creeks in which water is liable to be drained off when the back supplies are dried up by the frost are wonderfully taught by instinct to provide against that evil by making a dam quite across the river at a convenient distance from their houses".

WASHINGTON, D. C., May 1, 1903.

PROPOSITION IN 1874 FOR SURVEY OF BOUNDARY.

[NOTE.—The following documents, contained in the Canadian Sessional Paper No. 125, Vol. XI, 1878, were omitted from its publication in the British Case, Appendix, Vol. I, pages 162–296.]

Lieut. Governor Trutch to the Canadian Secretary of State.

No. 3.]

GOVERNMENT HOUSE.

British Columbia, 19th January, 1874.

SIR: With reference to my despatch, No. 69, of the 11th May, 1872, to the Honorable the Secretary of State for the Provinces, and his replies, No. 97, of the 27th July, and No. 106, of September 28th of the same year, I have the honor to enclose herewith a copy of an address to me from the Legislative Assembly of this Province, requesting me to urge further upon the Federal Government the necessity of taking immediate steps for having the boundary line between this Province and Alaska established and defined. I also enclose a Minute of my Executive Council supporting the request preferred in this address; and, in accordance therewith, and upon the grounds stated by my Ministers, I beg you to lay this despatch and its enclosures before His Excellency the Governor General, and to recommend the representation therein conveyed to His Excellency's favorable consideration.

I have, &c.,

JOSEPH W. TRUTCH.

The Hon. D. CHRISTIE,

Secretary of State for Canada, Ottawa.

Copy of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Lieutenant Governor on the 16th January, 1874.

On a memorandum, dated 12th January, 1874, from the Honorable the Attorney General reported that an Order of Council of 5th July, 1872, strongly representing the advisableness of immediate steps being taken to define the boundary line between Alaska and British Columbia, was forwarded by His Honor the Lieutenant Governor to His Excellency the Governor General.

That the Provincial Government has been informed that the matter is now under the consideration of Her Majesty's Government.

That by a unanimous resolution of the House of Assembly, passed on the 7th instant, an Address was presented to His Honor the Lieutenant Governor, requesting His Honor to urge the speedy settlement

of the question. That it is of the greatest consequence that Her Majesty's Government should be impressed with the necessity and importance of hastening such settlement, as an alleged conflict of authority between the United States authorities at Wrangel and British Columbia miners and traders has already arisen and as a not improbable repetition thereof may lead to serious complications.

The Honorable Attorney-General recommends that should this report be approved, His Honor the Lieutenant-Governor be respectfully requested to cause a copy thereof to be forwarded to His Excellency the Governor-General for his consideration and action thereon.

The Committee advise that the recommendation be approved.
Certified.

W. J. ARMSTRONG,
Clerk, Executive Council.

[Enclosure.]

To His Honor the Honorable JOSEPH WM. TRUTCH,
Lieutenant Governor of the Province of British Columbia.

May it please Your Honor:

We, Her Majesty's dutiful and loyal subjects, the Legislative Assembly of British Columbia, in Parliament assembled, beg leave to approach your Honor with our respectful request, that your Honor will be pleased to take into consideration the following Resolution of the House:

That, whereas, the recent discovery of rich and extensive gold mines in the Northern portion of the Province has greatly increased the importance and urgency of having the boundary between British Columbia and Alaska properly established and defined; and, whereas, the boundary of the 30 mile belt of American territory running along a part of the seaboard, seriously affects vital questions bearing upon navigation and commerce, be it therefore resolved; That a respectful Address be presented to His Honor the Lieutenant Governor, recommending him to urge upon the Federal Government the necessity of taking immediate steps for having the said boundary established and defined.

J. ROLAND HETT,
Clerk of the Assembly.

5TH JANUARY, 1874.

Sir Edward Thornton to Captain Cameron.

WASHINGTON, *February 18th, 1874.*

SIR: I have the honor to enclose two despatches, under flying seal, addressed to you by Earl Granville with regard to the Alaska Boundary, and a copy of a letter from General Humphreys of the United States Engineer Department, containing an estimate of the amount considered necessary for the survey of that Boundary.

The latter document has been furnished me by Mr. Fish, but he did not send me a copy of Captain Raymond's report to which General Humphreys refers. I presume that it was either too long to be easily copied, or that it contained passages which he does not wish me to see.

The maps accompanying Lord Granville's despatch No. 1, are sent separately but also by post.

I am, &c.,

EDWARD THORNTON.

Captain CAMERON, R. A., &c., &c., &c.

[Enclosure.]

FOREIGN OFFICE, *January 29th, 1874.*

SIR: I have received from the Colonial Office a copy of a despatch from the Governor General of Canada, which refers to certain documents required by you, to assist you in drawing up a report which you have been requested by the Canadian Government to furnish in regard to the Alaska Boundary, and I send you herewith the following documents which it is thought will be of use to you:

1. The Convention between Russia and the United States, of April, 1824.
2. The Convention between Great Britain and the United States, of February, 1825.
3. The Treaty between Russia and the United States, of March, 1867.
4. Maps of the territory. No map was attached to the Convention of 1825, and it is not known what map was used by the negotiators, but those now sent have been furnished by the Board of Admiralty.

Sir E. Thornton will be instructed to ask the United States Government if they have any objection to furnish, for your use, a copy of a report drawn up by the American Engineer Department, and if he can procure one to forward it to you.

I am, &c.,

TENTERDEN.

Captain CAMERON, R. A., &c., &c., &c.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,

Washington, 17 Feb 1874.

The Right Honorable Sir EDWARD THORNTON, K. C. B. Etc., etc., etc.

SIR: Referring to your verbal request to Mr. Davis yesterday, I have now the honor to transmit a copy of General Humphrey's letter of January 29th, 1873, to the Secretary of War, containing an estimate of the appropriation necessary to be made to carry into effect the President's recommendation in regard to the boundary line between Alaska and the British possessions.

I have the honor to be with the highest consideration, Sir,

Your obedient servant,

HAMILTON FISH.

[Enclosure:]

General Humphreys to the Secretary of War.

OFFICE OF THE CHIEF OF ENGINEERS,

Washington, D. C., January 29th, 1873.

SIR: In reply to the communication of the 11th ultimo, from the Department of State, asking for an estimate of appropriation necessary to carry into effect the President's recommendation in regard to the boundary line between Alaska and the British Possessions, I beg leave to state that owing to the rugged character of the country along the line between the head of the Portland Channel and Mount St. Elias and thence north to the Arctic Ocean, which renders it impossible or nearly so, it will be absolutely impracticable to run the line continuously in the ordinary way, and the plan that promises the greatest degree of accuracy attainable under the circumstances is that of Captain C. W. Raymond, Corps of Engineers, whose duties upon the reconnaissance of the Yukon River in 1869, rendered him familiar with many of the obstacles to be met with in that country in the prosecution of similar surveys.

He was, therefore, directed to prepare an estimate of the time and cost of running this boundary line, and his report on this subject is submitted herewith.

The line commences at the southernmost point of Prince of Wales Island, 54 degrees 40 minutes north latitude, and between the 131st and 133rd degree of longitude west from Greenwich, thence ascends to the north along the Portland channel until it strikes the 56th degree of north latitude, thence follows the summit of the mountains parallel to the coast until it intersects the 141st degree of west longitude, and thence along said meridian of longitude north to the Frozen Ocean.

Whenever the summit of the mountains, parallel to the coast, prove to be at a greater distance from the ocean than ten marine leagues, the boundary line shall be parallel to the winding of the coast and not more than ten marine leagues from it.

Captain Raymonds estimates the time necessary to fix the line in the best manner practicable, to be nine years in the field and one in the office to complete the mapping of the line and preparation of report.

This estimate of cost is, for the first year, \$213,609; for the second year \$205,227; for each of the third, fourth, fifth, sixth and seventh years, \$173,767; for the eighth and ninth years, \$97,009 each; and for the tenth year, \$50,000; making a total of \$1,531,689.

In view of the great cost of marking the line to the extent practicable, it might be found sufficient, for present requirements, to establish only those points on it necessary to determine the limits of territory upon the lands accessible to settlers and upon the navigable waters and rivers.

This will materially reduce the time and expense.

The points which appear to be necessary to fix are as follows.—viz:—1st. After the establishment of an observatory at Sitka, to fix the southernmost point of Prince of Wales Island, ascend the Portland channel, and fix the point on the 56th parallel, at which the line leaves this channel. 2nd. To ascend the Staken, Takee, Chilcat the Alsekh rivers, and fix the points of intersection with boundary line. 3rd. To ascend the Yukon River, and to fix the intersection of that river and the Porcupine with 141st meridian of W. L. which here forms the boundary line. 4th. To complete the office work, mapping the results, &c.

For the completion of the above work two if not three years' field work will be required, with one year's office work in addition.

The estimate for two years' field work will be as follows, being the same as for the first, second and tenth years of Captain Raymond's estimate:—

1st year.....	\$213,609
2nd year.....	205,227
3rd year.....	50,000
Total.....	\$468,836

Very respectfully,

A. A. HUMPHREYS,
Brig. Gen. and Chief of Engineers.

The Honorable W. W. BELKNAP,
Secretary of War.

Extract from the Journal of the Royal Geographical Society, Volume 39, p. 156, 1869.

“Portland Inlet, through the center of which runs the boundary between the British and lately acquired territory of the United States, has been surveyed, and found to extend 11 miles farther north than shown on the old charts. Several new anchorages have also been found and surveyed on the main route between Vancouver's Island and Fort Simpson, the northern boundary.”

[NOTE.—The foregoing extract appears at the end of the Appendix to Major D. R. Cameron's Report, Sessional Paper No. 125, 1878, p. 45, but is omitted in the reproduction of the Report in the Appendix to the British Case. See Appendix, p. 182.]

PAPERS RELATING TO THE BOUNDARY ON, AND THE NAVIGATION OF THE STIKINE RIVER.

[NOTE.—Some of the following papers appear in the British Case, Appendix, Vol. I, being extracted from Canadian Sessional Paper, No. 125, Vol. XI, 1878. They are republished here, together with official papers of the Government of the United States, in order to furnish a consecutive history of commercial intercourse on the Stikine River from 1873 to 1878.]

Sir E. Thornton to Mr. Davis.

WASHINGTON, 31st July, 1873.

SIR: I have the honor to inform you that the Governor General of Canada has called my attention to a communication which he has received from the Lieutenant Governor of British Columbia, relative to the navigation of the River Stikine. Its contents were founded upon a letter of the 6th May last from a Mr. William Moore, residing at Fort Wrangel, in Alaska, in which he states that the United States Deputy Collector had informed him that he had been instructed by his Government that no foreign bottom should be allowed to carry freight through American territory on the Stikine River. It is probable that these instructions, the date of which is not given, were anterior to the Treaty of May 8th, 1871.

It appears, however, that the 26th article of that treaty, which provides for the free navigation of the Rivers Yukon, Porcupine and Stikine, should have come into force on the exchange of the ratifications of the treaty.

I should, therefore, feel obliged if you would cause enquiries to be made as to the truth of Mr. Moore's statement, in order that, if it be found necessary, instructions, in accordance with the above mentioned Treaty stipulation may be forwarded to the United States authorities in Alaska.

I have, &c.,

E. THORNTON.

The Honorable J. C. BANCROFT DAVIS, &c., &c., &c.

Mr. Davis to Sir Edward Thornton.

DEPARTMENT OF STATE.

Washington, 15 Sept. 1873.

The Right Honorable Sir EDWARD THORNTON K. C. B., etc. etc. etc.

MY DEAR SIR EDWARD: Referring to the conversation which took place between us a few days since in relation to the complaint of Mr.

William Moore respecting the navigation of the River Stikine, I take pleasure in enclosing herewith a communication of the 12th instant upon the subject, from the Secretary of the Treasury.

Very faithfully yours,

J. C. B. DAVIS.

[Enclosure.]

The Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT,
Washington, D. C., 12th September, 1873.

SIR: Referring to your letter of the 2nd ult., covering a copy of a note of the British Minister relative to the navigation of the River Stikine, I have the honor to enclose herewith, for your information, a copy of a letter of this Department of the 8th inst., directing the Collector of the Port of Sitka, Alaska, to ascertain, without delay, the truth of Mr. Moore's complaint, and to transmit a copy of the instructions received at his port in relation to the navigation of the Stikine, with a copy of the instructions given to the Deputy Collector at Fort Wrangel on the subject. The Collector was directed also to report the practice of the Deputy Collector, with the authority on which it is based.

On receipt of the report in question, I shall have pleasure in transmitting you a copy.

I have, &c.,

WM. A. RICHARDSON, *Secretary.*

Hon. HAMILTON FISH, &c., &c., &c.

[Enclosure.]

Mr. Wm. A. Richardson to the Collector of Customs, Sitka, Alaska.

TREASURY DEPARTMENT,
Washington, D. C., 8th September, 1873.

SIR: I have to inform you that Mr. Wm. Moore, residing at Fort Wrangle, Alaska, has addressed a complaint to the British Minister here, in which he states that the United States Deputy Collector had informed him that he had been instructed by his Government that no foreign bottom should be allowed to carry freight through American territory on the Stikine River.

As the 26th article of the Treaty of Washington of May 8th, 1871, provides for the free navigation of the River Stikine, I have to request you to ascertain, without delay, the truth of Mr. Moore's statement, and to transmit a copy of the instruction received at your port in relation to the navigation of the Stikine, with a copy of the instruction given to the Deputy Collector at Fort Wrangle on the subject, and state the practice of the Deputy Collector, with the authority on which it is based.

Very respectfully,

WM. A. RICHARDSON,
Secretary.

COLLECTOR OF CUSTOMS, *Sitka, Alaska.*

The Earl of Dufferin to Sir E. Thornton.

No. 50.]

OTTAWA, *November 25th, 1873.*

SIR: With reference to your despatch No. 34, October 1st, and to previous correspondence on the same subject, I have the honor to enclose, for your information, a copy of a letter from the Department of the Minister of Customs, forwarding an extract and copies of letters

received from the Collector of Customs at the Port of Victoria, B. C., having reference to the navigation by British vessels of the Stikine River, and to request that you will have the goodness to take such action in the matter as you may deem expedient.

I have, &c.,

DUFFERIN.

The Right Honorable Sir E. THORNTON, K. C. B., &c., &c., &c.

[Enclosure.]

The Acting Minister of Customs to the Earl of Dufferin.

No. 1.]

CUSTOMS DEPARTMENT,
Ottawa, 21st November, 1873.

MY LORD: I have the honor, in the absence of the Hon. the Minister of Customs, to enclose extract of a Report received from the Collector of Customs, at the Port of Victoria, British Columbia, having reference to the navigation, by British vessels, of the Stikine River, under the 26th article of the Treaty of Washington of the 8th May, 1871, with a view to their transmission to the British Ambassador at Washington, in order that the subject referred to in Mr. Collector Hamley's Report may be brought under the consideration of the United States Secretary of State. I further beg to subjoin for Your Excellency's information, and that of Her Majesty's Ambassador at Washington, by way of confidential communication, copies in full of Mr. Hamley's letters of the 16th and 24th October, in which that public officer explains more fully to the Department the circumstances of this case, and the special interests affected by the restrictions still enforced by the American authorities in Alaska against the navigation, by British vessels, of the Stikine River (and it is presumed also in regard to the Rivers Yukon and Porcupine), notwithstanding the provisions of Article 26 of the Treaty of Washington, herein above referred to.

With respect to Mr. Collector Hamley's reference to the consular certificate required to accompany goods destined for British territory beyond Fort Wrangel, by way of the Stikine River, and the bonds exacted by the Custom House Officer at Wrangel, that such goods shall not be landed in American territory; and stating that furs brought down the river are treated in the same way—bonds and certificates being required with fees of office—these are matters of regulation which, though not unusual on the frontier of conterminous countries, might probably, in view of the primitive condition of the country in question, be relaxed and confined to the reporting and entry of the goods at the respective Custom Houses on either side of the national boundary.

I have, &c.,

D. CHRISTIE.
For the Hon. Minister of Customs.

To His Excellency, The Right Honorable, The EARL OF DUFFERIN,
Governor General, &c., &c., &c.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, 1st December, 1873.

SIR, I have the honor to refer to a note which I addressed to Mr. Bancroft Davis on the 31st of July last relative to the navigation of the River Stikine,—one of those rivers in Alaska, the free navigation of which by subjects and citizens of the two nations was agreed upon by the XXVI Article of the Treaty of Washington. On the 15th of September Mr. Bancroft Davis was good enough to transmit to me copy of a letter from the Secretary of the Treasury—transmitting copy of a communication dated the 8th of that month to the Collector of

Customs at Sitka, making inquiries as to the foundation of the complaint made that the free navigation of the River Stikine was not allowed to British subjects by the authorities of the United States.

I shall feel much obliged if you will inform me whether any answer has been as yet received to that communication.

In the meantime however I have the honor to inclose copy of an extract from a letter of November 7th 1868 from the Secretary of the Treasury to the Collector of Customs at Sitka, giving instructions that no foreign vessels should be allowed to proceed by way of the Stikine through United States Territory, to foreign ports beyond the boundary.

I also inclose copy of an extract from a letter addressed by the principal officer of Sitka to the Collector at Fort Wrangel dated August 21st, 1873, from which it would appear that the authorities were at that time still acting under the order of 1873. I understand that orders had also been given that the prohibition was to be extended to canoes, and that only canoes belonging to Indians of United States Territory should be allowed to pass.

The Governor General of Canada has further communicated to me that at present importers of goods from British Territory beyond Fort Wrangel by way of the Stikine River are required to declare their nature before the United States Consul at Victoria, British Columbia, getting a certificate from him to accompany their goods. The Custom House officer at Wrangel also requires bonds that such goods should not be landed in United States Territory. Furs brought down the river are treated in the same way, bonds and certificates being required, with the consequent payment of fees.

In the present condition of the Territory of Alaska these forms would appear almost unnecessary; for there could be no pretence whatever nor inducement to land goods on the short space of United States territory between the sea and British Territory, where there is no settlement and no one to receive goods.

I venture to hope that under the circumstances the United States Treasury Department may see fit to relieve British goods, for the present at least, from these obligations.

But whatever may be its decision upon this point, I would suggest the expediency of its at once sending instructions that in accordance with the provisions of the 26th Article of the Treaty of Washington the free navigation by British vessels of the Rivers Yukon, Porcupine, and Stikine through United States territory is to be allowed.

I have the honor to be with the highest consideration, Sir

Your obedient servant

EDWD. THORNTON.

To the Honorable HAMILTON FISH, Etc., etc., etc.

[Enclosure.—Extract.]

WASHINGTON, 7th November 1868.

Foreign vessels have not the right under the law and should not be permitted to proceed via the Stikine River through American territory to foreign ports beyond the boundary of the United States. Such vessels should be required to enter and unload at your Port and must not unless previously authorized by the Department be allowed to pass further inland.

J. McCULLOCH,
Secretary of the Treasury.

[Enclosure.—Extract.]

The principal officer at Sitka to the Collector at Wrangal dated 21 August 1873.

No advice has been received that foreign bottoms are as yet permitted to navigate the Stikine River, and until instructions are received to the contrary the prohibition still exists.

GEO. R. McKNIGHT.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE.

Washington, 13 Dec. 1873.

The Right Honorable Sir EDWARD THORNTON K. C. B., Etc., etc., etc.

SIR: Referring to your note of the 1st instant, in relation to the alleged interference with the right of navigation of the Stikine river, secured by Article XXVI of the Treaty of Washington, I have now the honor to enclose herewith for your information, a copy of a letter of the 10th instant upon the subject, from the Secretary of the Treasury.

I have the honor to be with the highest consideration, Sir,

Your obedient servant,

HAMILTON FISH.

[Enclosure.]

The Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT,

Washington, D. C., December 10th, 1873.

SIR: I have the honor to acknowledge receipt of your letter of the 3rd instant, referring to a communication from the Department of State of the 3rd August last, covering a copy of a note of the British Minister relative to the navigation of the Stikine River.

You now enclose a copy of another note from the British Minister of the 1st instant, upon the same subject, and invite my attention to the alleged interference with the right of navigation of that river secured by Article 26 of the Treaty of Washington, and you express the desire to know if any further information has been received by this Department since the date of my letter of the 12th September last, addressed to the Department of State, which covered a copy of my letter of the 8th of that month to the Collector of Customs at Sitka, asking him to report the facts without delay for communication to the British Minister.

I regret to inform you that no report from the Collector at Sitka has been received. But on the 9th instant, the Collector was advised that, under the circumstances of the case, and in compliance with the suggestions of the British Minister of the expediency of sending instructions, the Department was willing to give effect to Article 26 of the Treaty which, for the purposes of commerce, opens the navigation of the Yukon, Porcupine, and Stikine Rivers to British subjects under such laws and regulations as would govern in such cases.

The Department desires that every facility should be given to British vessels engaged in this commerce. With this view the Collector was instructed to carry out, for the present, Article 1, page 10 of the Regulations the Department will shortly issue, governing the transportation of merchandise to, from, and through the Dominion of Canada, under the Acts of June 29th, 1864, and July 28th, 1866, the Treaty of Washington, and the Act of March 1st, 1873, for which purpose a copy was sent him.

And the Collector was directed, with the further view of giving more specific instructions, to report the number and tonnage of British vessels employed upon the Stikine and other rivers mentioned; the cargoes they carry; and the final destination of the goods; and to forward a copy of the regulations issued by the British authorities in regard to American vessels on the same rivers.

And I may add that the Department contemplates the issue of regulations, on the opening of navigation in Alaska, which will protect the interests of the Revenue, while the stipulations of the Treaty will be duly observed.

I have, &c.,

W. M. A. RICHARDSON, *Secretary.*

The Honourable HAMILTON FISH, &c., &c., &c.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE.

Washington, 2 Jan'y 1874.

The Right Honorable Sir EDWARD THORNTON, K. C. B. Etc., etc., etc.

SIR: Referring to previous correspondence upon the subject of the navigation by British vessels, of the Stikine River, in the Territory of Alaska, I have the honor to inform you that it is stated in a letter of the 23d ultimo, from the Secretary of the Treasury that the Collector at Sitka, and the Deputy Collector at Wrangel Island have been instructed to act in accordance with the provisions of the Treaty of Washington.

I have the honor to be with the highest consideration, Sir,

Your obedient servant,

HAMILTON FISH.

The Earl of Dufferin to the Earl of Kimberley.

OTTAWA, *February 13th, 1874.*

MY LORD: I have the honor to forward an approved report of a Committee of the Privy Council in respect to the navigation of the Stikine River in British Columbia, and containing the opinion of my Ministers in regard to the interpretation of the 2nd section of Article 26 of the Treaty of Washington, as a question of principle is introduced in the interpretation of this clause. I have decided not to communicate with the Lieutenant Governor of British Columbia until I should learn from Your Lordship whether the opinion of my Ministers in regard to the clause meets with your approval.

I have &c.,

DUFFERIN.

The Right Honorable The EARL OF KIMBERLEY, &c., &c., &c.

[Enclosure.]

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 11th February, 1874.

On a Report dated 6th of February, 1874, from the Honorable the Minister of Justice, stating that in the month of May, 1873, certain correspondence took place between the Lieutenant Governor of British Columbia and the Secretary of State at Washington, in respect to the navigation of the Stikine River, in the United States Territory, having been forbidden to British subjects, notwithstanding the 26th Article of the Treaty of Washington, and instructions appear to have been given by the United States authorities tending to obviate the course which had been complained of.

That further application is now made by the despatch of the Lieutenant Governor, No. 98, of the 18th December, 1873, in which he states that a question has arisen as to the proper interpretation of the 2nd clause of Article 26 of the Treaty of Washington.

That the point is really whether the provision in question of the Treaty will be held to give to United States citizens the rights freely to navigate the river above the boundary through British territory in the United States vessels.

That it appears that the recent discovery of gold fields on the upper waters of the Stikine River, now known as the Cassiar Diggings, may induce certain Americans as well as English to establish lines of steamers to run from the sea to the head of navigation, and it depends upon the interpretation put upon this article of the treaty whether citizens of the United States will engage in that enterprise.

The Minister is of opinion that under the second section of the twenty-sixth article of the Treaty of Washington, the navigation of the River Stikine in its entire length is free and open for the purposes of commerce as well to the citizens of the United States as to the subjects of Her Britannic Majesty; subject, as to the portion thereof within the territory of either country, to such laws and regulations as are not inconsistent with the privilege of free navigation; and that citizens of the United States will, therefore, have the right of navigation in that river through Canadian territory, subject to all laws of Canada in respect to navigation, customs and otherwise as shall not be inconsistent with free navigation, as similarly British subjects have the same right in United States territory.

The Committee concur in the report of the Minister of Justice, and advise that a Copy of this Minute be transmitted for the information of the Lieutenant Governor of British Columbia.

Certified.

W. A. HIMSWORTH,
Clerk, Privy Council.

The Secretary of State for the Colonies to the Governor General.

DOWNING STREET, 14th March, 1874.

MY LORD: I have the honor to acknowledge the receipt of your despatch of the 13th of February, enclosing a report of a Committee of the Dominion Privy Council in regard to the interpretation to be attached to the second section of the twenty-sixth article of the Treaty of Washington, relating to the navigation of the Stikine, Yukon and Porcupine Rivers.

In reply, I have to inform you that Her Majesty's Government concur in the interpretation placed upon the article by your Government, namely:—"That the navigation of the River Stikine in its entire length is free and open for the purposes of commerce as well to citizens of the United States as to the subjects of Her Britannic Majesty, subject, as to the portion thereof within the territory of either country, to such laws and regulations as are not inconsistent with the privilege of free navigation".

I have, &c.

CARNARVON.

Governor General, The Right Hon.

The EARL OF DUFFERIN, K. P., K. C. B., &c., &c., &c.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE.

Washington, May 2nd, 1874.

SIR: I have the honor to transmit herewith for your consideration, and that of the Government of the Dominion of Canada, a copy of a letter of the 25th ultimo, from the Acting Secretary of the Treasury,

and of its accompanying report of the Collector of Customs at Sitka, Alaska, relating to the transit of foreign merchandise through the territory of Alaska *via* Stikine River to British Columbia.

I have, &c.,

HAMILTON FISH.

The Right Honorable Sir EDWARD THORNTON,

K. C. B. &c., &c., &c.

[Enclosure.]

The Acting Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT,
Washington, April 25th, 1874.

SIR: I have the honor to transmit herewith copy of a Report from the Collector of Customs at Sitka, Alaska, dated the 2nd instant, with its enclosures, relative to the transit of foreign merchandise through the territory of Alaska *via* the Stikine River to British Columbia.

It will be observed that the Collector of Customs at Victoria, B. C., has given notice to the effect that all foreign goods destined for the rivers at Dease Lake, B. C., *via* the Stikine River, must be entered with payment of duties, at some port in British Columbia, the ports of Victoria and Esquimalt being particularly mentioned.

The effect of such regulation will be to require goods shipped from ports of the United States to British Columbia, by the route proposed, to be turned aside from their usual route, and carried to some Canadian port in the south-western portion of British Columbia for payment of duties to the Canadian Government as preliminary to their shipment through the territory of the United States by way of the Stikine River, to their places of destination in British Columbia, on said river.

It thus appears, that by this regulation certain onerous requirements are imposed upon the trade between the United States and British Columbia, *via* the Stikine River, from which the trade between British ports by the same route is exempt. Unless there may be some law or regulation affecting the domestic commerce between different places in the British possessions, requiring British vessels to turn aside from their course to report at Victoria or Esquimalt, or some other port in the vicinity before making the passage of the Stikine River. Upon this latter point this Department has no information.

In the absence of any such corresponding requirements affecting British commerce, the question may be raised whether the order issued by the Canadian Collector at Victoria, which, so far as it applies, established a condition precedent to the free navigation of said river for the purposes of commerce, does not work a discrimination against American commerce in contravention of the provisions of the Treaty of Washington thereby in practical effect depriving the United States of all the benefits supposed to have been acquired under the Treaty of Washington, as regards the free navigation of said river, for the purposes of commerce.

It further appears, however, that the occasion for this order is, that no port on the Stikine River, or on the north coast of British Columbia, in connection with the Stikine River has yet been declared a port of entry by the Government at Ottawa.

In view of the premises, I will thank you to communicate with the British Minister relative to the subject-matter of this communication, inviting an expression of the views of the Government of the Dominion of Canada in relation thereto.

I have the honor, &c.,

F. A. SAWYER, *Acting Secretary.*

Hon. HAMILTON FISH, &c., &c., &c.

[Enclosure.]

CUSTOM HOUSE, SITKA, ALASKA,
Collector's Office, April 2d, 1874.

SIR: I have the honor to transmit herewith enclosed printed notice of the Collector of Customs at Victoria, B. C., and copies of letters from the Honorable U. S. Consul at Victoria, B. C., relating to the navigation of the Stikine River by British vessels, and the collection of duties, for your information.

The merchants doing business here frequently make shipments up the Stikine, destined for the mines in British Columbia, and it will be a serious inconvenience to them to visit Victoria for the purpose of making entry of their merchandize.

I learn that it is the intention of masters of foreign vessels to clear direct from Victoria, B. C., for Buck's Bar, B. C., without making entry at the Port of Wrangel. This is in direct conflict with Art. 1, p. 10 of the Regulations, &c., and in case it is permitted by our Government, foreign goods and liquors can be landed with impunity on any of the small islands in American territory without payment of duties.

The Department will bear in mind that the mouth of the Stikine is about 6 miles from Wrangel, and if foreign vessels are not required to enter at the Port of Wrangle, I would respectfully recommend that an Inspector be appointed and stationed at the mouth of the river with a boat and crew, for the purpose of intercepting and inspecting all foreign vessels, satisfying himself that their cargoes agree with their manifests.

I have instructed the Deputy at Wrangel to act upon his present instructions, and provided him with copy of Art. 1, Treaty of Washington, enclosed in your letter under date of December 9th, 1873.

I am, &c.,

WILIE CHAPMAN, *Collector.*

HONORABLE W. A. RICHARDSON,
Secretary of the Treasury, Washington, D. C.

Government Notice.

The Collector of Customs thinks it right to give public notice that no port on the Stikine River, or on the north coast of British Columbia in connection with the Stikine River, has yet been declared a port of entry by the Government at Ottawa, and that under these circumstances, and until orders to the contrary are issued by the Government, all foreign goods intended for the mines at Dease Lake and its neighborhood must be entered, and duty on them collected at one of the existing ports of entry in British Columbia.

Every facility will be given for passing such goods, as in other cases, at Victoria or Esquimalt. On foreign goods already passed up the north coast and intended for these mines, duty will be collected at the boundary post or at Buck's Bar, and on payment of duty they will be allowed to be taken for consumption into British Columbia.

W. HAMLEY.

CUSTOM HOUSE, *Victoria, March 14th, 1874.*

CONSULATE OF THE UNITED STATES,
Victoria, B. C., 16th March, 1874.

I have the honor herewith to enclose copy of a notice published in the Victoria papers, by authority of the Collector of this Port, respecting the entry and collection of duties on foreign merchandize intended for the new mines on the Stikine River, British Columbia.

The enforcement of this regulation must affect shippers of merchandize intended for these mines at your port. You may therefore find this information important and necessary to give it publicity for the benefit of merchants and other at Sitka, Alaska.

I am, &c.,

D. ECKSTEIN,
United States Consul.

HON. WILIE CHAPMAN,
Collector, Sitka, Alaska.

CONSULATE OF THE UNITED STATES,
Victoria, B. C., 20th March, 1874.

DEAR SIR: I deem it my duty to acquaint you with certain facts connected with the present and anticipated communication and business between this port and Buck's Bar, B. C., *via* Fort Wrangel and the Stikine River in United States Territory.

There are now being built here or fitted out three small steamers intended carrying supplies from the mouth of the river beyond the boundary.

The owners or parties interested in them are under the impression that they can go with these steamers, with or without cargoes, from any port in this Province up the Stikine River through our Territory to British Columbia, without at any time entering or clearing, calling or reporting either at Sitka or Fort Wrangel.

They claim that by the late Treaty of Washington this privilege is conceded to them; I am myself altogether of a contrary opinion.

You would oblige me very much by informing me, by return mail, what are the laws or regulations in force which govern such cases at the present time, and whether our Government has adopted any new regulations under which the subjects of Great Britain have the free use of said river for purposes of commerce and free navigation.

As to late regulations adopted by the Custom House authorities here, and having reference to the importation of foreign merchandize intended for the mines at Dease Lake, I have to refer you to my letter of the 16th instant, and to the notice of the Collector at Victoria.

I am, &c.,

D. ECKSTEIN,
United States Consul.

W. CHAPMAN, Esq., *Collector, Sitka, Alaska.*

The Earl of Dufferin to Her Majesty's Chargé d'Affaires.

No. 30.]

OTTAWA, 20th July, 1874.

SIR: With reference to Sir E. Thornton's despatch, No. 15, of the 5th of May last, I have the honor to enclose, for the information of the Secretary of the Treasury of the United States, copy of a Report of Council, and a Report from the Customs Department on the subject of the collection of duties on goods entering British Columbia *via* the Stikine River.

I have, &c.,

DUFFERIN.

R. G. WATSON, Esq.,
Chargé d'Affaires, Washington.

[Enclosure.]

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 18th July, 1874.

The Committee of the Privy Council have had under consideration the despatch dated 5th May, 1874, and accompanying correspondence from Her Majesty's Minister at Washington, having reference to a notice issued by the Collector of Customs at Victoria, B. C., whereby goods destined for Dease's Lake, *via* the Stikine River, are required to pay duties at Victoria or Esquimalt, and to the inconvenience to which American vessels would be thereby subjected.

They have also laid before them the annexed Report, dated 4th June, 1874, from the Hon. the Minister of Customs, to whom the above despatch and correspondence were referred, and they respectfully submit their concurrence in the said Report, and advise that it be communicated by Your Excellency to Sir Edward Thornton.

Certified,

W. A. HIMSWORTH,
Clerk, Privy Council.

[Enclosure.]

CUSTOMS DEPARTMENT, Ottawa, 4th June, 1874.

The undersigned Minister of Customs has the honor to submit for the consideration of His Excellency the Governor General in Council, the following memoranda on the subject of the accompanying correspondence respecting navigation of the Stikine River, and the collection of the revenue in the adjacent territory, referred by His Lordship to the Hon. the Privy Council, and by that body referred to the undersigned, and as the despatch of the Acting-Secretary of the Treasury, of 25th

April last, addressed to the Hon. Hamilton Fish, contains a clear statement of the substance of the whole correspondence, he begs leave to remark thereupon:—

The Acting-Secretary of the Treasury says: "It will be observed that the Collector of Customs at Victoria, B. C., has given notice to the effect that all foreign goods destined for the mines at Dease Lake, B. C., *via* the Stikine River, must be entered for payment of duties at some port in British Columbia, the ports of Victoria and Esquimalt being particularly mentioned," and remarks thereupon "that, the effect of such regulation will be to require goods shipped from ports in the United States to British Columbia, by the route proposed, to be turned aside from their usual route and carried to some Canadian port in the south-western portion of British Columbia, for payment of duties to the Canadian Government as preliminary to their shipment through the territory of the United States by way of the Stikine River, &c., &c.," and from these premises the Acting-Secretary proceeds to argue that certain onerous requirements are imposed upon the trade of the United States in connection with the trade on the Stikine River, which will not affect the domestic commerce of the Dominion.

To this the undersigned begs to reply that the notice of the Collector applies equally to all vessels, whether Canadian or foreign, sailing from any port other than those named, and was only intended to secure the due collection of the Dominion revenue pending the establishment of a port of entry at some convenient point on the Stikine River, and a perusal of the order of the Collector will be sufficient to show that it applies equally to British or Canadian vessels having dutiable goods on board for the territory named, as to those of the United States.

The Acting-Secretary further raises the question, whether this order of the Collector of Victoria, in its effects, "does not work a discrimination against American commerce in contravention of the provisions of the Treaty of Washington, thereby, in practical effect, depriving the United States of all the benefits supposed to have been acquired under the Treaty of Washington as regards the free navigation of said river." It may be admitted that vessels plying between the Port of Wrangel and the upper waters of the Stikine River would be placed at a disadvantage if obliged to proceed first to Victoria or Esquimalt, but the following extract of a letter from the Collector at Victoria, will show that means have already been taken to prevent the possibility of any such inconvenience.

The collector writes under date, 22nd April, last. "By the steamer, yesterday, I sent Mr. Hunter (who has been employed at Esquimalt) to Fort Wrangel, with directions to make the best of his way to the boundary as soon as the river is open and boats begin to run, which will probably be in about a week or ten days after his arrival at Wrangel.

"I have told him if people are willing to pay their duties at Wrangel, on goods intended for the mines, to collect them there, otherwise to take account of them as well as he may be able, and to collect the duties when the goods pass up the river."

The undersigned has the honor in conclusion to state, that as soon as a report expected from the gentleman, sent to the boundary by the Collector of Victoria, pointing out the proper locality for a Customs establishment on the Stikine River, is received, a port of entry will be organized and all necessary facilities afforded for the purpose of commerce in that region.

ISAAC BURPEE.

Mr. Watson, Chargé, to Mr. Fish.

NEWPORT, R. I., July 30, 1874.

SIR: In reply to your note addressed to Sir E. Thornton, of May 2nd last, I have the honour to transmit to you, herewith, and to request you to be so good as to forward to the Secretary of the Treasury, copies of a Report of the Council of Canada and of a Report from the Canadian Customs Department respectively on the subject of the Collection of Duties on goods entering British Columbia *via* the Stikine River. I am requested by the Governor General of Canada to communicate these reports to the Government of the United States.

I have the honour to be, with the highest consideration, Sir, Your obedient servant,

R. G. WATSON.

Hon. HAMILTON FISH, Etc., etc., etc.

Mr. Fish to Mr. Watson, Chargé.

DEPARTMENT OF STATE.
Washington, 18th August, 1874.

SIR: Referring to your communication of the 30th ultimo, in relation to the complaint which reached this Department through the Secretary of the Treasury, and which formed the subject of my note of the 2nd May last, I have the honor to transmit a copy of a letter of the 12th instant from the Secretary of the Treasury, and of the petition which accompanied it, from which it appears that the impediment to American trade with British Columbia, by way of the Stikine River has not been removed by the location of a British customs officer at the boundary line between the two countries on that river; as he requires that all goods intended to be introduced within the British jurisdiction there shall first be cleared at Victoria.

This Department was encouraged by the statements contained in the Report of the Customs Department, and approved in the Report of the Council of Canada, copy of which accompanied your note of the 30th ultimo, to believe that this state of things would end with the location of a British customs officer on the Stikine, who would be authorized to collect the duties on the spot without the inconvenient and burdensome conditions complained of; and it is hoped that steps may be taken which will secure that result at the earliest practical period.

I have, &c.,

HAMILTON FISH.

R. G. WATSON, Esq., &c., &c., &c.

[Enclosure.]

The Treasury Department to Mr. Fish.

TREASURY DEPARTMENT.
Washington, D. C., 12th August, 1874.

SIR: I have the honor to transmit herewith, for such action as you may deem proper, a petition from certain citizens of the United States, doing business at Wrangel, Alaska, in which they complain of the action of the Canadian officer of the Customs, stationed on the boundary line at Stikine River, in preventing them from taking goods into British Territory, unless such goods have been previously cleared at the Port of Victoria, in British Columbia.

I am, &c.,

B. H. BRISTOW,
Secretary.

The Hon. HAMILTON FISH, &c., &c., &c.

We the undersigned citizens of the United States, doing business at Fort Wrangel, Alaska, feeling ourselves aggrieved at the action of the Canadian authorities at the boundary line on the Stikine River, respectfully set forth the following facts:—

Wrangell is located near the mouth of the above named stream, and is the point that all goods destined for the upper Stikine River are transhipped, and where the United States Government (to facilitate trade and accommodate persons of all nations, who might wish to navigate or do business on said river, eighty miles of which is in the Territory of Alaska,) have established a Custom House under the charge of a Deputy Collector, and have at all proper times cleared vessels and goods belonging to citizens of Canada and others.

On the other hand, the Dominion or Canadian Government has placed an Inspector of Customs at the boundary line on said river, and actually refuse to pass any

goods unless they are first cleared at the Port of Victoria (a distance of 700 miles from this point), and have seized and now keep in their possession valuable and perishable goods belonging to merchants of this place, the most valuable of which were purchased prior to May 1st, 1874, and before any order on the subject of the Customs were promulgated at the Port of Victoria.

These grievances have been borne by us heretofore with great patience, as we have been told from time to time that they would soon be remedied as soon as orders could come from the Canadian Government at Ottawa, &c. The time has now arrived when we can no longer keep quiet; justice to our country and to ourselves compel us to speak and respectfully ask of you, whom we conceive to be the proper person, to lay the matter before our Government.

Respectfully,

WILLIAM KING LEAR, *Merchant.*

BEN. COLES, *Merchant.*

B. BERNSTEIN, *Merchant.*

G. DAVIDSON, *Merchant.*

L. H. OUMETTE, *Merchant.*

CHARLES BROWN, *Merchant.*

SEM. GOLDEZON, *Merchant.*

BARNETT W. PYLE, *Merchant.*

JOHN C. CURRY, *Merchant.*

DAVID MARTIN, *Merchant.*

Mr. Watson to Acting Secretary of State.

WASHINGTON, *September 29, 1874.*

SIR: I have been requested by His Excellency the Earl of Dufferin to forward for your information, copy of a minute of Council, from which it will be perceived that instructions have been given to the Collector of Customs at the Boundary Line on the Stikine River, with the view of meeting the complaints preferred by American Citizens respecting the entry of Foreign goods at that place.

In compliance with the Earl of Dufferin's request, I have the honour to enclose to you herewith copy of this report.

I have the honour to be, with the highest consideration, Sir, your obedient servant,

R. G. WATSON.

The Honorable JOHN L. CADWALADER, etc., etc., etc.

[Enclosure.]

Copy of a Report of a Committee of the Honorable the Privy Council, approved by Excellency the Governor General in Council on the 22nd September, 1874.

On a communication from Mr. R. G. Watson, Her Majesty's Charge d'Affaires at Washington, with enclosures, referring to the question of the collection of Canadian Customs duties at the boundary line on the Stikine River, British Columbia;

The Hon. the Minister of Customs, to whom this communication with enclosures has been referred, reports that the difficulties complained of in the memorial of certain citizens of the United States, doing business at Fort Wrangel no longer exist, instructions having been sent on the 1st August last by telegraph to the Collector of Customs at Victoria, British Columbia, to authorize the officer of Customs stationed at the said boundary, to permit the importation of foreign goods and accept the Canadian Customs duties in the usual manner, and the said Collector at Victoria has advised the Department that the instructions had been immediately forwarded as directed.

The Committee advise that a copy of this minute be transmitted to Mr. Watson for the information of the Government of the United States.

Certified.

W. A. HEMSWORTH,
Clerk, Privy Council.

Mr. Bristow to Mr. Fish.

TREASURY DEPARTMENT.

Washington, D. C., September 13, 1875.

Hon. HAMILTON FISH, *Secretary of State.*

SIR: I have the honor to transmit herewith, for your information, a copy of each of two letters, dated the 21st ultimo, received at this Department from the Collector of Customs at Sitka, Alaska, in which that officer reports the surveying by British authorities, of a site for a town believed to be located on territory belonging to this country.

I have the honor to be, Sir, your obedient servant,

B. H. BRISTOW, *Secretary.*

[Enclosure.]

CUSTOM HOUSE, SITKA, ALASKA,
Collector's Office, August 21, 1875.

Hon. B. H. BRISTOW,
Secretary of the Treasury, Washing'on, D. C.

SIR: It becomes my duty to inform you that citizens of British Columbia have surveyed and laid a town five or six miles down below Boundary post, at the place known as "Big Bend"—where the English Custom House is, on the Stikine River.

They have applied to the board of Land and Works of British Columbia for a Charter and assignment of the land. The general belief is that the town is established on American territory.

The unexpected and sudden development of the unexcelled richness of the Cassiar Mining district, with the desire of the Hudson Bay traders and other speculators to get near tide water is partially the cause of this infringement of the supposed Boundary line. Another reason I might add is the apparent indifference regarding the settlement of Boundary question between Alaska and British Columbia evinced by the last past Congress.

I am, Sir, very respectfully, Your obt. sert.,

M. P. BERRY, *Collector.*

[Enclosure.]

CUSTOM HOUSE, SITKA, ALASKA,
Collector's Office, August 21, 1875.

Hon. B. H. BRISTOW,
Secretary of the Treasury, Washington, D. C.

SIR: I have the honor to lay before you the following report:—Took passage on the Mail Steamer July 14th for Port Wrangell remaining there until the 20th inst.—Met the Revenue Steamer Oliver Wolcott by appointment on the 15th of July and dispatched it on further cruise without delay. Assistant Inspector Dennis with his office work,—went up the Stikine River to the British Custom House. During my interview with the Deputy Collector of Customs for Canada,—He gave it as his opinion that the new town—surveyed at Big Bend on the River was in American territory. Met a Choquette, trader, known as *Buck*, of *Bucks Bar*.—stated that he was with Engineer Leach when he established the line for the Russian and Hudson Bay Company:—that the thirty miles was at or near the Hot Springs, opposite the great Glacier—that the English Custom House was in Alaska.

Had an interview with Judge Sullivan—the Gold Commissioner for Cassiar, who, provided I understood him—had been called to view and declare the town site eligible, or not. Told him that according to Wright's map—they were establishing a town in American territory. He held a different opinion and enquired if I was authorized to stop the survey.—My reply was that no such authority was delegated to me by my Government, but that I should report the fact to the Hon. Secretary of the Treasury. Interviewed Mr. McKay,—Hudson Bay Factor, on the same subject. He gave it as his opinion that the town was located some distance from the line on British territory. All interested American Merchants hold a reverse opinion.

The owner of the English River Steamer "Gertrude" and "Glenora" will build two

new Steamers for the Stickine river during the Winter, did propose to build at this port, but there not being sufficient mill facilities here, on my solicitation, after showing them the advantage that would accrue to them, financially and otherwise, they agreed to build them at one of the ports on Puget Sound,—the fact of their building them on the Sound, insures the distribution of Fifty thousand or more Dollars among American mechanics.

All of which is respectfully submitted.

I am, Sir, very respectfully, Your obt. servant,

M. P. BERRY, *Collector.*

The Secretary of State to the Secretary of the Treasury.

DEPARTMENT OF STATE.

Washington, September 23, 1875.

The Honorable BENJAMIN H. BRISTOW,

Secretary of the Treasury.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, transmitting a copy of each of two letters addressed your Department from the Collector of Customs at Sitka, in which that officer reports the surveying by British authorities of a site for a town, believed to be located in territory belonging to the United States. I have conferred with Sir Edward Thornton, Her Britannic Majesty's Minister, who informs me that he has no information on the subject—but says that he will write to the authorities in Canada, calling attention thereto.

He suggests what I entirely concur in, the importance of official surveys by the two Governments to establish, if not the entire line between our possessions in Alaska, and the British possessions, at least some important points on the Rivers traversing the boundary, and elsewhere, where, either from the supposed presence of minerals, or from other cause, there is likelihood that early settlements may be located.

I have the honor to be, Sir, your obedient servant,

HAMILTON FISH.

The Earl of Carnarvon to the Earl of Dufferin.

Canada.—No. 251.]

DOWNING STREET, *22nd October, 1875.*

MY LORD.—I have the honor to transmit to Your Lordship a copy of a despatch from Her Majesty's Minister at Washington, reporting a conversation with Mr. Fish respecting the settlement of some British subjects at a point near the Stikine River, alleged by American officers to be within the United States territory and below the British Custom House, which is also stated to be within the United States boundary.

In view of the circumstances represented by Mr. Fish, it appears to Her Majesty's Government desirable that an officer should be sent by your Government or by the Provincial Government of British Columbia, to ascertain whether the settlement alluded to and the British Custom House are within British Territory.

I should be glad to be informed whether your Government are prepared to take this course.

I have, &c.,

CARNARVON.

Governor General the Right Honorable

The EARL OF DUFFERIN, K. P., K. C. B., &c., &c., &c.

[Enclosure.]

Sir E. Thornton to the Earl of Derby.

WASHINGTON, 27th September, 1875.

MY LORD,—During an interview with Mr. Fish, on the 23rd instant, he read me a couple of letters which had been received from the United States Collector of Customs at Sitka, in Alaska, in which the Collector states that a party of British subjects had settled near the bank of the River Stikine, at a point which they declared was within the territory of British Columbia, but which American officers on the spot believed and asserted to be within the territory of the United States. The point was stated to be below the British Custom House on the Stikine, which Custom House was also supposed to be within the United States territory, that is, within the ten marine leagues from the coast at which the boundary should be in accordance with the provisions of the 4th Article of the convention of February 28th, 1825, between Great Britain and Russia.

The Collector's letter further stated that the British Deputy Collector on the Stikine had given his opinion that the new settlement was within United States territory, and it added that the settlers were laying out the plan of a town, and that it was said that they had applied to the Government of British Columbia for titles to the land.

Mr. Fish asked what I thought could be done to settle the question of jurisdiction. I replied that the occurrence went to prove the wisdom of the recommendation of Her Majesty's Government that no time should be lost in laying down the boundary between the two territories. As it was, I could see no way of deciding the question except by sending officers, on behalf of each country, to take observations and determine on whose territory the new settlers had established themselves. I observed that when the question of laying down the boundary was discussed about two years ago, it was suggested that if the whole survey could not be made, the points where the territories met could be fixed on the rivers which run through both of them.

Mr. Fish replied that even for this partial survey he feared that it would be difficult to obtain the necessary grant during the next session of Congress, but he suggested that as the weight of evidence seemed at present to be in favor of the point in question being in United States territory, the settlers should be called upon to suspend operations for the present and until the question of territory could be decided.

Upon this subject Her Majesty's Government will no doubt take such steps as it may deem expedient. During the winter nothing can be done by the settlers, but as it is supposed that they have been attracted to that country by the supposed existence of large quantities of silver and gold, it is not likely that they will refrain from visiting the ground as soon as the season will allow them to work.

I have, &c.,

E. THORNTON.

The Right Honorable The EARL OF DERBY.

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd November, 1875.

The Committee of Council have had under consideration the despatch of the Right Honorable the Earl of Carnarvon to His Excellency the Governor General, transmitting a copy of a despatch from Her Majesty's Minister at Washington on the subject of a settlement lately made by British subjects "at a point near the Stikine River, alleged by American officers to be within United States territory and below the British Custom House, which is also stated to be within the United States boundary."

In the discussion of this subject between Sir Edward Thornton and Mr. Fish, the latter suggested, that as the weight of the evidence seemed at present to be in favor of the point in question being in United States territory, the settlers should be called upon to suspend operations for the present and until the question of territory could be decided.

In view of the circumstances represented by Mr. Fish, Her Majesty's Government deemed it desirable that an officer should be sent by the Government of Canada or of British Columbia to ascertain whether the settlement alluded to, and the British Custom House, are within British territory.

From the terms of the Treaty defining the International boundary between Alaska and the British possessions, that portion of it extending from the 56th degree of north latitude to the point where it intersects the 141st degree of west longitude, follows the summits of the mountains which extend in a direction parallel to the coast, and, should these summits prove to be more than ten marine leagues from the ocean, the line shall then be parallel to the windings of the coast, and shall never exceed a distance of ten (10) marine leagues therefrom.

The Stikine River intersects the international boundary, in the vicinity of the 57th degree of north latitude, with so intricate a basis for determining the true line, it appears to the Committee that a satisfactory solution of the question can only be arrived at by accurately defining the point where the boundary intersects the Stikine River, and as settlements are likely to increase along the banks of that river, it seems to be obviously in the interests of both countries that the true line should be defined at this point without further delay.

The necessity for marking the boundary in other localities is not immediately pressing, but it is undoubtedly in the interests of both nations to encourage the settlement and development of the country in the vicinity of the Stikine, and the cost of ascertaining the point where the boundary intersects that river cannot be so serious as to warrant its postponement to an indefinite period.

The Committee would therefore recommend that the United States Government be invited to join with the British Government in fixing the boundary at the single point indicated, and that a copy of this minute, if approved by Your Excellency, be transmitted to the Right Honorable the Earl of Carnarvon, with the request that should the suggestion herein contained meet with the approbation of Her Majesty's Government, the subject may be again brought under the notice of the United States Government, with the hope that it may be favourably entertained.

Certified,

W. A. HIMSWORTH,
Clerk, Privy Council.

The Secretary of the Treasury to the Collector at Sitka.

TREASURY DEPARTMENT,
Washington, D. C., July 14, 1876.

SIR: Your letter of the 15th instant^a is received, in which you inform the department that one A. Choquette, *alias* Buck, has established a trading-post within the limits of the Alaska purchase, and there furnishes goods to the Indians of Alaska, and is supposed, also, to sell them liquors. This post was first set up some two miles above the customs office of the Canadian authorities; but you state that these authorities have removed their flag and office up the Stikine River to a place known as Glenora Landing, which is supposed to be 60 miles above the boundary-line, and 90 miles above their post of last year.

^a For letter see *post* page 75.

The position of Choquette's trading-post, therefore, falls within the recognized limits of the Territory of Alaska, and you inquire whether you shall notify Choquette of his obligation to pay duties on his goods, if he remain where he is, or direct him to leave within a certain time, and make seizure of his goods if the removal is not effected.

You are advised to notify the trader to pay duties on his goods, or to remove them within a definite time without the Territory. As, according to your report, all his goods are a foreign importation, if the duties on them are not paid, or if the goods are not removed from the Territory within a reasonable time, it will be incumbent upon you to make seizure.

Very respectfully,

LOT M. MORRILL,
Secretary of the Treasury.

M. P. BERRY, Esq.,
Collector of Customs, Sitka, Alaska.

The Collector at Sitka to Mr. A. Choquette.

CUSTOM HOUSE, SITKA, ALASKA,
Collector's Office, 19th September, 1876.

SIR: In accordance with instructions received at this office from the Honorable Secretary of the Treasury of the United States, under date of July 14th, 1876, it becomes my duty to notify you to remove all of the foreign goods, wares and merchandise in your possession and kept for sale and trade by you within the jurisdiction of the United States, beyond the limits of Alaska territory, or pay the legal duty on the same.

I am further instructed by Department letter of date above referred to, that should you decline to remove such foreign goods, wares, and merchandise in your possession on receipt of this notice of removal, that I fix a time for such removal to be consummated, and that after the expiration of the time so fixed and specified, that I proceed to search for and make seizure of any and all such goods, wares and merchandise found in your possession, and remaining within the limits of the territory of Alaska, upon which the duties due the United States has not been paid. In consideration of the difficulties to be expected from the early closing of the navigation of the River Stikine, I shall fix the time for your removal to be completely made at two (2) weeks after the opening of the river, for canoe or steamboat navigation in the spring of the year, A. D., 1877; provided you decline to, and have not paid the duties as above referred to.

M. P. BERRY,
Collector of Customs, District of Alaska.

Mr. A. CHOQUETTE,
Merchant, Stikine River, Alaska Territory.

Mr. A. Choquette to Mr. Brodie.

29TH SEPTEMBER, 1876.

SIR: Herewith I enclose you a notice that has been sent to me, the other day, which I wish you to present to the Colonial Secretary, and

also inform him that I am paying my license and duties to the Government, and that I look to them for protection, as I am very sure that I am at least ten (10) miles east of the boundary, that is east of the break of the coast range which, according to the old Treaty, makes me a long way in British Columbia.

It is not only my judgment nor my opinion, but it is the opinion of every one man that has good judgment about such.

Mr. McKay, Member of the Hudson Bay Company, also Judge Sullivan that got lost last summer on the *Pacific*, laid out a small town site, but it has remained that way ever since. It is ten (10) miles below me where he had laid out the town site, which proves that I am in British Columbia.

Another thing that you will have to inform them of, is, that there never has been any survey done by either Government. Another thing you must also state to them, is, that in June, 1875, it was publicly made known to all, that when the Canadian Custom House was located, that it should be the boundary until both Governments should have a general survey.

Mr. McKay spoke to Judge Gray, and he said that he would see to it, but in case that he neglects, you must be sure and see that they do something about it, for if you do not, it will ruin my business, and probably be the loss of all my goods too; but, Sir, it is my belief—me and Mr. McKay—that they are trying to scare us off, and if our Government do not help, or have anything to say about it, that they may go ahead and try their hand anyway.

Our Government can very easily have it put in the newspapers that anyone doing business on the Stikine River above the new boundary settled by the Customs in June, 1875, that the said party or parties are not to be interfered with until the general survey is made, that will be satisfactory.

It will put a stop to these little officials of Alaska, for it is only them that has anything to say.

Hoping that you will do your best for me, and I leave it all for you to do, as I cannot go down to see about it now, and as I am not very well known with the officers at Victoria my influence would not go far anyway.

I am, dear Sir, Yours very truly,

A. CHOQUETTE.

The Collector at Sitka to the Secretary of the Treasury.

CUSTOM HOUSE, SITKA, ALASKA.

Collector's Office, March 29, 1877.

HON. LOT M. MORRILL,

Secretary of the Treasury, Washington, D. C.

SIR: I have the honor to report, that, having received official information from the American Consul, at Victoria, B. C., of date March 24, 1877 to the effect that the Canadian Government has ordered a survey of the Stikine River, with the object of determining the boundary line, with the request that I should suspend enforcement of Department instructions, in regard to the removal of or collection of duties from A. Choquette, until such time as it may be necessary to complete

said survey. In compliance therewith, I have notified the parties interested of the suspension of my orders, until the 1st day of August, 1877, which will give, in my opinion, at least two months and one half, for such purpose, all of which is respectfully submitted and your approval requested.

I am, very respectfully, Your Obedt Serv't

M. P. BERRY, *Collector.*

[Enclosure.]

Copy of clipping of "Daily British Colonist" March 24 1877.

THE INTERNATIONAL BOUNDARY.

We understand Joseph Hunter, Esq., of the C. P. R. S. Staff in this Province, has received instructions from Ottawa to organize a party and proceed to the Stickeen River for the purpose of making a reconnoissance and survey, with a view to determining the point at which the boundary line between Alaska and Canada intersects that river. We believe it is intended that the expedition shall sail by the steamer California on Tuesday next. Mr. Hunter is to be congratulated upon being selected for this important work, as also are the public upon this evidence of a desire on the part of the Dominion Government to guard the interests and facilitate the operations of our miners and traders in that direction. The present step may be presumed to be only the preliminary of a complete adjustment and permanent establishment of the boundary line in question.

The Secretary of the Treasury to the Collector at Sitka.

TREASURY DEPARTMENT,

OFFICE OF THE SECRETARY,

Washington, April 23, 1877.

M. P. BERRY, Esq.

Collector of Customs, Sitka, Alaska.

SIR: Your letter of the 29th ultimo, is received, reporting that, having received information from the American Consul at Victoria, B. C., of date March 24, 1877, to the effect that the Canadian Government has ordered a survey of the Stikine River, with the object of determining the boundary line between Alaska and British Columbia you have in consequence thereof, and of a request made by said Consul, suspended the enforcement of Department instruction in regard to the removal of, or collection of duties upon the goods of A. Choquette, trader, until August 1, 1877; and asking that your action be approved.

Your action is hereby approved.

Very respectfully,

JOHN SHERMAN, *Secretary.*

The Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT, *June 20th, 1876.*

Hon. HAMILTON FISH,

Secretary of State.

SIR: I have the honor to enclose herewith, for such action as may be deemed proper, a copy of a letter of the 20th March last, from the

Collector of Customs at Sitka, Alaska, transmitting a statement of George Collins, confirmed by A. J. Whitford, a copy of which is also herewith enclosed, relative to the finish of Leach's Survey of the Stickeene river or "the ten marine leagues inland." You will observe that in connection with the statement, the Collector says, that the Canadian Custom House authorities will again move their flag down the river.

I have the honor to be, Sir, your obedient servant,

B. H. BRISTOW, *Secretary.*

[Enclosure.]

CUSTOM HOUSE, SITKA, ALASKA.
Collector's Office, March 20th, 1876.

Hon. B. H. BRISTOW,
Secretary of the Treasury, Washington, D. C.

SIR: I have the honor to herewith, transmit for the information of the proper authorities, statement of George Collins and confirmatory statement of A. J. Whitford, regarding the finish of Leach's survey of the Stickeene river on "the ten marine league inland". It becomes my duty, in connection therewith, to state that the Canadian Custom House Authorities will again move their Flag down the River. According to Collins their station last year,—following the meanders of the River, could not have been less than twenty-eight miles below the finishing point of the Leach survey, at the time that the information was furnished me that it was the intention to move their Collection Station further down the River,—the Office said "that the move was only one of convenience," that it had no political significance, or intent, or done to bring "their line to the coast"; all of which would be well enough if we did not know better.

I am, Sir, very respectfully, your obt. servt.,

M. P. BERRY, *Collector.*

Statement of George Collins, American Citizen.

Have been an occasional resident of the Stickeene river since 1862. About the time of the Alaska purchase, say 1868. Professor Leach, formerly of the English Sappers & Miners, was employed by the Hudson Bay Company to survey thirty (30) miles inland, from the Coast on a salt water line—that the company might be able to build their trading post in British Columbia. I was with the surveyor—before going with him I had built for the H. B. Co. a house at the Big Ice Mountain—after the survey the said house was abandoned and built another house for the company, about twenty-five (25) miles above the location of the first house.

Distance as given by the surveyor, thirty-one (31) miles from salt water, on air-line—sixty miles by the meanders of the river. A curious fact connected with the location of the end of the line is what persons speak of as the *Mound*. During the year 1862, a miner died with the small pox at Barry's bar on the river—was buried near by, the Professor located the line—the point of ending directly on the grave, stating, that "one half the corpse was in English, the other half in Russian American territory."

Choquette, alias Buck, was also with the survey, and he knows he justifies facts, when he says, the thirty miles (30), only reached to Warm Springs Creek or thereabouts.

GEORGE COLLINS.

SITKA, ALASKA, *March 3d, 1876.*

A. J. Whitford, American citizen.

The fact rehearsed by George Collins about the miner dying at Barry's bar, on the Stickeene river, 1862, is well known to me, as I was on the bar at the time and I have often heard it stated, that Professor Leach finished his survey, directly on the top of the grave, and that nearly the whole of Barry's bar was in the Alaska purchase.

A. J. WHITFORD.

SITKA, ALASKA, *March 3d, 1876.*

The Secretary of State to the Acting Secretary of the Treasury.

DEPARTMENT OF STATE,

Washington, June 24, 1876.

The Honorable CHARLES F. CONANT,

Acting Secretary of the Treasury.

SIR: I have the honor to acknowledge the receipt of a letter, from the Secretary of the Treasury, bearing date of the 20th day of June, instant, enclosing a copy of a letter from the Collector at Sitka, Alaska, transmitting a statement relative to the finish of a survey of the Stikeene River, and calling my attention to the statement of the Collector that the Canadian Custom House authorities will again move their flag down the river.

An examination of the letter of the Collector, and of the accompanying papers, fails to assure me of the precise intent of the British Custom House authorities, in this matter, at least so far as to convey any distinct statement, either that the British Custom House authorities are now occupying a position within the Treaty limits, of Alaska, or that the position, which it is alleged that they are about to occupy, is within such limits.

I will thank you if you can furnish any definite information as to the precise location, with reference to the boundary line, between the United States Territory of Alaska, and the British Possessions in North America, of the occupation, either present or apprehended, of the British Custom House, or of their flag.

I have the honor to be, Sir, your obedient servant,

HAMILTON FISH.

The Acting Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT, June 27, 1876.

Hon. HAMILTON FISH,

Secretary of State.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th inst. relative to the finish of a survey of the Stikeen River, and a report on the alleged intention of the Canadian Custom House authorities to move again their flag down the river. And you ask to be furnished with definite information as to the precise location, with reference to the boundary line between the United States Territory of Alaska and the British Possessions in North America, of the occupation, either present or apprehended, of the British Custom House or of their flag.

A copy of your letter will be sent to the Collector of Customs at Sitka, with instructions to obtain all information practicable on the subject and make report to the Department, on receipt of which a copy will be transmitted to the Department of State without delay.

I have the honor to be, Sir, your obedient servant,

C. F. CONANT,

Acting Secretary.

The Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT, *July 25th, 1876.*

Hon. HAMILTON FISH, *Secretary of State.*

SIR: As connected with the subject of a communication from this Department of the 27th ulto., relative to a survey of the Stikine River in Alaska and the proper boundary of the territory. I have the honor to transmit herewith, a copy of a letter to the Department by the Collector of Customs at Sitka, under date of the 15th ulto., inviting your attention to that portion of the letter which announces the location of the office of the Canadian Customs authorities at Glenora Landing.

I have the honor to be, Sir, your obedient servant,

LOT M. MORRILL, *Secretary.*

[Enclosure.]

CUSTOM HOUSE, SITKA, ALASKA,
Collector's Office, June 15th, 1876.

Hon. B. H. BRISTOW,
Secretary of the Treasury, Washington, D. C.

SIR: I have the honor to inform you that the Canadian Customs Authorities have removed their flag and office up the Stikine River—to a place known as Glenora landing the same being above the supposed boundary line some sixty miles and about ninety miles from and above the post of last year. One A. Choquette, alias Buck, last year, settled and built a trading post, some two miles above the Customs post,—which is—undoubtedly in the Alaska purchase.

The person referred to is believed to sell liquor to Indians and is the source from which the Alaska Indians derive large supplies of foreign goods.

He pays his Revenue to the Canadian Authorities.

1st. Shall I notify Choquette that if he remains where he is located that he must pay duties on his foreign invoices and be subject to the restrictions that other merchants in Alaska are subject to?

2nd. Or shall I seize him without preliminaries?

3rd. Or notify him, and give him a fixed time to remove his merchandise further inland,—then seize him at the expiration of the date?

Having had conversation with him, I am under the impression, that nothing will be effected unless I am ordered to act decisively;—therefore would request that my orders on the subject be clear and positive.

I am, Sir, very respectfully, your obt. servt.,

M. P. BERRY, *Collector.*

The Secretary of State to the Secretary of the Treasury.

DEPARTMENT OF STATE.

Washington, July 29, 1876.

The Honorable LOT M. MORRILL,
Secretary of the Treasury.

SIR: I have the honor to acknowledge the receipt of your letter of the 25th instant, transmitting a copy of a letter to your Department, from the Collector of Customs at Sitka, under date of the 15th ultimo, and asking my attention to that portion of the letter, which announces the location of the office of the Canadian Customs authorities, at Glenora Landing.

I notice that the letter states, that "the Canadian Customs authorities have removed their flag and office up the Stikine River, to a place known as Glenora Landing, the same being above the supposed boundary line, some sixty miles."

The Stikine River is understood to take its source in the British Possessions, and to flow down, through the Alaska Possessions of the United States to the Ocean.

If the information conveyed in the letter of the Collector be correct, it would appear, that the office of the Canadian Customs, has been moved up the river, i. e. in the direction away from our possessions, and that the place known as Glenora Landing, is about sixty miles above the supposed boundary line.

In this view, the location of the Customs office, is within the British jurisdiction.

I will thank you, in case your Department has any more definite information, as to the situation of the place, where the Customs office is said to be now placed, with reference to the boundary between the possessions of the United States and those of Great Britain, to place me in possession thereof—or of any trustworthy information respecting the Geography of the country, on or near the Stikine River, or the boundary line.

I have the honor to be, Sir, your obedient servant,

HAMILTON FISH.

The Acting Secretary of the Treasury to the Secretary of State,

TREASURY DEPARTMENT. *September 16, 1876.*

HON. HAMILTON FISH, *Secretary of State.*

SIR: Referring to the letter of the Department addressed to you, under date of July 25, 1876, relative to a survey of the Stikene river in Alaska and the proper boundary of the Territory, and to your letter to the Department of the 24th June last, asking to be furnished with definite information as to the precise location, with a view to the boundary-line between the United States Territory of Alaska and the British Possessions in North America, of the occupation, either present or apprehended, of the British Custom House or of their Flag, I have the honor to enclose herewith, a copy of a further report upon the subject from the Collector of Customs at Sitka, dated the 24th August last, transmitting Wright's Map of the Stikene River, with notes and explanations appended thereto, giving all the information known to him as to the boundary line between Alaska and the British territory.

The Collector states that there are no white settlers at present between the Hudson Bay post and the mouth of the river, except the trader Choquette. Nevertheless, he says, post *C*, as marked upon the map, is considered the line of the territory, because it is not known that the Government of the United States proposes to secure the actual ten leagues, either by proclamation, declaration or possession.

I have the honor to be, Sir, your obedient servant,

C. F. CONANT, *Acting Secretary.*

[Enclosure.]

*The Collector at Sitka to the Secretary of the Treasury.*CUSTOM HOUSE, SITKA, ALASKA,
*Collector's Office, August 24, 1876.*HON. LOT M. MORRILL,
Secretary of the Treasury, Washington, D. C.

SIR: In compliance with instructions of Department's letter, date June 29, 1876, requiring other and further information in reference to the boundary line between the United States, Territory of Alaska and the British possessions, I have the honor to submit Wright's map of the Stikine river with such notes and explanations appended thereto as I am cognizant of.

There are no white settlers that I know of at present between the Hudson Bay post marked B., and the mouth of the river, excepting the trader Choquette. Nevertheless, post C is considered the line of the territory, because it is not known that the Government of the United States proposes to secure the actual ten leagues, either by proclamation, declaration or possession.

I am, Sir, very &c., &c., &c.,

M. P. BERRY, *Collector.*

-
- A. Parallel 57—Long., 132 W., about the end of the Leach survey.
 B. Hudson Bay post and Canadian Custom House 1874—Known as the line between Alaska and British Columbia.
 C. Custom House 1875. Moved down in the spring of '75.
 C. C. Proposed removal spring of 1876—point indicated by letters. Town site surveyed by British subjects.
 D. For reasons unknown, the Canadian Authorities evacuated C., and carried their flag up to Glenora landing.
 E. A. Choquettes', alias Buck's, trading post, one mile above C. 1875.
 Distance from mouth of river to B., 1874—by the channel and meanders of the stream—called by steamboat men and others ninety (90) miles.
 By Wright's River survey, submitted, twenty-seven (27) miles from mouth of river—following the meanders of the stream to Custom post—C., 1874. Distance direct from Coast line unknown. Surveyor Wright gives it as his opinion, that at the most that could be allowed, the distance was less than seventeen (17) miles, to C. 1874.
 Distance from coast to C. C., Town site fifteen or sixteen (15 or 16) miles.

*The Collector at Sitka to the Secretary of the Treasury.*CUSTOM HOUSE, SITKA, ALASKA,
*Collector's Office, October 12, 1876.*HON. LOT M. MORRILL,
Secretary of Treasury, Washington, D. C.

SIR: Referring to Chas. F. Conant's letter of the 12th of August last, transmitting communication from the Hon. Secretary of State, and requesting additional information in regard to the location of the Canadian Custom House, on the Stikine River, I have the honor to return the same herewith, with the information that under date of August 24 last I forwarded to you Wright's map of the Stikine River, with full explanations of the location of the different points so far as my knowledge exists. I will add, however, that the Canadian authorities did remove their Collection Office up the river to Glenora Landing, the same being some miles within their territory, nevertheless there is an English flag placed upon the point where the Canadian officer was stationed last year—and that point as well as some miles further up and inland, I believe to be within the Alaska purchase.

I am very respectfully, your obd't Servant

M. P. BERRY,
Collector of Customs.

The Secretary of War to the Secretary of State.

WAR DEPARTMENT,
Washington City, May 4, 1877.

SIR: I have the honor to transmit herewith for your information copies of communications from Brigadier General Howard, Commanding Department of Columbia, and Captain Jocelyn, lately in command of Fort Wrangel, Alaska, upon the necessity of marking the point where the boundary line between the British and American possessions, crosses the Stickeen River.

At the request of your predecessor, an estimate was submitted by the Engineer Bureau of this Department, on February 27th last, of \$48,000 as the sum necessary to determine this point.

Very respectfully, your obedient servant

GEO. W. McCRARY.

To the Honorable the SECRETARY OF STATE.

P. S.—I also enclose copy of a map of the location referred to.

[Enclosure.]

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Portland, Oregon, January 15, 1877.

To Brigadier General O. O. HOWARD, *Commanding.*

SIR: Referring to the following extract from your Report on Alaska dated June 30, 1875,—“I took our party up the Stickeen river as far as the boundary line between our territory and British Columbia. No building is yet erected for the Custom House. The place of the English Custom House Officers tents is supposed to be located within the British line. Some of our shrewd frontiersmen say that it is not ten leagues from the sea as it should be, there being really doubt as to the summit of the Coast Range of Mountains. I took a copy of the statement of the boundary line as published in an English Journal (see paper attached marked “A”). It seems now to an observer of little consequence among these rough mountains where the exact line of division really is; but remembering the trouble the settlement of the Channel question gave us at Vancouver Island, I deem it of sufficient importance to recommend that the attention of the proper Department be called to the existing doubt, not plainly settled by the treaty, that the line may be definitely fixed”—my own impressions of the evident encroachment of the English upon American soil at the Stickeen river, received on a trip up that river August 18, 1875, led me into a correspondence with Mr. M. P. Berry, the Collector of Customs at Sitka, Alaska, whom I then met, and to personal interviews with Mr. Gustavus A. Wright, by profession a Civil Engineer, who has large business interests in Cassiar, and who during the mining season makes frequent trips, by the river, back and forth between Fort Wrangel and Cassiar.

These gentlemen entertain views, in the premises, corresponding with my own.

As no action is known to have been taken upon your report (quoted), and because of the great importance of now permanently settling what may become a vexed and serious international question, I venture to suggest that you again call the attention of the War Department to this subject.

The language of the Treaty with Russia is, “the said line shall ascend to the North along the channel called Portland channel, as far as the *point of the continent where it strikes the 56th degree of North latitude*; from this last mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the Coast as far as the *point of intersection of the 141st degree of West longitude*, (of the same meridian) * * * and, 2nd, That whenever the summit of the mountains which extend in a direction parallel to the Coast from the 56th degree of North latitude to the point of intersection of the 141st degree of West longitude shall prove to be at the distance of more than *ten marine leagues from the ocean*, the limit between the British possessions and the line of coast which is to belong to Russia as above mentioned (that is to say, the limit to the possessions ceded by this convention) shall be formed by a

line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom.³

As a matter of fact, there is no well defined range of mountains extending in direction parallel to the coast.

A rugged, broken region extends back from salt water a considerable distance; the mountain peaks visible seeming to stand in groups or clusters; a confused mass of hills of varying altitudes "from three thousand to six thousand feet, the highest being, perhaps, in the vicinity of the point marked Grand Cañon, in latitude about 57° 20' N."

It would appear that the Russian Government had caused a monument to be set up, on the Stickeen, marking a point ten marine leagues from the coast, and that this monument was, or is located some one hundred and thirty five (135) miles from the mouth of the river, in the vicinity of a point called Shakerville.

I would suggest that the United States send an officer of Engineers to be joined if possible, by some proper official on the part of Great Britain, early the coming season to proceed from here North in June, to define and permanently mark a line ten marine leagues from salt water.

I am, sir, very respectfully, your obedient servant.

H. CLAY WOOD,
Assistant Adjutant General.

[Printed slip.]

BRITISH COLUMBIA—THE ALASKAN LINE.

VICTORIA, March 24.

Joseph Hunter, C. E., has been appointed by the Canadian Government to define the boundary line between British Columbia and Alaska. He will leave with his party on Tuesday.

P. S.—GENERAL: The rough of the foregoing letter was prepared at its date. In view of the action taken by the Canadian Government, as indicated by the attached slip, the present seems a favorable moment to submit it for your consideration.

Very respectfully,

H. CLAY WOOD,
Assistant Adjutant General.

HEADQUARTERS, FORT WRANGEL, ALASKA.

October 1st 1876.

The ASSISTANT ADJUTANT GENERAL DEPARTMENT OF THE COLUMBIA.

Portland, Oregon.

SIR: I have the honor to recommend that the attention of Congress, at its approaching session, be urgently invited to the necessity of instituting proper measures for the early determination of the boundary line between the United States Territory of Alaska and the Province of British Columbia.

The recent development of important gold-bearing placer mines in northwestern British Columbia, which are only to be reached by way of the Stickeen River, makes a knowledge of the boundary point on that river a question of no small significance, in the interests of commerce and trade. Gold is found on the Stickeen River at and above Glenora, and on Dease, Thibert, McDames, Trout and Quartz Creeks. Although the mines thus far discovered are clearly without United States territory the entire business of the mining region centers at Fort Wrangel. The severity of the winter in the interior brings the whole population to the coast with the close of the mining season in November, and such as do not remain at Fort Wrangel until spring pass through here *en route* to other points. Not less than two thousand persons left Ft. Wrangel for the interior during the present season, all to return here with the approach of winter. Four (three British and one American) light draught river steamboats are employed in transporting freight and passengers from Wrangel to Telegraph Creek, while five ocean steamers have, in 1876, engaged in the trade with Fort Wrangel from Victoria and Portland.

There is reasonable assurance for the belief that the mining interests of this section will develop a large and permanent industry.

The gold yield of Cassiar district for 1875 exceeded one million dollars and for 1876 it is estimated at \$1,500,000. Silver bearing Galena ore has been discovered in

the district of a quality and in such quantity as, it is believed, will warrant its being mined and brought to Wrangel, thence to be forwarded for reduction in England. Thus it is seen that the Stickeen River has become a thoroughfare for an extensive goods and passenger commerce, passing, in its course for sixty miles, through territory liable to be claimed by both nations, and over which the authority and protection of law are now definitely extended by neither. Illegitimate trade naturally springs up in this doubtful belt, embarrassing lawful enterprise and capital in each direction, and greatly hindering a proper execution of the customs and Indian intercourse laws of the United States.

Attention is respectfully invited to the map herewith enclosed, and to the provisions of the treaty between the United States and Russia proclaimed June 20, 1867. A line ten leagues from the ocean, running parallel to the windings of the coast, would cross the Stickeen River nearly at the point indicated. I have personally examined the country near the river from its mouth to the head of steam navigation, and was impressed with the difficulty that would arise in determining a continuous summit of the Coast mountains. There is no range or chain, but rather for the entire distance of over one hundred miles, and to the right and left as far as the eye can reach, a confused mass of mountain peaks with elevations from three thousand to six thousand feet, the highest being perhaps in vicinity of the point marked "Grand Cañon" in latitude about $57^{\circ} 20'$.

I am, Sir, Your obedient servant

S. P. JOCELYN,
Capt. 21st Inf. Commanding.

[First endorsement.]

HEADQUARTERS OF THE COLUMBIA,
Portland, Oregon, March 29, 1877.

Respectfully forwarded to the Assistant Adjutant General, Mil. Div. of the Pacific.

I notice by the enclosed slip that the British Government has sent an Officer to examine this boundary line, and I call attention to the written report and recommendation. Would it not be well for our Government to look into this subject at this time.

I invite attention to the accompanying papers, Letters from the Collector of Customs, Sitka, Alaska, 1584 DC 1875, 461 D. C. 1876, Extract from report of Captain Robert N. Scott, 3rd Artillery, of September, 1867, and letter from the Commanding Officer, Fort Wrangel, with enclosures, dated October 1, 1876. 1830 DC 1876.

I recommend that a competent Officer of the Army, Engineer Officer if practicable be detailed to survey the line, and permanently mark it according to existing treaty stipulations.

If deemed practicable the British and American Officers might be associated in the work.

Attention is particularly invited to the enclosed tracing (1830 $\frac{1}{DC}$ 1876).

O. O. HOWARD,
Brigadier General. Commanding.

[Second endorsement.]

HEADQRS. MIL. DIV. PACIFIC AND DEPARTMENT OF CAL'FA.,
San Francisco, April 9, 1877.

Respectfully forwarded to the Headquarters of the Army. I do not think the Department Commander overestimates the need of speedy action on the part of the United States in the matter of determining its boundary line between Alaska and British North America. I ask the special attention of the General of the Army and War Department to this subject.

These papers also show good cause for not abandoning Fort Wrangel as a military post.

IRWIN McDOWELL
Major General, U. S. A. Commanding Div. & Dept.

[Third endorsement.]

HEADQUARTERS OF THE ARMY,
Washington, April 26, 1877.

Respectfully submitted to the Hon. Secretary of War.

It is usual for Congress to provide for the survey and demarkation of International boundaries by a Commission and surveyors.

To survey the boundary between Alaska and British Columbia will be a difficult and costly work, of too large an extent to be performed by a single officer, out of the ordinary Army appropriation.

W. T. SHERMAN, *General.*

Official Copy.

E. D. TOWNSEND, *Adjutant General.*

A. G. OFFICE, *May 3rd, 1877.*

Petition of American citizens to U. S. Treasury agent.

GLENORA, STICKEEN RIVER, *July 6, 1878.*

SIR: Inclosed please find copy of instructions lately received by Mr. R. Hunter, deputy collector of customs at Glenora, Stikine River, British Columbia, which, as you will see, places certain restrictions on United States steamers navigating the Stikine River, which, up to the receipt of the enclosed instructions, have been alike free to both nations. The steamer Beaver, an American steamer, although really owned by British subjects, exercised all the rights of free navigation for the past two years.

In addition to the instructions of which you have inclosed a copy, Mr. Hunter, the deputy collector above named, has notified us that we will not even be allowed to land freight and again bring it forward from any point above a certain post about twenty miles from the mouth of the river, which they claim as the boundary line, but which is clearly 10 or more miles below the real boundary line. An American steamer is thus forbid by a Canadian official, under penalty of seizure as soon as she arrives at the Canadian Custom-House, for landing freight on American soil and again bringing it forward to the Canadian port of entry. In regard to the last named restrictions, the deputy collector, Mr. Hunter, declined furnishing a copy of his instructions, but gave notice verbally in the presence of witnesses.

The steamer Nellie, of Port Townsend, came to Wrangle in June last for the purpose of plying, for freight and passengers, between Fort Wrangle and Telegraph Creek, her owners believing, and still believing, that they have the same rights as Canadian vessels. The restrictions placed on her by the Dominion authorities will virtually drive her, as well as every other American vessel, from the Stikine River.

In navigating the Stikine River vessels clear from Fort Wrangle for Glenora, where the Dominion custom-house is stationed, and where all duties on foreign goods are collected. Twelve miles above this point, at Telegraph Creek, is the head of navigation, where nearly all the goods that come up the Stikine River are landed and forwarded thence to the Cassier Mines by pack-trains. The river is difficult of navigation from Glenora up to Telegraph Creek, and again quite easy. When navigation was difficult, it has heretofore been customary to store freight at Glenora and forward by small boats, or take it up by steamer when the river was more favorable, or to land part of the cargo so as to lighten the vessel, and after proceeding to a higher point and landing the cargo, returning to Glenora and reloading the freight that had been previously landed, and again proceeding to the higher point. The Stikine is a river of strong current and somewhat difficult navigation, and unless all the advantages pertaining to the navigation of such waters, such as carrying heavy loads up the lower part of the

river, and when the difficult waters are reached unloading part and proceeding with the remainder, repeating this lightening in some cases for three or more trips, and then bringing forward what had been so left, the right to navigate is of no value. The whole distance from Fort Wrangle to Glenora is about one hundred and fifty miles.

You will please lay our grievance before our government at once, meantime taking such steps as you may deem proper to protect us in the enjoyment of our rights as citizens of the United States.

Your obedient servants,

JOHN C. CALLBREATH,

BENJ. STRETCH,

CHAS. H. LOW, *Master,*

Owners of the steamer Nellie, of Port Townsend, Wash. Terr.

Maj. W. G. MORRIS,

United States Revenue Dept. Port Townsend, Wash. Ter.

P. S.—No charge is made of an attempt to evade revenue or port regulations, or that the Dominion Government is wronged in any way. It is simply a move to drive American vessels from the river.

J. C. C.

[Enclosure.]

Mr. Johnson to Mr. Hunter.

OTTAWA, *May 18, 1878.*

SIR: In reply to your letter of the 25th instant, I beg to inform you that it is contrary to the coasting regulations for the United States steamers or vessels to unload part of their cargo at the first Canadian custom station on the Stikine River, and after going higher up and landing the remainder to return again and reload what has been unladen and return therewith to the higher point. This course is not allowed to Canadian vessels in any similar circumstance in the United States. The steamer might properly take freight for the two points, and be allowed to land the quantity consigned to each; but no foreign vessel has the right to reload freight once landed in Canadian territory for delivery anywhere else in the Dominion, and if that practice has really been allowed by the custom officials, it must be discontinued at once.

The general question to the right to navigation by both nations is not open to question, but that right must always be exercised with due regard to customs laws and regulations.

I have the honor to be, yours, etc.,

J. JOHNSON,

Commissioner of Customs.

Mr. Callbreath to U. S. Treasury Agent.

FORT WRANGLE, *July 11, 1878.*

DEAR SIR: I will take it as a personal favor if you will bring this matter to the notice of our government as soon as possible, and if possible to get instructions so as to send by the next California. Of course this can only be done by using the telegraph. As soon as the water falls, the restrictions imposed upon us will drive everything but Canadian vessels from this river. Of course this is the object of the Dominion authorities. I think our government might at least demand a suspension of the restrictions until the matter can be discussed, as

the full and unrestricted right has been heretofore enjoyed by American vessels coequal with Canadian. By attending to this you will place me under renewed obligations.

Yours, truly,

JOHN C. CALLBREATH.

Major W. G. MORRIS.

U. S. Treasury Agent to American Petitioners.

OFFICE SPECIAL AGENT OF THE TREASURY,

Portland, Oreg., July 23, 1878.

SIR: I am in receipt of your communication, signed also by Benj. Stretch and Capt. Chas. H. Low, dated Glenora, July 6.

I fully appreciate all the difficulties under which you labor and the obstacles which are being placed in your way by Canadian Customs officials in the prosecution of your business. I can see, however, no way to relieve you. The rule laid down by Mr. Johnston, the Canadian Commissioner of customs is the law. "The treaty of Washington guarantees to the subjects of Her Britannic Majesty and to the citizens of the United States the free navigation of the Stikine River, "subject to any laws and regulations of either country within its own territory not inconsistent with such privilege of free navigation."

The Dominion Government has its own laws governing its coasting trade, and we cannot directly or indirectly violate them. Mr. Johnston is correct when he says the privilege you seek would not be accorded Canadian vessels by the United States.

Our Customs regulations relating to the coasting trade are very rigid, and under no circumstances would a foreign bottom be permitted to engage in the trade you desire.

The only way out of the difficulty is for you to transfer the title of your boat to a British subject. This, however, should be done with caution, for should the Stikine trade die out, you would not be able to again procure American papers for your boat without special act of Congress.

The verbal instructions of Mr. Hunter in regard to the point on the river where freight must be landed involve quite a different proposition.

The boundary line between Alaska and British Columbia is the same as laid down in the convention of 1825 between Russian America and British North America. It is vague and undetermined, and will always remain in dispute until the respective governments settle the question by joint commission and survey.

I have devoted no little time and attention to this matter, and shall devote a large portion of my forthcoming report upon Alaska to its discussion, and endeavor to impress upon Congress the necessity of immediate action.

I presume the point settled upon by Mr. Hunter is that located by Mr. Hunter, the railway engineer, in his recent survey. The report of the latter has not yet reached me, but I learn casually he has run the line much farther down the river than has heretofore been supposed to be the boundary line.

When the Dominion Parliament was prorogued on the 10th of May last, Lord Dufferin used the following language:

I am happy to be able to state that, pending the final settlement of the question of boundary, a conventional line has been adopted by my government and the Government of the United States between Alaska and British Columbia on the Stikine River.

Whether this is in accordance with the Hunter survey I am unable to inform you, but will write to Washington for information, and when reply is received will duly notify you.

As you have specially asked me to lay your grievances before our government, I shall this day send your correspondence and a copy of my reply direct to the Secretary of the Treasury.

I have given you my view of the case, and in the meantime would advise you to let matters remain in *statu quo*, until the department can be heard from.

Your suggestion about using the telegraph is impracticable; the department would not act unless the whole case was properly presented, and this can only be done by transmitting all the papers.

I am, respectfully, your obedient servant,

WM. GOUVERNEUR MORRIS,
Special Agent.

JOHN C. CALLBREATH, Esq.,
Wrangel, Alaska.

Governor of the Colonies A. E. Etholme to Commander of Steamer Nicolai I, Volunteer Pilot Lindenberg.

[Translation.]

JULY 23, 1840. No. 75.

I recommend you to sail from here on the steamer entrusted to you through Peril Strait to Icy Strait for trading purposes with the Kolosh, where you will cast anchor in a safe and convenient place or at the point indicated to you by the Kolosh Ya-Khu-gan of the Icy Strait going back to his home with you and who volunteered to pilot you and to show you the place where upon receiving information as to the arrival of the steamer all the Icy Strait Kolosh will assemble for the purpose of trading with us. As far as I could understand from the words of that Kolosh the most convenient place is Port Frederic or Saviour Bay; at all events I wish you to keep in view to trade with the Kolosh on the southern coast of Icy Strait and not on the northern, which at present according to the agreement, belongs to the English and not to us. I have been informed that the Kolosh there have over 60 skins of sea otter which they want to sell to us and I instruct you therefore to employ 7-8 days for trading with them during which time I suppose it will be possible to buy all their furs; should you not succeed in this I authorize you to sacrifice 2-3 more days to this matter in order to endeavor to purchase from them not only sea otter, but other remarkable furs that they may have.

Upon having finished trading in the Icy Strait the steamer must sail along around the northern point of Admiralty Island (or Khuznoo Island) to the English settlement near the mouth of the river Taku (this settlement according to Mr. Dmcan, Captain of the Hudson's

Bay Company's vessel Vancouver, is situated in latitude 58° 6'); but as this route between the above mentioned Admiralty Island and the continent is very narrow and but little known, I recommend you to find a convenient anchoring place in Barlowe Cove, which is at the extreme northern point of Hoolznoo Island and there sound the narrows of the channel as far as Stephen Strait, and then only shall you sail with your steamer to that strait. At Taku you will deliver to Mr. Douglas, Chief of the English settlement the herewith enclosed letter from me to him, the map of our survey of the Stikine River mouth, and order to have delivered to him 59 pairs of boots sent him from here on the steamer (which according to accounts we are to pay them for blankets brought on the Brig Chichagoff) as well as the 54 boards left here from Vancouver for delivery and which are loaded on board the steamer. Deliver also to Mr. Douglas the furs sent on with you from the Novo Archangelsk office, bought by us from the Chilkat Kolosh who were recently here, in exchange of which take from the English as many skins of river beavers or otters and in general all the furs they have had time to trade from the Kolosh inhabiting the islands situated within our possessions during their stay at Stikine and Taku. For greater convenience and clearness in the accounts, I found it necessary to propose to Mr. Douglas to proceed with the trade between the English and us by the piece, i. e. fur for fur of equal quality, the remaining quantity to be put down on the accounts between us, which I communicate to you for your guidance as well as that, according to an agreement made by Mr. Douglas and myself, all skins of sea otters without exception, bought by the English from the Kolosh of these regions, will be delivered to us for the price they were purchased.

* * * * *

Report of Expedition to Cassiar District.

[From "Journals & Sessional Papers, British Columbia, 1873-4".]

To the Honorable the Chief Commissioner of Lands and Works, British Columbia.

SIR: From Fort Wrangle to the mouth of the Stickeen river the distance is about five miles; from the mouth of the river to the Big Bend, distance about eighteen miles; and the average course east. From the Big Bend to the Great Glacier seven miles—average course north by east. From the Great Glacier to the Hudson's Bay Company's post, distance about thirty-eight miles; average course north by east; portion of this part of the river is a great deal cut by sloughs, snaggy and shallow in the fall of the year. From the Hudson's Bay Company's post to Salmon Creek, six miles; average course west; also a portion of this part of the river is cut by sloughs, snaggy and shallow. From Salmon Creek to the Little Cañon, about seventeen miles; average course north. From the Little Cañon to Klutchman's Cañon to Clearwater River, about fourteen miles; average course north-east by north. From Clearwater River to Collins' Bar, eight miles; average course north by east. From Collins' Bar to Shakesville, about seven

miles: the average course north-east by north. From Shakesville to Miller's Bar, about nine miles: average course north-east by north. Three and a half miles above Shakesville there is one riffle, not navigable for steamboats at low water; with high water it is good; and with middling stage can go through the slough, leaving the riffle to your right. From Miller's Bar to Telegraph Creek, foot of the Great Cañon, distance nine miles: average course north east.

The ice leaves the river from the 24th April to the 5th or 6th of May. From that time, suitable river steamers can run the river until the first or middle of October: some seasons they may run later: from Collins' Bar to the first North Fork.

Vegetables and good potatoes are raised to good advantage. From the Little Cañon up, the snow falls light, from two to four feet. From the Cañon down, snow lies after it has settled, from five to nineteen feet deep in places on the river bottoms. On the Upper Stickeen, the spring opens early: the snow disappears in the latter part of March or the first of April. The weather, from the 1st of May, and through the summer months, is at times excessively warm.

When my sons and I arrived at the foot of the Great Cañon, on the 22nd May, 1873, where we expected to get an Indian for a guide: after a day or two's delay, we started without a guide. As there were no Indians on the Stickeen at that time of the year we could gather very little information about the trail. The Trail follows the Stickeen River for about twenty-five miles along a bench country, cut up by numerous deep gulches, including the first and second North Forks. At the second North Fork, we were detained two days and a half building a bridge; then the country is tolerably level and dry for twenty miles; then travelling through swamps for twelve or fourteen miles further, we came to a mountain which we were obliged to climb; we travelled on these mountains for about fifteen miles, and found ourselves getting into a slate range, which we followed for ten miles or more. This ridge of mountains runs about north and south. The waters of these mountains, as you will perceive by the map, run into the second and third North Forks of the Stickeen River.

[NOTE.—Here follows a description of the remainder of the route to the Cassiar District.]

On the 24th September, the weather turned cold, with a northeast wind, and continued so until the 29th; then it started to snow, with a north-east wind; all the miners leaving the creek. It continued cold, and snowing heavy, until the 1st October: we then packed up and left. Found Mr. Rath and brother at the mouth of the creek, and travelled out together; weather very cold, and blowing a heavy north wind, with snow. On the 3rd October, it moderated. By this time the snow was from twenty to thirty inches deep; the same day it commenced to rain. On the 7th we arrived at Buck's Bar.

Dease's Lake opens from the 15th to 25th May.

Yours respectfully,

WILLIAM MOORE.

VICTORIA, BRITISH COLUMBIA, 29th November, 1873.

THE CASE OF PETER MARTIN.

[NOTE.—The following note from the British chargé in Washington to the Acting Secretary of State is printed to complete the correspondence as published in the Appendix to the British case, page 234.]

Mr. Plunkett to Mr. Seward.

WASHINGTON, *September 25, 1877.* (Received September 26.)

SIR: With reference to the note which Sir Edward Thornton addressed to Mr. Fish on the 11th of last January, I have the honor to inform you that I have just learned from the deputy governor of Canada that the Dominion Government has concluded the inquiry into the circumstances of the case, and has decided upon setting Peter Martin at liberty without further delay.

I have the honor, &c.,

F. R. PLUNKETT.

THE COAST SURVEY REPORTS SENT TO THE BRITISH
GOVERNMENT IN 1883.

The British Minister to the Secretary of State.

WASHINGTON, *November 5, 1883.*

SIR: Earl Granville has requested me to obtain if possible copies of the United States Coast Survey Reports for the years 1874, 1876, 1877, 1878, and 1879, and I have the honour to ask your good offices in this matter should you see fit to comply with His Lordship's request.

I have the honour to be, with the highest consideration, Sir,

Your obedient servant,

L. S. SACKVILLE WEST.

The Honorable FREDERICK T. FRELINGHUYSEN.

The Secretary of State to the British Minister.

DEPARTMENT OF STATE,

Washington, Nov. 17, 1883.

The Honorable L. S. SACKVILLE WEST, etc., etc., etc.

SIR: I have the honor to transmit to you, the Annual Reports of the Coast and Geodetic Survey, for the years 1874, 1875, 1876, 1877, 1878 and 1879, which have been supplied through the Treasury for the purpose of meeting the request conveyed by your note of the 5th instant.

I have the honor to be etc.

FRED. T. FRELINGHUYSEN.

REPORT OF A MILITARY RECONNAISSANCE IN ALASKA, MADE IN 1883 BY LIEUTENANT FREDERICK SCHWATKA, U. S. ARMY.

[Printed in Senate Ex. Doc. 2, 48th Congress, 2nd session, at page 20.]

[NOTE.—The correspondence on this subject will be found in the Appendix to the British Case, pages 255-257]

* * * * *

Camp 6, the first one on the waters of the Yukon River, was on a beautiful Alpine lake, over 10 miles long, and picturesque beyond description. Here the greater majority of the hired Indians were paid off between 7 and 9 p. m., many of them returning that night over the Kotusk Mountains to the head of the Dayay at "the stone houses," it being light enough at midnight, especially on the white snow, to see the trail perfectly.

It might be of importance in a military sense to know if a Government pack-train of mules could pass over the trail from head of canoe navigation on the Dayay River, or even the mouth of that stream, to Lake Lindeman. As the trail now stands, or as we passed over it, I should say not; but believe one could be possibly found by a competent person inspecting this route for that particular purpose. As far as "the stone houses" a rough trail could be had by woodmen clearing it at needed intervals. From "the stone houses" to Lake Lindeman the trail would depend more on the time of year than any other function, it being better in winter when the snow would be harder than the spring or summer, although in these seasons I do not look on a trail as impracticable, if a proper search be made with that object in view. The fact that the country beyond Perrier Pass, in the Kotusk Mountains, lies in British territory (as shown by our astronomical observations and other geographical determinations when brought back and worked out) lessens the interest of this trail beyond the pass to the military authorities of our Government.

* * * * *

APPENDIX.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Vancouver Barracks, Washington Territory, April 7, 1883.

FIRST LIEUT. FRED. SCHWATKA,
Third Cavalry, Aid-de-Camp.

SIR: In view of the frequent reports of the disturbance of the peace between the whites and Indians in Alaska, and the indications that the present condition of affairs must lead to serious hostilities between the two elements in the near future, you are hereby directed to proceed to that Territory for the purpose of gathering all information that can be obtained that would be valuable and important, especially to the military branch of the Government.

You will ascertain as far as practicable the number, character, and disposition of all natives living in that Territory, how subdivided into tribes or bands, the section of country they inhabit, their relations to each other, and especially their disposition toward the Russian Government in the past, and the feeling that exists among them towards the present Government and the white people that are making their way into that Territory.

You will further examine and ascertain their modes of life and means of communication from one part of the country to the other, the amount and kind of weapons of war in their possession, and from where obtained.

You will further obtain such information as practicable of the character of the country and the best means of using and sustaining a military force, if one should be needed in that Territory.

You will make especial inquiry as to the kind and extent of the native grasses that would sustain animals ordinarily used in military operations, also the character of the climate, especially inland, the severity of the winters, and any other information that would be important to the military service.

You will endeavor to impress the natives with the friendly disposition of the Government, and in no case will you move in any section of the country where you cannot go without provoking hostilities or inciting the natives to resistance, as you are not authorized to exercise any control of affairs in that Territory.

You will consider this duty especial and confidential, making your reports to me, accompanied as full as possible with itineraries, maps, traces, and field-notes.

Asst. Surg. George F. Wilson, and four enlisted men, will be directed to report to you, and such Indian scouts as may be hereafter authorized. You are authorized to employ an interpreter when needed, and you will exercise strict economy in your necessary expenditures.

In making your investigation you will endeavor to complete all information in each section of the country before proceeding to another, in order that, should time not permit your full completion of this work, it may be taken up the following season.

The chiefs of the several staff departments at these headquarters will, on presentation of this letter of instructions, furnish you with the means and necessary equipments to enable you to accomplish the duty assigned to you.

Upon completion of this duty you will return to these headquarters.

Very respectfully, your obedient servant,

NELSON A. MILES,
Brigadier-General, Commanding.

DIPLOMATIC CORRESPONDENCE OF 1886.

[NOTE.—In the Appendix to the British Case, pp. 248-255, there are published letters from Messrs. Bayard and Phelps, and one letter from Lord Iddesleigh to Mr. Phelps, dated August 27, 1886, but the intervening correspondence between the two Governments does not appear. To supply that omission the following notes are reproduced. The correspondence was published in Senate Ex. Doc. 143, Forty-ninth Congress, first session.]

Lord Salisbury to Mr. Phelps.

FOREIGN OFFICE, *January 26, 1886.*

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant, forwarding a statement of the facts relating to the boundary between the British possessions in North America and the Territory of Alaska, as embodied in a dispatch which you have received from your Government, accompanied by copies of the maps referred to in Mr. Bayard's dispatch.

In reply I have the honor to inform you that the proposal of the United States Government for the appointment of a joint commission for the purpose of arriving at an understanding in regard to the boundary line separating the territories in question will receive the immediate attention of Her Majesty's Government.

I beg leave at the same time to acquaint you that I have instructed Her Majesty's minister at Washington to send home some copies of the work called "United States Pacific Coast Pilot," and I shall not fail on receiving them to return the volume which you have been so good as to forward to this department.

In the meanwhile application will be made to the proper department of Her Majesty's Government for copies of the British and Canadian official maps, referred to in the statement inclosed with your letter of the 19th instant, and I shall have much pleasure in supplying you with copies of the same as soon as I receive them.

I have the honor to be, &c.,

SALISBURY.

Mr. Holyar to Mr. Bayard.

BRITISH LEGATION,
Washington, March 12, 1886.

SIR: With reference to previous correspondence on the subject of the Alaska boundary question, I have the honor to inform you that I am authorized by his excellency the Marquis of Lansdowne to state that he has communicated to Her Majesty's Government the agreement of

the Government of Canada in principle to a preliminary survey of the Alaska boundary by a commission.

I have the honor to be with the highest consideration, sir, your obedient servant,

H. O. HELYAR.

Sir Lionel West to Mr. Bayard.

BRITISH LEGATION,
Washington, April 3, 1886.

SIR: With reference to the memorandum which I had the honor to hand to you on the 19th ultimo, expressing the general agreement of the Dominion Government to a preliminary survey of the Alaska boundary, such as was suggested in the President's message to Congress, I have now the honor to inform you that Her Majesty's Government agree in principle to this preliminary investigation of the boundary, but that such agreement must not be understood necessarily to imply the appointment of a *joint* commission.

I have, &c.,

L. S. SACKVILLE WEST.

Mr. Bayard to Sir Lionel West.

DEPARTMENT OF STATE,
Washington, April 8, 1886.

SIR: With reference to previous correspondence concerning the Alaska boundary question, I have the honor to acknowledge the receipt of your note on the 3rd instant, in which you state that the proposed agreement must not be understood necessarily to imply the appointment of a *joint* commission.

I have the honor to be, with highest consideration, sir, your obedient servant,

T. F. BAYARD.

Lord Roseberry to Mr. Phelps.

FOREIGN OFFICE, April 15, 1886.

DEAR MR. PHELPS: With reference to our conversation of the 12th instant, about the Alaska boundary, I find that the views of the Canadian Government on the proposal contained in your letter of the 19th of January, which inclosed the purport of a dispatch from Mr. Bayard, were communicated to the foreign office on the 31st ultimo.

Sir L. West has, in consequence, been instructed to inform the Government of the United States that Her Majesty's Government are prepared to take part in a *preliminary* investigation of the boundary question. This would not commit the two Governments to a joint commission such as that suggested in your note of the 19th of January.

Meanwhile, we do not propose to move further in the matter until we know what action is taken by the United States Government in regard to applying to Congress for an appropriation.

Believe me, sincerely,

ROSEBERRY.

Mr. Bayard to Mr. Phelps.

No. 280.]

DEPARTMENT OF STATE.

Washington, April 26, 1886.

SIR: With reference to previous correspondence on the subject of the Alaska boundary question, I transmit to you herewith, for the files of your legation, a copy of a memorandum in reference to the matter which was left at this Department on the 19th ultimo by Sir Lionel West.

I am, sir, your obedient servant.

T. F. BAYARD.

Alaska boundary.

Mr. Phelps's proposal was for the appointment of a joint commission.

The Dominion Government, however, while expressing its general agreement to a preliminary survey, has not expressed its assent to such a commission. They consider that a preliminary survey, such as was suggested in the President's message to Congress, is preferable to a formally-constituted joint commission, which would involve a large expenditure of public money and lead perhaps to interminable discussions.

We are of opinion that the survey which they are prepared to agree to would enable the two Governments to establish a satisfactory basis for the delimitation of the frontier and demonstrate whether the conditions of the convention of 1825 are applicable to the now more or less known features of the country.

THE DALL-DAWSON DISCUSSION.

[NOTE.—The following papers appear in Senate Executive Document No. 146, Fiftieth Congress, second session, and are now published to complete the correspondence which was partially printed in the British Case, Appendix, Vol. I, pages 257-263.]

Mr. Dall to Mr. Bayard.

SMITHSONIAN INSTITUTION,

Washington, February 13, 1888.

SIR: I have the honor to report that the suggested informal conference between Dr. George M. Dawson, of Ottawa, Canada, and the writer has been held. Dr. Dawson and myself conferred on several occasions (February 4-11) and discussed matters connected with the Alaska boundary question freely and informally.

It was mutually announced and agreed that the meeting was entirely informal; that neither party had any delegated powers whatever, and that its object was simply the arrival at a consensus of opinion as to some reasonable and business-like way of settling upon a line satisfactory to both countries, and the most practicable means of demarkating the line if one was accepted. It was thought that if Dr. Dawson and myself could unite in recommending some plan as practicable, that opinion or plan would be entitled to some consideration, from the fact that both of us are tolerably well acquainted with the nature of the country and its exploration.

In considering those points to which, in his opinion, Canadian interests give prominence, Dr. Dawson referred to—

(1) Freedom of intercourse as between the channels and inlets of Alaska and the British territories of the interior, for British subjects and their vessels, boats, or other means of transportation, especially on the Stikine and Taku Rivers and the portage at the head of Chil-koot Inlet.

Also, for American citizens, between the latter point through British territory to the Yukon River in Alaska, west of the one hundred and forty-first degree of west longitude from Greenwich; since there is no doubt that, by this route, intercourse with the Upper Yukon country is more easy than by any other route.

(2) This freedom of intercourse for Canada, Dr. Dawson thought, should include the mutual concession of the right of river steamers flying either flag to cut wood for fuel from the river banks of either territory, which by the letter of the law is now illegal even for American citizens in Alaska Territory. It should include the right or concession of the right of navigating the salt-water channels and so called inland passages of the coast archipelagos and inlets in British Columbia and in Alaska, respectively, by the citizens of the United States and subjects of Great Britain.

There is no doubt that the navigation of these coast and territorial waters might be wholly or partly withheld by either power from the citizens and vessels of the other; thus materially curtailing or rendering nugatory the conceded right to navigate the navigable rivers which extend beyond the boundary into British territory, for Great Britain, and obliging vessels of the United States, bound for ports in Alaska, to take the exposed "outside passage" between the Straits of Fuca and the territorial waters of Alaska.

(3) It would be desirable also that the transit of British miners from the coast over, for instance, the Chilkoot portage for the purpose of mining in British territory, where the passage has to be made by land, should not be impeded by the levying of customs duties on their outfit and provisions by the United States at the coast, nor should a like impediment affect American goods passing through British territory on the Upper Yukon in their transit from the coast to that part of the Yukon west of the one hundred and forty-first degree of west longitude from Greenwich, for use at American trading posts in Alaska Territory.

(4) The right of Canadian sheriffs (or equivalent officers of the law) to bring alleged criminals from the British territory in the interior and hold them in custody through the coast strip belonging to the United States and in the territorial waters of Alaska, while in transit to British Columbia for trial, is one which (under suitable regulations) might well be conceded in the interest of morals and good government.

To arrive at a state of affairs by which the above mutual concessions should be most easily managed (and waiving temporarily a construction of the treaty by which General Cameron and others for Great Britain have contended that the heads of the inlets are already British territory) Dr. Dawson is of the opinion that the best way is to so arrange a conventional boundary line as to include some concessions by the United States on the coast, and, if a *quid pro quo* is thought necessary, he suggested a cession by Great Britain to the United States of part of the interior; as, for instance, the triangular region in British territory south and west from the Upper Yukon, and between it and the present Alaskan boundary.

From this I felt compelled to dissent, considering that the mutual concessions desired might be reached by convention or treaty without cession of territory by either party, and that such an exchange as suggested, especially at the heads of inlets, would cut southeastern Alaska into two or three pieces, separated by belts of British territory, with all the inconveniences, legal and sentimental, which that implies. Also, it is my opinion that no amount of the subarctic interior would form an equivalent to the United States for any part of the coast; and I gathered from Dr. Dawson that he also believed that no amount of the same sort of territory now held by us, north of the Yukon, would be accepted by Canada in exchange for any part of the coast of British Columbia south of north latitude 54° 40'.

Differences have been alluded to, raised by General Cameron in a construction of the details of the Alaska treaty which relate to the boundary. These relate, not to those expressions in the treaty which have hitherto been considered as obscure, but to its most precise and explicit wording. As, for instance, it would be claimed from his point of view that the name *Portland Channel* in the treaty does not mean

Portland Channel, but an entirely distinct series of waters: which construction would add to Canada an area somewhat larger than the State of Delaware. He would also regard the "*line parallel to the windings (sinuosities) of the coast*" as a line which should disregard the windings of the coast, and instead of following the "*crest (crête) of the mountains*" should skip across the arms of the sea when they are less than 6 miles wide."

Waiving these fundamental differences in construction of the treaty, Dr. Dawson suggested two alternative methods of obtaining a boundary line:

(1) A line starting from certain specified fixed points on the natural routes between the coast and interior, such as those to be later referred to; the territory drained by streams debouching seaward of the fixed points to belong to the United States, and that drained by streams debouching on the opposite or inland side of the points to Great Britain. It being, however, provided that in the event of the boundary line above determined reaching a certain specified distance from the coast, it shall then follow a straight line with a prescribed course for such distance as the seaward streams may be found to lie on the British side of such line. A boundary thus formed would practically be found to follow the crest of mountain ranges for the greater part of its entire length, while it would be prevented from attaining an inconvenient inland extension by the prescribed limiting lines. The courses of the latter might be stated with sufficient precision from our present knowledge of the region and should be in each case approximately parallel to the main trend of the opposite coast.

The preceding paragraph, practically in Dr. Dawson's own language, agrees with the plan suggested in my memorandum of January 3, 1888, except for the limiting proviso, a proviso which I would cordially accept. It would seem, therefore, that in essentials we practically agree when the mode of getting at a line in this region is concerned.

(2) Dr. Dawson's alternative proposition suggests that certain points on the natural routes cutting the coast mountains should be settled upon, and that straight lines should be drawn between these points, believing these straight lines would be little more difficult to survey than the water-shed determinations suggested in the previous paragraph.

In either case the line as actually surveyed, marked, and accepted by the boundary commissioners who might have it in charge should forever remain the legal boundary line, even though it proved by more refined surveys at some later period to be slightly at variance with the theoretical line which it was intended to represent.

As to the situation of the points where these lines should take their departure, it was agreed that this would depend upon the interpretation to be placed on the treaty of 1825.

But in regard to the Chilkoot portage where there is no navigable river and which is now the most important inland route, Dr. Dawson seemed to feel that any plan not involving the possession of territory through to the sea by Great Britain would be unacceptable; while I

^aThe views of General Cameron are to be found in the accompanying copy of a letter to Sir Charles Tupper (printed above as Document No. 2), most courteously furnished me by Dr. Dawson, in order that these views should be clearly put on record.

felt equally confident that such a cession is undesirable for the United States and would not be likely to be considered seriously by them.

We both agreed that the sooner the matter is settled and decided the better for both countries. The development and population of the region is progressing and private interests growing up, which, under some circumstances, might operate to obstruct the adoption of a fair and equitable settlement in the future. At present there are few such interests to be affected, and an early settlement is doubly desirable.

I am, sir, very respectfully, your obedient servant,

WM. H. DALL.

Mr Dall to Mr. Bayard.

SMITHSONIAN INSTITUTION,

Washington, December 19, 1888.

DEAR SIR: I have the honor to submit herewith, as previously suggested, two documents relating to the Alaska boundary question. The first is a memorandum, in which I have endeavored to trace without partisanship the historical process by which the Anglo-Russian treaty of 1825 came into being, and to explain the circumstances which may be supposed to have suggested the language used in the delimitory clauses, as well as the meaning that language was intended to convey.

As the subject is full of difficulties for any one who has not had the opportunity for special investigation into the circumstances, I have felt that perhaps such a discussion might be of use to all parties concerned.

With this document are submitted the following maps, more or less necessary for a clear understanding of the discussion:

(1) Two tracings by the Coast Survey, showing the features of the region on the north shore of Portland Inlet near its mouth.

(2) British Admiralty Chart, No. 2431, showing the latest British survey of Portland Inlet.

If these papers are to be printed it is very desirable that in the same collection should appear an officially revised copy of the American-Russian treaty or convention concluded in 1824.

A similar copy of the Anglo-Russian treaty of 1825:

A similar copy, with both the English and French versions, of the American-Russian treaty of 1867, by which Alaska was ceded to the United States:

A reproduction, from the atlas of the French edition of Vancouver of 1799, of so much of chart 3 as covers the region north of the fifty-fourth parallel and that part of chart 7 which lies between the parallels of 54 and 57 degrees north latitude.

If there are any additional geographical data forthcoming from the Coast Survey, during the last year or two, it would be desirable to have them represented on a chart by themselves.

The second document submitted is a criticism in the light of the previous memorandum of the singular hypothesis regarding the boundary line which have been emitted by General Cameron of Canada, and which are formulated by Dr. Dawson in the accompanying letter to Sir Charles Tupper, of which a copy was courteously furnished by him at the time of our informal conference, already reported on.

This is accompanied by a copy of an official Canadian map on which General Cameron's hypothetical boundary line is depicted, which it would be well to reproduce as far as it relates to the Alaskan region.

I have the honor to be, very respectfully, yours,

WM. H. DALL.

Memorandum on the Alaskan boundary, by William H. Dall, A. M.

1. It is admitted by all that the language of the treaty between Great Britain and Russia of February 16-28, 1825, in so far as it attempts to define the boundary of the southeastern portion of Alaska Territory, then Russian America, is, from the modern stand-point, insufficiently precise to render misunderstanding impossible.

Leaving political or national preference aside, as far as possible, it is obvious that, to arrive at a true understanding of the intentions of the contracting parties to that treaty, it is necessary to consider the situation and historical circumstances which led up to it.

2. By reference to the publication entitled "Papers relating to the Behring Sea Fisheries, U. S. Department of State, Washington, 1887," it will be seen that Part II is composed of documents relating to the boundary discussion covering the period 1822-1838. A perusal of those documents will indicate to the fair-minded reader that in the early part of the discussion between Great Britain, Russia, and the United States the views which were finally compromised in convention and formed the basis of the discussion were that Spain (represented by the United States, which had succeeded to Spanish rights on the coast), the United States, Russia, and Great Britain had alike certain theoretical rights due to priority of discovery, trade with the natives, etc.: out that the right of possession or sovereignty *de facto*, though claimed by all, was conceded by neither, so far as the coast between the Columbia River and north latitude 55 degrees was concerned.

The Russian claim, due to original discovery, was by some put at the parallel of 55 degrees north latitude, that being about the limit of the first discovery of that coast by the Russian Capt. Alexis Chirikoff in 1741. Others claimed that the true latitude by Chirikoff's discovery was between the parallels of 48 and 49 degrees north, whence the claim of Russia was correspondingly extended southward. (See report to the Grand Duke Constantine of Capt. Lieut. Paul Nikolaievich Golovin, on the Russian colonies in America, St. Petersburg, 186; in *Morskoï Sbornik*, Vol. LVII, No. 1, III, pp. 19-192. A short abstract of part of this report is to be found in Fortieth Congress, second session, H. R. Ex. Doc. 177, pp. 109-114, 1868.)

This latter view was not established by the facts which could be adduced, and in the convention between the United States and Russia April 5-17, 1824, it was virtually abandoned. But, probably because the parallel of 55 degrees was not so situated as to afford a natural and recognizable delimitation in harmony with the physical features of the coast, an approximation to it was adopted by which advantage was taken of a natural opening in the archipelago which fringes this coast. This opening, known as Dixon's Entrance, separates the Queen Charlotte Islands from the group now known as the Alexander Archipelago, by a broad strait almost free from impediments, the eastern end of which is prolonged into the most extensive inlet which penetrates the American mainland in any part of the disputed region. If a person entirely

ignorant of the discussion had been shown Vancouver's chart of this region and directed to select a line which should separate it into two portions in the manner most in harmony with the physical characters of the land and water, he would unquestionably have drawn a line which, departing from the central channel of Portland Inlet, at its mouth, should be extended westward through Dixon's Entrance to the Pacific. If at the same time it was intended to give to Russia only as much territory as would bring her to the natural boundary, and no more, this line would be identical (on Vancouver's chart) with the parallel of 54 degrees and 40 minutes north latitude, which grazes the southern headlands of Prince of Wales Island and enters Portland Inlet practically in mid-channel.

In this connection it must be borne in mind that Vancouver's charts were at that time, and remained practically up to 1880, the only charts worthy of consideration, all others being based upon them with but trifling changes, and these not always for the better. It is certain as anything can be of which we have not documentary evidence that the maps used by the agents of the contracting parties were those of the French translation of the official edition of Vancouver's report and atlas. This translation was issued in the same form as the original, at Paris, in 1799. There are others, but of later date and more or less abridged or modified in the translation. French being the diplomatic language, the French rather than the original edition would have been used.

3. It is also necessary to remember that at that period, and for many years later, the region in question was regarded by all the civilized world as a horrid wilderness, peopled by blood thirsty savages, in itself valueless, and of importance only through its relation to the *amour propre* of the nations concerned and the daring voyages of a few adventurous fur traders. Considered as territory, a few miles more or less, in one direction or the other, would have been regarded as of absolutely no importance by either nation. Such a view persisted long afterward in relation to the far more attractive Oregon Territory, and is still widely prevalent in regard to southeastern Alaska.

4. The convention of 1824 acknowledged no rights of sovereignty. The Russians agreed not to attempt settlements south of the natural boundary above described (lat. 54° 40' N.), and the Americans agreed to make none north of that line. That the trading posts of either should not be visited by the trading vessels of the other except with the consent of the officer in command of the post, but that the trade away from the trading posts should be free to all (the sale of arms, ammunition, and liquor being prohibited) for ten years, after which the Russians might exclude the Americans from the waters north of the parallel mentioned. The convention was practically a *modus vivendi*, with delimitation of the areas in which sovereignty might accrue or eventually be admitted, but without any definite admission of such sovereignty in set terms.

5. The Anglo-Russian treaty of the following year started from this basis and took a step in advance. In it the possessions of Russia were admitted to extend southward to the parallel of 54° 40', and her sovereignty over them was effectively recognized. In territorial matters this was the only positive feature of the treaty. The differences between Great Britain and the United States in regard to the territory south of 54° 40' were not referred to, and the rights of Great Britain

on that part of the coast were recognized only inferentially, if at all; that is to say, while it was admitted that she had rights (a fact which indeed was generally conceded), there was no attempt to state or define the territorial limits of those rights, except that they did not extend north of 54° 40'. Thus Russia gained distinct recognition, but Great Britain only a *modus vivendi*.

6. The conventions above referred to were negotiated while George Canning was in charge of the British department of foreign affairs. We have the usual official correspondence between the Russian and American diplomats, and the explanatory dispatches of the latter, printed in the papers already alluded to, and in British and Foreign State papers (Vol. XIII, pp. 498-520), as well as the volumes of archives which have appeared under the auspices of the United States State Department. The unavoidable conclusion from a reading of these documents is, that the parties were, (1) chiefly concerned about a matter of principle or national pride rather than the acquisition of a little more or less of a territory regarded by all as practically worthless except for its fur trade; and (2) that in the delimitation of territory it was from the first and to the last a question of a parallel of latitude rather than of such a group of islands and such an area of the continent. Russia knew better than any one else the value of the fur trade on that coast, in the preservation of which the imperial family and many of the court were directly interested through the ownership of stock in the Russian American Company.

She desired to exclude all foreigners from approaching the coast and attempted to bring this about by the ukase of 1821. The pretensions to control of the North Pacific assumed in this ukase were inadmissible in international law and were the subject of immediate protest by the maritime powers, Great Britain and the United States. As the citizens of the United States were the first to explore and to establish trade in many parts of the region, and a naval officer of Great Britain was the first to adequately chart the greater part of it, as both had traded with little molestation on the coast for more than thirty years, it was intolerable that such a question should be treated by ukase and settled by the edict of but one of the parties concerned.

7. In the end Russia was obliged to recede wholly from the false position into which she had advanced, and the fur trade was for ten years thrown open in the Alexander Archipelago to all parties, and during that period practically destroyed, so far as sea-otters were concerned. The only compensation which Russia received for this mortification was a recognition of her sovereign rights over the coast southward to 54° 40'. This was really a great gain and probably worth more to her in the end than that part of the fur trade which she lost.

But in the state papers which have been published there is little or nothing explanatory of the minor details relating to the territorial delimitation, as finally agreed upon. It is certain that the form used was essentially the work of the Russian negotiators and expressed as closely as they thought necessary the boundaries necessary to secure to Russia the control of the trade and fisheries on the islands and shores of southeastern Alaska. The "line of 54° 40'" was then, as for many years, the central idea, and later became a campaign slogan in the United States when the northwest boundary was in question. The Russians wanted every inch of the coast to avoid the planting of

competitive trading posts in their midst. But they were obliged to yield to the British demand for free navigation of the rivers by which the traders of the British interior country could bring their furs to the sea and carry their goods to the interior. This privilege, however, was never used. The settlement of a number of minor disputes later, by leasing to the Hudson's Bay Company the trading privileges of the Alexander Archipelago, put an end to a good many matters of controversy; and the practical extinction in this region, somewhat later, of the sea-otter, the object of all this controversy, left no particular occasion for further discussion.

8. There is, fortunately, one source of light on the St. Petersburg negotiations which helps us materially to understand the motives and interests at work. This is the "Political life of the Right Honorable George Canning, from his acceptance of the seals of the Foreign Department in September, 1822, to the period of his death in 1827. By his private secretary, Augustus Granville Stapleton" (second edition, 3 vols. 8vo. London, Longmans & Co., 1831). Both the writer and the subject of the memoir were in and of the things of which it treats, and, apart from an official governmental record, no testimony could be more reliable and authentic.

The part relating to these negotiations will be found in Vol. III, pp. 114-126. The quotations which follow are *verbatim et literatim*.

9. After stating that the territorial claims of the United States, and a supposed "secret partiality for the Russian side of the question," rendered it undesirable for Great Britain to join with the United States in negotiations about this subject, and that Sir Charles Bagot, ambassador to Russia, was instructed by Mr. Canning, then foreign secretary, to treat alone with the Imperial Government, the negotiations are thus described:

The principal object of the negotiation was to obtain a recorded disavowal from Russia of the maritime pretensions advanced in the Ukaze [of September, 1821]. And then (but this was a secondary consideration) to settle some line of demarcation between the respective territories of the two countries, the settlement of which would furnish the Russian Government with a fitting opportunity for making the disavowal in question.

On the first point the Russian Ministers professed to entertain no difficulty; all therefore that it was necessary to do was to decide upon the mode of dividing the territory. For this end it was agreed as the basis upon which the negotiations should be conducted, that the claims of strict right should be provisionally waived by both Parties, and that the adjustment should be made upon the sole principle of their mutual convenience. That of Great Britain, on the one hand, required the posts on the Continent belonging to the Hudson's Bay Company, the embouchures of such rivers as afforded an outlet for the British trade into the Pacific, and the two banks of the Mackenzie River; on the other that of Russia induced Her to wish to secure to Herself Her Fisheries upon the islands and shores of the North West Coast and the posts which she might have already established on them. (*Opus cit.*, pp. 119-120.)

Here it may be noted that at this time Great Britain, as represented by the Hudson's Bay Company, had no posts on the Pacific shore of the continent north of latitude 51 degrees north; and Russia, in the form of the Russian American Company, none south of latitude 57 degrees, in round numbers. The mean latitude between these parallels would be about 54 degrees north, 40 miles south of that finally adopted.

10. The first propositions of Great Britain were not accepted by Russia, and Sir Charles was obliged to appeal to his superiors for a more extended discretion. Shortly after the British ambassador had thus suspended his negotiations, the American minister, Mr. Middleton,

succeeded in bringing those with which he was charged to a termination, by the convention of April 5-17, 1824. (See *Treaties and Conventions between the United States and other powers*, pp. 733-734; or *British and Foreign State Papers*, Vol. xii. pp. 595-599.)

This convention essentially limited settlements by the citizens of either nation respectively to the north or to the south of the natural boundary line of 54 degrees 40 minutes north latitude, which we have already described, and left the coast, apart from trading posts already established, open to navigation and trade with the natives for the period of ten years after the signing of the convention.

11. Mr. Stapleton then continues:

The boundaries desired by Russia beyond what Sir Charles had been authorized to agree to, did not in any way materially affect the interests of this Country [Great Britain]. He was, therefore, instructed to consent, with some trifling modifications to the line of demarcation for which Russia contended. But in return for this concession on the part of Great Britain, certain points as to the navigation of Behring's Straits, and as to privileges of trading were to be stipulated for which had not been contemplated in former discussions, but nevertheless were not considered to be of a nature at all unfavorable to Russian interests. Upon these points, however, the negotiation was broken off. Whether the complaints of the Russian Company against the convention with America made the Plenipotentiaries more difficult to please, or whatever else might be the cause they remained inflexible; and Sir Charles Bagot, who was about to return to England, was allowed to quit St. Petersburg in the beginning of September, 1824, without the conclusion of any definitive arrangements. This, however, was not a state of things with which Great Britain could remain contented. The indefinite postponement of an adjustment of the territorial limits was a matter of little moment; but the settlement of the maritime portion of the question she could not submit much longer to defer.

Mr. Stratford Canning was therefore sent shortly after Sir Charles Bagot's return, on a special mission to St. Petersburg for the purpose of bringing to a speedy conclusion these long-protracted discussions.

Mr. Stratford Canning was instructed to propose such alterations as were in accordance with those views of Russia, which were reasonable. If, however, the Russian plenipotentiaries should continue to be dissatisfied with the propositions of Great Britain, Mr. Stratford Canning was to be at liberty to agree to an article stipulating to negotiate hereafter respecting the territorial limits; but Mr. [George] Canning considered it essential that Russia should in some way repeal "her unjustifiable arrogation of exclusive jurisdiction over an ocean of unmeasured extent;" which, if the Russian Government would not do, then Great Britain would resort to some mode of recording in the face of the world Her protest against the pretensions of the Ukaze of 1821, and of effectually securing her own interests against the possibility of its future operations.

For such protest, however, there was fortunately no occasion. On the 28th of February, 1825, Mr. Stratford Canning signed with the Russian Plenipotentiaries a convention of which the following is the outline:

The first two Articles were in every respect similar to the first two, already described as being in the convention between Russia and the United States. The third laid down the line of demarcation, which was to commence from the southernmost point of Prince of Wales' Island in 54° 40' N. latitude, between the 131st and 133rd degree of W. longitude, and to ascend to the north along Portland Channel, as far as the point of the Continent where it would strike the 56th degree of N. latitude; thence it was to follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of W. longitude and thence along that meridian line was to be prolonged to the Frozen Ocean.

The 4th Article explained the third as giving the whole of Prince of Wales' Island to Russia; and when the summit of the mountains should exceed ten marine leagues from the coast, then the boundary was to be formed by a line drawn parallel to the windings of the coast at the distance of ten marine leagues.

The 5th Article bound the two contracting parties not to form establishments within the limits respectively assigned to the possessions of the other.

The 6th gave to Great Britain the privilege of navigating freely all the rivers and streams which in their course toward the Pacific might cross the strip of land on the coast assigned to Russia.

The 7th mutually conceded the right of trading with the respective possessions of each other for a period of ten years.

The 8th opened the port of Sitka to the commerce and vessels of British subjects for the same period, and provided that in case an extension of the term be granted to any other power the same extension should be granted to Great Britain.

The four remaining articles regulate some minor points which are not of sufficient importance to be detailed. By this Convention Great Britain secured for herself as far as Russia was concerned all that was important for her commercial interests. (*Opus cit.*, pp. 120-125.)

The explanatory words in brackets have been added by the writer to secure clearness.

12. It forms an interesting confirmation of the little weight laid by Great Britain on the matter of territorial limitation in its minor details to find, in the *Life of the Right Hon. Stratford Canning* by Col. Lane-Poole (London: Longmans, Green & Co., 1888, 2 vols., 8vo.), a work which, besides embalming greater things, fairly teems with the trifles of petty diplomacy, only the following paragraph in regard to the negotiations alluded to:

The object of this instrument [the treaty of 1825] was a good deal more than a mere question of boundary, though the latter was made to cover and mask the larger design. A Russian ukase of 1821 had advanced claims to exclusive maritime rights in the Pacific, and some public repudiation of this inadmissible pretence had to be made on the part of England. This was to be accomplished in a friendly and innocent manner by the first article of the new boundary treaty, in which our maritime and fishing rights in the Pacific were clearly maintained. The article was debated by Nesselrode and Polticia, but the treaty was finally agreed to 28 February, without any material concessions on the side of England. (*Opus cit.*, Vol. 1, p. 363.)

13. These extracts show conclusively that so far from entering into a detailed study of the minutiae of the line suggested by Russia, the British negotiators paid but little attention to it and its geographical relations, their desires and intentions hinging almost exclusively on the repudiation of the principles involved in the ukase of 1821.

14. It is also sufficiently evident from the above citations, as it is from every scrap of written evidence historically available, that Russia's object was to secure to herself the control of the "islands and shores" northward of latitude 54° 40', and, as the wording of the delimitory clauses appears to have been that suggested by the Russian negotiators, that she supposed that wording to be sufficiently precise for the purpose. Nor was she alone in this opinion. Whenever by British authorities any reference is made to this subject during the succeeding half century, the Russian position and construction of the treaty is not only not opposed, it is taken as a matter of course. One citation, among the many which might be made, to prove this, will suffice for present purposes.

Sir George Simpson, governor of the Hudson Bay Territory and a director of the Hudson's Bay Company, an astute man of affairs, and who focused in his own person all the interests which might profit by any insecurity of Russia in the generally received construction of the wording of the treaty, made in 1841 a voyage around the world, it is believed with diplomatic as well as other purposes in view. He visited southeastern Alaska, of which the fur trade was then under lease to the Hudson's Bay Company, and the coast of British Columbia, etc. He published in 1847 an account of his travels in two volumes. In the second volume (p. 209) we find the following observations:

Russia, as the reader is of course aware, possesses on the mainland between latitude 54° 40' and latitude 60 degrees only a strip, never exceeding 30 miles in depth; and this strip, in the absence of such an arrangement as has just been mentioned [the aforesaid lease], renders the interior comparatively useless to England.

15. It does not, in the writer's opinion, require further argument to enforce the conclusion that whatever construction be placed on the wording of the treaty to conform to the historic evidence and practical international usage of the two parties most interested, that construction must assume:

(1) That the parallel of $54^{\circ} 40'$ north latitude was the dominating factor.

(2) That the coast and islands north of that parallel and excepting the right of river navigation were wholly and entirely conceded to the sovereignty of Russia.

(3) That the geographical basis upon which both parties rested their delimitating description was based on the charts of Vancouver, of which the edition used was probably the French translation of 1799.

16. We may now proceed, using the officially-revised copy of the treaty, to discuss the wording in those points in which it concerns the boundary.

According to Vancouver's chart, as already herein stated, the southern headlands of the body of land called by him Prince of Wales Island were supposed to graze the parallel of $54^{\circ} 40'$. Their position has not yet been officially determined within the limit of accuracy now possible to geodetic surveyors with the best instruments. As Vancouver's latitudes depended on the use of the sextant of those early days, there was an evident possibility that the position of the headlands might finally prove to be a mile or two north or south of the accepted parallel. To avoid a wording by which Russia (in the event of the headlands being shown to project south of that parallel) should be deprived of sovereignty over the few acres concerned, the proviso was made that the island called Prince of Wales Island should belong wholly to Russia. This conclusion seems quite self-evident, and is in harmony with the rest of the treaty. We have seen no other explanation worthy of consideration so much as suggested.

17. It having been decided after years of controversy that the parallel of 54° and $40'$ should constitute the essential part of the boundary line, it probably did not occur to any of the parties concerned that before stating where the boundary line should diverge from it, they had omitted to state that the said boundary line should follow the parallel to the point of divergence from the point on that parallel where they specified the boundary line should begin. Nevertheless, as we have already shown, there is no other conclusion in harmony with the progress of the negotiations, and it has been tacitly accepted for half a century by all concerned. We therefore hold that the intent of Article III of the Convention of 1825 is to be taken as if the interpolated words in brackets formed part of it:

Commencing from the southernmost point of the island called Prince of Wales' Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and 133rd degrees of west longitude (meridian of Greenwich) the said line [proceeding along the said parallel of $54^{\circ} 40'$] shall ascend to the north along the channel called Portland Channel. (etc.)

18. At this point we come across another difficulty, or, rather, one has been suggested very recently. By a careful study of Vancouver's text it is evident that there is on this point a certain discrepancy between his charts and his text. In reading over his whole account of the survey of this inlet and its branches (Vancouver, official English edition, Vol. II, pp. 329, 330, 331, 334-340, and 371), he seems to have

varied a little in his notions, but his final treatment of Observatory Inlet extends it to Points Wales and Maskelyne, while in another place he seems to regard it as beginning at Point Ramsden (cf. *op. cit.* II, p. 375). On the other hand, he treats Portland Inlet as continuing to the sea behind Wales and Pearse Islands. So that, if the treaty is to be tried by Vancouver's text, it will result in giving to Great Britain the above-mentioned islands and some other small ones.

But on Vancouver's charts the names of Portland Canal and Observatory inlet are not extended southward to the main body of the inlet south of Point Ramsden. They are attached to the two bifurcations extending northward of which Portland Canal is the longer and most important. This is especially marked on chart 7, where there is abundance of room for extending the names southward if that had been desired by the cartographer. On the other chart, that of the north-west coast in general (No. 3, French edition), which is on a very much smaller scale, the names, especially "Entrée de l'Observatoire," do extend some distance south of Point Ramsden; but when compared with the larger and much more detailed chart 7, where this is not the case, the inference by a non-critical observer would be merely that there is not room for the name on chart 3 alongside the inlet northward from Point Ramsden, and that the extension was merely accidental. At all events, the larger and more detailed chart would be likely to produce the strongest impression on the minds of those examining both, and we may be quite certain, in view of the education at that time in vogue, that none of these gentlemen were geographers or qualified geographical critics.

There will therefore be little improbability in the assumption that the longer northern part and the broader southern part were regarded as one inlet, under the name of Portland Channel or Canal, to which Observatory Inlet became tributary at Point Ramsden. This on the same principle, by which of a newly-mapped river the largest and most important ramification is selected to bear the river name from its source to the sea, while others are regarded as tributaries.

This is the natural view to take, as nobody would mouse out the minutiae of Vancouver's text when they had, as they might justly infer, the resultant of it in the graphic form of his detailed chart. This view I believe to have been taken by the negotiators, as it certainly has since been taken by the British Admiralty office, on its charts (1853), and by everybody else until the present revival of controversy.

19. It will hardly be denied that, in the construction of the meaning of the treaty, we are to be guided by what the negotiators had before them, and the ideas they held, rather than by what was unknown and unconsidered by them. It can not be assumed that these gentlemen, after the manner of antiquaries or philologists, made searching investigations into Vancouver's nomenclature or microscopic comparisons of his charts one with another.

The most reasonable, indeed, we may fairly say, in view of all the evidence, the only reasonable conclusion is that they took as a basis for their discussion, without research or special comparison in details, the two charts (Nos. 3 and 7, French edition) in Vancouver's atlas which related to the region concerned: that they assumed their essential correctness for the purpose and were well aware that no other charts existed to which a higher grade of accuracy could be assigned.

I may add that there are to be found in Vancouver's text, when carefully compared with his charts, several instances of such discrepancies. No one can be surprised at this when aware of the melancholy circumstances under which his life was terminated just as his report was issuing from the press. I may add that, as is the general rule in such cases, subsequent geographers have followed the charts rather than the text in their use of the work.

20. We conclude, then, that an impartial survey of the circumstances would lead to the acceptance, in this instance, of the usage which has obtained among geographers in general, and those of the British Admiralty in particular, since the negotiation was concluded, and against which no single objection has been raised until the present time. Besides the fact that it has been adopted, the line drawn through Portland Inlet has the obvious advantage of being the natural as well as the conventional way northward of the boundary departing from the parallel of $54^{\circ} 40'$; and that this was the reason it was selected by the Russian negotiators I have not personally a particle of doubt.

The passage behind Pearse and Wales Islands is very narrow and obstructed by rocks. It also has several entrances at its southwestern extreme, which would lead to new difficulties of selection. Pearse and Wales Islands, though not small, are very narrow, high, rocky, bold islands, valueless for any purposes as far as now known. The general features of this vicinity are indicated on the U. S. Coast Survey reconnaissance charts reproduced herewith.

21. As we are confronted by a hiatus in the wording of the treaty, which jumps from Cape Muzon ("the southernmost point of Prince of Wales Island") to Portland Canal or Channel, so, as we proceed in order, at the head of the inlet we are met with another hiatus in the wording:

The said line shall ascend to the north along the channel called Portland Channel as far as the point of the continent where it strikes the 56th degree of north latitude.

Now by Vancouver's observations Portland Canal does not reach the fifty-sixth degree of north latitude. By the most recent British survey, even including the estuary of a small stream at the head, the inlet falls short of that latitude about 3 miles, but on Vancouver's chart about five times as much. Vancouver is probably wrong in the latitude, but this is of no help to us. Furthermore:

From the last mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast (etc.).

Now, if the channel did reach the latitude of 56 degrees north, there would necessarily be a hiatus between it and the "summit of the mountains" for which no provision is made.

The rational rendering of the clause is not difficult to conceive. The negotiators merely intended that, following the channel as long as it was available, the line should be projected in the same direction until it reached the said parallel, along which it was to extend to the summit of the mountains which are represented on Vancouver's chart 7, as existing in this vicinity in about latitude $55^{\circ} 50'$ to $55^{\circ} 55'$ north, and on his general chart in latitude 56° to $56^{\circ} 15'$. The mean latitude for the summit would be about latitude 56 degrees. That this is the correct explanation is confirmed by Stapleton, who says:

The line * * * was * * * to ascend to the north along Portland Channel as far as the point of the continent where it *would strike* the 56th degree of north latitude, etc.

This is obviously the interpretation which common sense would suggest in the absence of such historical confirmation.

22. As the "summit of the mountains" and the waters of the channel can not be conceived to physically coincide it is obvious that their intersection was not intended. It was perfectly apparent that the channel and the fifty-sixth degree of north latitude were separated on Vancouver's chart by some 15 geographical miles, consequently an intersection of these two could not have been intended. But the only remaining construction which can be put upon the wording is that the line of demarkation and the fifty-sixth parallel should intersect, which is in accordance with common sense and the historic record, as well as the subsequent usage of the parties interested, and must therefore be adopted.

23. We now come to the "crest of the mountains situated parallel to the coast." What could have suggested this expression? We turn to Vancouver's charts for a reply. There we find the area behind the sea-level on the mainland covered with the conventional signs, which, in the cartography of those days, signified mountainous or broken country. The area so treated varies in width on different parts of the coast and is bounded on the interior by a much higher and, for the most part, continuous range of mountains, indicated in the conventional manner. This range is separated from the sea by a distance which, in some places, does not much exceed 5 miles, while in other places, measured at right angles to the axis of the range, it is over 40 miles.

We have already shown that a mean position for the crest, taking charts 3 and 7 into consideration, is very close to 56 degrees north latitude, at the intersection of the produced "line of demarkation" north of Portland Channel. In logic as well as trigonometry, one intersection of two projected lines gives probability to the correctness of its location, but a third coinciding with the first amounts to proof positive of the correctness of the joint intersection. We may fairly claim, then, to have established in this manner the following first principles:

(1) That it was the "line of demarkation" which was to intersect with the fifty-sixth parallel.

(2) That the "summit of the mountains" was the crest of the range represented on the chart as coinciding practically with the above intersection.

24. Furthermore, though there are numerous spurs and short ranges of less importance indicated more or less scattered over the conventional mountainous area, the above range is the only one which preserves, together with a general parallelism to the coast, a fairly continuous domination over all other mountains represented on the chart between Portland Canal and the meridian of 141 degrees west of Greenwich. It was (assuming its existence, as the negotiators must have done) the obvious and only natural line of demarcation possible under the circumstances.

There are, however, a few breaks in this natural rampart as indicated by Vancouver; the most marked on the general chart is at the head of the Taku Inlet or estuary. For the bridging of these some provision was necessary; so in the following article it was provided that when the crest (crête) of these mountains shall prove to be at more than ten marine leagues from the ocean the limit or boundary shall be formed—

by a line parallel to the sinuosities of the coast and which shall never exceed the distance of ten marine leagues therefrom.

25. Had the topography of the main-land been really what the negotiators supposed and what Vancouver depicted, it is not probable that any important difference of opinion would ever have arisen about the boundary.

But we now have the best of reasons for the belief that no such dominating range exists, at least until the Alpine region west and north of Cross Sound and the Alexander Archipelago is reached. What shall be substituted for it with justice to our neighbors and the proper reservation of the rights of the United States is a problem with which this memorandum is not concerned. Here we have endeavored to resuscitate, as far as practicable, the circumstances under which the definition of the Russian territory was produced, the circumstances which determined its wording, and a fair and unpartisan construction of its intended meaning. If we have succeeded in throwing any light on these obscure points our object will have been accomplished.

Supplementary memorandum on the views of General Cameron, as submitted in the letter of Dr. George M. Dawson to Sir Charles Tupper, in regard to the Alaskan boundary, by William H. Dall.

1. The letter herewith reprinted was courteously furnished with the permission of Sir Charles Tupper by Dr. Dawson. It had been requested by the writer, in order that some definite statement might be had of some very surprising claims which were being discussed by unofficial agencies. As those of a venerable and gallant officer, however unversed in history or logic, General Cameron's views deserve attention; and, in showing their irrationality, I wish to repudiate once for all any intention of reflecting upon him personally, or upon any of the enthusiastic persons north of the United States who have recently amused themselves by coloring maps of North America in accordance with those views.

2. With the introductory remarks of Dr. Dawson, the reader who has followed the reasoning of my memorandum on the boundary will observe that I am in general accord. One exception to this must be taken. Dr. Dawson says:

The fact alone that these conventional mountain features are not even similarly placed on the corresponding portions of Vancouver's overlapping charts, must have been sufficient to show that no dependence could be placed on them. The only line of mountains which is practically identical on the various charts, and the existence of which could be confirmed by reference to Vancouver's detailed description, is that which is represented as everywhere rising immediately from the coast and which borders upon the sea. It is therefore to the summits of these mountains immediately bordering the coast that the words of the convention must be understood to refer. Only in the case of the absence of mountains is the 10 marine league limit admissible, and then under certain conditions, for general parallelism with the coast is also essential.

It was no doubt in consequence of the distinctly conventional mode of representation of the mountains on Vancouver's charts, and the necessary inference that they did not accurately represent the facts, that the limiting clause was inserted in the convention.

3. I have already shown in my memorandum that (1) there is no reason to believe that Vancouver's charts and text were subjected to any critical comparison whatever. If there had been any one competent to critically compare them concerned in the matter, it is highly improbable

that so slipshod a definition of the boundary line would ever have been adopted.

(2) There is not in Vancouver's Atlas any continuous line of mountains represented as everywhere arising immediately from the coast and which borders upon the sea. The sea-shore forms the edge of an area conventionally indicated as mountainous, which is a different thing. Moreover, the true line of mountains has, I believe, been positively identified in the memorandum.

(3) I have already stated what seem to me to be the obvious reasons for the insertion of the limiting clause.

4. General Cameron's views may be taken up seriatim. As quoted by Dr. Dawson they begin:

In the second clause of the fourth article provision is made for the case of the mountains being found at more than 10 marine leagues inland, and it is there laid down that the measurements shall be made not from inlets, but from the ocean.

It will be observed here that the insertion of the words "not from inlets, but" gives what is really a very false impression, though doubtless not so intended. It assumes the whole point of contention, and can not be admitted as it stands. The general continues:

The convention stipulates, "Que partout où la crête des montagnes, qui s'étendent dans une direction parallèle à la côte * * * se trouverait à la distance de plus de dix lieues marines de l'océan * * * la limite * * * sera formée par une ligne parallèle à la côte, et qui ne pourra jamais en être éloignée que de dix lieues marines."

The word ocean is wholly inapplicable to inlets.

This last sentence, it will be observed, is pure assumption, unsupported by reason, history, or fact, but a very convenient way of deciding the question in advance and saving the trouble of making an argument. The decision naturally follows with military promptitude—consequently the line, whether marked by mountains or only by a survey line, has to be drawn without reference to inlets.

Had it not been so clearly provided against by express stipulation in the second clause of the fourth article of the convention—

Unfortunately there does not appear to be any "clear provision" or "express stipulation" in the second clause of the fourth article which bears upon the general line of announcement (for we can not call it argument) which the general is giving us; but in the next clause we come at last upon something tangible, as follows:

and by the accepted principles of international law, it might, in the case of the absence of mountains, be agreed that the breadth of the *lisière*^a should be measured from the sea water's edge, wherever—in inlet or elsewhere—it outlined the continent, and that this being the coast-line, where no mountains exist within 10 leagues, is equally the coast-line whence to determine the mountains *nearest to the coast*.

But, as said above, inlets in either alternative, the occurrence or non-occurrence of mountains within 10 leagues, are not part of the coast line determining the boundary.

The last paragraph is again purely annunciatory: But to proceed:

None of the inlets between Portland Channel and the meridian of 141 degrees west longitude are 6 miles in width, excepting, perhaps, a short part of Lynn Canal; consequently, with that possible exception, the width of territory on the coast assigned under the convention to Russia may not be measured from any point within the mouths of the inlets. All the waters within the mouths of the inlets are as much territorial waters, according to an universally admitted international law, as those of a fresh-water lake or stream would be under analogous circumstances.

^a *Lisière* literally means *list*, the continuous strip of selvage on the edge of woollen cloth, and hence has become applicable to any continuous narrow strip or marginating band.

As far as non-mountainous countries may extend, but within 10 marine leagues of the ocean, the inlets are in fact included by the convention within *la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie*.

On the other hand, so much of these inlets as happen to be in mountainous territory, or beyond 10 marine leagues from the ocean, together with the dry land about them, is assigned to Great Britain as much as are rivers and lakes in the same regions.

Nothing short of an express stipulation to the contrary effect would, it is conceived, serve to maintain the proposition that inland waters in the *lisière de côte* assigned to Russia were not part and parcel of that *lisière*. But if they were really part and parcel of the *lisière* itself, their mere existence can not possibly be a reasonable foundation for arguing that they involve an increase of the breadth of the *lisière* of which they are component parts.

The limits of the *lisière* are by the convention expressly dependent on the relative positions of ocean line and neighboring mountain line. The only reference to inlets in the convention (Art. VII) is in a form almost directly declaratory of assent to the doctrine of territorial authority over them.

Though expressed with extreme obscurity of language, the idea which lies at the bottom of this contention is at least perceptible.

Civilized nations have agreed that to a certain limit from the shore the waters of the ocean and their ramifications shall be as subject to the sovereign authority of the seaboard nation for administrative purposes as if those parts were dry land.

By a legal fiction, for such purposes this part of the ocean is called *territory*, though not one drop of water is converted into land by that fiction.

Now comes General Cameron with this legal fiction as a yard-stick, and proposes to measure the area of a piece of property which is held by a deed expressed in "metes and bounds." In other and homely phrase, he is trying to "measure clover-seed by the yard."

5. Apart from the essential and inexpugnable irrationality of such a proceeding, the contention may be refuted with ease in several ways:

(1) By the historical method. The historical development of the Russian colonies in America in their territorial relation has been traced in my "memorandum." It is not necessary to recapitulate it here. It is needless to say that it gives no support to General Cameron's hypothesis. It shows that Russia needed, asked, and obtained the possession of the entire undivided coast margin, subject only to a hypothetical right of navigation through the rivers heading in the interior, which was never exercised.

(2) By the *reductio ad absurdum*. It happens that there are none of the islands in the archipelago north of Dixon's Entrance which do not at some point approach within 6 miles of one another or of the continental shore. They are all mountainous. As General Cameron, if he applies his hypothesis, has no right to apply it partially or imperfectly, it will follow that all the archipelago for that purpose will become solid land. Of this "land" there would be a strip, excluding all of the continent, in no place less than 50 and sometimes over 80 miles wide. Under the treaty not over 30 miles from the ocean could be possessed by Russia when not mountainous, and as the mountains come to the sea nearly all the way from Cape Muzon to Cape Spencer, the only property possessed by Russia in the archipelago would have been (1) Prince of Wales Island, which in the treaty is absolutely given to her, and (2) a strip a mile or two in average width on the ocean shores of the most seaward of the islands. It is perfectly easy to verify this if one would take such trouble, and it is certainly absurd enough for anybody.

There are other ways, if more were needed, of puncturing this hypothesis, but the above will suffice for the present.

6. There is a point in General Cameron's next paragraph which illustrates how remarkably the line of contention adopted by him lends itself to argument in any direction.

The paragraph is as follows:

If the sovereignty over inlets does not pass in accordance with the doctrine that they are part and parcel of the surrounding territory there was no occasion for the reciprocal concession made in the seventh article for right to navigate these inlets.

Those who have followed the historical data of my memorandum will not need to be told that the concession in Article VII, which allows ten years' free trade in the archipelago, was given to Great Britain because it had been given to the United States one year before, and was given to the United States as a sort of sop, to quiet the cry for permanent rights of trading there, owing to the fact that American vessels had traded there freely for nearly thirty years.

Moreover, if by General Cameron's hypothesis the heads of all the inlets were British territory there was no need of any concession by Russia for her to reach them. She would have had the right of access, without any treaty, to her own ports, by the most ordinary principles of law, and any such concession as that of Russia would have operated to diminish and derogate from those rights rather than increase them, unless it distinctly stated in set terms that the right of trading and navigation through the archipelago was in addition to the rights of which Great Britain (by that hypothesis) was already in possession.

7. It is, of course, in view of all the facts, nothing less than preposterous to suppose that Russia would have accepted a treaty which cut her "strip" of main-land into several portions, or that Great Britain, having the right to occupy with trading posts the richest fur region of the archipelago, and represented by the Hudson's Bay Company, the keenest corporation of that period, should nevertheless not only not assert and use these rights, but on the other hand pay money and offer skims for these very privileges to a foreign and competing corporation.

8. General Cameron continues:

Regarded from this point of view rivers and inlets are identical. As reasonable, then, would it be to hold that under the convention the breadth of the *lisière* assigned to Russia is determined by the head waters of its rivers as that the head waters of its creeks and inlets regulate its breadth.

In this we heartily agree with the general, and believe not only that it is "as reasonable," but that it is the undoubted and invincible truth that the river valleys are not the "crest of the mountains," and when they extend more than 30 miles from the coast that the seaward portion of them is the property and possession of the United States up to the 30-mile "line drawn parallel to the sinuosities of the coast."

9. We now come to the second part of the general's report, which treats of the Portland Canal or Inlet question. In this we discover the soldierly qualities of his pen as conspicuously exhibited as heretofore, and with even more courage. He attacks the theory that Portland Canal means Portland Canal, and demolishes it as follows:

With further reference to the position of the boundary, as provided for by the convention, it may be stated that the contention has been advanced by the Government of British Columbia that the words "dite Portland Channel" in Article III are palpably erroneous and not in conformity with the detailed description of the course of the line, on the following grounds:

The portion of the article in question reads: "A partir du point le plus méridional de l'île dite Prince of Wales * * * 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 56me degré de latitude nord," etc.

Now, to reach the entrance of Portland Channel from the point first defined the line must run about 50 miles east of north, and, moreover, by ascending Portland Channel it can not strike the main-land in latitude 56 degrees north, as the channel terminates before reaching this latitude, and was known so to terminate at the time of Vancouver's survey.

If, however, the name only of Portland Channel be omitted, and the directions given be precisely followed, the line will ascend Clarence Strait and reach the main-land at the stated latitude and by the stated course. The several directions with respect to the line of boundary may, it is argued, be considered as more authoritative than the single mention of Portland Channel.

The inner meaning of this heroic argument is that its originator has discovered that between the termination of Portland Canal and latitude 56 degrees north there is a hiatus, and he thereupon goes about to find a way to dispense with that hiatus. He is so much engrossed by the fact that he has found a way to reach the parallel of 56 degrees by water that he has omitted to observe that by this process he has created a new hiatus. It is not conceivable that he regards the "crest of the mountains" as situated in the channel of Burroughs Bay, where he terminates his water-line. But his new line provides no way for getting to the "crest of the mountains" from the water, so his argument, all other points being waived temporarily, is as "palpably erroneous," and for the same reason, as the construction it was intended to overthrow.

Of course the historical argument, as detailed in my "memorandum," renders any further attention to the present hypothesis unnecessary; but it may not be undesirable to point out that the treaty contemplated that the "line of demarcation" should pass through one channel, passage, or named body of water. The new hypothesis carries it through three, which were named by Vancouver; *i. e.*, Clarence Strait, Behm Canal, and Burroughs Bay. There is no reason why this should have been done, as the line of 56 degrees north latitude can be reached through Clarence Strait with less divergence from a northerly course than by the route suggested, and, though the hiatus is bigger there, in principle it does not differ from a smaller one. Besides this, a little more territory would have been added to the hypothetical Canada by the direct northerly line. There are other routes which present advantages, and in fact if one has courage to repudiate explicit statements in the treaty there is hardly anything impossible to be made out of it.

10. The general's argument then proceeds to its third point, that is to say, the construction to be placed on the name Portland Channel. Here his argument, provided one admits that the treaty is to be construed by the text of Vancouver, is sound. He says:

Apart from the above contention of the British Columbian Government, it is at least certain that if the line of boundary was intended to follow Portland Channel, it was the channel so named by Vancouver, the lower part of which channel passes to the north of Wales and Pearse Islands of recent charts. The line has been erroneously shown on many maps as running to the south of these islands, along part of Observatory Inlet of Vancouver, in consequence of a confusion of nomenclature in the region, which it has been ascertained first occurred on an Admiralty chart published in 1853, and which has thereafter been followed and copied on other charts and maps.

This matter has already been discussed in my "Memorandum." The answer to the contention is that we must construe the treaty, not by the details of Vancouver's text, which were insufficiently represented on his chart, but by the facts which the negotiators supposed

they had before them in his charts and the subsequent usage of geographers. The sticklers for the adoption of the ideas found in Vancouver's text may safely be challenged to find a single map or chart published before 1860 in which the name of Portland Canal or Channel is applied to the waters behind Pearse and Wales Islands. Unless they can find a majority of the charts and maps expressing that view it may be safely denied that those waters are or have been, at any time, to geographers "known as Portland Channel." Even the official maps published in 1884 under the direction of the Hon. W. Smithe, chief commissioner of lands and works for British Columbia, and on which General Cameron's new boundary line is inserted, still retain the names of Portland Canal and Observatory Inlet in the places where Vancouver charted them and where they have by the common consent of cartographers ever since remained.

CORRESPONDENCE RELATIVE TO THE RECIPROcity CONFERENCE OF 1892.

The British Minister to the Secretary of State.

Personal & Private.]

MAGNOLIA, MASS., 15 Sept. 1890.

DEAR MR. BLAINE. I have been hoping to receive a communication from you in reply to my official Note of August 12th which would have enabled us to resume our negotiations for the settlement of the Behring Sea question. Lord Salisbury's Despatch of August 2. of which a copy was inclosed in that note, confirms the views which I expressed at our last interview in Washington, as to the best mode of arriving at a solution of the controversy, and I should be extremely obliged if you would inform me whether I may expect to receive at an early date, your reply to his Lordship's Arbitration proposal.

In the meanwhile I desire to bring to your notice some minor subjects of negotiation connected with fisheries, which, if agreeable to you, might be entered upon before your return to Washington.

The first relates to the expediency of an international arrangement for the preservation of the Mackerel Fisheries on the Atlantic Coasts of North America, by prohibiting or restricting the use of purse-seine nets.

The second relates to the expediency of a similar arrangement for the protection of the Fisheries in the inland Waters contiguous to the United States and Canada, by the adoption of uniform Regulations restricting the catching of fish at times, and by means, which tend to exhaust those Fisheries.

The third relates to the complaint which you made to me some time ago, respecting the restrictions imposed on Newfoundland, by recent Legislation, on the sale of Bait. Those restrictions could be entirely removed as regards American Vessels, and the commercial relations greatly improved, by a distinct arrangement, independently of Canada, based on reciprocity in matters of trade and fishery. Those questions are not complicated in Newfoundland with other points in difference, and the separate arrangement which I have in mind would, I believe be mutually advantageous. It might provide that American Vessels should be put precisely on the same footing as Newfoundland Vessels as regards purchasing bait, touching and trading, selling fish, oil &c. and getting supplies; and in return that codfish, cod oil, seal oil, herring, salmon &c., the produce of Newfoundland fisheries, should be admitted unto the United States free of duty.

May I ask you to favor me unofficially with your views on the above suggestions which I think it best to submit to you in the first instance in this private and informal way. If you should be disposed to enter-

tain them, I will put them in the form of official proposals, and I shall be ready to proceed to Bar Harbor if convenient to you, to confer generally on the subject.

I remain yours sincerely

JULIAN PAUNCEFOTE.

Hon. J. G. BLAINE, &c., &c., &c.

*Memorandum left with the Secretary of State by the British Minister
December 22, 1890.*

Joint Commission to be appointed as in 1871 authorized to deal without limitation, and to prepare a treaty respecting following subjects.

1. Renewal of reciprocity treaty of 1854 subject to such modifications as the altered circumstances of both countries require—and to such extensions as commission may deem to be in interest of U. S. and Canada.

2. Reconsideration of treaty of 1888 respecting Atlantic fisheries—with view of effecting free admission of Canadian fishery products into markets of U. S. in exchange for facilities for U. S. fishermen to purchase bait and supplies, and transship cargoes in Canada. All such privileges to be mutual.

3. Protection of mackerel and other fisheries on the Atlantic Ocean, and on Inland Waters.

4. Relaxation of coasting laws of both countries on seaboard.

5. Relaxation of coasting laws of both countries on Inland Waters between U. S. and Canada.

6. Mutual salvage and saving of wrecked vessels.

7. Arrangements for delimitation of boundary between Alaska and Canada.

Such treaties to be of course ad referendum.

*Memorandum given to the British Minister by Secretary of State for
information of British Government. December 22, 1890.*

I am satisfied that it would be utterly idle to attempt to secure the appointment of a formal Commission to consider any arrangement for reciprocal trade between the United States and the Dominion. At the same time the United States stand ready to have a full but private conference with the British Minister and one or more Agents from Canada and will go over every point of difference and consider every subject upon which a mutual interest could be founded. If an agreement is reached all well. If not no official mention is to be made of the efforts.—Above all things it is important to avoid all public reference to the matter. This the President insists upon.

December 22, 1890.

The British Minister to the Secretary of State.

Private and Confidential.]

WASHINGTON, 27 Jan. 1891.

DEAR MR. BLAINE: The Canadian Govt. in deference to your preference for an unofficial conference to discuss the question of reciproc-

ity, are now disposed to agree to your proposal—but it would be necessary that your proposal should be made known as a ground for sending the Mission. They are anxious therefore to publish their proposals for bases of negotiation, which I laid before you on the 22d ult^o. and to announce also that the U. S. Govt. are willing to discuss the question of reciprocity fully though informally, with H. M. Minister at Washington and one or more Canadian Delegates. Would you have any objection to this announcement? I should be glad to telegraph your reply to Lord Salisbury if possible to-day—and I shall be ready to call on you at any time, if you desire it, as I am much better this morning and the weather more favorable.

I remain, very truly yours,

JULIAN PAUNCEFOTE.

Hon. J. G. BLAINE, &c., &c., &c.

The British Minister to the Secretary of State.

Personal.]

WASHINGTON, 31 Jan. 1891.

MY DEAR MR. BLAINE, I hope you will excuse me for troubling you again to-day on the subject of my note to you of Tuesday last the 27th respecting the Canadian proposals for a reciprocity arrangement, but I am pressed again by Telegram for a reply to the inquiry contained in that note and I should be extremely obliged if you would enable me to answer it to-day, should you find it possible to do so.

I remain, yours very truly,

JULIAN PAUNCEFOTE.

Hon. J. G. BLAINE, &c., &c., &c.

P. S.—The inquiry in my note of the 27th was whether you have any objection to the announcement by the Canadian Govt. that your Govt. are willing to discuss the question of reciprocity fully though informally with H. M. Minister at Washington and one or more Canadian Delegates.

The British Minister to the Secretary of State.

Private.]

20 MARCH 91.

DEAR MR. BLAINE, I am very sorry to hear that you are still confined to the house by indisposition. As you were good enough to say that I might communicate to you any pressing inquiry, by letter I venture to trouble you with a matter about which I am being pressed by the Canadian Govt. in case you should be able to give me an answer to their question at once.

I remain, yours very truly,

JULIAN PAUNCEFOTE.

The Secretary of State to the British Minister.

DEPARTMENT OF STATE,
Washington, April 1, 1891.

SIR JULIAN PAUNCEFOTE, G. C. M. G., K. C. B. &c., &c., &c.

MY DEAR SIR JULIAN, I duly received the note which you did me the honor to address to me on the 20th of March ultimo. I regret that for many reasons I have been unable to make an earlier response.

For convenience of reference I here quote the substantial part of your note:

In a note dated 27 January last, I had the pleasure to inform you confidentially, that the Canadian Government, in deference to your preference for an unofficial conference on the question of reciprocity, were disposed to meet your wishes in that respect.

It was understood that you would be ready after the 4th of March to discuss the subject unofficially with me and one or more agents from Canada. I have now received despatches from the Governor General of Canada in which he requests me to ascertain from you whether the present time is convenient to you for that purpose, in which case the Representatives appointed by the Canadian Government will proceed at once to Washington to confer in the manner proposed on all or any of the subjects indicated in the bases of negotiation, of which I had the honor to place a copy in your hands on the 22d. of December last.

A copy of the bases of negotiation which you placed in my hands on the 22d. of December last is appended hereto. You told me, if my memory is not in error, that you were instructed by Lord Salisbury to propose the topics to the United States for discussion and if possible for agreement. I answered you that I felt sure that the President would be unwilling to appoint a commission to consider the propositions as they were stated and furthermore that I should be unwilling to submit them to the President.

After some further consideration, in which you repeated that the propositions were merely the bases upon which a discussion might be instituted, I replied that in any event I had not a moment to give to the subject until after the adjournment of Congress in March, but that after that date I would be willing, in response to your request "to have a full but private conference with the British Minister and one or more agents from Canada, and go over every point of difference and consider every subject upon which a mutual interest could be founded. If an agreement is reached, all well; if not, no official mention is to be made of the effort. Above all things it is important to avoid public reference to the matter."

While no notes were exchanged between us, I carefully minuted my modification of the paper you left with me containing Lord Salisbury's propositions and did so immediately after you left the Department. You will observe the private character which I wish to impart to the conference is recognized by you a month later in your note of January 27, when you called the correspondence "confidential."

In view of the fact that you had come to the State Department with the proposals and that the subject was thus for the first time mentioned between us, and in view of the further fact that I agreed to "a private conference" as explained in my minute, I confess that it was a surprise to me when several weeks later, during the Canadian canvass, Sir John McDonald and Sir Charles Tupper both stated before public assemblages that an informal discussion of a Reciprocity treaty would

take place at Washington after the 4th of March, "by the initiation of the Secretary of State."

I detail these facts because I deem it important, since the matter has been for some weeks open to public remark, to have it settled that the conference was not "initiated" by me, but, on the contrary, that the private arrangement of which I spoke was but a modification of your proposal and in no sense an original suggestion from the Government of the United States.

With this explanation, it only remains for me to say that gentlemen representing the Dominion of Canada and proposing to discuss the commercial relations of the two countries, may be assured of a courteous and cordial reception in Washington by the Government of the United States.

I have the honor, &c.

JAMES G. BLAINE.

The British Minister to the Secretary of State.

4 APRIL 1891, 9.30 P. M.

DEAR MR. BLAINE, I have just received the enclosed Telegram from Sir Charles Tupper—from which I fear that he and his Colleagues must have started before he received my Telegram to him advising him of the contents of your letter to him which arrived here after his departure for Ottawa. They are evidently now on their way to Washington as the enclosed Telegram is dated from "Rouses Point Depot N. Y." I hope this will not cause you any inconvenience, as I gather from your letter to Sir Charles Tupper that you did not propose to defer the date of our meeting beyond a few days.

Believe me, truly yours,

JULIAN PAUNCEFOTE.

Hon. J. G. BLAINE, &c., &c., &c.

The British Minister to the Secretary of State.

BRITISH LEGATION,

Washington, D. C., April 8, 1891.

DEAR MR. BLAINE: I beg to thank you for your note of the 6th in which you propose the 12th of October as the date for opening the adjourned conference on reciprocal trade relations between the United States and Canada.

I have transmitted a copy of your note to the Governor General and shall have the honor to address you again as soon as I receive His Excellency's reply.

I remain, dear Mr. Blaine, very sincerely yours,

JULIAN PAUNCEFOTE.

The British Minister to the Secretary of State.

BRITISH LEGATION,
Washington, D. C., April 18, 1891.

DEAR MR. BLAINE, Immediately upon receipt of your letter of the 6th instant suggesting the 12th of October next as the date agreeable to the United States Government for opening the Conference at Washington regarding the United States and Canada, I communicated a copy of it to the Governor General of Canada, and I now have the honor to enclose a copy of the answer which I have received from His Excellency in reply to my communication.

I am, yours sincerely,

JULIAN PAUNCEFOTE.

HON. JAMES G. BLAINE, &c. &c., &c.

[Enclosure.]

The Governor General of Canada to the British Minister.

GOVERNMENT HOUSE,
Ottawa, Canada, 14th April, 1891.

SIR: I have the honour to acknowledge the receipt of your despatch No. 15 of the 5th instant enclosing a note from Mr. Blaine in which he suggests the 12th of October next as the date agreeable to the United States Government for opening the Conference at Washington regarding reciprocal trade relations between the two countries.

In reply I shall be obliged if Your Excellency will be good enough to inform Mr. Blaine that the Representatives of the Canadian Government will readily hold themselves at disposal for the purpose mentioned in your despatch now under acknowledgment and at the date named by the United States Government.

I have, etc.,

STANLEY OF PRESTON.

SIR JULIAN PAUNCEFOTE, G. C. M. G., etc., etc., etc.

Memorandum left at Department of State by the British Minister.

BRITISH LEGATION,
Washington, D. C.

Newfoundland Dft
Convention. Her Majesty's Government have not felt able to proceed with the proposed Convention, unless *pari passu* with the proposed Canadian negotiations and they continue to hope that it may be found possible to arrive at a satisfactory conclusion upon both subjects.

MAY 21, 1891.

The British Minister to the Acting Secretary of State.

BRITISH LEGATION,
Washington, D. C., October 2, 1891.

DEAR MR. WHARTON: On the occasion of our interview at the State Department on Tuesday of the 29th ultimo, you informed me that the Secretary of State would not return to the Capital until the end of this month, and you suggested that the visit of the Canadian Representatives to Washington to discuss reciprocal trade arrangements,

which was fixed for the 12th instant should be postponed, in order to enable Mr. Blaine to be present. I at once communicated with the Governor-General of Canada on the subject, and his reply is to the effect that the Government of Canada will willingly meet the convenience of the Government of the United States as to the date of the meeting, but that they would prefer that it should be held before the Christmas holidays, as the Dominion Parliament will probably assemble again soon after that time.

I am, Very truly yours,

JULIAN PAUNCEFOTE.

HON. WILLIAM F. WHARTON, &c., &c., &c.

The British Minister to the Secretary of State.

BRITISH LEGATION, 14 January 1892.

DEAR MR. BLAINE: I informed Lord Stanley of your readiness to receive the delegation from Canada and of your desire "that it may not become a public affair as it did before."

Lord Stanley has replied that owing to bye-elections now going on, the Dominion Ministers will be occupied in the Provinces until about the second week of next month. But they could be in Washington on the 10th of February if that date would suit your convenience.

His Excellency adds that the Dominion Government, while giving all possible effect to your wish for privacy, cannot prevent the movements of Ministers being known, or avoid answering questions which may subsequently be asked in Parliament respecting the general results of the discussion.

Will you kindly inform me whether it will be agreeable to you to receive the delegation on the 10th of February?

I am, dear Mr. Blaine, yours very truly,

JULIAN POUNCEFOTE.

HON. JAMES G. BLAINE, etc., etc., etc.

The British Minister to the Secretary of State.

Personal.]

BRITISH LEGATION, January 27, 1892.

DEAR MR. BLAINE: I should be extremely obliged if you would favour me with an answer to the inquiry contained in my private Note of the 14th Instant, whether it would be agreeable to you to receive the Delegation from Canada on the 10th of February next, as I am pressed for an answer by Lord Stanley.

Will you be kind enough to inform me at the same time whether Monday the 1st proximo will be a convenient date on which to open the Behring Sea Joint Commission. Sir G. Baden Powell and Doctor Dawson propose to be here on Saturday next and will be ready to meet the United States Commissioners on the following Monday.

I am anxious to send a reply by telegraph to Canada on both points today.

I am, dear Mr. Blaine, yours very truly,

JULIAN PAUNCEFOTE.

HON. JAMES G. BLAINE, &c., &c., &c.

The Secretary of State to the British Minister.

DEPARTMENT OF STATE,
Washington, February 1, 1892.

SIR JULIAN PAUNCEFOTE, G. C. M. G., K. C. B., &c., &c., &c.

MY DEAR SIR JULIAN: I have to advise you that, in accordance with your request we will receive the gentlemen from Canada who wish to discuss reciprocity between the two countries, on the 10th of February; it must be kept constantly in mind that the meeting is to be altogether an informal one.

Very sincerely yours,

JAMES G. BLAINE.

The Secretary of State to the British Minister.

17 MADISON PLACE,
Washington, 27th Feb., 1892.

SIR JULIAN PAUNCEFOTE, G. C. M. G., K. C. B.

MY DEAR SIR JULIAN: There was nothing which occurred at our conference that Sir John Thompson cannot fully speak of in Parliament or elsewhere.

I shall assume the right to do the same thing here at the proper time.

The conference was very frank. Neither party said anything which should cause them to desire secrecy.

Yours very truly,

JAMES G. BLAINE.

The Secretary of State to Mr. Foster.

DEPARTMENT OF STATE,
Washington, November 4, 1899.

HON. JOHN W. FOSTER,
Washington, D. C.

SIR: In a despatch from Lord Salisbury to Mr. Tower, Chargé d'Affaires ad interim of Great Britain at this capital, dated October 14, 1899, a copy of which is enclosed herewith, reference is made to a conference which took place at this Department in February 1892 between Secretary Blaine and yourself on the part of the United States and the British Ambassador in Washington and certain members of the Canadian Cabinet representing the Government of Great Britain.

As the conference was regarded by Secretary Blaine as wholly of an informal character, no record of its sessions exists in this Department. I shall thank you, therefore, to give me such a statement as you may be able to make respecting what took place at the conference, especially on the subject of the Alaskan boundary.

I have the honor to be, Sir, your obedient servant

JOHN HAY.

(Enclosure as above.)

Mr. Foster to the Secretary of State.

WASHINGTON, *November 7, 1899.*

Hon. JOHN HAY, *Secretary of State.*

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, with which you enclose a copy of a despatch of Lord Salisbury to Mr. Tower, British Chargé in Washington, of the 14th ultimo, and you ask me to give you a statement of what occurred regarding the question especially of the Alaskan Boundary at the Conference held in Washington in February 1892.

The Conference to which Lord Salisbury's despatch refers met for its first session in the Diplomatic Room of the Department of State on February 10, 1892, and three additional sessions were held, a final adjournment taking place February 15th. The Conference was the result of a correspondence which had extended over eighteen months. After some preliminary inquiries, the British Minister handed to Secretary Blaine, on December 22, 1890, a memorandum proposing a joint commission to prepare a treaty respecting the subjects named. The first provided for a reciprocity treaty between the United States and Canada. The next five subjects related to the Atlantic fisheries and various trade and maritime matters. The last was as follows: "7. Arrangements for delimitation of boundary between Alaska and Canada."

Mr. Blaine's answer to the proposition was that it would be useless "to attempt to secure the appointment of a formal commission for reciprocal trade between the United States and the Dominion;" but that the United States was ready to have a "private conference with the British Minister and one or more agents from Canada" upon any point of difference between them. On January 27, 1891, Sir Julian Pauncefote addressed Mr. Blaine a "private and confidential" note, stating that "the Canadian Government in deference to your preference for an unofficial conference to discuss the question of reciprocity, are now disposed to agree to your proposal."

On April 1, 1891, Mr. Blaine informed the British Minister that the Canadian gentlemen were assured of a cordial reception "to discuss the commercial relations of the two countries." Various other notes passed between the Department of State and the British Minister, in all of which the object of the Conference is referred to as of a commercial character, and in no instance is the subject of the Alaskan boundary mentioned. February 1, 1892, Mr. Blaine in a personal note to Sir Julian Pauncefote, wrote:

I have to advise you that, in accordance with your request we will receive the gentlemen from Canada who wish to discuss reciprocity between the two countries, on the 10th of February; it must be kept constantly in mind that the meeting is to be altogether an informal one.

In view of the conditions under which the conference had been assented to by Secretary Blaine, it was conducted in the most informal manner, and no joint protocols or minutes were signed. At the commencement of the Conference Sir Julian Pauncefote referred to the subjects mentioned in his memorandum of December 22, 1890. Mr. Blaine, evidently absorbed by the reciprocity question, asked that these subjects be restated, and this was done by one of the Canadian Cabinet Ministers. The matter of the Alaskan boundary was mentioned, along with the other subjects, but I am quite sure it did not

evoke any discussion and it was informally passed over with the other subordinate topics, and the question of commercial reciprocity was taken up, and it consumed the time of the first two sessions to the exclusion of all other subjects.

At the opening of the Conference on the third day the Canadian delegates submitted written proposals on the Alaskan boundary, the protection of the fisheries, wrecking and towing, and for the revival of the unratified fisheries treaty of 1888. The proposal as to the Alaskan boundary was for reference of the delimitation to some impartial authority. Objection was made on the part of the United States that the existing difference of views was not of such a character as to call for more than a joint survey and report, which would enable the two Governments to agree upon the fixation of the boundary. The discussion was of very brief duration and related mainly to the questions which had arisen as to the point where the line crossed the Stikine River and the inconvenience occasioned by this existing uncertainty. No assertion was hinted at of a British claim to the heads of the inlets or of any rights on Lynn Canal. When the Conference convened the next day, I submitted a substitute for the British proposal, which was in all respects embodied in the treaty of July 22, 1892, and this substitute was accepted without objection.

The consideration of the boundary was of the briefest duration, was treated on both sides as of slight importance, and an agreement was reached without difficulty. Although Mr. Blaine made a full report of the Conference to the President and a later one was submitted by me, the merest reference was made to the boundary, Mr. Blaine speaking of it as one of the "other questions * * * informally discussed by the Conference," and the President, in his message communicating the results of the Conference to Congress, did not even allude to it, (See S. Ex. Doc. 114, 52nd Cong. 1st Sess. Feb. 24, 1892).

As a further indication that the more recent claim of Great Britain to a boundary line which would cut across the inlets penetrating the mainland and place the heads of the inlets within British territory was not advanced at that Conference, I refer you to the correspondence on file in the Department of State between Senator Fairbanks and Lord Herschell, the chairmen of the respective delegations of the Joint High Commission of 1898. When the British Members of that Commission on the 30th of August 1898 introduced a map of Southeastern Alaska with the boundary line traced across the inlets as above described, I stated that it was the first distinct statement of the British claim. The only correction of that assertion was that the claim was advanced in the instructions given to the British Commissioners on the 1st of August 1898. The map referred to as introduced by the British Commissioners will be found in the Department of State.

Very respectfully,

JOHN W. FOSTER.

DIPLOMATIC CORRESPONDENCE SUBSEQUENT TO THE ADJOURNMENT OF THE JOINT HIGH COMMISSION.

Mr. Villiers to Mr. Choute.

FOREIGN OFFICE, *May 13, 1899.*

YOUR EXCELLENCY: At the interview which I had the honour to hold with you on the 3rd instant, Your Excellency stated, on the assumption that for the present at least the difference of view between our two Governments concerning the Alaska boundary was final and could not be adjusted by direct negotiation, that you were desirous to impress on me that there were ten other matters before the Joint High Commission upon which agreement did not seem to be out of the question, but that the way was absolutely blocked by the irreconcilable divergence of view, which had shown itself in regard to the boundary dispute. If an arbitration could be arranged it would be an issue very satisfactory to the President, but the views of the Commissioners as to the conditions on which an arbitration could be set up were almost as divergent as their views with respect to the matter itself in dispute; and while you would be very glad to see a proposition which might have the effect of referring this controversy to arbitration you looked with more hope to some arrangement by which the Alaska controversy should be separated from the rest and the negotiations be allowed to go on if possible to agreement on the other ten matters leaving the boundary question for subsequent discussion.

I replied that generally of course Her Majesty's Government were very anxious that these differences of opinion between the two countries should be adjusted, and that they would be very glad if any means of accelerating that result could be devised. I thought it possible that the Canadian Government would look upon the questions referred to the Commission as practically indivisible, and would shrink from leaving the Alaska difficulty, which was the most important and urgent difficulty, unsettled, while an agreement was come to about the rest. For it was obvious that if an agreement had appeared probable in any of these negotiations it might have been to a great extent because of the hope that by concession on these points the great boundary controversy could be brought to a close.

I promised to ascertain the views of the Colonial Office and of the Canadian Government, and the substance of your Excellency's communication was accordingly telegraphed to the Governor General of Canada, who has replied that his Ministers can see no reason why the Alaska boundary question should not be referred to arbitration at once on the lines of the Treaty for settlement of the dispute with Venezuela, and that they are ready to proceed with the other matters at issue as soon as an agreement for arbitration has been arrived at.

Although Her Majesty's Government have been disposed to believe

that the Alaska Boundary could best be dealt with in connection with a comprehensive adjustment of outstanding questions, they are quite willing, in view of the difficulties which have presented themselves, to refer the boundary dispute to arbitration, and they trust that the United States Government on their part will now agree either to an equitable adjustment of the matter or to its reference to arbitration generally on the lines proposed by the British Commissioners and accepted by both Governments in the case of the dispute as to the boundary of British Guiana.

I have the honor to be, &c.

(For the Marquess of Salisbury)

F. H. VILLIERS.

His Excellency The Honourable JOSEPH H. CHOATE, &c., &c., &c.

Lord Salisbury to Mr. Choate.

Immediate.]

FOREIGN OFFICE, *May 17, 1899.*

MY DEAR AMBASSADOR, Sir Julian Pauncefote duly reported to me the communication which passed between your Excellency and himself respecting the reference to arbitration of the Alaska boundary question.

The result of your negotiations was a proposal that, besides the rules in the draft treaty drawn up by the British Commissioners at Washington, provision should be made that in the event of the Tribunal of Arbitration finding that the settlements of Dyea and Skagway are situated within territory belonging of right to Great Britain, those settlements shall come within the operation of Rule C, and be and remain in the occupation, and within the territory and under the jurisdiction of the United States.

I have the honour to inform your Excellency that Her Majesty's Government, after consultation with the Canadian Government, and careful consideration, feel unable to accept this arrangement.

They would however be prepared to accept, as a fair and reasonable compromise, that the addition to the rules should run as follows:—
 "If Dyea and Skagway are found as the result of the award of the Arbitrators to be within the territory of Great Britain, both places will be and remain in the occupation and within the territory of the United States. If Pyramid Harbour is found to be within the territory of the United States, it will be and remain within the territory, and under the jurisdiction of Great Britain."

Mr. Tower, Her Majesty's Chargé d'Affaires at Washington, has been instructed, by telegraph, to make an official communication in this sense to Mr. Hay.

I remain, my dear Ambassador, yours very truly,

SALISBURY.

Mr. Choate to Lord Salisbury.

AMERICAN EMBASSY,

London, May 18th, 1899.

MY LORD, I have the honour to acknowledge the receipt, on the 15th instant, of your Lordship's letter of the 13th, in regard to a disposition of the Alaskan boundary question in some way which should

remove it as an obstacle to the completion of the labour of the Joint High Commission on the other question submitted to it.

I did not, in our interview of the 3rd instant, mean to be understood as assuming that the differences of view between our two Governments concerning the Alaskan boundary could not be adjusted by direct negotiations—for I am of opinion that in view of the friendly feeling now prevailing between the two nations, almost any question could be so settled—and in fact, as I am instructed, the last proposition made by the American Commissioners before the adjournment of the Commission, was to remit this important question to the two Governments for further negotiation and diplomatic settlement, and to take up the other questions and formulate a treaty agreement respecting them, which proposition was rejected and the Commission adjourned.

I was, however, most strenuous in pressing upon your Lordship the earnest desire of the President that in some way or other this question, on which the differences in the Commission were irreconcilable, should be amicably and satisfactorily adjusted so that the Commission could reconvene with a reasonable prospect of completing the rest of the work.

It is now very gratifying to learn that Her Majesty's Government is willing, in view of the impracticability of the Alaskan boundary question being settled by the Commission, to refer it to arbitration—and that the Ministers of the Governor General of Canada can see no objection to this course. I immediately reported to my Government, by cable, the last two paragraphs of your Lordship's letter which stated those facts, and had hoped before replying to receive further instructions from Washington on the subject, but the temporary absence of the President from the Capital probably occasioned a little delay.

I did not understand from your letter, that either your Lordship or the Canadian authorities by proposing an arbitration "generally on the lines" of the Venezuela Treaty, will insist upon applying rigidly to this proposed arbitration, the identical terms of that Treaty, especially since the exact proposition was made in the Commission by the British Commissioners and rejected by ours on grounds which seemed to them and to our Government conclusive. The two principal grounds of objection were as to the method of constituting the proposed Arbitral Tribunal, and the provision as to the effect of actual settlement upon the rights of the parties. The American Commissioners were of the opinion that an Arbitral Tribunal, consisting of an equal number of jurists appointed by each side, and who should decide by a majority vote, somewhat similar to the Arbitral Tribunal provided for in the General Arbitration Treaty of January 11, 1897, between the two Governments would be a most competent Tribunal to dispose of such a question as is here involved, and would be far more satisfactory than such a one as that constituted by the Venezuela Treaty; and that the United States should not be called upon to submit to any arbitration, its right to hold the territory upon which under its authority cities and towns have been built and valuable interests and industries established without protest or objection from either Her Majesty's Government or the Canadian authorities.

On these two points the views of the British and American Commissioners appear to have been irreconcilable, and the hope that by mutual concessions we may be able to agree upon terms of arbitration mutually satisfactory will be most gratifying to the President.

The alternative suggestion in your letter of an "equitable adjustment of the matter," meaning I assume, of the boundary itself, has not yet been the subject of instructions to me, but you may rest assured that it will not be overlooked by the Secretary of State.

On hearing from him I shall take the liberty of asking for a further interview.

I have the honour to be, &c.,

JOSEPH H. CHOATE.

The Most Honourable

The MARQUIS OF SALISBURY, K. G., &c., &c., &c.

Mr. Choate to Lord Salisbury.

AMERICAN EMBASSY, *London, May 19, 1899.*

MY DEAR LORD SALISBURY: After my reply of yesterday to your Lordship's note of the 13th, received on the 15th, had been prepared, I received your Lordship's letter of the 17th which caused me much disappointment and regret; because it sets at naught the whole negotiation had between Sir Julian Pauncefote and myself with the full approval, as I had supposed, of your Lordship, and puts an entirely new aspect upon the situation. Let me say in passing that the result of those negotiations was not understood between Sir Julian and myself to be a proposal on either side, but rather a suggestion of what we could fairly recommend to our respective Governments, and which, if I should find acceptable to my Government, would eventuate in a proposal from that of Her Majesty.

Your Lordship's letter does not disclose the grounds or reasons upon which the new proposition is based—that if Pyramid Harbor is found to be within the territory of the United States, it should be and remain within the territory and under the jurisdiction of Great Britain.

The proposition that Dyea and Skagway are found, as the result of the award of the arbitrators, to be within territory belonging of right to Great Britain, they should come within the operation of Rule C., and be and remain in the occupation and within the territory and under the jurisdiction of the United States, was based upon the obvious and impregnable ground that those settlements had been built and established under the authority and within the jurisdiction of the United States, and valuable interests created there without a word of protest or objection from either the British or Canadian Government, and to territory to which no adverse claim had been presented by either of them to the United States, prior at least to the signature of the Protocol of May, 1898, by which the High Joint Commission was created.

I am not, however, aware that at Pyramid Harbor any town has been built or settlement established by either British or Canadian subjects, or any interests or industries created, the protection of which would afford any reason, in justice or equity why that place, if found to be within the territory of the United States, should be set over to Great Britain.

I am therefore unable to see any correlation or reciprocity in these two propositions, and at a loss to understand the reasons for the new proposition contained in your letter—but have transmitted its exact

terms by cable to my Government and shall await its instructions with great interest and some solicitude.

With the fullest confidence in your Lordship's desire for an amicable and mutually-satisfactory adjustment of this difficult question, I shall hope, after further instructions, which I await, to resume the consideration of it with you personally.

Yours very truly,

JOSEPH H. CHOATE.

The Most Honourable

The MARQUIS OF SALISBURY, K. G., &c., &c., &c.

Lord Salisbury to Mr. Choate.

FOREIGN OFFICE, *London, July 1st, 1899.*

YOUR EXCELLENCY, The correspondence which has passed between the United States Government and that of Her Majesty, as well as the negotiations and other diplomatic intercourse which have taken place both here and at Washington, have left on the minds of Her Majesty's Ministers a strong impression that no effective progress will be made in coming to an agreement upon the subjects which divide the two countries without the assistance of arbitration. This appears to be especially the case with respect to the Alaska boundary. The different signification which the two Governments attach to the language of the Treaty of 1825 is not of a character which appears likely to be adjusted by the method of explanation or argument on the two sides. Some of the ablest men belonging to both nations have now for several months devoted the utmost erudition and acumen to this discussion, but the attainment of an agreement seems to be no nearer than when the communications began. Her Majesty's Government feel that no satisfactory agreement between the two countries can be arrived at until the difference with respect to the Alaska boundary has been adjusted, and that this adjustment can only be attained by the process of arbitration.

Much of course will depend upon the manner in which the subject of controversy is presented to the tribunal selected for arbitration, and upon the conditions by which the arbitrators' decisions are shaped and limited. Upon this mattersome preliminary discussion has already taken place between the two Governments: but no formal expression of opinion on either side in this respect, has as yet been arrived at. In order to ascertain whether any formal difference exists between them in this respect, and to pave the way if possible for an ultimate agreement, I have, on behalf of Her Majesty, to propose to Your Excellency that the Treaty of Arbitration adopted between this country and Venezuela, with the assent and largely at the instance of the United States, shall be applied to the determination of the Alaska boundary which is now under discussion. That treaty is now receiving its application at Paris, and during the three years which have elapsed since its conclusion, no question as to its fairness or applicability has arisen between the contracting parties. I am not able to find in its terms anything which is inapplicable, or which would be inconsistent with an equitable and conclusive solution of the Alaska controversy. It is possible that in some respects its details may be improved, but such as they are they appear to Her Majesty's Government to be adequate for

the purpose which we have in hand: and I have to request that Your Excellency will lay before the President the proposal of Her Majesty's Government that the Venezuela treaty, as it stands, shall be applied to the determination of the Alaska boundary between the Dominion of Canada and the United States.

I have the honor to be, &c.,

SALISBURY.

His Excellency The Hon. JOSEPH H. CHOATE, &c., &c., &c.

Mr. Choate to Lord Salisbury.

AMERICAN EMBASSY, August 9th, 1899.

MY DEAR LORD SALISBURY, To aid your Lordship in the consideration which you may give to the subject of our protracted conversation on Wednesday last, I have the honour to submit in writing the substance of what I undertook to say as to the reasons which prevent the President from assenting to the proposal, that the Venezuela Treaty, as it stands, shall be applied to the determination of the Alaska Boundary—and in respect to which he desires an exchange of views before formally responding to your Lordship's proposal contained in your note of July 1st ultimo.

As the question of the organization of the proposed Arbitral Commission is subordinate to that concerning the subject matter to be arbitrated, and the terms and conditions on which its action is limited, and ought easily to be agreed upon when the latter are once settled, I confined what I had to say to some of the reasons which, in the President's judgment, make the terms of the Venezuela Treaty, as it stands, wholly inapplicable to the present subject of controversy, in which the issues involved are radically different.

This is entirely unlike the controversy with Venezuela—in that it is a new question, raised for the first time after the Joint High Commission had been agreed upon: up to which date the claim had never been put forward, either by Great Britain or Canada, which it is now asked shall be submitted to arbitration. Whereas, in the case of Venezuela, the controversy originated a century and a half ago, and had been, in its entirety, a subject of dispute and protest for sixty years.

The coast line of the main-land (the *lisière* of the Treaty), including the inlets, had been in the possession or under the control of Russia and the United States since the Treaty between Russia and Great Britain in 1825—and the settlements on the inlets, especially those about the head of the Lynn Canal, have been made with the authority and under the jurisdiction of the United States, without any protest or claim of territorial ownership on the part of Great Britain—whereas, in the Venezuela case, the British occupation and settlements involved were upon the territory claimed by Venezuela, and against the constant protest of Venezuela; thus constituting, as Venezuela alleges, a series of advancing encroachments upon what that country claimed to be her territory.

In support of the proposition that, from the Treaty of 1825, to the cession to the United States, in 1867, the Russian Government steadily maintained its claim to a strip of territory, thirty miles in width, on

the mainland of the Continent, beginning at 54° 40' and extending north west around all the inlets and interior waters, to the 141st degree of West longitude. I called attention to the maps issued by the Russian Government, to its lease or license, contained in the Treaty with the United States of 1824, for the citizens of the latter to frequent with their ships, for ten years, "the interior seas, gulfs, harbors and creeks upon the coast," for the purpose of fishing and trading with the natives; and to Russia's refusal in 1825, to renew the privileges.

During the whole period of Russia's occupation of this strip of territory, Great Britain made no claim to it, and entered no protest; on the contrary, there were acts on her part of express recognition of the claim of Russia. By the Treaty of 1825, she took from Russia the same privileges for British subjects to frequent the same inland seas, gulfs, harbors and creeks, for ten years, as had been granted to American citizens by the Treaty of 1825, and, after the expiration of the ten years' privileges, British subjects and vessels were excluded from these interior waters; and the British Government acquiesced in this without a protest.

In the same connection, I called attention to the case of the "Dryad"—where the British Government presented and pressed upon the Russian Government a claim of the Hudson's Bay Company, for damages sustained by the detention of the vessel, destined for some point on the Stikine River, which resulted in the Hudson's Bay Company taking, in 1839, a lease from the Russian American Company (these two companies representing their respective Governments in the control of the country along the north-west coast) of the strip of territory, or *Lisière* of the Treaty for ten years, in consideration of the annual rent and the extinction of the claim. This lease was made with the authority and approval of the two Governments. The Hudson's Bay Company entered and occupied under it for the term of the lease, and for an extension of another term; and then surrendered possession, without objection or protest from any one.

I also called your Lordship's attention to the special Parliamentary enquiry into this transaction, in 1857, and to the map submitted to the Committee, and to the testimony of the Governor of the Hudson's Bay Company, showing the strip leased to have been thirty miles in width and to extend around the head of all the inlets, including the Lynn Canal.

In the opinion of the President, the action of the two Governments during Russia's occupation of the strip of territory now in controversy, makes a wholly different condition of affairs from that between Great Britain and Venezuela—and the difference has been maintained and made more distinct since the cession by Russia to the United States.

In support of this I called your Lordship's attention to the map prepared and published by the United States in 1867, which delimited the boundary—and which traced the limits of the strip on the mainland, in accordance with the uniform claim which Russia had made. Not only was no protest made against this map by the British Government, but the British map publishers and the Canadian Government adopted the same boundary line in their publications. And, in accordance with this delimitation, the United States have exercised, as I stated to your Lordship, acts of sovereignty—such as control of Indian tribes, establishment of post offices and schools, and the policing of the waters of the inlets by the Government vessels, and the enforcement of revenue and other Federal laws.

I called your Lordship's attention to the fact that, up to a very recent period, the boundary line has only twice been the subject of correspondence or discussion between our two Governments—first, in 1873-74, when there was a movement for having the boundary line marked by a Commission of scientific experts; and it was then understood that the boundary line crossed the River Skoot, Stikine, Taku, Islecat and Chileat at some place above the point where they respectively empty into the inlets of the ocean; and, shortly after that, when there was some question as to where the boundary crossed the Stikine.

I referred incidentally to the case of the Peter Martin, in 1877, the correspondence in respect to which appears in "Foreign Relations of the United States, 1877" pp. 266-271—and to the provisional agreement for Customs purposes, in 1878, the correspondence in respect to which appears in "Foreign Relations of the United States, 1878" pp. 339-346-7. The slight conflict of jurisdiction in the vicinity of Lake Lindeman, shortly after the discovery of gold in the Yukon District, seems to have but little bearing, as it related to territory between Lake Lindeman and the White Pass.

It appears clearly that not until after the Joint High Commission was created, 30th May, 1898, did either Great Britain or Canada ever advance the claim to any portion of territory lying adjacent to the inlets of the ocean, nor to the waters thereof; nor have they objected to the occupation of the same by the Government of the United States or its citizens—and at no time has any part of the territory so lately put in dispute, been held or occupied by Canadian or British Authorities.

The towns, settlements and industries about the head of Lynn Canal and the other inlets embraced in this strip of territory, having been established under these circumstances—a wholly different situation has been created in regard to them from that involved in the Venezuela case; so utterly different that the Government of the United States would feel that it was not properly guarding the rights of its citizens, if it should consent to put these settlements in peril, by applying to them the terms of the Venezuela Treaty, which was designed for a wholly different state of affairs; nor would the President feel justified in submitting the questions involved to any arbitration, unless our settlements, — made in good faith before this new claim was presented on the part of Canada,—were expressly exempted from its operation.

I also called your Lordship's attention to a material difference between the questions to be decided by the two tribunals—in the one case, the disputed interpretation of a treaty definition of a boundary line, in a treaty made seventy-four years ago, and remaining undisputed through the long period of the Russian occupancy and administration of the *Visière* and through nearly all the time that the territory has been held by the United States under the cession from Russia, and only very lately brought in question. In this case the interpretation is to be made in the light of prior and subsequent historical facts of occupation, administration and recognition, and of the acts and omissions of the parties concerned. Here while the question of actual settlements and administration is collateral to the main subject of arbitration—and, being of great importance, is rightly to be guarded by the distinct understanding suggested by the President—it is not, as the Venezuela case, the essential point directly at issue. In the other case, the controversy rested, not upon the interpretation of any such

treaty definition of the boundary line, but essentially upon the historical facts of occupancy and possession, out of which the Arbitrators were to determine the boundary line in conformity to the rules prescribed to them.

Your Lordship's proposal for an arbitration will be entertained by the President with that earnest consideration which its importance, and the high source from which it comes, deserves,—and having thus laid before your Lordship reasons for his judgment, that the two cases are radically different, and the terms of the Venezuela Treaty, as it stands, are utterly inapplicable to the present case, he thinks it would be wise, at this stage of the negotiation, to have a comparison of views—and would be much gratified if your Lordship would give your views in return upon the matter now presented, and would communicate the grounds upon which your Lordship bases the opinion that “there is nothing in the Venezuela Treaty which is inapplicable, or which would be inconsistent with an equitable solution of the Alaskan controversy.”

When the conflicting views of the parties are thus disclosed they may perhaps be reconciled or adjusted by mutual concessions—and so may the way be paved for an ultimate agreement.

I remain, &c.,

JOSEPH H. CHOATE.

The Most Honourable The MARQUIS OF SALISBURY, K. G.

Lord Salisbury to Mr. Tower, Chargé.

[Confidential.]

No. 213.]

FOREIGN OFFICE, *October 14, 1899.*

SIR: In my despatch No. 182 of the 2d [sic] August I informed you of a communication made to me by the United States Ambassador stating the grounds upon which the President felt himself unable to assent to my proposal for the reference of the Alaska boundary question to arbitration on the terms adopted in the treaty of the 2d February, 1897, between Great Britain and Venezuela.

Mr. Choate said, in conclusion, that he was instructed to express the opinion of the President that it would be wise at this stage of the negotiation to have a comparison of views, and to state that he would be much gratified if I would give my views in return upon the matter presented and communicate the grounds upon which Her Majesty's Government base their opinion that “there is nothing in the Venezuelan treaty which is inapplicable, or which would be inconsistent with an equitable solution of the Alaska controversy.”

I would observe at the outset that there appears to be some misapprehension on the part of the United States Government as to the nature and scope of the proposal submitted to His Excellency, who has treated it as if it only applied to the determination of the boundary in the neighborhood of the Lynn Canal, instead of to the whole frontier of the *lisière* of coast defined in the IIIrd and IVth Articles of the treaty of 1825.

No doubt it is in regard to that part of the boundary that the widest divergence of views has arisen between the two Governments, but it

only needs a reference to the maps which purport to mark the boundary as claimed by the respective Governments to show that the difference is by no means confined to the region of the Lynn Canal, but extends throughout the whole length of the strip from Portland Channel to Mount St. Elias.

The events of the last two or three years arising out of the Yukon gold discoveries have given exceptional prominence and importance to that part of the boundary, but it will hardly be maintained that prior to these events there was any reason why, while the whole line was undetermined, and its settlement was not regarded on either side as a matter of pressing importance, special attention should have been devoted by Her Majesty's Government to that particular region.

It is necessary to bear this in mind in considering the various reasons put forward by the United States Government, on account of which they claim to distinguish the present dispute from that recently discussed before the Tribunal of Arbitration at Paris.

The general effect of the United States contention is that the claim put forward by Her Majesty's Government that the boundary line should cross the Lynn Canal in the neighborhood of Berner's Bay, following the general line of the coast range of mountains indicated by the treaty as the position of the boundary, is a new one first put forward after the Joint High Commission had been created, and that before then Her Majesty's Government had made no claim to the head waters of the canal, or any protest against various acts on the part of Russia and the United States inconsistent with that claim, and that the United States Government are therefore justified in refusing to allow the question of the possession of these waters to be adjudicated upon by an independent tribunal.

I wish to point out in the first place that there has been but little discussion of the boundary question between the two Governments, but whenever it has been referred to it has been on the admitted basis that the whole line was undetermined, and that the interpretation of the boundary articles of the treaty was entirely an open question as to which each Government was free to urge its own views.

This was the view accepted by President Grant in his annual message to Congress of the 2d December, 1872, and by the late Secretary Bayard in his despatch to Mr. Phelps of the 20th November, 1888, and, as was pointed out in that despatch, no question concerning the true location of the line stipulated in the treaty had ever arisen between Great Britain and Russia prior to the cession of Alaska to the United States. The only value of the region during that period lay in the fur trade, and during the first ten years after 1825 that trade was thrown open on equal terms to the subjects and citizens of Great Britain, Russia, and the United States by Article VII of the treaty between Great Britain and Russia of 1825, and Article IV of the treaty of 1824 between the United States and Russia, and before the expiry of the ten years the negotiations between the Hudson's Bay Company and the Russian American Company which resulted in the lease to the former of the trade of the whole of the *lisière* southward and eastward of a line joining Cape Spencer and Mount Fairweather had been initiated. By that lease the exclusive right of trade and commerce in the *lisière* outside the line mentioned, covering practically the whole territory the boundary of which is in dispute, became vested in the company which enjoyed a similar monopoly in the territory on the

British side of the frontier, wherever it might be, and, as it was a matter of indifference to it whether it derived its rights from its British charter or its Russian lease, no question as to the true location of the line could arise. The lease, though originally for ten years only, was renewed from time to time and terminated only on the date when Alaska was ceded to the United States.

When, subsequently to that cession, the gold discoveries in the Cassiar district of British Columbia, to which the most convenient access lay through the Stikine River traversing the *lisière*, rendered it desirable to locate the boundary in that region, the discussion between the two Governments was entirely confined to the question of a joint survey, an indispensable preliminary to any attempt to fix the boundary, and never touched on the interpretation of the treaty. Indeed, in the complete absence of topographical information as to the country, it was obviously impossible to discuss that question, and it was tacitly avoided by both sides. Even when later Mr. Secretary Fish threw out the suggestion referred to by Mr. Choate that the points where the boundary crosses certain rivers might be surveyed with a view to a partial delimitation, he declared that it was doubtful whether Congress would vote the money necessary for the purpose, doubts which were speedily verified by the action of that body, and it can scarcely be a matter of surprise that a suggestion made in such circumstances failed to receive critical examination at the hands of the British or Dominion Governments, and that no attempt was made to initiate a discussion as to the interpretation of the treaty which, in the absence of a survey, must have been of a purely academic nature.

The case of Peter Martin in 1877, to which Mr. Choate also refers, does not appear to have any bearing on the matter, as it turned on the question of his unauthorized conveyance as a prisoner through United States territory, and Her Majesty's Government have never questioned the right of the United States Government to territory at the mouth of the Stikine River, though the question how far inland that territory extends remains in dispute.

Mr. Choate made no reference to the correspondence initiated by the late Mr. Bayard in his note to Mr. Phelps of the 20th November, 1885, which has already been mentioned. That note made no claim that the interpretation of the treaty as regards any particular part of the boundary line was no longer open, and the Earl of Iddesleigh, in his note to Mr. Phelps of the 27th August, 1886, inclosing copy of the map of the Dominion of Canada, geologically colored, for which Mr. Phelps had asked, and on which a line was shown separating the *lisière* from Canadian territory, stated clearly the attitude of Her Majesty's Government in regard to the position of the disputed boundary in the following words:—

In forwarding to you a copy of the map in question, I have the honor to invite your attention to the fact that the Alaska boundary line shown thereon is merely an indication of the occurrence of such a dividing line somewhere in that region. It will, of course, be readily understood that no weight could attach to the map location of the line now noticed, inasmuch as the convention between Great Britain and Russia of the 28th February, 1825, which defines the line, makes its location depend on alternative circumstances, the occurrence or the nonoccurrence, of mountains, and, as is well known to all concerned, the country has never been topographically surveyed. Her Majesty's Government therefore feel that they are bound distinctly to disavow the recognition of the correctness of the line shown, on the edition of the map in question forwarded herewith, as the boundary line between the Province of British Columbia and Alaska.

The United States Government took no exception to this declaration, which was followed later by the statement in the memorandum given to Mr. Bayard by Sir L. Sackville West on the 14th September, 1887, as to the action of Lieutenant Schwatka during his reconnaissance of 1883 in purporting to fix Perrier's Pass at the head of the Lynn Canal as a point on the boundary. It was there stated that—

Although Her Majesty's Government have agreed in principle to take part in a preliminary investigation of the Alaska boundary question, they are not prepared to admit that the points referred to by Lieutenant Schwatka in any way fix where the line should be drawn. It is not sought to raise any discussion at the present moment in regard to the position of the boundary between Alaska and British Columbia; but in order that it may not be prejudiced hereafter by absence of remark on the points alluded to above, Her Majesty's Government have thought it expedient to call the attention of the United States Government to the foregoing observations.

Shortly after in the informal discussion of the boundary question between Dr. Dawson on the part of Her Majesty's Government and Dr. Dall on the part of the United States Government, during the sittings of the Joint High Commission of 1888, the former made it distinctly clear that Her Majesty's Government claimed that the boundary should, in accordance with the terms of the treaty, be drawn along the summits of the coast range, crossing all narrow waters which were of such width as to be within territorial jurisdiction.

When the conference between the British delegates and the late Mr. Secretary Blaine was held in February 1892, the views of Her Majesty's Government as to the boundary were fully stated, and it was proposed on the part of the British representatives "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 of that country," etc.

The representatives of the United States, Mr. Blaine and General Foster, considered that it was premature to provide for a reference to arbitration until a survey had been made, and the two Governments had had an opportunity of considering and discussing the question in the light of the facts revealed by that survey, and they handed in a proposal which was accepted and embodied with slight verbal amendments in Article I of the treaty of the 22d July, 1892. That article provided for a coincident or joint survey "with a view to the ascertainment of the facts and data necessary to the permanent delimitation of said boundary line in accordance with the spirit and intent of the existing treaties in regard to it between Great Britain and Russia and between the United States and Russia," and further, that "the high contracting parties agree that, as soon as practicable after the report or reports of the commissions shall have been received, they will proceed to consider and establish the boundary line in question."

It is clear from this that the whole question of the interpretation and application of the treaty was, by common consent, left over for discussion, after the completion of the survey in the light of the facts which it disclosed, and it might fairly be argued from the express terms of the convention that both Governments had estopped themselves from contending that the boundary should be run otherwise than in accordance with the "spirit and intent" of the existing treaties

in regard to it between Great Britain and Russia and between the United States and Russia.

It is evident in any case that, at any rate, in 1892, neither Government claimed to have any rights in the disputed territory arising out of possession, occupation, or political control. Nor does it appear that any such claims were preferred on the part of the United States until the meetings of the Joint High Commission.

The elaborate series of maps on which the results of the joint survey were embodied were not received by Her Majesty's Government until March 1898, but in the meantime Her Majesty's Government, realizing the improbability of a settlement being reached by diplomatic discussion, as contemplated by the convention of 1892, and the need of an early settlement, owing to the new conditions created by the Yukon gold discoveries, had instructed Sir J. Pauncefote to propose to the United States Government a reference of the question to three jurists of high standing, one nominated by each of the two Powers, and the third by an independent power, and that this commission should proceed at once to delimit the boundary at the heads of the inlets through which the traffic for the Yukon entered, principally at the head of the Lynn Canal.

The proposal was made by Sir J. Pauncefote to Mr. Sherman on the 23d February, 1898, and in making it he specifically alluded to the divergence of views revealed by the informal discussion which took place in 1888. On the 2d March he reported to me that the United States Government were anxious for a provisional boundary, the rights of both parties being reserved pending a final settlement, but were unwilling to proceed with a new convention providing for arbitration until diplomatic discussion had failed to secure a settlement.

A proposal for a provisional boundary was made by Sir J. Pauncefote on the 18th April in a memorandum in which he stated that—

In view of the wide divergence of views existing on the subject of the Alaska-Canadian boundary, the Dominion Government fear that the suggestion to proceed with the demarcation under the convention of 1892 would lead to no result. They are, however, prepared to agree that a provisional line should be fixed without prejudice to the claims of either party at the watershed of the first summit north of Dyea. Such a provisional boundary would be at a distance of considerably more than 10 leagues from the coast.

In answering this memorandum, on the 9th May, Mr. Day stated:

In consenting to the temporary marking of the boundary line in the method just indicated, this Government desires it to be distinctly understood, on the part of both Governments, that this arrangement is not to be construed as affecting in any manner rights under existing treaties for the ultimate consideration and establishment of the boundary line in question.

When, therefore, the Joint High Commission met in August 1898 to discuss the question, it was clearly understood on both sides that the line was to be determined "in accordance with the spirit and intent" of the treaty, without restriction, the rights of both parties having been fully and distinctly reserved whenever any question of the interpretation or application of the treaty was discussed, and the fact of such reservation expressly recognized on both sides.

It has already been fully explained why no question as to the interpretation of the treaty was raised by either party until 1885, and that on the first occasion when the discussion of the matter was approached, Her Majesty's Government gave distinct notice that they entirely dis-

avowed the correctness of the line shown on the maps to which the United States Government appealed.

In view of these facts, Her Majesty's Government are fairly entitled to claim that as a settlement of the question can not be reached diplomatically, the interpretation of the treaty and its application to the facts ascertained by the survey should be submitted unreservedly to an impartial tribunal, without any such restrictions as were contained in the Venezuelan treaty, and in proposing to allow, as provided by that instrument, continuous adverse possession for fifty years, if such can be proved, to override treaty right, they have made a distinct concession to the United States.

They do not, of course, admit that there has been any such adverse possession, by way either of exercise of jurisdiction or of political control, and if the United States citizens have settled recently at the head of the Lynn Canal, they have done so in the full knowledge, as given in the documents inclosed in President Cleveland's message to Congress of the 2d March, 1889, that they were settling in disputed territory, and Her Majesty's Government are unable to see any reason why such settlement should receive further or greater recognition and protection than the United States Government considered should be accorded to British subjects who had settled in the area in dispute between this country and Venezuela.

It is not necessary to discuss in detail each of the various points advanced in Mr. Choate's communication in favor of the United States interpretation of the treaty. Facts and arguments of equal cogency can be advanced on the other side by Her Majesty's Government, and they are all points which can be submitted to an arbitration tribunal under the rules laid down in the Venezuelan treaty, and unless there are other facts and circumstances upon which the United States Government rely, but which might be excluded from the consideration of the tribunal by these rules, Mr. Choate has not, so far as can be seen, advanced any reason to warrant Her Majesty's Government in departing from the view expressed in my note of the 1st July, that there is nothing in the terms of the Venezuelan treaty "which is inapplicable or which would be inconsistent with an equitable solution of the Alaskan controversy."

The question immediately under discussion is whether or not the dispute as to the boundary should be referred to arbitration, and it is difficult to understand why the length of time during which the rival claims to disputed territory have been matters of controversy should form an element to be taken into consideration in that connection. If it be desirable, on other grounds, to employ the assistance of an impartial tribunal as the best means of terminating the dispute, the length of the period of previous controversy appears to be immaterial.

The exercise of the rights of sovereignty within the area in dispute by control of the Indian tribes and establishment of administrative machinery therein was, as the United States Government are aware, one of the principal grounds put forward by Great Britain in support of her right to the territory claimed by Venezuela, and such grounds, if put forward by the United States Government with reference to the Alaska boundary would, no doubt, be fully considered by a tribunal of arbitration, and if found to be established for the period prescribed in the treaty, might settle the controversy in their favor.

But it is not admitted that such control was exercised by the United

States until very recently and after due notice of the claim of Her Majesty's Government, and in these circumstances, the fact of its exercise appears to be a reason in favor of, rather than an obstacle to, arbitration.

The fact that the starting point in the present controversy is a treaty, and that, in the dispute with Venezuela, the claims on either side were based on discovery and occupation, can not, in the opinion of Her Majesty's Government, constitute any essential difference between the two cases. The rules agreed to by Great Britain and the United States for the guidance of the tribunal were intended to provide for the admission in argument of every ground upon which an equitable claim to disputed territory may be based. As has already been pointed out, it is the Government of the United States who have imported into the present discussion other considerations than that of strict treaty right, and I trust that on full consideration they will not continue to object to these considerations being tested by rules which, with their approval and with the consent of Her Majesty's Government, have been applied to a similar case.

If, however, the United States Government still consider that the terms of the Venezuelan treaty are in any respect inadequate to provide for an equitable settlement of the present controversy, such suggestions as they have to offer will receive attentive consideration from Her Majesty's Government.

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

I am, etc.,

SALISBURY.

R. TOWER, Esq., *etc., etc., etc.*

Mr. Choute to Lord Salisbury.

AMERICAN EMBASSY.

London, S. W., January 22, 1900.

MY LORD: Your Lordship's despatch to Mr. Tower, No. 213, of October 14, 1899, has been placed in my hands, with instructions to respond to Your Lordship's courteous request to make further suggestions in reply bearing upon the question under discussion.

The United States Government is not to be understood as refusing to submit to the adjudication of an independent tribunal the real question at issue between us in respect to the Alaska boundary. On the contrary, as I understand it, the present discussion contemplates the probability of such a submission. As I stated in my note of August 9, to which Your Lordship's note to Mr. Tower is an indirect reply, the President was prevented by the considerations there stated from assenting to the proposal that the Venezuela treaty, as it stands, should be applied here, and that the subject-matter to be adjudicated and the terms and conditions by which its action should be limited ought, if possible, first to be decided.

The Venezuela treaty was calculated, and, as the result has shown, well and properly calculated, to enable the Tribunal to make by compromise a boundary line in respect of which there has never been an agreement between the parties, and to evolve a fair adjustment of their

respective claims out of the facts of discovery, occupation, and other historical circumstances in which their dispute as to the boundary had been involved for more than a century, during which the question had been always open. But in the present instance there is an express agreement of the parties defining the boundary—in the treaty of 1825—which has subsisted ever since, practically without dispute as to its interpretation on the principal point. A clear and distinct interpretation on this point was put upon it by both parties in the written negotiations which resulted in the meeting of their minds upon it. This interpretation was regarded by both parties as vital and very important to their respective interests. It was publicly declared and acted upon by Russia from the date of the treaty until she conveyed to the United States in 1867, and all that time at any rate it was acquiesced in by Great Britain. The United States continued publicly to maintain and act upon the same interpretation with the acquiescence of Great Britain confessedly until 1885, and as we claim until 1898, when a new and wholly different interpretation on this main point was put forward by Great Britain. The two interpretations thus presented are absolutely distinct and are not involved in any confused or doubtful historical explorations. One or the other is right and can and should be ascertained and determined so to be, to the exclusion of the other, and neither party wishes to acquire an inch of the territory rightly belonging to the other. Surely the tribunal which is to pass upon such a question should not be enabled to compromise it, but should be required simply to decide it. If the difference thus raised is to be compromised, it should be compromised by the parties themselves, so that they can know exactly what they are doing.

I have spoken of the interpretation of the treaty upon the principal point. By this I mean the question whether the strip of coast (*la lisière de côte*) which by the treaty is to belong to Russia runs around the shores of the inlets or across their mouths—the former construction necessarily excluding Great Britain from the salt water at all points to a distance measured by the crests of the mountains parallel to the coast, if there are such, or by ten leagues in the absence of such mountains, while the latter construction as necessarily gives to Great Britain so much of each inlet as extends above a point crossed by a line drawn from the crest of the mountains nearest to the coast. This is a question of construction between the two parties, to be determined in the usual way by the language of the treaty interpreted in the light of the acts of the parties before and after, and including any claim of either that the other is estopped to dispute the construction which it asserts. It is eminently a question for jurists to determine judicially, and it was with this view that the United States, through its commissioners in the Joint High Commission, offered to submit it to a perfectly independent tribunal, to be composed of six learned jurists, three to be named by each party, and a majority of them to decide. It is not easy to see how any judicial tribunal could compromise it, unless expressly commissioned to do so, as in the Venezuela case. They must decide it one way or the other.

This is the question which we maintain was never raised by Her Majesty's Government until 1898. Russia and the United States claimed the former interpretation from first to last; Great Britain realized its intrinsic importance from the beginning, but never disputed our interpretation, which was open, public, and uniform. These

features of the case now presented differentiate it radically from the Venezuela case.

Your Lordship states that "no question as to the interpretation of the treaty was raised by either party until 1885." It would be more in harmony with my view of the situation to say that Russia and the United States uniformly and publicly asserted an interpretation of the treaty which Great Britain did not dispute.

But assuming this fundamental and very important question to be decided either by an independent tribunal or by agreement of the parties, another question remains still to be determined—one of great importance and which has always been open—namely, the exact location of the boundary line according to the spirit and meaning of the treaty and its precise distance at every point from the coast. This is a question of no small difficulty, growing out of the alternative provisions of the third and fourth articles of the treaty, by the former of which the width of the strip or the distance of the British possessions from the coast is to be measured to the crests of the parallel mountains, but by the latter, if no such mountains are found within ten leagues, then by that distance or by a distance never exceeding that.

This minor or secondary question might, of course, also be referred to an arbitration; but it is obviously not, like the first, a question for jurists. It would properly be disposed of by a joint survey. And it is a question of such minor importance, after the first question has been once determined, that neither party would probably desire to go to the great expense and trouble of an arbitration about it, but they would either run the line by agreement or leave it to be run by a joint survey, as was once agreed between them. For if the first question were once determined in accordance with the present contention of Her Majesty's Government, Great Britain or Canada would have in her own possession such a wide and ample stretch of seacoast, being the entirety of all inlets beyond a point crossed by a line drawn from the crests of the mountains nearest the coasts, that a few miles, or even leagues, more or less, would make no substantial difference, while, on the other hand, if that question were once determined in accordance with the uniform contention of Russia and the United States since 1825, Great Britain or Canada having no possible foothold on the seacoast through the whole length of the strip or *lisière*, a few miles, or even leagues, more or less, in its width at any point, would make no very important difference to either party.

The difficulty of locating the exact boundary line according to any interpretation of the treaty was in great measure removed by the report and maps of the joint survey created by agreement of Great Britain and the United States in 1892.

Before taking up Your Lordship's review of the facts and incidents since the date of the treaty between Great Britain and Russia, which are cited as confirming the view that the question of the interpretation of the treaty has been always open, I venture, with deference, to ask whether in that review the distinction which I have drawn between the question of the interpretation of the treaty and the question of the actual demarkation of the boundary line has not been lost sight of, for it appears very clearly to me that nearly all of them recognize as an open question the actual demarkation of the line, which must remain open until it is actually accomplished, and that they do not suggest

or assume that the question of the interpretation of the treaty now raised and insisted upon by Great Britain was open.

It would be strange indeed if Her Majesty's Government, at the time of the exchange of the treaty with Russia—or the Russian Government of that day—could have regarded the question now raised by Great Britain as left open, or that any question under the treaty was left doubtful or open for future determination, except the actual demarkation of the boundary line so as to carry out the spirit and intent of the treaty as well known to them both and freshly in their minds from the protracted and very earnest struggle which they had had over its terms.

One persistent effort of Her Majesty's representatives in that negotiation was to get to the sea, in the interest of the Hudson's Bay Company. The equally persistent effort of the representatives of Russia was to set up a barrier in a strip of land which should keep Great Britain away from the sea at all points from the southern end of Prince of Wales Island to Mount St. Elias, so that the Russian establishments on the islands and the coast belonging to the Russian American Company could by no possibility be interfered with, a point which the negotiators on behalf of Great Britain expressly and finally yielded.

I may not properly here enter upon an analysis of the protracted negotiations which culminated in the treaty of 1825. They are now very familiar, and as we claim the whole course of the negotiation shows that the British plenipotentiaries, and Mr. Secretary Canning as well, had a perfectly clear conception of the *lisière* upon which Russia insisted so strenuously—that it was to be Russia's impenetrable barrier to any alien access to or from the inner region of the mainland, a strip of territory running parallel to the sinuosities of the coast, and necessarily around the inlets and not across their mouths, extending at all points from the water's edge to the interior possessions of Great Britain, beginning at the point of the continent where the line ascending to the north along Portland Channel strikes the fifty-sixth degree of north latitude and extending to the intersection of the one hundred and forty-first meridian. It constituted a definite expanse of territory over which and over the tide water along it, as well as over the islands outside of it, Russia possessed an exclusive jurisdiction—the same which she afterwards conveyed in its entirety to the United States. It could be pierced in favor of Great Britain only by rivers having their origin in British dominions and flowing through the Russian territorial strip to tide water; and as to these, no lodgment on the Russian shore, but only access to the interior, was granted to Great Britain. The provisions as to this strip of land in the fifth and sixth articles of the original treaty, where it is referred to as "*la lisière de terre ferme*" and "*lisière de la côte*," must have been understood by the negotiators on both sides in the same sense.

And the fact that by the seventh article of the treaty Russia gave, and Great Britain took, a license for British vessels for ten years from the date of the treaty to frequent "*toutes les mers intérieures, les Colfes, Havres et Criques sur la Côte*" proves that the negotiators on both sides must have understood that all these interior waters, etc., were in Russian territory.

In view of this, we claim and insist that when the treaty was signed the question now raised and pressed by Her Majesty's Government whether the *lisière* ran around the inlets or sinuosities of the coast or

across their mouths was not left open or understood by the negotiators on either side or by either Government for which they acted as an open question, and if not then left open it certainly was never attempted to be opened until 1885—and as we claim not until 1898. Of course, the actual demarkation of the line with whatever difficulties pertained to it according to the spirit and meaning of the treaty was necessarily left open, and could only be determined after the country was explored by competent survey.

Coming now to the references to the boundary question in subsequent correspondence between the Governments which Your Lordship regards as having been always upon the admitted basis that the whole line was undetermined, and that the interpretation of the boundary articles of the treaty was entirely an open question, I submit that in each instance, especially in view of what had preceded during Russia's ownership, these references indicated or assumed no more than that the whole line was undetermined in the sense of not having been surveyed and marked, but not that the interpretation of the treaty on the main point now under consideration was in any sense open.

Immediately after the making of the treaty, the Russian Government proceeded with the preparation of a map showing the respective possessions of Russia and Great Britain as fixed by the treaty. This map was published in St. Petersburg in 1827 by order of His Imperial Majesty. It runs the boundary line from the head of Portland Channel at a distance of ten marine leagues from tide water around the head of all the inlets to the one hundred and forty-first meridian. And along this line upon the map is inscribed the words "Limites des possessions Russes et Anglaises d'après le Traité de 1825." There could have been no more direct and peremptory challenge to Great Britain, if its Government at that time regarded the interpretation of the treaty as having been left an open question at the time of its signature, or as being then an open question as to which each Government was free to urge its own views. The great importance of this location of the boundary as between the two nations, as represented respectively by the Hudson's Bay Company and the Russian American Company, must have been still very fresh and vivid upon the minds of Her Majesty's ministers who had negotiated and concluded the treaty, Russia thus proclaiming to them and to the world a clear and emphatic interpretation of the treaty which conformed to that which the negotiators on both sides had put upon it. Was not that the time and the last time for Great Britain to speak? Could her Government lie by without a protest, and at any time afterwards claim a different interpretation which would nullify the whole object of Russia in making the treaty? But Great Britain did not merely lie by without a protest; she and Canada also expressly adopted this location of the boundary exactly as Russia had defined it.

In 1831 the map prepared by Bouchette, deputy surveyor-general of the Province of Lower Canada, "published as the act directs by James Wild, geographer to the King, London, May 2nd, 1831," traces the Russian boundary on the continent exactly according to the Russian imperial map of 1827. And in 1832 the map of Arrowsmith, the most authoritative cartographer of London, whose earlier map had been used by the negotiators of the treaty, does exactly the same thing, stating upon its face that it contains the latest information which the documents of the Hudson's Bay Company furnish. And it will hardly

be questioned that at that time the Hudson's Bay Company possessed all the powers of government in the British territory in that region and was in fact the only British authority there. Can it be claimed that at the time of the publication of that map, apparently by the authority of the Hudson's Bay Company and of the British Government—at any rate without a protest from either—they then regarded the interpretation of the treaty on this cardinal point as an open question?

And on Canadian authority maps were subsequently published defining the boundary in the same way, excluding Great Britain from all access to tide water along the whole extent of the line—notably, Devine's map, published "by order of the Hon. Joseph Cauchon, Commissioner of Crown Lands, Crown Department, Toronto, March, 1857." All the map makers of the world followed suit, and a careful search has failed to discover any map published anywhere prior to 1884 in which this boundary line did not conform to the original Russian imperial map of 1827.

Your Lordship suggests that the only value of that region during the period from 1825 to 1867 lay in the fur trade; that by the terms of the treaty that trade was thrown open on equal terms for ten years to the citizens of Great Britain, Russia, and the United States; that before the ten years expired the negotiations between the Hudson's Bay Company and the Russian American Company, which resulted in the lease by the latter to the former of the *lisière*, had been initiated; and that as that lease, though made at first for ten years, by renewals terminated only on the date when Alaska was ceded to the United States, it was a matter of indifference to that company whether it derived its rights from its British charter or from the Russian lease. But to me it is hardly conceivable that the Hudson's Bay Company, backed by the whole power and prestige of the British Government, would, with its approval, have accepted that lease if either the company or the Government had had the least idea that under the treaty of 1825 they were entitled as of right to what they took by lease and to what Canada now claims; and so I insist with renewed earnestness that the taking of that lease and the renewals were declarations to the world that neither regarded as open the contention now made on behalf of Canada.

The information conveyed in Your Lordship's note, that before the expiration of the ten years' license provided in the seventh article of the treaty, negotiations had been initiated between the Hudson's Bay Company and the Russian American Company for the lease of the *lisière*, which appears to have been signed at Hamburg February 6, 1839, and that by renewals it was terminated only on the date when Alaska was ceded to the United States, is the first to that effect that my Government has received. All the data in its possession, including the Alaskan archives now in the State Department, had indicated that the negotiations for the lease had been brought about in the latter part of the year 1838, three years after the expiration of the ten years, by a note from the British Ambassador in St. Petersburg, revising the claim of the *Dryad*—and the last record in the Alaskan archives of a renewal of it only extends it to 1865. But assuming Your Lordship's information to be more accurate, we submit that both circumstances show that neither before the commencement of the lease, nor at its termination, did the Hudson's Bay Company or the British

Government, which it so fully represented, regard the question now under consideration as open, or that the premises covered by the lease were in British territory; for in the one case they would have entered upon no negotiations before the expiration of the license, and in the other would not have yielded possession without protest or murmur, but in both cases would have held on as of right.

What took place in 1857, following the appointment of a Select Committee in the House of Commons "to consider the state of those British possessions in North America which are under the administration of the Hudson's Bay Company, or over which they possess a license to trade," is extremely significant to show that no one concerned on the part of the company or the committee had any doubt about the interpretation of the treaty on the point now being discussed. Among the members of the committee were Lord John Russell, Lord Stanley, Mr. Roebuck, Mr. Gladstone, and Mr. Ellice, who was a native of Canada, and a director of the Hudson's Bay Company. Chief Justice Draper, of Canada, attended its session as the representative of the Government of Canada; Sir George Simpson, governor of the territory and president of the company, was a principal witness. In connection with his testimony he produced a map of the territory leased, saying, "There is a margin of coast marked yellow on the map from 54° 40' up to Cross Sound which we have rented from the North American Company for a term of years," and the boundary as laid down on that map conforms to the present claim of the United States, being carried around all the inlets and interior waters. The map was printed by order of Parliament, and no objection to the validity of the lease or to the correctness of the map was suggested by anybody. The lease itself was not only made with the approval of both Governments represented by the two companies, but shortly before this Parliamentary inquiry it had been ratified anew by both Governments. During the Crimean war, at the request of the two companies, the territory covered by the lease was by the order of both Governments exempted from the operations of the war.

I have thus carefully reviewed all the circumstances that intervened from the negotiations of the treaty in 1825 till the cession to the United States in 1867, a period during which, I think, we may reasonably claim that this main question was not regarded as open by either Russia or Great Britain, but that the acts of both solidly confirmed the interpretation put upon the treaty at the beginning by Russia and ever since by her and by the United States, not only because of their conclusive effect, but because it is necessary to bear this prior history in mind in considering the subsequent facts relied upon by Your Lordship as indicating that both parties subsequently regarded this question as open, and also to keep clearly in mind the distinction between this fundamental question and the actual demarcation in accordance with the spirit and intent of the treaty as thus uniformly interpreted by both parties, which was always open and never could be accomplished until after a complete survey of the region through which the line ran.

Bearing these things in mind, I submit to Your Lordship that it is impossible to sustain the suggestion that President Grant, in his annual message to Congress in December, 1872, accepted the view that "the interpretation of the boundary articles of the treaty was entirely an open question as to which each Government was free to urge its own views." On the contrary, no such idea can be read even between the

lines of his message. Indeed, he asserts the boundary to be an "admitted boundary," and only alludes to the line as being undetermined in the sense of its never having been surveyed and marked down; and the message furnishes a very strong argument in support of our present contention that the main question was not open.

It will be remembered that the award of the Emperor of Germany in the San Juan case had just then been made. The questions involved were in some respects singularly like those involved here: first, whether the water boundary described in the treaty ran through Rosario Channel or through Haro Channel, and, second, whichever channel was decided to be the one, to survey and mark it out according to the spirit and intent of the treaty. The British commissioners had proposed that the arbitrator should have the right to draw the boundary through an intermediate channel. The American commissioners declined this proposal, stating that they desired a decision, and not a compromise; and the submission to the Emperor was to determine whether it ran through one channel or the other, and his award had been that it was most in accordance with the true interpretation of the treaty that the boundary line should be run through the Haro Channel; but this left still undetermined the tracing out and marking of the line in conformity with the award.

President Grant, having in his message stated the history of the case and his satisfaction with the award and with the prompt and spontaneous action of Her Majesty's Government giving effect to it, and having already said, "The award leaves us, for the first time in the history of the United States as a nation, *without a question of disputed boundary between our territory and the possessions of Great Britain on this continent,*" proceeds:

It now becomes necessary to complete the survey and determination of that portion of the boundary line (through the Haro Channel) upon which the commission which determined the remaining part of the line were unable to agree. I recommend the appointment of a commission to act jointly with one which may be named by Her Majesty for that purpose.

Experience of the difficulties attending the determination of our admitted line of boundary, after the occupation of the territory and its settlement by those owing allegiance to the respective Governments, points to the importance of establishing, by natural objects or other monuments, the actual line between the territory acquired by purchase from Russia and the adjoining possessions of Her Britannic Majesty. The region is now so sparsely occupied that no conflicting interests of individuals or of jurisdiction are likely to interfere to the delay or embarrassment of the actual location of the line. If deferred until population shall enter and occupy the territory, some trivial contest of neighbors may again array the two Governments in antagonism. I therefore recommend the appointment of a commission, to act jointly with one that may be appointed on the part of Great Britain, to determine the line between our territory of Alaska and the conterminous possessions of Great Britain. (For. Rel., U. S., 1872.)

Is it not absolutely certain that no idea of there being any open question about the interpretation of the treaty had ever entered the President's mind? He declares it to be "an admitted line of boundary," and recommends, exactly as in the San Juan case upon the footing of the award, "a joint commission to determine the line."

President Grant's recommendation was occasioned by personal conference between the British Minister, Sir Edward Thornton, and the Secretary of State, Mr. Fish, in the preceding month, in which the former, under instructions from the Foreign Office, proposed the appointment of a joint commission for the purpose of defining the boundary between Alaska and British Columbia, and he reported

under date of November 25 that Mr. Fish stated that the President had determined to recommend in his annual message that a joint commission be appointed "for the purpose of laying down the boundary." On the 23d of December of the same year Sir Edward Thornton, referring to his previous conference with Secretary Fish, transmitted to the Foreign Office a copy of the bill introduced in Congress "authorizing the survey and marking of the boundary" (see Canadian Session Papers, 1878, No. 125, pp. 6, 7, 8). In no part of this correspondence is there any intimation that the interpretation of the treaty was in dispute. It was merely a movement to have the boundary fixed by the treaty surveyed and marked.

When gold was discovered in the Cassiar region, which was reached through the Stikine, and the passage of miners up that river ensued, it was deemed wise to have the eastern boundary of the *lisière* where it crosses that river more accurately defined, which led to the movement in 1873-74 on the part of the two Governments for a joint survey. The cost of a survey of the entire boundary being objected to, it was suggested, in a conference between Sir Edward Thornton and Secretary Fish, that it would be sufficient to fix the boundary at certain named points, viz. the head of the Portland Canal, "the points where the boundary line crosses the rivers Skoot, Stikine, Taku, Islecat, and Chilkat, Mount St. Elias, etc." The legislative assembly of British Columbia, in petitioning the Canadian Government for a survey, refers to it as "the boundary of the thirty-mile-belt of American territory." Dennis, Surveyor-General of Canada, to whom the matter was referred, restated the points to be determined and named the rivers, viz. Skoot, Stikine, Taku, Islecat, and Chilkat. The Skoot was at no point nearer than 25 miles to tide water, and the points of crossing of the rivers were far above the heads of inlets into which they emptied. The survey was agreed upon, but failed because Congress made no appropriation; but it is clear that the British and Canadian authorities understood that the eastern boundary of the strip crossed the rivers named at some point above their mouths, which are at the head of inlets, including Lynn Canal, and that the boundary could not therefore cross any of those inlets, which is quite inconsistent with the theory that the question was then regarded as open whether the *lisière* ran around the inlets or crossed their mouths.

In the years 1874 to 1876, questions arose as to the proper location of custom-houses of the two Governments on the Stikine River, and the point in dispute centered around the crossing of the river by the boundary line 30 miles in a direct line from the coast. The British Minister, reciting the complaint, stated that the British custom-house was "supposed to be within the United States territory—that is, within the ten marine leagues from the coast." The Privy Council of the Dominion of Canada, in moving the Governor-General to bring the subject of the survey again to the attention of the United States, recites that "the Stikine River intersects the international boundary in the vicinity of the fifty-seventh degree of north latitude"—that is, 30 nautical miles from the coast in a direct line.

It is admitted by Your Lordship that in 1873 the discussion between the two Governments was entirely confined to the question of a joint survey, an indispensable preliminary to any attempt to fix the boundary and "never touched upon the interpretation of the treaty." But

my Government can not agree to the proposition that "in the complete absence of topographical information as to the country, it was obviously impossible to discuss that question and that it was tacitly avoided by both sides."

What could the absence or presence of topographical information as to the country have to do with the question whether the *lisière*, by the true interpretation of the treaty, ran around the inlets or across their mouths? whether it was intended to be a continuous border of solid land, which should serve as an effectual barrier against the access of the Canadians to salt water, or should be no strip at all, but a broken series of portions of the coast, admitting Canada to full possession and enjoyment of the interior waters in many places? And how could the suggestion of Secretary Fish as to the points where the boundary described in the treaty crossed the rivers, all of which were points of considerable distance above the inlets, fail to command the attention of Her Majesty's Government if it had all this time been of opinion that the upper part of these inlets was in each case in British territory? If, as Your Lordship concedes, the subject of the interpretation of the treaty was in that correspondence tacitly avoided on the side of Great Britain, may we not fairly claim that the reason for silence on the part of the United States was because the positive interpretation which had been publicly and uniformly asserted by Russia and themselves for nearly fifty years had never been questioned; in other words, because there was no question? Certainly, the United States never avoided it, tacitly or otherwise.

My Government does not regard what took place between the two Governments in 1876-77 in the case of Peter Martin as having any conclusive bearing. My reference to it in my note of August 9 was quite casual, as to one of the very few instances in which there had been any correspondence on the subject of the boundary; but there are certain features in that case which are relevant. No one can read the note of Secretary Fish to Sir Edward Thornton of January 10, 1877, and impute to him any suspicion that the interpretation of the treaty definition of the boundary on the point now under consideration was open, or that anything was left undetermined except the exact location of the admitted boundary line. He says:

The absence of a line defined and marked on the surface of the earth as that of the limit or boundary between the two countries can not confer upon either a jurisdiction beyond the point where such line should in fact be—that is, the boundary which the treaty makes the boundary. Surveys make it certain and patent, but do not alter rights or change rightful jurisdiction.

It is quite true that the Minister of Justice recommended that the release of Martin be put upon the ground of the conveyance of the prisoner through American territory. But the British *Chargé*, in his note to Mr. Fish, did not state the ground upon which the release was ordered: and the proceedings seemed to involve a tacit concession on the part of Great Britain that the place of the assault was in American territory. The demand for his release was upon that ground, and the British Minister so understood it. In examining the Canadian documents in relation to the case, it appears that the surveyor, who was sent by the Canadian Surveyor-General to visit the locality, reported four months before the release of Martin that the assault for which Martin was tried was committed in the territory of the United States 13 miles from the mouth of the Stikine River; and the Minister

of Justice, to whom the case was referred for investigation, reported to the Privy Council that the assault was upon American territory, and no suggestion to the contrary was made by anyone on the part of Great Britain.

In my note of August 9, I made no reference to Mr. Bayard's note to Mr. Phelps of November 20, 1885, and to the correspondence which that note initiated. This omission was not from overlooking that note and correspondence, but because a careful reading of it had satisfied me; and now that Your Lordship has brought it up, I submit to your candid judgment that Mr. Bayard did not there take the view that the interpretation of the boundary articles of the treaty was an open question, but only that the demarkation of the line was undetermined and was full of difficulties in the then state of topographical knowledge. Of course, Mr. Bayard in that note made no claim that the interpretation of the treaty as regards any particular part of the boundary line was no longer open, for nobody, so far as we can discover, had up to that date claimed that it was open. Certainly no one on the part of Her Majesty's Government had done so. Undoubtedly, Mr. Bayard did point out in that note that "no question concerning the true location of the line stipulated in the treaty had ever arisen between Great Britain and Russia prior to the cession of Alaska to the United States." But in the same paper and in the same connection, he had already said, "It is certain that no question has arisen *since* 1867 between the Governments of the United States and Great Britain in regard to this boundary," thus covering the whole period from 1825 to 1885. In view of these emphatic declarations, my Government is at a loss to understand how he can be held to have sustained the view that at the latter date the interpretation of the treaty as to the boundary was an open question between the two Governments.

All the statements of Mr. Bayard and Mr. Phelps in the correspondence that followed must be read in the light of these declarations and in view of the object at which they were aiming, viz. to obtain, not an arbitration to interpret the treaty, but a joint commission, which should make a survey of the line stipulated by the treaty, or, as Mr. Bayard afterwards limited it (in his subsequent instruction of March 19, 1886, to Mr. Phelps), to "an agreement for a preliminary survey of the Alaska boundary with a view to the discovery of such natural outlines and objects as may be made the basis for a future formal convention for the survey of the boundary line." He was deeply impressed with the extreme difficulty and enormous expense of a survey of the boundary line—difficulties and expense which we think have been very greatly reduced by the report of the joint commission appointed in 1892 and the maps prepared by that commission—but all that Mr. Bayard and Mr. Phelps said may be read in vain for any indications of a doubt in the mind of either, whether the *lisière* was a continuous and solid strip of land running around the inlets, and excluding Great Britain from access to the sea in every part of its length, or a congeries of broken strips interrupted at the mouth of every inlet and admitting her to exclusive possession of all parts of every inlet above a point crossed by a line drawn from the crests of the mountains nearest to the coast. The difficulties of which Mr. Bayard treated at great length were the same which Mr. Fish and the experts of both Governments then consulted had encountered in 1872, but neither then nor in

1885 did they suggest a divergence of views as to the interpretation of the treaty.

When the Earl of Iddesleigh sent the Canadian map to Mr. Phelps with his note of August 27, 1886, and felt called upon to disavow the correctness of the line of boundary as marked on it, he raised no question about the interpretation of the treaty of 1825—certainly none as to whether the *lisière* ran around the inlets, so as to keep Canada at all points 30 marine miles from salt water—but pointed directly and exclusively to the doubt which had always existed as to the exact location of the boundary line, the eastern edge of the *lisière*, occasioned by the alternative clauses of the treaty defining it by parallel mountain summits, or in their absence by the ten leagues. He says that the boundary line shown on the map “is merely an indication of the occurrence of a dividing line *somewhere in that region*,” and he goes on to explain what he means by that and why no weight could be attached to it, inasmuch as the treaty “*which defines the line*” makes its location depend on alternative circumstances—the occurrence or non-occurrence of mountains, and, as is well known to all concerned, the country has never been topographically surveyed.” Surely, considering that at that time, more than sixty years since the treaty, the question now raised had never been suggested, nor any question about the meaning of “the coast” or “the sinuosities of the coast,” the phrases employed in the treaty, he could not have intended covertly to raise it for the first time by the language used, nor could he have believed that our Government would so understand that language, which by the ordinary rules applicable to diplomatic correspondence, or to any correspondence, must be limited to its obvious meaning; for after sixty years of silent acquiescence and occasional active concurrence in the interpretation publicly asserted by Russia and the United States, if he intended to raise such a radical question to the contrary, he should have done it in unmistakable terms. The Earl of Iddesleigh’s language is in exact conformity with the inscription upon the map itself, which he enclosed, and which doubtless suggested to him the caution which he gave.

The boundary between British Columbia and Alaska as shown upon this map is taken from a map of British Columbia published in 1871, under the direction of * * * Surveyor-General for the Province of British Columbia; but no steps have yet been taken by the Canadian Government to verify what degree of accuracy may be attached to the boundary thus laid down.

The same observations apply in full force to the language quoted by Your Lordship from the memorandum given to Mr. Secretary Bayard by Sir L. S. Sackville West in September, 1887. There was no more reason why the United States Government should take exception to this declaration than to that of Lord Iddesleigh, already discussed. In April, 1886, Sir L. West had been instructed by Lord Rosebery to inform the Government of the United States that Her Majesty’s Government are prepared to take part in a preliminary investigation of the boundary question. And Lord Rosebery had notified Mr. Phelps that he did not propose to move further in the matter until he knew what action was taken towards an appropriation by Congress.

In the meantime, Lieutenant Schwatka, having been sent to Alaska, not by the United States Government, but by General Miles, then commanding the Department of the Columbia, and not to make any survey, but to gather information for military purposes, had made

his report, and neither the report nor the maps which accompany it delineating his route disclose any boundary survey on his part or the fixing of any points for the boundary. His report, however, casually stated that "the country beyond Perrier Pass" (which by his map appears to be more than 20 leagues beyond the head of Lynn Canal), "lying in British territory, lessens the interest of this trail beyond the pass to the military authorities of our Government." This remark, which from the context is shown to be merely incidental to the narrative of his journey, has no further significance than an assertion on his part that the Kotush Mountains are situated in British territory. And Sir L. West, in his memorandum, so far from raising any question about the interpretation of the treaty, or claiming that the question now presented was open, expressly declined to raise any discussion even in regard to the position of the boundary, but merely called attention to Lieutenant Schwatka's statement, so that no prejudice might come from silence about it. There is no indication that either he or Lord Rosebery had any idea that any question of interpretation existed.

I venture to suggest that Your Lordship may have inadvertently and without full consideration of the circumstances laid too much stress upon Dr. Dawson's letter of February, 1888, which comes next in order of time. Your Lordship draws the conclusion that "Dr. Dawson, during the sittings of the Joint High Commission of 1888, made it distinctly clear that *Her Majesty's Government* claimed that the boundary should, in accordance with the terms of the treaty, cross all narrow waters that were of such width as to be within territorial jurisdiction," and "that United States citizens who have settled recently at the head of Lynn Canal have done so with the full knowledge," as given in that letter, "that they were settling in disputed territory."

It appears by the documents transmitted to Congress by President Cleveland, March 2, 1889, that Secretary Bayard reported that "during the session of the Fisheries Conference of 1887-88 in Washington it was suggested that an informal consultation between some person in this country possessing knowledge of the question in dispute and a Canadian similarly equipped might tend to facilitate the discovery of a basis of agreement between the United States and Great Britain upon which a practical boundary line could be established."

Mr. Bayard then proceeds to state that to this end several conferences were held between Professor Dall, of the United States Geological Survey, and Dr. Dawson, an eminent Canadian authority, but without any other result than that each of these gentlemen had given his account of these conferences—the former to the Secretary of State, the latter to Sir Charles Tupper—which, together with other documents, including a letter of Dr. Dawson to Sir Charles Tupper on the boundary question and memorandum of Professor Dall on the same subject, with maps, were submitted. Professor Dall, in his report of the interviews, says: "It was mutually announced and agreed that the meeting was entirely informal; that neither party had any delegated authority whatever," and it is quite clear that they had no governmental authority whatever on either side. "It was thought that if Dr. Dawson and myself could unite in recommending some plan as practicable, that opinion or plan would be entitled to some consideration." These conferences were not held "during the sittings of the Joint High Commission of 1888," and this, the first suggestion that

has come to our knowledge "that the boundary should in accordance with the terms of the treaty cross" any waters, was not presented before the Commission, but in this "informal meeting" where "neither party had any delegated powers whatever."

It appears by Dr. Dawson's letter, upon which Your Lordship relies, that he did not put forward this idea as originally his own, or one for which he was responsible, or as a claim in any sense of Her Majesty's Government, but as the view of a Canadian land surveyor, General Cameron, which he says in his letter to Sir Charles Tupper "may be substantially adopted," and he courteously furnishes Professor Dall with a copy of the letter as stating clearly General Cameron's views. It was wholly immaterial whether Dr. Dawson adopted General Cameron's views or not; but Sir Charles Tupper, who was then in Washington, and was keenly alive to the importance of everything bearing on the Alaska boundary, was in no mood to adopt them. He appears purposely to have refrained from doing so; for in communicating to the Secretary of State a copy of this letter of Dr. Dawson, he refers to it as explanatory, not of the views of himself, or of the Canadian or the Imperial Government, but of Dr. Dawson's own views. I annex a copy of Sir Charles Tupper's letter. Professor Dall describes them as "some very surprising claims" and as "the singular hypotheses regarding the boundary line which have been emitted by General Cameron, of Canada, and which are formulated in the accompanying letter to Sir Charles Tupper." And Mr. Bayard refers to them as "certain views of Gen. D. R. Cameron, as submitted in the letter of Dr. Dawson." Certainly, therefore, Her Majesty's Government made no such claim. And if there was any purpose on the part of the Canadian Government of making it, such purpose was very studiously and successfully disguised. I think it will appear that neither the Canadian nor the Imperial Government adopted or put forward this claim until after the protocol of May 30, 1898.

If the views of Her Majesty's Government as to the boundary were fully stated at the conference held in Washington in February, 1892, with members of the Canadian Cabinet and the British Minister, and a suggestion was submitted for a reference of the question to arbitration, it does not appear of record in the Department of State, and no information of such a proposition is in its possession. No protocol of the conferences was made, as it was understood in advance that they were to be of an informal and private character; but Secretary Blaine submitted to the President a report of some length in regard to the February conference, as did Mr. Foster with respect to the second conference in June—both of which were transmitted to Congress and published (Senate Ex. Doc. 114, 52d Congress, first session, pp. 3-43). These conferences were brought about because of the protests of the Canadian Government against a reciprocity treaty with Newfoundland; and in the preliminary arrangements for the meeting, while a number of subjects were suggested for consideration, the Alaska boundary was not mentioned. Almost the entire time was taken up with commercial questions, of which Mr. Blaine makes full report and very briefly refers to other questions, among them "a commission to fix the boundary separating Alaska from British territory," but there is no intimation of so serious a proposition as an arbitration of that question.

I am not able to perceive, therefore, that a proposition on the part of the British representatives, assuming it to have been made at such

an informal conference in the terms quoted by Your Lordship, but which the American representatives refused to consider, can be regarded as raising or opening the question of the interpretation of the treaty now under consideration. Undoubtedly, if that suggestion had been adopted and carried into an executed agreement, it might have been possible under it to raise before the tribunal any question whatever; but as a rejected proposition in the form stated it opened nothing, certainly not the question of interpretation of the treaty raised by Canada's present claim.

It is suggested by Your Lordship that the treaty which was soon afterwards signed by the Secretary of State, Mr. Foster, and the British Chargé, Mr. Herbert, was, and was expressed to be, "with a view to the ascertainment of the facts and data necessary to the permanent delimitation of said boundary line in accordance with the spirit and intent of the existing treaties;" and that it was "agreed that as soon as practicable after the report of the commission shall have been received, they will proceed to consider and establish the boundary line in question." These facts and data were to be the result of the surveys of scientific experts, and no inference can be drawn from this convention that there existed any divergence of views as to the interpretation of the treaty of 1825, especially as to the point now under consideration. It brought no such claim to the attention of the American Government. What was postponed to be taken up after the reports of the commission should come in, and upon the facts and data derived from such reports, was the consideration and establishment of the boundary line. And it is now believed that with the light thrown upon the topography of the country by the elaborate series of maps on which the results of the joint survey were embodied, if the question now raised whether the lisière runs around the inlets or across their mouth were decided, the actual location of the boundary in either view could be easily made by agreement or by the present Joint High Commission.

So far as the records of the State Department disclose, the first proposition submitted by the British Government for an arbitration of the Alaska boundary was contained in the note of the British Ambassador, Sir Julian Pauncefote, to Secretary Sherman, which it now appears by Your Lordship's despatch he was directed to write before Her Majesty's Government had received the maps referred to. It is true that in this note he refers to "the wide divergence of views existing," but when he comes to explain this by particularizing the line respecting which his Government is most concerned, he says:

The great traffic which is now attracted to the valley of the Yukon, in the North-west Territory, by the recent discovery of gold in that region, finds its way there from the coast principally through certain passes at the head of Lynn Canal, and it becomes more important than ever for jurisdictional purposes that the boundary, especially in that particular locality, should be ascertained and defined.

This was the last statement of the views of the British Government before the creation of the Joint High Commission, and it developed the fact that up to that time the divergence now so much emphasized was more apparent than real, as it recognized that the line in dispute about the head of Lynn Canal was in the neighborhood of the passes. And this is the case in every instance cited in Your Lordship's despatch where the British Government has made any declaration of its views. I have already commented on the Earl of Iddesleigh's letter to Mr.

Phelps in 1886. In 1887-88, when the British and American customs officials came into conflict on the Stikine River, and Sir Edward Thornton submitted a proposition for a settlement, the question was whether the line in accordance with the treaty should be drawn across the river where the Canadian surveyor had placed it 20 miles from tide water, or 30 miles. In 1872, when the effort was made for the creation of a commission to mark the boundary, it has been shown that there was a concurrence of opinion between the two Governments that the line should be drawn across the rivers named, among which was the Skoot, which at no point was less than 25 miles from tide water. It is clear that in every instance when up to the creation of the Joint High Commission the British Government has made any representation to the Government of the United States respecting the boundary, it has related to the eastern or interior line of contact with Canadian territory, either on the rivers or in the mountain passes, and that whatever uncertainty or difference of views was manifested arose from the want of precise knowledge as to the topography of the country, and did not concern the interpretation of the treaty. It is also clear that at no time previous to August 3, 1898, has the British Government intimated to the Government of the United States a claim to the waters of the inlets extending into the strip of mainland set off to Russia by the treaty of 1825.

Certainly, until such claim was made, and the rights of the United States under the treaty in the territory now disputed were challenged, there was no occasion for them to refer to the subject of possession, occupation, or political control in any correspondence with Great Britain; but we maintain that possession, occupation, and political control of the territory now disputed were exercised continuously from 1825 to the present time by Russia and the United States in succession, and such exercise is in its nature claim of title.

I have refrained in this communication from importing any extraneous considerations and arguments in support of an interpretation of the treaty of 1825, but have limited it to what seems to me to be cogent and conclusive grounds for the assertion that its interpretation on the point presented has not been open in the long period from 1825 to 1898. It is true that these views would be entitled to equal consideration before a tribunal appointed to interpret the treaty and settle the boundary, but the uniform acquiescence and occasional concurrence of one party in an interpretation openly proclaimed and acted on by the other seems to be a complete answer to the claim that that interpretation continues open.

If the British or Canadian Government had at any time desired to enter a protest against the claim of the United States, abundant official data existed upon which such a protest might have been based. In 1867, immediately after the signing of the treaty of cession, the Department of State issued an official map of the Territory of Alaska, on which the international boundary was traced, carrying it well beyond the sources of the streams emptying into Lynn Canal, and this line has been accepted in all the cartographic publications of our Government since that date. In 1883 the Secretary of State sent to the British Minister in Washington at his request copies of the annual reports of the United States Coast and Geodetic Survey for 1874 and for other succeeding years, containing boundary limits of a similar character.

The census publications of 1880 and 1890 not only contained a similar map, but also an enumeration of the Indian tribes of the Territory, including those inhabiting the country about the head of the Lynn Canal. Many other publications of a similar character might be cited. Her Majesty's Government, however, held its peace during the time of these publications, and entered no claim to any part of the Lynn Canal until after the protocol had been signed in 1898, providing for a Joint High Commission to adjust unsettled Canadian questions.

The first presentation by Her Majesty's Government of the present claim of Canada was made in the instructions issued by the Foreign Office to the British members of that commission, bearing date July 19, 1898, which was received by the Secretary of State on the 3d of August in that year. During the conferences of that commission, the American delegates asserted that no such claim had ever been put forward by the British Government previous to the creation of the commission, and the assertion was not called in question. Chairman Fairbanks, in his letter to Lord Herschell of February 14, 1899, referring to this claim, used this language:

Our first advices on this subject were received at your hands since our sessions began at Quebec. * * * If the views you now present have been urged upon the attention of the United States at any time prior to the original protocol (May 30, 1898), we shall esteem it a favor if you will be good enough to direct us to the fact and date; further, we shall be pleased if you will advise us at what time since 1825 the British Government made claim on either Russia or the United States to any territorial rights round the upper part of Lynn Canal.

To this Lord Herschell, in his letter of February 15, 1899, replied:

The statement that the views of the British Government had not been made known till that time (the assembling at Quebec August 23, 1898) is erroneous. The instructions given us by the British Government made it perfectly clear that the upper part of the Lynn Canal was claimed as British territory. * * * A copy of these instructions was sent on August 1, 1898, to the United States Secretary of State.

To this letter Chairman Fairbanks, under date of February 16, 1899, responded as follows:

It is quite true as stated in your letter of yesterday that the instructions of your Government were sent to our Government a few days before the Quebec meeting, but they did not in fact come to the attention of the commissioners until they assembled at Quebec. You will no doubt recall the observation made by General Foster, during your presentation of the British case upon the boundary, that the view then advanced by you respecting the head of the Lynn Canal was the first distinct statement of the British claim. I do not recall that you seriously disputed it.

Thus the exact *punctum temporis* of the first assertion of this claim of Canada by Her Majesty's Government is fixed. Your Lordship says that "the question immediately under discussion is whether or not the dispute as to the boundary should be referred to arbitration, and it is difficult to understand why the length of time during which the rival claims to disputed territory have been matters of controversy should form an element to be taken into consideration in that connection." But I may be pardoned, at the expense perhaps of painful repetition, for saying that the precise question under immediate discussion is not whether there should be an arbitration, but, assuming both sides to be so disposed, whether the terms and scope of the Venezuelan arbitration, where the arbitrators were left free to wander over the whole breadth of territory which had been the subject of constant and open dispute for more than a century, and to make the boundary which they could not find, should be applied to this case,

where a line fixed by a treaty in 1825, a plain interpretation of which has been uniformly and publicly asserted by one party without question or protest by the other for seventy-three years, is at the end of that time assailed and a new line claimed—and where the one claim or the other must be right—leaving no middle ground on which to create a boundary in the place of the one fixed by the treaty.

I am sure that these views, offered at Your Lordship's suggestion, will receive consideration at the hands of Her Majesty's Government.

I beg to assure Your Lordship that the Government of the United States is under no misapprehension as to the nature and scope of the proposal for arbitration submitted by Her Majesty's Government. If I dwelt almost exclusively in my note of August 9, as I have done in this communication, "upon the boundary in the neighborhood of the Lynn Canal," it was because I took that as the most striking example of all the inlets and because I regarded the question whether the boundary of the treaty runs around them or across their mouths as the most important and as the one which keeps us so far apart. For, if this question were once solved, neither the question of the water boundary described in the treaty as "ascending to the north along the channel called Portland Channel" nor the actual demarkation of the land line by mountain crests or by the ten-league measure would, I think, be difficult to settle either by convention or by the aid of the Joint High Commission. While the claim of Her Majesty's Government is not stated with absolute distinctness in your letter of Instruction of July 19, 1898, it was to be inferred from its perusal that the British commissioners would maintain that under the treaty Great Britain should at least be entitled to a portion of Lynn Canal. And in the conferences of the commission a map was submitted by them (doubtless the one referred to by Your Lordship) with a boundary line traced upon it setting forth the British claim, which developed a divergence of views as to the line, not only in the region of the Portland Canal, but along the entire mainland of the *lisière*. It is therefore distinctly understood that the British proposal of arbitration relates not only to the entire line of the strip of territory from Portland Canal to Mount St. Elias on the mainland, but that it embraces in the submission the British claim to a portion of all the inlets extending into the mainland and to the greater part of Lynn Canal.

I need not repeat what I said in my note of August 9 as to the necessity of excepting from the perils of any arbitration settlements made by American citizens in good faith under the authority and actual jurisdiction of the Government of the United States before the claim now made on the part of Canada was ever presented by Her Majesty's Government. Such necessity and the injustice of involving them in an arbitration are too obvious.

I have the honor to be, with the highest consideration, My Lord,
Your most obedient humble servant,

JOSEPH H. CHOATE.

The Most Honorable The MARQUIS OF SALISBURY, K. G.,

Etc., etc., etc.

[Enclosure.]

THE BRITISH LEGATION,
THE ARLINGTON,
Washington, February 11, 1888.

Hon. T. F. BAYARD,
Secretary of State.

DEAR SIR: In supplement of the Alaskan maps by Dr. Dawson which I presented to you yesterday.

I now beg your acceptance of the accompanying copy of Dr. Dawson's letter of the 7th instant explanatory of his own views on the subject of the British-Alaskan boundary.

Believe me, dear sir, yours very faithfully,

CHARLES TUPPER.

Lord Lansdowne to Mr. Raikes, Chargé.

[Confidential reprint.]

(No. 158.)

FOREIGN OFFICE, August 18, 1902.

SIR, 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 Pauncefote 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 Pauncefote, 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 qualifications 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. Tipper, 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 endeavor 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 set-

tlement 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, 1898."

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

I am etc.

LANSDOWNE

A. S. RAIKES, Esq.

[Inclosure.]

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 Chil-koot 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.

Mr. Hay to Mr. White.

No. 1081.]

DECEMBER 18, 1902.

HENRY WHITE, Esquire, etc., etc., etc.,

London.

SIR: I have to request you to procure at your early convenience and forward to the Department two copies of the Report described as follows:

[North American, No. 119.]

Report on the location of the British Alaskan Boundary under the Anglo-Russian Convention of 1825 by Col. D. R. Cameron, R. A. C. M. G.

COLONIAL OFFICE, *September, 1886.*

I am, sir, your obedient servant,

JOHN HAY.

Mr. White to Mr. Hay.

No. 1037.]

AMERICAN EMBASSY,

London, January 23rd, 1903.

SIR, Referring to your Instruction No. 1081 of the 18th ultimo I have the honour to enclose herewith the copy of a Note from the Foreign Office stating that Colonel Cameron's Report on the Alaska Boundary was printed confidentially for His Majesty's Government and that they are unable to communicate it to us.

I have the honour to be, Sir, your obedient Servant,

HENRY WHITE.

The Hon. JOHN HAY, &c., &c., &c.,

Secretary of State.

[Enclosure]

*Mr. Villiers to Mr. White.*FOREIGN OFFICE, *January 22nd, 1903.*

SIR, I referred to the proper Department of His Majesty's Government your note of the 31st December last, asking to be supplied with copies of a Report on the Alaska Boundary by Colonel D. R. Cameron.

I now have the honour to inform you that this report has only been printed confidentially for the information of His Majesty's Government, and I regret therefore that I am not able to comply with your request.

I have the honour to be, etc.

(For the Marquess of Lansdowne)

F. H. VILLIERS.

H. WHITE, Esq., &c., &c., &c.

EXTRACTS FROM DEBATES IN THE CANADIAN PARLIAMENT.

BOUNDARY OF ALASKA.

[*From Debates, House of Commons, Dominion of Canada, session 1879, Vol. I, p. 230, March 10, 1879.*]

MOTION FOR PAPERS.

Mr. DeCosmos moved for a copy of a memorandum of the circumstances that led to the conclusion of the Convention between Great Britain and Russia, of February 1825; also, a copy of the Convention, if any, between Great Britain and the United States, of February, 1825, mentioned in Sessional Papers, 1878, 125, pages 27 and 30; also, a copy of the most reliable maps and charts of the Territory of Alaska, that existed in 1825, and that have been made since, including Russian, British and American maps and charts; and also, any reports that may have been made to the Government respecting the Alaskan boundary, that have not yet been published. He said that, as it had been suggested, by the Hon. the Minister of Public Works, that some reports had been made respecting the Alaskan boundary, it would be as well to include them in the return. He had heard it stated that the United States Government intended to make some provision for the government of Alaska and to ask our Government to join them in defining the boundary between Alaska and British Columbia. Unfortunately for our country, the Imperial Government had neglected taking care of the interests of the western portion of this Dominion. When the Treaty of Washington was negotiated, in 1871, we were only allowed the right of free navigation in two or three of the rivers flowing from British Columbia through Alaska. Under the Convention of 1825 with Russia, we had the right to navigate all the rivers that ran out of our territory and through Alaska, but by the act of Russia in 1867, in transferring the territory of Alaska to the United States, we lost the right of navigating the rivers. He thought the Joint High Commission at Washington might have included all the rivers the same as the Convention of 1825, although he did not blame the Commission for not having done so, because any nation might abrogate a treaty by its own act, or by a new treaty. But Alaska was now becoming of some importance from its furs and minerals. Several steamers were running between Stikine, British Columbia and Alaska, conveying from 2,000 to 3,000 passengers yearly. Consequently, they ought to have all the information they could get respecting this boundary question. He had found that the maps published with regard to Alaska were very imperfect. Some time ago he had seen a map in the office of the Minister of Public Works, which

showed that the River Yukon ran into the Arctic Ocean, whereas it discharged into Behring's Sea, an arm of the Pacific Ocean. He asked, in his motion, that the Russian maps, as well as the British and American, should be brought down. He believed that the Western Union Telegraph Company, when exploring that country for telegraph purposes had published a map giving a great deal more correct information respecting the geography of the country than the other maps, and he believed that the interior of Northern British Columbia, as well as Alaska, would be found much better laid down by the topographical staff of the Western Union Company than by anybody else. However, he asked that the papers might be brought down, and the information placed before the House in advance of any negotiations that might take place with the United States Government with respect to Alaska.

Mr. Mills said he had no doubt the Hon. the Minister of the Interior had looked into this question, and was able to say if it was possible to bring down the maps that had been asked for. He (Mr. Mills) believed it would take a good deal of time, and some expense would be incurred in preparing all that the motion asked for, nor did he think the documents would throw any additional light upon the subject. He supposed the correspondence would include the memorandum of Sir Charles Napier, relating to the Treaty of 1825, between Great Britain and Russia. There was no treaty, he believed, concluded between the United States and Great Britain, at that time. However, there was correspondence between the American Government and that of St. Petersburg, upon this subject, because the Territory upon the Pacific coast at that point was claimed by the three Powers, Great Britain, America and Russia. If the hon. gentleman obtained the correspondence, he would see that negotiations had taken place, in the first instance, between the Governments of St. Petersburg and Great Britain, who failed to arrive at any settlement of the matter; that ultimately the points in dispute between the two Governments were disposed of in the Treaty of 1825, which gave to Russia a narrow strip of territory upon the coast south of Mount St. Elias, extending as far south as Portland Channel, upon the express condition that all the rivers flowing through this Russian territory should be open to navigation by Great Britain, for all purposes whatsoever.

It would be seen, by the correspondence, that both Governments claimed the sovereignty of the soil, that Great Britain ceded to Russia the territory which she claimed, but, at the same time, retaining an equal right, or an equal sovereignty, in the rivers flowing through this relinquished territory to the ocean; so that these rivers were not only open to Great Britain for the purpose of ordinary commercial navigation, but were open to the people of Great Britain, and to any persons who might settle in the interior country, subjects of Her Majesty, for any purposes of navigation whatsoever. It was under this treaty that the British Columbian authorities undertook to take Mr. Martin from the northern part of British Columbia down to Stikine River, with the view of imprisoning him at Victoria for the offence for which he had been convicted. The correspondence would also show that the Law Officers of the Crown had, in answer to a communication dated the 16th August last, from the Colonial Secretary, Lord Carnarvon, expressed the opinion that the people of Canada had lost the rights which they possessed under the Treaty of St. Peters-

burg, by the negotiations which took place at Washington in 1871, and by the treaty by which those negotiations were concluded.

The hon. gentleman (Mr. DeCosmos) would see that statement given in a communication by the Law Officers of the Crown, and quoted by the then Minister of Justice. They said that, although Great Britain did not withdraw any right, nor could she have lost any right, by any negotiations between Russia and the United States in 1867, because Russia, in conveying the territory of Alaska to the United States, could not convey to the United States any greater interest than she actually possessed, and she could not convey to the United States the interest that the Government or the Crown of Great Britain had in the navigation of these rivers, because they stated that that could not be done without the consent of Great Britain. But they further advised, upon this ground, that, because the Treaty of St. Petersburg had been abrogated by the Treaty of Washington, the Government of Canada should, at the earliest moment, release Mr. Martin. The hon. gentleman would see, therefore, that, if the people on the western coast were now in a worse position than they were before, it was due to the negotiations which took place at Washington, and which were consummated by the celebrated treaty known as the Treaty of Washington.

Mr. DeCosmos said he could not agree with the hon. gentleman (Mr. Mills) when he said that the people of the Pacific coast were not in as good a position now as formerly; and that it was due to the Treaty of Washington of 1871. The Russian Government, in 1867, by selling the Territory of Alaska to the United States, abrogated the Convention of 1825. So far as the objection raised by the hon. gentleman, even supposing the Convention negotiated in 1825 still existed, it would be a matter of doubt whether it would be within the terms of that treaty to use the Stikine and other rivers except for purposes of commerce. He contended that the negotiators of the Washington Treaty, 1871, neglected their duty.

Sir John A. Macdonald said there were two opinions on that subject. Perhaps the best international lawyer in England, Mr. Montague Barnard, a member of the Commission at Washington, and Lord Tenterden, who had taken part in some of the most important treaties that England had negotiated, both were united in the opinion that, by the transfer of Alaska, the effect of the treaty of 1825 was gone. It was also the opinion of Mr. Gladstone's Government, and if that opinion were correct, the fact that the three rivers had been put into the treaty could do no harm. If the papers could be brought down within a reasonable time, they would be brought down.

Mr. Mills said that he had observed that it was very strange these opinions were not communicated to the British Ambassador at Washington. He had met Sir Edward Thornton, who, he knew, was not aware of the existence of any such opinions.

Sir John A. Macdonald said he could not tell what conversation the hon. member for Bothwell (Mr. Mills) had with Sir Edward Thornton; but it was a matter for him whether he should repeat that conversation or not.

Motion agreed to.

From the debates of the Senate of Canada, in the second session of the Seventh Parliament of Canada.

THURSDAY, February 25th, 1892.

[Extract from the speech from the Throne.]

* * * * *

The meeting which had been arranged with the United States Government for a day in October last, for an informal discussion on the extension of trade between the two countries, and on other international matters requiring adjustment, was postponed at their request. But, in compliance with a more recent intimation from that Government, three of my Ministers proceeded to Washington, and conferred with representatives of the Administration of the United States on those subjects. An amicable understanding was arrived at respecting the steps to be taken for the establishment of the boundary of Alaska; and for reciprocity of services in cases of wreck and salvage. Arrangements were also reached for the appointment of an International Commission to report on the regulations which may be adopted by the United States and Canada for the prevention of destructive methods of fishing and the pollution of streams, and for establishing uniformity of close seasons, and other means for the preservation and increase of fish. A valuable and friendly interchange of views respecting other important matters also took place. * * * (See Debates of the Senate of Canada, pp. 3 and 4.)

MONDAY, February 29th, 1892.

[Extract from speech on the motion to adopt the Address to be presented to the Governor General in reply to the speech from the Throne.]

Hon. Mr. SCOTT.^a * * * We do not know what happened the other day at Washington, because the Ministers have not advised us. They simply state that something did occur with reference to the extension of trade between the two countries, but the Speech is perfectly silent as to what the result was. It is quite true that an amicable understanding was arrived at respecting the steps to be taken for the establishment of the boundary of Alaska. It was not necessary to go to Washington to discuss that. The question has been discussed in despatches for twenty years. There was no dispute as to the boundary of Alaska.

Hon. Mr. ABBOTT—Hear, hear.

Hon. Mr. SCOTT. My hon. friend says "hear, hear." It was settled in the treaty of 1825. The line was defined, but not marked out. There is no doubt a dispute as to where it goes. It commences at Portland channel and extends along the summit of the mountains, where those mountains do not extend more than 10 marine leagues inwards, and if they are more than 10 marine leagues, then 10 leagues is the limit to a certain meridian, and from that point it is a straight line to the frozen ocean. That is practically the position of it, and the only reason that it was not settled twenty years ago was that the expense was too heavy. The United States at one time proposed a

^a "Hon. Richard William Scott, Senator; Secretary of State of Canada since 1896; * * * Commissioner of Crown Lands, 1872-73; appointed to Senate, 1873; Secretary of State, 1873-78; Leader of Opposition in Senate, 1879-96." (From "Who's Who, 1903, London, 1903.)

vote for the purpose and it was then said that it would cost about two million dollars. The population was small, and they did not feel warranted at the time in making that particular survey. It is purely a question of survey. The terms of the treaty are not disputed. I think as a matter of compromise at the time it was agreed between the two countries that we should mark off the line where it crossed the Stikine and other rivers, but it was going to cost too much entirely to run out this particular boundary. That, I think, is what actually occurred, because I remember something of it myself. A number of despatches passed between the two countries twenty years ago. Now, today I see by the American returns that the population of Alaska is nearly 6,000 whites and some 33,000 Indians. I do not know what the population of our own North-West, and British Columbia adjoining that, is, but it cannot be very much, and it is doubtful if there is any necessity to define the boundary, now, unless it is to remove a certain degree of friction. To my mind, the natural way between two friendly countries would be to arrange a conventional boundary until the population on the one side or on the other was sufficient to warrant the necessity of positively making out this particular line. No doubt it is a very expensive boundary. The expensive part is, of course, the fringe of land that runs along the coast up to the particular part where the meridian runs, because it is entirely a matter of cost; I have never heard of any dispute as to the interpretation to be given to the treaty, because the treaty is plain and speaks for itself. I have the terms of it under my hand here this moment, if it is desirable to read them. I do not suppose it is; it cannot be disputed. * * * (See Debates of the Senate of Canada, pp. 14 and 15.)

From Debates, House of Commons, Dominion of Canada, 1898, Vol. I, p. 405, February 11, 1898.

SIR CHARLES HIBBERT TUPPER. Before the Orders of the Day are called, I would like to call the attention of the Government to an important telegram published in the Montreal "Gazette" of this day, in regard to two important subjects that have been mentioned in the House, namely, the Yukon Railway Bill and the question of coasting regulations.

* * * * *

May I also ask the Government's attention to what it seems to me would be of great assistance in the debate of the railway Bill, and I ask the particular attention of the Minister of the Interior, who is familiar with the subject and understands how far in connection with the present negotiations regarding the boundary it is possible to comply with my suggestion. My suggestion is that upon a copy of the map already presented to the House there should be placed indications, for instance, red marks would do, showing the positions in the disputed territory that the United States at present occupy by customs or other officers. I think that would be quite sufficient. Of course, I do not know how far the Government would be warranted in marking what is disputed territory, nevertheless I think it would not confound any proper conception to mark the points they have already occupied in the territory with customs officers.

The MINISTER OF MARINE AND FISHERIES (SIR LOUIS DAVIES). It

might be as hard to find the disputed boundary as the real boundary.

SIR CHARLES HIBBERT TUPPER. I do not press for any impropriety being committed, but I think this can be done, that on the map could be marked the points the United States occupy by officers of any character, customs, or otherwise.

THE MINISTER OF THE INTERIOR (MR. SIFTON). First, with respect to the question asked as to the boundary line. The difficulty arises at three points particularly. First, in the territory around the Stikine River. There is, however, a provisional boundary, which was run some years ago and provisionally adopted by both Governments.

MR. FOSTER. How far inland is that?

THE MINISTER OF THE INTERIOR. I scaled it on the map and from the mouth of the river it is about twenty-two miles—not twenty-two miles in a straight line, but that distance following the windings of the river. There is therefore no present difficulty there. Our officers have been sent there for the purpose of establishing a post just within the provisional line of the Stikine River, and they have been furnished with maps showing the provisional boundary line.

SIR CHARLES HIBBERT TUPPER. When was that provisional boundary line established?

THE MINISTER OF THE INTERIOR. Speaking from recollection, it was some time in 1876 or 1877. Difficulties also arose in the White Pass, behind the village of Skagway, and at Chilkat Pass behind Dyea. I believe our contention is that Skagway and Dyea are really in Canadian territory, but as the United States have had undisputed possession of them for some time past, we are precluded from attempting to take possession of that territory.

SIR CHARLES HIBBERT TUPPER. May I be excused for saying that I do not think the hon. Minister meant to say "undisputed possession".

THE MINISTER OF THE INTERIOR. There have been no protests made. It must be taken as undisputed when there has been no protest made against the occupation of that territory by the United States.

SIR CHARLES HIBBERT TUPPER. A claim, I suppose, was made and adhered to?

THE MINISTER OF THE INTERIOR. There is nothing in the records to show that any protest has been made—an unfortunate thing for us, but it is a fact. I do not know that that particularly affects the discussion, because there has been no real discussion about that particular point. We have taken the position that there can be no doubt raised as to the Canadian territory beginning at the summit; we have taken the position that the claim of Canada to occupy the territory inside of the summit from the boundary at White Pass and Chilkat Pass is not deniable, and we cannot admit it is debatable, and we have instructed our officers to establish posts as near the boundary as physical conditions will permit.

MR. FOSTER. How far from the water line?

THE MINISTER OF THE INTERIOR. About fifteen miles from tide water. An accurate survey has not been made in the White Pass, but the distance is about the same, fifteen miles. Therefore, so far as possible under the present conditions, the idea of the hon. gentleman has been carried out, and our officers have been instructed to locate themselves as nearly as possible to the summit on the north-eastern side and to take the summit of the White Pass and Chilkat Pass as the boundary line, without making any admission as to the right of the United States to the territory on the seaward side.

From Debates, House of Commons, Dominion of Canada, 1898, Vol. I, p. 619, February 16, 1898.

UNITED STATES OCCUPATION OF DYEA AND SKAGWAY.

MR. PRIOR. Before the Orders of the Day are called, I wish to ask the right hon. First Minister whether his attention has been called to certain paragraphs that have appeared in the press, both in the United States and in Canada, to the effect that the United States Government are about to send two companies of troop to be permanently stationed at Dyea and Skagway, at the head of the Lynn Canal. That is, as you know, in disputed territory. It is a highway to the Yukon country, and the reason given in these papers is, that there are a large number of disorderly characters assembled there at present, and that troops are required to prevent any riotous proceedings taking place. I also wish to ask the right hon. gentleman whether his Government has seen fit to let the United States Government know that they have no objection to these troops being sent there, but that such permission must not be considered as an admission on the part of Canada that our claim to that territory has been withdrawn. We saw, in times past, how the sending of troops to San Juan affected the argument before the arbitration, and I, for one, would not like to see the same thing occur again with regard to Dyea and Skagway.

THE PRIME MINISTER (SIR WILFRID LAURIER). The Government has not been informed of the intention to which my hon. friend has just referred. The Government did not know it was the intention of the American Government to send their troops to Dyea and Skagway. My hon. friend is aware that, although this is disputed territory, it has been in the possession of the United States ever since they acquired this country from the Russian Government in 1867, and, so far as my information goes, I am not aware that any protest has ever been raised by any Government against the occupation of Dyea and Skagway by the United States. It is only in recent years that the attention of the public has been drawn to it. I may say to my hon. friend, that the importance of having a delimitation or settlement of the boundary between Canada and the United States in that region is at this moment engaging our attention.

From Debates, House of Commons, Dominion of Canada, 1898, Vol. I, p. 1274, March 7, 1898.

THE YUKON RAILWAY—THE ACTION OF THE UNITED STATES SENATE.

SIR CHARLES TUPPER. Before the Orders of the Day are called, Mr. Speaker, I draw the attention of my right hon. friend (Sir Wilfrid Laurier) to the statement which has just been made by the hon. member for Halifax (Mr. Russell). I wish to ask my right hon. friend if he is aware of the action which the Senate of the United States have taken in the most formal and unmistakable manner, and whether in view of it he proposes to proceed with the Bill now before the House. My right hon. friend will remember that when this action of the United States was first proposed, I drew his attention to it, and his reply to me was: that it was impossible to suppose that the legislature of any country like the United States of America could possibly adopt a

measure of that kind. The right hon. gentleman therefore declined at the time to consider seriously a proposition of such an extravagant character. We are now brought face to face with the fact that the Senate of the United States, so far from treating that as a violation of treaties and a thing that it was impossible that any Government could entertain, have by a majority of 34 to 16 declared their determination to render impracticable this proposed Yukon Railway by the Stikine River.

* * * * *

The time has arrived when it becomes a most serious question for the right hon. gentleman and his colleagues to consider, whether under these circumstances he proposes to press this Bill upon the further consideration of this House, when it is proved beyond the possibility of a doubt that it is to end in an utterly futile arrangement so far as the object contemplated by the Bill is concerned. I am quite certain that my right hon. friend and his colleagues will receive the hearty support of both sides of this House, in taking that manly and independent course which is absolutely due to the character and position of this country, and in devising such measures as will effectually prevent our being subjected to the base humiliation we will be subjected to, if we were to submit to such terms as the Senate of the United States propose to dictate to the Government and Parliament of Canada.

I beg, Mr. Speaker, to move the adjournment of the House.

The PRIME MINISTER (SIR WILFRID LAURIER). I agree very sincerely with the sentiments which have been uttered this moment by my hon. friend (Sir Charles Tupper). I agree very sincerely with everything that he has said in regard to the maintenance of the dignity of this young nation. We are only a small nation yet. We are willing to be on the most friendly terms with the powerful nation to the south of us, but I agree with the hon. leader of the Opposition that nothing should be given away of our national dignity. Though I agree with the sentiments which he has expressed in this regard, I am sorry that I cannot at all agree with him in the conclusions which he has based upon these sentiments. And I venture to believe and hope that when he has reflected upon this subject, he will come back to the opinion he himself expressed at one time outside of this House, and has since repeated in this House, that the only route we could have taken to have access to the Yukon country was that by the Stikine River, if we wanted to have the advantage given to us by treaty and to avoid the possible hostility of our American neighbours in regard to trade arrangements.

When we had to determine upon the policy we would adopt and upon the route we would select, in order to afford to Canadian trade and to the Canadian people access to that part of their own territory which lies in the region of the Yukon River, it was apparent that there was only one of two routes to be chosen. We had either to take the route by the Lynn Canal and Dyea, or the route by the Stikine River. The advantages of the one had to be set against the disadvantages of the other and vice versa. The advantages of the route by the Lynn Canal were that it was shorter and more direct than the route by the Stikine River. But if we had adopted the route by the Lynn Canal, that is to say, had chosen to build a railway from Dyea by the Chilkat Pass up to the waters of the Yukon, we would have to place the ocean terminus of the railway upon what is now American territory. I agree with the statement which has been made on the floor of this

house, on more than one occasion, that Dyea, if the treaty is correctly interpreted, is in Canadian territory. It ought to be; but the fact is, as my hon. friends know very well, even those who do not belong to the legal profession, that possession is nine points of the law; and even though by the letter of the treaty, Dyea is in Canadian territory, the fact remains that from time immemorial Dyea was in possession of the Russians, and in 1867 it passed into the hands of the Americans, and it has been held in their hands ever since.

Now, I will not recriminate here; this is not the time nor the occasion for doing so; but so far as I am aware no protest has ever been entered against the occupation of Dyea by the American authorities; and when the American authorities are in possession of that strip of territory on the sea which has Dyea as its harbour, succeeding the possession of the Russians from time immemorial, it becomes manifest to everybody that at this moment we cannot dispute their possession, and that before their possession can be disputed, the question must be determined by a settlement of the question involved in the treaty. Under such circumstances, Dyea was practically in American territory—at all events, in possession of the Americans; and, therefore, if we had undertaken to build a railway from Dyea to the Yukon country, we would have been placed at the mercy of the American authorities with regard to the bonding privilege. We would have been in this position, that though we had built a railway, the ocean terminus of that railway was not in our own country, and we could not send a ton or a pound of goods over that railway unless we had the permission of the American authorities.

From Debates, House of Commons, Dominion of Canada, 1901, Vol. II, p. 4407, May 6, 1901.

THE ALASKAN BOUNDARY.

Hon. E. G. PRIOR (Victoria, B. C.): Before the Orders of the Day are called, I would ask the right hon. leader of the House to give his attention to some correspondence I have received concerning the Alaskan boundary dispute. Last year I asked in the House:

Has the large map of the Dominion, which was lately exposed to view in the vestibule of this building been sent to the Paris exhibition as an official map of Canada exhibited by the government?

Is it true that the boundary between Canada and Alaska, commonly known as 'Alaska boundary', is marked on that map according to the United States contention, and that the boundary according to the Canadian, or British Columbia, contention, is not shown at all?

To this question, the hon. the Minister of Agriculture, replied:

The map in question was sent to Paris as one of the exhibits of the Department of Public Works, but not as an official map. It is true that the boundary between Canada and Alaska, commonly known as the 'Alaskan boundary', is marked on that map in two ways, marking the American contention and the Canadian contention as to the boundary, and each of these markings is distinctly stated to be what it represents, so that I do not think there can be any possible difficulty or doubt as to what is meant.

Last year I wrote to Mr. Begg, who has taken a great deal of interest in this question, and we both wrote to Mr. Brynmner, who was then in Paris, asking him to go to the exposition and examine the map. I have not got Mr. Brynmner's answer to myself, as I unfortunately left

it at home, but I have a letter here from Mr. Begg on the same subject, dated 17th April, 1901:

I have been looking over the letter sent to me by Mr. Brymner of Paris, who visited the exhibition at your request, and mine, to see if it was as represented—one provisional boundary for British Columbia and another for United States. In his letter to me dated July 17, 1900, he says: 'I had your note re the frontier question, also a letter from Col. Prior, House of Commons, Ottawa, asking me to go and see if it was really as you stated, that the boundary marked ran up Portland Canal, and not up Clarence Sound, and if two boundaries were given and marked "provisional." There is but one boundary marked, and that is the one claimed by United States, and there is absolutely no mention made of its being provisional. There is no distinct colour between American and Canadian territory, so it is very difficult to trace the line, the area being so great (covered by the map) that nearly all the names have been left out, so that neither Portland Canal, nor Clarence Sound are mentioned. Wrangel being the only name given in that neighborhood.' My object in alluding to this matter now is that this same map may be sent to Glasgow exhibition, and it would be well to know if the erroneous boundary is marked running up Portland Canal, and if the British Columbia provisional boundary along Clarence Straits, as shown on British Columbia maps, is entirely left out.

Mr. Brymner's statement is undoubtedly correct, and it agrees with what I supposed were the facts of the case.

Of course, I have not seen the map myself, but if Mr. Brymner's statement, both to Mr. Begg and myself be correct, namely, that the only boundary marked on the map is that which the Americans contend for, the government is greatly to blame for having allowed such a map to be put on exhibit. No doubt if on this map only the American contention is shown, that will be brought in as an argument in favour of the United States whenever the matter goes to arbitration.

I would ask my right hon. friend whether he will find out if it be true that the American boundary is the only one indicated on this map, or whether there are two distinct boundaries marked on it and both stated plainly to be provisional?

The PRIME MINISTER (Rt. Hon. Sir Wilfrid Laurier). I shall call the attention of my colleague the Minister of Agriculture to the representations of my hon. friend. I may say, however, that in view of the advice we have received from our law officers, it is very hard to maintain that the boundary runs up Clarence channel. The treaty says in so many words the Portland canal, but there is a difference in opinion between the Americans and ourselves as to where that channel is. We claim that it is west of Pearse Island. They claim that it is Observatory Inlet. As to endeavouring to have the line pass along Clarence channel, which is a pretension Mr. Begg has often submitted to me, I do not think any one, who will take a careful view of the matter, can be convinced of the correctness of that pretension. The point on which we and the Americans do not agree, is as to what is Portland channel. They want to make it run up Observatory Inlet and then to the west, making out that Observatory Inlet is only a small inlet running into the interior. We, on the other hand, contend that Portland channel is as it is described on the map of Vancouver on which the treaty of 1825 seems to have been based, namely, all that channel of water which runs west of Pearse Island.

Hon. Mr. PRIOR. I do not think that this has anything to do with the question whether the map is wrongly marked. Whatever boundary is described on it, should be marked provisional.

The PRIME MINISTER. The only provisional line we have agreed upon is around Lynn canal, and if my hon. friend will look carefully at the relief map which is exhibited in the library, he will see that that is the only provisional line we have agreed to.

CORRESPONDENCE BETWEEN THE UNITED STATES
COAST AND GEODETIC SURVEY AND THE CANA-
DIAN MINISTER OF THE INTERIOR, 1888.

(In the Appendix to the British case, p. 266, there appears a letter from the Superintendent of the United States Coast and Geodetic Survey, dated December 14, 1888, addressed to the Minister of the Interior of Canada, relating to a proposed survey of the boundary of Alaska. Upon its face it shows that it was only a part of the correspondence on the subject. It is herewith given in full so far as is shown from the records of the office of the United States Coast Survey.)

The Superintendent of the Coast Survey to the Secretary of State.

TREASURY DEPARTMENT,
OFFICE OF THE COAST AND GEODETIC SURVEY,

Washington, D. C., June 3, 1903.

Hon. JOHN HAY, *Secretary of State.*

SIR: In response to your request, I forward herewith copies of the correspondence which took place in 1888 between this Office and Mr. Dawson and the Minister of the Interior of Canada. So far as the records of this Office show the correspondence ended with the letter of the Minister of the Interior dated December 27, 1888.

Very respectfully,

O. H. TITTMANN, *Superintendent.*

Mr. Colonna to Dr. Dawson.

U. S. COAST AND GEODETIC SURVEY OFFICE,

Washington, D. C., Nov. 26, 1888.

Prof. G. M. DAWSON,

Geological Survey of Canada, Ottawa, Canada.

DEAR SIR: I regret very much that when you were in Washington last winter I did not have the pleasure of meeting you. Knowing that your time was very fully taken up by some gentlemen in the City, and being very busy myself, I lost the opportunity of making your acquaintance. I beg now to ask your advice in a matter of interest to us both.

Congress at its last Session made an appropriation for the beginning of a preliminary survey of the Boundary Line between Alaska and British Columbia, the work to be done by the United States Coast and Geodetic Survey. At the instance of the Superintendent of the Coast Survey Her Majesty's Government was asked through our State Department to send expert surveyors along with ours in order that all the surveying work which was done might receive the official sanction of both Governments. This proposition I have been informed was very favorably received, but I have heard nothing further from it for some time. Immediately after Christmas we will begin the equipment of our parties, and I believe that much good can be done by having a thorough understanding with the Dominion Government as to just what we will do; but I do not know to whom I should apply for information or cooperation. I therefore beg to suggest the matter to you and ask if you will kindly interest yourself in it so far as you think it would be proper, and as you may be personally inclined, to the end that we may work in entire harmony and for the best interests of all concerned.

If you will designate the person or persons to whom we should address ourselves formally, I will request the Superintendent of the Coast Survey to take whatever steps are necessary to bring about the desired end.

Yours respectfully,

B. A. COLONNA
Assistant in charge of Office.

Dr. Dawson to Mr. Colonna.

DEPARTMENT OF THE INTERIOR CANADA
GEOLOGICAL & NATURAL HISTORY SURVEY.

Ottawa, 1 December, 1888.

DEAR SIR: I have to acknowledge the receipt of your kind note and must express my regret that I had not the opportunity of meeting you personally when in Washington last winter.

I have no doubt it will be found possible to make arrangements agreeable to both parties in connection with any survey of Canada-Alaska boundary which may be undertaken, and I shall be pleased to render any assistance in the matter which may be in my power.

Referring to the immediate subject of your letter, I think you had better communicate with Hon. E. Dewdney, Minister of Interior. Any surveys undertaken from here would probably be under his Department and I believe that you will find him thoroughly conversant with the main features of the boundary matter and ready to give immediate attention to anything which may be addressed to him on the subject

Believe me, yours truly,

GEORGE M. DAWSON.

B. A. COLONNA, Esq.,

Assistant in Charge of Office,

U. S. Coast and Geodetic Survey, Washington.

The Superintendent of the Coast Survey to the Canadian Minister of the Interior.

U. S. COAST AND GEODETIC SURVEY OFFICE,
Washington, Dec. 14, 1888.

Hon. E. DEWDNEY,

Minister of the Interior, Dominion of Canada, Ottawa.

SIR: Some time ago in response to an inquiry from this office Mr. G. M. Dawson of the Geological and Natural History Survey of Canada referred me to you as the proper official with whom to communicate directly and informally in relation to a subject upon which some time may possibly be saved by anticipating the result of formal correspondence between the governments of the United States and that of Great Britain.

At its last session Congress made an appropriation with which to begin the work of a preliminary survey of the frontier line between Alaska and British Columbia and assigned the work to this Survey. The appropriation, however, became available at too late a date to permit anything except the task of preparation to be undertaken before next spring. It is obvious that—except as to a portion of the frontier line which is coincident with the Meridian line of the 141st degree of West Longitude—it would be impossible for a Survey to definitely and authoritatively locate the boundary or frontier line. From some informal discussion of the matter it is understood that the Hon. Secretary of State will be likely to require that the preliminary survey shall, among other things, accurately establish in latitude and longitude and permanently mark such a number of accessible points at certain distances from the coast or along certain mountain summits, as, together with such topographical reconnaissance as may be practicable, will afford the geographical information requisite to the proper negotiation of a treaty establishing a boundary. To obviate, during such negotiations, all controversy as to the accuracy of such geographical information it would seem to be desirable that both parties to the negotiations should be represented in the operations of the preliminary survey, by competent surveyors and astronomers whose concurrence in the determination of points in latitude and longitude and in the delineation of topographical features, would insure acceptance of their work by the negotiators and avert one possible occasion of controversy and delay in the conclusion of a boundary treaty. The interval of four months or more which, under existing conditions, must elapse before it will be practicable to place our surveying parties in the field, in Alaska, would doubtless enable the Canadian Government to arrange and equip three or four surveying parties to meet our parties at some rendezvous on the Pacific Coast, in April next, and join in a rapid prosecution of such preliminary Survey. The desired result might as well be accomplished, though at disproportionately small expense for the Canadian Government, by the detaching of a single Canadian surveyor and astronomer to accompany each of our full parties, of which there will probably be four. Except as it may be necessarily interrupted by climatic or other causes, it is expected that the survey, once begun, will be continuously prosecuted and that the parties will not return from Alaska until its completion within three, and probably two, years from the actual commencement of work in the field.

In view of the foregoing considerations it is understood that the expediency of such joint action by surveyors, etc., of the two governments as is above outlined, has been made the subject of correspondence between the two governments.

I have ventured to bring the matter to your attention now inasmuch as the shortening of the time prior to the opening of the working season renders it desirable that all the interval should be rendered available to you for provisional or contingent selection of surveyors, etc., in anticipation of the formal action of your government, which it is hoped may be favorable to such joint work by the surveyors and astronomers of both governments.

Any expression of your views in the premises, with which you deem it proper to favor me, will be duly appreciated by

Very respectfully, Your obedient servant,

F. N. THORN,
Superintendent.

The Canadian Minister of the Interior to the Superintendent of the Coast Survey.

DEPARTMENT OF THE INTERIOR, CANADA.

Ottawa, Decr. 27, 1888.

DEAR SIR: I beg to acknowledge the receipt of your letter of the 14th instant, in relation to the preliminary work about to be carried out by the United States Government in connection with the survey of the frontier line between Alaska and British Columbia, and to thank you for your suggestion that we should cooperate with your surveyors in this work.

In reply I beg to state that I have submitted your letter to the Government, and that the matter is now under consideration. I hope to be able to communicate with you further on the subject.

Yours truly,

G. DEWDNEY.

F. M. THORN, Esq.,

Superintendent, U. S. Coast and Geodetic Survey Office,

Washington, D. C.

EXTRACTS FROM BRITISH AND CANADIAN PUBLICATIONS.

Editorial from "The Colonist", Victoria, B. C., April 3, 1867.

THE CESSION OF THE RUSSIAN POSSESSIONS.

By the terms of a Treaty made in 1825 between Great Britain and Russia it was stipulated and agreed that an imaginary line should be drawn from the 60th degree of North latitude on the Pacific to the 70th degree of latitude on the Arctic, which supposed line should mark the Boundary between the North American possessions of the two powers. It was also stipulated in order to secure for Russia certain advantages which were hers by right of discovery that that power should hold and possess a narrow strip of Territory on the sea-board extending from 54.40 to the 60th degree of North Latitude, and running back 10 leagues following the indentations of the Coast, and including all the adjacent islands. By this Treaty Russia secured the great Peninsula forming the extreme North-Western portion of the Continent, while Great Britain reserved for the use of her subjects the Territory lying South-West of the Boundary line and East of the narrow Coast strip with the free navigation of the rivers emptying into the Pacific between 54.40 and 60. The mouths of Stekin and Taco rivers with 10 leagues of the land lying behind them are in Russian Territory, but the subjects of Great Britain have secured for their vessels the privilege in perpetuity of ascending these streams to communicate or trade with the British Territory without being subject to any port or other charges. No goods other than Russian however can be landed anywhere within 10 leagues of the Coast-line without paying duties. The Hudson Bay Company about the time that this Treaty was ratified leased from the Russian Government the right to trade with the Indians inhabiting this narrow strip. This lease expired some years ago and has since been renewed yearly. The present lease will expire in June next, but should the Treaty not be renewed or the Russian possessions pass into the hands of the Americans, the Company's vessels will have the privilege of ascending all rivers emptying into the Ocean between 54° 40' and 60° of latitude, and trading with the Indians of the interior. Russian Navigators first discovered the country lying to the North of us and the strip was accorded that power to compensate her for the vast Territory (now known as British Columbia) to which she had consented to abandon all claim. The Pacific end of the line that stretches to the Arctic is marked by Mount Elias whose head is white with the frosts of Eternal Winter, and who stands like a grim Sentinel watching, as it were, to protect the interests of both Nations, and to see that no violation of the Treaty is committed by either with im-

punity. The Russian American Possessions are about 1,000 miles in length by 750 in breadth. The Fur Company exercise undisputed Authority over that vast extent of country which has proved a mine of wealth to them. The country is represented as rich in precious and base metals. There are traditions afloat among Traders, who have visited the sea coast that the Fur Company collect large quantities of Gold Dust annually from the Natives. Such stories seldom contain a particle of truth and generally exist only in the vivid imaginations of those who relate them. But it is a wellknown fact that copper in a pure state is found on the Ana River and that the sheets of bright native copper on which are traced Indian hieroglyphics said to possess great antiquity and found among the aborigenes on that portion of the coast were obtained on its banks and converted into their present form by some process known only to the Natives. Several large streams heading in British Territory flow through the Russian possessions, and empty into Behring Straits. These streams were partly explored last year by the Russian Telegraph Employees, and one of them the Kvickpak, ascertained to be navigable for steam boats a distance of 1400 miles. The Water in the vicinity of the Coast of Sitka as well as the Aleutian Islands (an important group lying to the South-East of the Peninsula of Alaska) furnish valuable fishing grounds, and the vessels of several Companies, with their Head-quarters at San Francisco, are extensively engaged through the Summer in catching and curing cod-fish for the California market. The Russian Fur Company own several large steamers which visit the various stations at stated periods and secure rich freights of furs which are sent to Europe. The Coast is almost destitute of timber, and no good coal has been discovered there. The want of two such important essentials to life and comfort as these must ever prove a serious barrier to the rapid settlement of the country: it matters not into whose hands it may fall. From a Commercial point of view the establishment of a Colony of energetic go-ahead people who would open the mines of latent wealth that are represented to abound there, and would improve and turn to account every other advantage that the land may possess, would certainly prove beneficial to us, but looking at the Cession from a Political standpoint we confess we are not a little startled to observe the strides that our American neighbor is making on all sides to hem in and cut off from every chance of Territorial expansion the British North American Confederacy. To Russia the possessions to the North of us are of no Political importance, but to the United States they may prove of incalculable value in view of the great and important change that has lately taken place on the Continent. The sum demanded for this Territory is said to have been \$7,000,000, but from the opposition afforded by the American Press we fancy it is nearer \$70,000,000. To judge from the despatches received last night it would appear that the ratification of the Treaty by the American Senate is doubtful. Nothing pleases an American more than a knowledge of the fact that his country is adding to her Real Estate: extending her area: taking slow but positive steps towards the realization of the dream indulged in by Mr. Munroe whose "doctrine" was that the United States should include the whole North American Continent. The position of the Senate is therefore strange and can only be accounted for upon the ground that the Radicals are fearful that Mr. Johnson by acquiring additional Territory should become so popular as to secure a re-election.

Editorial from "The Colonist", Victoria, B. C., dated April 17th 1867.

THE RUSSIAN TREATY RATIFIED.

Our Special Despatch announces the ratification of the Treaty whereby Russia agrees to sell and the United States agrees to buy all that tract of land lying North and West of the 60th degree of latitude and known as the Russian Possessions in North America. The importance of this purchase cannot be over-estimated. It opens to American enterprise the inexhaustible Fisheries and the extensive Fur trade of that region, besides giving the United States control of a strip of sea-board 10 leagues in width from Fort Simpson to the 60th degree of latitude. Award that power San Juan Island and Great Britain will have scarcely a foothold of Coast on the Pacific that she can call her own or with which in case of war with our neighbor she would not find it next to impossible to communicate. John Bull in America is being hemmed in by Brother Jonathan in a manner much more forcible than agreeable, and if the Duke of Buckingham really stated as reported that the cession of the Russian Territory to the Americans is a matter of indifference to Her Majesty's Government, he was either ignorant of the subject on which he spoke or the Home Government is trying to rid herself of her Colonies. The understanding between the United States and Russia is cordial, and although the cession of this Territory does not indicate an Alliance offensive between the two powers it would seem that Russia is preparing for trouble on the Eastern question and is endeavoring to buy the moral support and sympathy of America in the struggle which the whole World is aware must soon take place.

A Report of a Committee of the Honourable the Executive Council of British Columbia on the question of the Boundary between Canada and Alaska.

[From "Sessional Papers, 1885, Alaska Boundary Question," pp. 451, etc.]

There are two points submitted for consideration:

First: Whether it is desirable that steps should be taken to have the Boundary defined between Canada and the United States Possessions in Alaska.

Second: A Requisition for Information in the possession of the Government of British Columbia on the subject, or that can be obtained.

As to the first—

For many reasons, apart from the national object of avoiding grounds of dispute between Canada and the United States, it is desirable, as effecting British Columbia particularly and the Dominion incidentally, that the Boundary line referred to should be settled as soon as possible.

Alaska was purchased from Russia by the United States, on the 13th March, 1867, for \$7,200,000. At that time its present importance was not exactly understood or appreciated. Its lately discovered sources of wealth in the seal fur trade, deep sea and river fisheries, gold and other mining, and great extent of internal navigation by

means of the large rivers Yukon and Porcupine, have added greatly to its importance, and are tending to increase, in a proportionate degree, the value of importance of the adjoining territory, belonging to British Columbia and the Dominion.

The Stikine River, running into British Columbia, communicating with Dease Lake and River, and ultimately with the Peace and Mackenzie Rivers and the surrounding North-West Territory, has its outlet in American Territory. The navigation of the Stikine, for purposes of commerce, was reserved to both countries by the Treaty of Washington, 1871.

In 1873, gold was discovered in the Cassiar District, about the upper waters of the Stikine, Dease lake and River, and the other streams in that vicinity. In 1874, trade rapidly developed itself. A *mining* population flowed in, and supplies of valuable goods and merchandise were required. In 1876, the volume of trade amounted to about \$350,000, and the duties paid to the Dominion Revenue, at Victoria and Glenora, on goods consumed in the Cassiar District, amounted to between \$35,000, and \$40,000.

Returns to 1880 show a somewhat fluctuating trade, as is common to all mining centres, but the average taken annually is still of considerable amount, namely, from 1877 to 1880, from \$290,000, to \$215,000., and taken from 1880 to 1884, diminishing on the Stikine, but so increasing along the coast as to keep the average at the same point.

Thus, apart from all considerations as to the future value of this northern portion of British Columbia, when the advancing progress of settlement from the eastern sections of the Dominion shall have reached it, we have at present an existing annual trade of upwards of \$300,000, yielding to the Dominion Revenue per annum \$35,000 or \$40,000.

This trade is seriously jeopardized by the unsettled nature of the question, that is the uncertainty of the boundary line—not that there is the slightest uncertainty where it is to be found, but that it has not been laid down territorially, and locally defined between the two countries.

As illustrating this danger, a short statement of facts will be useful:—

The entrance to the Stikine River is within American territory. The American Port of Entry at its mouth is Fort Wrangel. There all goods intended for the interior have to be transhipped, or an American officer put on board the British vessel to see that they are not landed in the American territory in transitu. Every merchant knows that this adds to the expense and delay of transportation, which expense and delay would be entirely avoided if, within the British line, a port of Entry was established, to which seagoing vessels from either British or foreign ports, with cargoes, could go direct, without breaking bulk, coming in no way within the purview of the coasting trade objections. Within what is here claimed as undoubted British Territory—about 30 miles from the mouth of the river—facilities for establishing such a port exist:

Captain Irving, the present manager of the Canadian Pacific Steamboat and Navigating Company, an experienced and able navigator on this coast, who navigated the Stikine for two years when business commenced in that direction in 1873-74, states that the depth of water from the mouth of the river to Buck's, 30 miles up, is from 6 to 8

feet at low water, easily navigable for steamers drawing less than six feet, thus affording on the River an available British Port, to which goods from Victoria and the other ports of British Columbia could be forwarded without transshipments, and under the Treaty with free navigation for purposes of commerce, avoiding all question of expense, delay, or irritation with the American authorities at Fort Wrangel. Captain Irving was himself subjected to the most arbitrary and inexcusable possibilities by the Custom House officers at Fort Wrangel, resulting in the illegal seizure of his steamer and the loss of several thousand dollars, from which he had ultimately to seek redress in the Courts of the United States.

At this place, called Buck's, 30 miles up the river, in 1876, a French Canadian, named Choquette, carried on a very large trade with the Indians of the neighborhood, who, from old associations with the Hudson's Bay Company, preferred dealing in British goods. The extent of Choquette's business may be estimated from the fact that from one firm alone in Victoria his purchases amounted to \$25,000, annually, and his sales several times in one day alone to a single Indian would amount to \$1,200, in blankets, by way of barter—a blanket, from the old Hudson's Bay Company's custom, being a unit of value.

It was the policy of the American authorities to divert this trade to the American markets, and, in October, 1876, Choquette was served with an official notification from the Custom House authorities in Alaska to remove from his place of business, or pay American duties on his stock, giving him until the spring of 1877 to obey.

To see more immediately the application of this circumstance, it is to be mentioned that, in 1875, to avoid difficulties likely to arise from this undefined boundary, it had been agreed between the Custom House authorities of the United States at Alaska and the Dominion authorities of British Columbia, but without any direction or sanction from the Dominion Government, to establish, pending or until a final settlement, a conventional line, crossing the river about two miles below "Buck's", which, up to that time, had been recognized as admittedly within British territory; and in the vicinity not far from Buck's, Mr. Hamley, the Collector of Customs for British Columbia, had stationed a revenue officer, Mr. Hunter, to collect the Dominion duties.

Finding, after a short time that, in so extremely isolated a position, it would not be safe for a revenue officer with moneys collected to remain, or reasonably concluding so from the reputation of the Indians and the dangerous characters resorting to the mines, Mr. Hamley deemed it prudent to remove his officer to Glenora, the head of the boat navigation on the river, where a vigorous settlement had sprung up, and where the duties collected in the seasons of 1875 and 1876, extending from June to September, amounted to nearly \$10,000.

In making this removal, Mr. Hamley did it for the protection of the public funds and the safety of the public officer. It is presumed, however, that the local American authorities regarded it, or assumed to regard it, as an admission of abandonment, and immediately claimed the boundary line to be 30 or 40 miles further up the river, or about 60 miles from its mouth, and accordingly served Choquette with the notification above-mentioned.

It is proper here to observe that Choquette's case was, by letter dated the 16th October, 1876, communicated by Mr. Justice Gray, the

Judge of the Supreme Court who had been holding the Assizes at Cassiar, to the Dominion Government, and an arrangement was made between Canada and the United States by which the threatened action of the American authorities at Alaska was stayed.

Thus, we have the fact, not only that there is a good trade on the Stikine, but that there are facilities for preserving and extending the trade within the power of the Dominion Government, while there is danger of losing it by delay in affecting a settlement of the dispute as to the boundary.

Other important considerations are also involved, which may have to form the subject of negotiation, rather than the demand of right.

Under the Treaty of Washington, in 1871, it was questioned whether the right of navigation of the Stikine had been narrowed.

By the Convention of 1825, between Russia and Great Britain, in force at the time of the transfer to the United States, there was no express limitation as to the purpose for which the navigation was to be used.

By the Treaty of Washington, made since the transfer, it was expressly limited to commerce. This raised the question as to the right of the Dominion Government to transport criminals arrested or convicted through that part of the Stikine undoubtedly within American territory; and, after much correspondence and negotiation with Her Majesty's Government and the United States, it was finally conceded the Dominion Government had no such right. Practically the absence of such right abolishes all but the death penalty in that north-eastern portion of British Columbia.

The state of the country does not admit of the building and maintaining there penitentiaries or prisons, and the transport of convicted felons through 600 miles of unbroken wilderness is practically almost an impossibility.

This leaves that district in a most unsatisfactory and anomalous position as to the administration of justice.

In another respect also, in view of any ulterior extension of the Canadian Pacific Railway, or its branches, to an ocean terminus at Port Simpson, the settlement of this Boundary line is important, both in a strategical point of view, as affecting the sea approaches to the port, and in an economical point of view, as affecting the collection of revenue. These objections will more clearly appear when the second or topographical branch of the case submitted is under discussion.

By delay, erroneous impressions also, as to the true terms of the Treaty become engrained in the public mind, which increase the difficulty of obtaining a settlement.

Already large numbers of the residents of Alaska though only temporary, entirely ignore one of the most marked elements governing the line, and convert a negative direction into an affirmative right. For instance, when the line is directed to be along the summit of the coast range of mountains, but in no case to exceed 10 marine leagues from the coast, though the summits of the coast range might not be more than 10 to 15 miles.

This idea, by degrees, is taken to be the Treaty, and has to be removed with much labour before the public sanction would be given to any other line. How unjust this would be to British Columbia will be shown hereafter.

These and many other reasons are conclusive that it is essential for

the welfare of British Columbia, that the true boundary line, or some clear line of demarcation, should be at once agreed upon, or settled between the two countries.

Taking up the second branch of the case, as to where the boundary line should be, it may be at once assumed, as an axiom, that unless by sanction of the contracting parties or their representatives, it must be in accordance with the line laid down in the Convention between Great Britain and Russia in 1825. There has been no agreement between Great Britain and the United States relative thereto, and the latter succeeded only to what Russia had.

We have then first to see the terms and language used by the contracting parties in 1825.

2: The initial or starting point then agreed upon.

3rd: The course from that point directed to be followed.

4: The effect of following that course as to compliance or non-compliance with the topographical features of the country pointed out in the Treaty as objects for guidance.

5: Whether the line claimed by British Columbia does not in every respect coincide with the terms and language used by the contracting parties.

6: Whether the line claimed or alleged to be claimed by the United States authorities is not, in every essential particular, a departure from such terms and language?

The first point to be determined is—What were the exact terms and language used by the Convention between Great Britain and Russia in 1825?

In McCulloch's Commercial Dictionary (edited by Henry Vethake, LL. D., Professor of the University of Pennsylvania, published at Philadelphia in 1852) will be found the full text of the Convention, signed by Stratford Canning, Nesselrode, De Poleticas.

The line is there thus described:—

3. The line of demarcation between the Possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the North-west shall be drawn in the manner following:—

Commencing from the southernmost point of the Island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes North Latitude, and between the 131st and 133rd degrees of West Longitude (Meridian of Greenwich), the said line shall ascend to the north along the channel as far as the point of the continent where it strikes the 56th degree of North Latitude; from the last mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of West Longitude (of the same Meridian); and finally from the said point of intersection of the said meridian line of the 141st degree in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British Possessions on the Continent of America to the North West.

In Hertslet's Collection of Treaties (volume 3) will also be found the text. It is identically the same, except that in the line "shall ascend to the north along the channel", it adds the words "called the Portland channel."

Wheaton—the American writer on International law, 6th edition, edited by Wm. Beach Lawrence, published at Boston in 1855—does not include these latter words as part of the original instrument, but inserts them in his text and adds the words "Eastward to the Great Inlet in the Continent called Portland Channel", which Hertslet does not use.

In giving his details of this Convention or Treaty as he calls it, at page 224, after stating that it was signed at St. Petersburg, February 28th, 1825, and established a permanent Boundary line between the territories respectively claimed by them (e. g., "Great Britain and Russia) on the Continent and Islands of North Western America". Wheaton says—

By the 3rd and 4th Articles it was agreed that the line of demarcation between the Possessions of the high contracting parties upon the Coast of the Continent and the Islands of America to the North-West should be drawn from the southernmost point of Prince of Wales Island in Latitude $54^{\circ} 40'$ Eastward to the great Inlet in the Continent called Portland Channel, and along the middle of that Inlet to 56° of Latitude, whence it should follow the summit of the mountains bordering the Coast within ten leagues North Westward to Mount St. Elias, and thence North in the course of the 141st meridian west from Greenwich to the Frozen Ocean, which line shall form the limit between the Russian and the British possessions in the Continent of America to the North-west.

In this summary given by Wheaton, there is a striking difference from both McCulloch and Herstlet. He not only leaves out the Longitude, but he interpolates the word Eastward.

At page 227, referring to this subject, he lays down a rule which will materially aid in determining which of the three is right—viz. that.

in the construction of an Instrument of whatever kind, it should be construed, if possible, *as that every part may stand.*

Suffice it for the present to say, that under this rule, in the application of his delineation to the geographical and topographical features of the country, it fails in almost every particular.

Yet the features of the country must have been known to the parties who framed the Convention, or the language given by McCulloch as descriptive of it could not have been used.

Not the slightest inference is to be drawn, or any reflection upon the motives of the writers thus differing.

At that time the dispute was between Great Britain and Russia. It was not until forty years after that the United States became interested in the question. These very differences, however, enable us to come to an accuracy of conclusion.

In this same Convention, there is another element of description which, though not included in the above extracts from McCulloch, will have to be referred to, and may to some extent account for the mixed summary of Wheaton. It is as to the distance of the line from the coast, and is here quoted:

ARTICLE 4. With reference to the line of demarcation laid down in the preceding Article, it is understood:

1. That the Island called Prince of Wales Island shall belong wholly to Russia.
2. That where the summit of the mountains which extend in a direction parallel to the Coast from the 56th degree of North Latitude to the point of intersection of the 141st degree of West Longitude shall prove to be at a distance of more than 10 marine leagues from the Ocean, the limit between the British possessions and the line of Coast which is to belong to Russia as above mentioned shall be formed by a line parallel to the windings of the Coast, and which shall never exceed the distance of 10 marine leagues therefrom.

The original of this Convention must be found either in the archives at London or St. Petersburg, and may yet have to be referred to. In the new edition of McCulloch, printed at London in 1859, it is not set out in full, but is declared to be in force by the Treaty of Commerce

and Navigation between Great Britain and Russia, signed at St. Petersburg, January 12th, 1859, the 19th section of which says:

In regard to Commerce and Navigation in the Russian possessions on the North-west Coast of America, the Convention concluded at St. Petersburg on the 16th February, 1825, shall continue in force.

It is a singular circumstance that, in all the negotiations and correspondence with the United States and the directions by the Dominion Government to its own officers, *it has been assumed throughout* that the original Treaty or Convention between Great Britain and Russia did contain those words "called the Portland Channel," as appears by the Return made to the Dominion House of Commons on the 23rd of April, 1878, to an Address dated 21st February, 1878, for information on the subject of the boundary line, as connected with the subject of the escape of one—Martin: United States Customs notification to Choquette; and the contemplated issuing of a Commission jointly with the United States to run the line, and published in extenso in the Sessional papers pp. 23 to 146, Vol. XI, No. 2, 1878 (125).

The Government of British Columbia contends that this is entirely an erroneous assumption without authority to sustain it; and that from all the information that Government can obtain it has reason to believe that those words will not be found in the original, or if there, the term has been misapplied—not as to where the Portland Channel really is, but as to its being the channel contemplated by the Treaty.

In the earlier versions of the Treaty obtainable in British Columbia, they are not found.

They are not in McCulloch's version, published at Philadelphia in 1852, already quoted.

They are not in the version of the Treaty in "Steels Shipmasters Assistant." A new edition published and corrected to the 1st of March, 1837, (just twelve years after the Treaty), by J. Slikeman, Secretary to the East India and China Association, containing "Information for persons connected with Mercantile Affairs, Commercial Treaties, &c.," and printed by Logman & Co., Paternoster Row, London.

They are in Wheaton, published at Boston in 1855, and in the version in Hertslet's Collection of Commercial Treaties, published at London in 1856.

The Government of British Columbia further contends that those words are entirely inconsistent with the description, terms, and conditions laid down in the Treaty itself as guides for defining the boundary. And further, that even if such words are found in the transfer of the Alaska Territory from Russia to the United States, Great Britain was no party to that transfer, and cannot be affected or deprived of her territorial rights thereby.

Having exhausted the information that can be obtained in British Columbia relative to the terms and language of the Convention, it becomes our duty to see which description, that of McCulloch, Hertslet, or Wheaton tallies most correctly with the geographical and topographical features of the country, and thereby, under Wheaton's rule of construction, carries with it internal evidence of its being the language of the Convention used by the Contracting parties.

An undoubted test of the accuracy of a description relative to land, is its accord with the territorial features found on the land, and the facility and certainty with which land marks may be found, recognized and identified.

It may with equal correctness be stated that positive territorial landmarks capable of identification, clearly defined, and existing within the limits and on the spot delineated, cannot be overridden by the use of words of nomenclature inconsistent with such description and their existence—words which may have been and perhaps were inadvertently used, or accidentally misplaced; nor can such an identification be superseded by the interpolation of terms, without which the description requiring such terms would be so inaccurate as to be utterly inapplicable and inadmissible.

Remembering these rules of construction, we turn to the language of the Convention and the features of the country, as the latter are delineated on the Admiralty Charts and other maps herewith enclosed.

The initial or starting point is declared to be from the southernmost point of the Island called Prince of Wales; which point lies in $54^{\circ} 40'$ N., and between 131° and 133° West Longitude.

We find that point at Cape de Chacon.

Thence to ascend northerly along the channel until it strikes the continent at 56° N.

Following that instruction, we turn northerly from that point, ascend the channel, and strike the continent at 56° on the N. W. point of Burrough's Bay.

Thence the summit of the mountains parallel to the coast, at or within ten marine leagues from the coast, as far as the intersection with 141° W. L.

In like manner, following that course from Burrough's Bay, we find the summit of the coast range within the distance specified, and at 19 or 20 miles above the mouth of the Stikine.

Insert the words "Portland Channel" as found in Hertslet and from the starting point instead of northerly you have to go east fully 16.66 marine leagues or 50 nautical miles, before you turn north.

Again, you cannot ascend the Portland Channel until you strike the Continent at 56° .

Thirdly, you could not from the head of Portland Channel—assuming these Admiralty surveys are correct—strike the summits of mountains parallel to the coast, because there are several intervening ranges, and the line would necessarily run far more than ten marine leagues from the coast—in fact over twenty.

Then with Wheaton's definition you have to insert not only "Portland Channel", but his word "Eastward", which is not found in either text of the Treaty; and to assume that the summit of the range of mountains that would be found, where a line running north up the Portland Channel would strike the continent at 56° would be within ten leagues of the coast, whereas it is shown by actual measurement on the chart that it must necessarily be more than twenty marine leagues off. The only possible solution that can be found for the contention on behalf of "Portland Channel" is, that in the entrance of this channel is an island called "Wales Island", the southernmost point of which is in $54^{\circ} 40'$ N. L., and from which point a northerly course would ascend Portland Channel, but which Island is not only not in the longitude specified, but, as already stated, is 50 nautical miles to the east of that initial point.

Moreover, it may be observed, that Portland Channel, from its entrance to its head, is so entirely within the continent that by ascending it you could hardly be said to strike the continent.

Whereas the northerly course from the starting point to Burrough's Bay, actually passes among the islands, and does not strike the continent until you reach 56°.

Thus, with reference to McCulloch's version of the Treaty, you reconcile every word and term with the geographical and topographical features of the country directed to be your guide: while to adopt the version of Hertslet or Wheaton, you have to ignore all—nay, even to reconcile themselves to themselves, you have to interpolate words which are nowhere to be found, and which, while suiting one part, are utterly inconsistent with every other part.

As confirmatory of the construction in favor of McCulloch's version, the first subdivision of the 4th Article of the Convention may also be cited. It there declares that the island called Prince of Wales Island, shall belong wholly to Russia; a declaration unnecessary if the line was to go up the Portland Channel.

A most striking illustration of the truth of these views is found in the position of the coast range of mountains where it crosses the Stikine. That range rises not far from the tide waters, and the summit of that range is within 20 miles of the sea. This is proved by the fact that in following up the valley of the Stikine, the axis of the range is passed at about 19½ miles from the coast. Up to about this point the Stikine makes a somewhat easterly course from the sea. Thence rounding the range in question, it takes a more northerly course, receiving four or five glaciers, which flow in an easterly direction from the summit of the range into the valley of the Stikine.

Therefore there can be no difficulty in ascertaining the line contemplated by the Convention.

From the head of Portland Channel to reach a distance of even ten marine leagues from the coast to find the coast range, would render necessary the crossing of at least two intervening mountain ranges, a circumstance wholly irreconcilable with the Treaty, the head of that Channel being where a protraction of it would strike the 56 parallel, over 20 marine leagues from the coast.

The survey of Mr. Hunter, C. E., appointed by the Dominion Government to examine and report, will be found at page 146 of the Sessional Papers 125 above referred to, and conclusively establishes the coast line range of mountains at the crossing of the Stikine to be about 20 miles from the sea, and within 10 marine leagues; and the Russian maps, tracings from which are enclosed herewith, show, with equal certainty, that both above and below the Stikine the coast range runs approximately at the same distance down to the 56th parallel; where the line ascending northerly from the southernmost point of Prince of Wales Island, Cape de Chacon, would strike the continent—an impossibility if the Portland Channel be assumed to be the line.

On this latter point also, as to the position of the coast range below the Stikine down to Cape Camano, Mr. McKay, an old factor of the Hudson's Bay Company, affords the most direct personal observation, having on three several occasions coasted the whole distance in canoes, and confirms, in the strongest manner, the position of the coast range as above stated, and the correctness of the delineation on the Russian maps, and the language of the Treaty in that particular.

His evidence is in such detail, and is so thoroughly reliable, from his standing and experience in the country, extending over 40 years, that it is given in full.

The section of country which lies between the mouth of the Stikine and Cape Camano is very rugged, consisting of short ranges of mountains which follow the general trend of the coast, and which are intersected by numerous deep precipitous gorges.

These gorges are the outlets of series of more elevated and wider valleys following the general direction of the coast ranges and dividing these from the more compact ranges of the interior.

The coast ranges rise abruptly from the sea.

The distances of their summits from the seashore may be stated as from fifteen to twenty miles. Their general elevation above the level of the sea at from two thousand to four thousand feet.

The intersecting gorges are short. The dividing valleys extend in some instances for many miles, containing numerous lakes, discharging rivers of considerable magnitude. As dividing the coast ranges from those of the interior they form an important feature.

The summits or water-sheds of the coast ranges can be clearly defined by tracing the flow of the streams and glaciers toward the sea, and toward the dividing valleys above described.

As further strengthening this position, both at the time of the Treaty and before, there are a set of ancient French maps, the property of a gentleman in Victoria, in which the dividing line between the British and Russian possessions in the vicinity of Prince of Wales Island, is clearly defined and shown by a coloured delineation, placing the whole of Portland Channel, and all of the Islands (including the large Island of Revilla-Gigedo) up to the channel leading northerly from the Cape de Chacon, the southernmost point of Prince of Wales Island, in latitude $54^{\circ} 40'$, and longitude 132° west, within the British possessions.

This map was published at Paris on 1815, just after the Restoration, and dedicated to Monsieur the Comte D'Artois. Under the head of observations, printed thereon, is the following:

INDICATIONS DES-MATERIAUX.

Amérique Russe (extrémité du Nord Ouest) les côtes du Detroit de Behring, celle du Nord du Grand Océan, y compris les Iles Aleutiques, la presque île d'Alaska—en allant vers l'Est jusqu'au 145° degré de Longitude Occidentale sont tirés d'une carte en 4 feuilles du Nord du Grand Océan, publié à St. Petersburg en 1802—Les noms des peuplades què se trouvent vers cette extrémité de L'Amérique sont placés d'après les rapports de Messrs. Demidoff, Karscheteff, Baranoff, &c., de l'expédition de Krusenstern. Côtes Ouest, Nouveau Norfolk, Conouailles, Nouvelle Hanover, Nouvelle Georgie, Nouvelle Albion, et Nouvelle Californie. Toutes ces côtes sont tirées des cartes des voyages de Vancouver.

[Translation.]

SOURCES OF INFORMATION.

Russian America (The extremity of the North West) the Coasts of Behring Straits, that of the north of the Great Ocean and the Aleutian Islands comprised therein, the Peninsula of Alaska, as far East as the 145° of West Longitude, are drawn from a map, in four sheets, of the North of the Great Ocean, published at St. Petersburg in 1802. The names of the tribes who inhabit this extreme end of America are taken from the Reports of Messrs. Demidoff, Karscheteff, Baranoff, &c., of the Expedition of Krusenstern.

The West Coast, New Norfolk, New Cornwall, New Hanover, New Georgia, New Albion, and New California. All these Coasts are drawn from maps of the Voyage of Vancouver.

It is not only a presumption that the Russians in using the language they did thoroughly understood the meaning they intended to convey, but it is a well-known tradition among those who were acquainted with the country many years back, that the language did express the sole and only object the Russians then had in view.

There had been a combination of the Indians extending all along the Coast, from Sitka down to Prince of Wales Island, by which Sitka in early years, after the Russian settlement, had been taken and burnt.

After its recovery the Russians wished to be placed in a position by which they could command this combination of the Indian tribes, and for this reason in their division and settlement with Great Britain, they secured the narrow belt along the coast, culminating with the summit of the Coast Range, beyond which the Maritime Indians were not wont to pass.

It was not land the Russians desired, and this Convention placed them in a position to punish the Indians without any infraction of the rights of Great Britain.

Whether this tradition be true or not, at any rate, it was well calculated to accomplish what it is alleged it was intended to do.

To some degree as corroborating this view, we find it mentioned by a traveller on the Stikine in 1876 that as a general rule the sea-coast Indians do not go into the interior. The Taltan Indians, a fine river tribe,—honest and industrious and priding themselves on their good name—claim the lordship of the river, and refuse to permit the Naas or sea-coast Indians to come into the interior.

Of course an Indian's permit depends upon his power to enforce what he forbids, and there must have been occasions when the Sea-coast Indians penetrated into the interior, but it can well be understood that this known hostility of the inner and outer Indians would induce the Russians to believe the narrow belt along the coast sufficient for their purpose.

Thus we have the language of the Treaty, as Mr. McCulloch gives it, coinciding not only with the topographical features of the country, but accomplishing the object which tradition assigns as the reason for its adoption.

The Government of British Columbia contends that any recognition of the words "Portland Channel" as being in the Treaty, was a grave mistake, and most injurious to the interests of British Columbia.

* * * * *

Extract from the British Case in the Fur Seal Arbitration. (Congressional Edition, Vol. 4, pages 52, 53.)

The works of Mr. Robert Greenhow, Translator and Librarian to the United States Department of State (well known in connection with the discussion of the "Oregon question"), afford a detailed and conclusive means of ascertaining the views officially held by the United States Government on the meaning of *Pacific Ocean*, *Behring Sea*, *North-west coast*, and the extent to which the claims made by Russia in the Ukase of 1821 were abandoned by the Convention of 1824.

A "Memoir" was prepared by Mr. Greenhow, on the official request of Mr. L. F. Linn, Chairman of a Select Committee on the Territory of Oregon, by order of Mr. John Forsyth, Secretary of

[See Senate Executive Document No. 174, 26th Congress, First Session.]

State. It includes a map entitled "The North-west Coast of North America and adjacent Territories," which extends from below Acapulco in Mexico to above the mouth of the Kuskokwim in Behring Sea, and embraces also the greater part of the Aleutian chain.

"NORTH-WEST COAST."

Touching the signification of the terms *North-west coast* and *Pacific Ocean*, and the meaning attached to the relinquishment of Russian claims by the Convention of 1824, the first part of the "Memoir," under the heading "Geography of the Western Section of North America," contains the following passage:

The *north-west coast** is the expression usually employed in the United States at the present time to distinguish the vast portion of the American continent which extends north of the 40th parallel of latitude from the Pacific to the great dividing ridge of the *Rocky Mountains*, together with the contiguous islands in that ocean. The southern part of this territory, which is drained almost entirely by the River Columbia, is commonly called *Oregon*, from the supposition (do doubt erroneous) that such was the name applied to its principal stream by the aborigines. To the more northern parts of the continent many appellations, which will hereafter be mentioned, have been assigned by navigators and fur traders of various nations. The territory bordering upon the Pacific southward, from the 40th parallel to the extremity of the peninsula which stretches in that direction as far as the Tropic of Cancer, is called *California*, a name of uncertain derivation, formerly applied by the Spaniards to the whole western section of North America, as that of *Florida* was employed by them to designate the regions bordering upon the Atlantic. The north-west coast and the west coast of California, together form the *west coast of North America*; as it has been found impossible to separate the history of these two portions, so it will be necessary to include them both in this geographical view (p. 1).

Mr. Greenhow here gives the following note:

In the following pages the term *coast* will be used, sometimes as signifying only the sea-shore, and sometimes as embracing the whole territory, extending therefrom to the sources of the river; care has been, however, taken to prevent misapprehension, where the context does not sufficiently indicate the true sense. In order to avoid repetitions, the *north-west coast* will be understood to be the *north-west coast of North America*; all *latitudes* will be taken as *north latitudes*, and all *longitudes* as *west from Greenwich*, unless otherwise expressed.

Extracts from British Counter Case in the Fur Seal Arbitration (Congressional Edition, Vol. 8, pages 42-46, 48).

"NORTH-WEST COAST" WAS USED THROUGHOUT PRELIMINARY NEGOTIATIONS TO INCLUDE COAST FROM BEHRING STRAIT TO LATITUDE 51° NORTH.

It is proved in the British Case, by numerous extracts from the correspondence which preceded the Treaties, that the words "north-west coast" were used, throughout the negotiations, to include not less than the whole of the North American coast from Behring Strait to latitude 51° north.

* * * * *

* N. B.—The *italics* in this and subsequent quotations are those employed by Greenhow himself.

Mr. G. Canning wrote to Mr. S. Canning [8th December, 1824] as follows:

GREAT BRITAIN PROPOSES TO ADOPT ARTICLE IV OF AMERICAN TREATY, WITH ITS RECIPROCAL LIBERTY OF ACCESS TO NORTH-WEST COAST.

We are content also to assign the period of ten years for the *reciprocal* liberty of access and commerce *with each other's territories*, which stipulation may be best stated precisely in the terms of Article IV of the American Convention.

BUT THE "LISIÈRE" WAS TO BELONG TO RUSSIA.

This shows that Mr. Canning did not understand the term "north-west coast" to be confined to the "lisière," the proposals relating to which had one unvarying condition, namely, that it was to belong to Russia. Had the term been so confined, the careful provision of Article IV, that "the ships of *both* Powers, or which belong to their citizens or subjects *respectively*, may *reciprocally* frequent, without any hindrance whatever, the interior seas," &c., becomes meaningless as far as any advantage to Russia is concerned.

* * * * *

ARTICLE II OF 1825 TREATY SPEAKS OF BRITISH ESTABLISHMENTS ON "NORTH-WEST COAST," PROVING THAT THAT COAST WAS NOT CONFINED TO THE "LISIÈRE."

Article II, likewise, is in substantially the same form in each Treaty that of 1825 concluding thus:

Russian subjects shall not land without permission at any British establishment on the north-west coast.

Therefore, "north-west coast" here, too, cannot mean the "lisière." Article III, in the original French, begins:

La ligne de démarcation entre les possessions des Hautes Parties Contractantes sur la côte du continent et les îles de l'Amérique nord-ouest, sera tracée ainsi qu'il suit:

The line is then defined. It runs from an initial point, described as being situated in 54° 40' north latitude, to the Arctic Ocean.

Article IV defines the boundary between the narrow strip of coast already referred to as allotted to Russia and the British possessions. The strip is described as—

la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie.

Articles V and VI both distinguished between "côte" and "lisière."

* * * * *

MEANING OF "NORTH-WEST COAST."

GREENHOW'S DEFINITION AGREES WITH BRITISH CONSTRUCTION.

Recurring to the expression "north-west coast" or "north-west coast of America," it is rarely that the expression in either form is found as a geographical term, or that its precise signification is specially defined in words. One instance is the definition given by Greenhow, and quoted at p. 66 of the British Case, which corresponds precisely with the position maintained by Great Britain. The term is not often found on Maps, but a somewhat extended examination of these has resulted in the discovery of a few instances of its use, at

dates both before and after that of the Treaty of 1825. From an inspection of these Maps, it is quite apparent that the expression was employed in a very lax and general sense, and without precision of meaning in respect to lines of latitude and longitude.

* * * * *

A NOTICE BY THE UNITED STATES IN 1845 ASSUMES THAT THE TREATY OF 1824 INCLUDES THE WHOLE RUSSIAN-AMERICAN COAST NORTH OF LATITUDE 54° 40'.

Further evidence that no distinction was drawn by the United States Government between the coasts of Behring Sea and those of the rest of the Pacific is afforded by the Notice which is referred to at p. 59 of the United States Case, and is printed in full in United States Appendix, vol. i, p. 91. The Notice which was published on the 26th September, 1845, at the request of Russia by the United States Government, is as follows:

The Russian Minister at Washington has informed the Secretary of State that the Imperial Government, desirous of affording official protection to the Russian territories in North America against the infractions of foreign vessels, has authorized cruizers to be established for this purpose along the coast by the Russian-American Company.

It is, therefore, recommended to American vessels to be careful not to violate the existing Treaty between the two countries, by resorting to any point upon the Russian-American coast where there is a Russian establishment, without the permission of the Governor or Commander, nor to frequent the interior seas, gulfs, harbours, and creeks upon that coast at any point north of the latitude of 54° 40'.

It is clear that this Notice was not intended to apply only to so much of the Russian-American coast as lies between latitude 60° or latitude 59° 30', or any other particular point, and latitude 50° 40'.

Its real object was to remind the subjects of the United States of the provisions of the Treaty of 1824 which restrained their right to visit places on the Russian-American coast where there were Russian establishments, without the permission of the Governor.

Extract from Printed Argument in the Fur Seal Arbitration. (Congressional Edition, vol. 10, pages 20, 21.)

Throughout the negotiations which preceded the Treaties, the words "north-west coast" were used to include not less than the whole of the North American coast from Behring Straits to 51° north. If it had been intended to limit this general term to a certain portion of the coast, explicit language would have been used.

One contention of the United States, in effect, limits the "north-west coast" to the *lisière* defined in the IIIrd Article of the Treaty of 1825.

While on the one hand Article VI of the Treaty was confined to the *lisière indiquée*, on the other hand, the reciprocal liberty of access and commerce with each other's territories secured by Article VII was clearly not confined to the *lisière*; the main proposals made with regard to this related to its possession by Russia. The other proposals, including that as to reciprocal liberty of access, related to the whole of the north-west coast. In the words of Mr. Canning, writing in

1824, the object was to secure reciprocal access to the territories of the respective Powers. This was effected by adopting, as Article VII of the British Treaty, Article IV of the United States Treaty, which gave to Russia and the United States a reciprocal right of frequenting for ten years the interior seas on the coast mentioned in Article III of that Treaty. This coast was clearly the whole of the north-west coast from Behring Strait southwards to about 54° 40'. Russia agreeing not to form any establishment south of 54° 40', and the United States agreeing not to form any to the north of that latitude.

* * * * *

Article III of the Treaty of 1825 traces the line of demarcation between the two Powers on the coast of the continent and the islands of North-western America.

Article IV defines the Eastern boundary of the *lisière* which was to belong to Russia.

Article V emphasizes the possession of the *lisière* by Russia by reiterating that the reciprocal prohibition against forming establishments in the possessions of the two parties respectively applied in the case of the Russian possessions both to the coast and to the *lisière* comprised within those possessions.

Article VI dealt only with the *lisière*, granting to Great Britain a perpetual right of navigation of all the rivers flowing to the Pacific across the line of demarcation of the *lisière* indicated in Article III.

Article VII, on the other hand, dealt with the coast of the continent mentioned in Article III; it gave to the two parties a reciprocal right of visit to all the inland waters, harbours, &c., on this coast; it applied, therefore, to the coast of the whole of the Russian possessions, as well as to the whole of the coast of the British possessions.

If the right of access under Article VII were limited to the coast of the *lisière*, the reciprocal character of the Article would be destroyed.

The text of the Treaty clearly shows, therefore, that the expression "north-west coast" included the whole of the coast on the north-west of the American continent; and that the term "Pacific Ocean" included all the waters washing the north-west coast, including Behring Sea.

This argument is supported by the fact that in the Treaties of 1841, 1843, and 1859, concluded by Russia with Great Britain and other Powers (and which are examined in the British Counter-Case, pp. 51-52), the term "North-west coast of America" is used in a manner showing conclusively that it included the coast of Behring Sea.

The Treaty of 1859 did not expire till 1869, *i. e.*, after the cession of Alaska to the United States.

Extract from the Oral Argument of Sir Richard Webster in the Fur Seal Arbitration. (Congressional Edition, vol. 13, pages 450-452.)

SIR RICHARD WEBSTER. * * * Will you kindly turn now to the British Treaty on page 53 of the British Case, and I will endeavor to take it as shortly as possible. It will not be waste of time to run through it without reading the articles at length. The scheme of that Treaty is of some little importance in order to complete my argument upon the point. Article I corresponds with, and I say is the same as, Article II in the United States Treaty. Articles III and IV find no

place in the United States Treaty. They relate to the *lisière*. It is not necessary that I should do more than explain in one sentence what it was, that my story may be complete. It was necessary to determine a land boundary between British America and Alaska, and accordingly Articles III and IV relate solely to what that land boundary should be. Article V corresponds with Article III of the United States Treaty. It is an agreement between Great Britain and Russia as the previous agreement existed between the United States and Russia, that no establishment should be formed by Great Britain north of the line of delimitation. Then Article VI refers to the rivers crossing the *lisière*. It was necessary because it finds no place in the United States Treaty, because there was no *lisière*.

It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the continent shall for ever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the line of coast described in Article III of the present Convention.

Perhaps, it would not be inconvenient if I read to you the French version of that Treaty, which you will find—and you can put them side by side—at the end of the B. C. Appendix, Volume 2, Part III to which I have just been referring.

The PRESIDENT.—It would be better to look at the French original, as this was a translation. What you have just read is the English translation.

Sir RICHARD WEBSTER.—You are right, Sir. In both cases the originals of this Treaty were in French. What General Foster said later on about the 1867 Treaty did not apply to the one of 1824.

If you would look if you please, Sir, at Article VI, on page 3, of part 2, you will find this.

Mr. Justice HARLAX.—It is in the Appendix to the American Case, volume 1, pages 39 and 40.

Sir RICHARD WEBSTER.—Quite true. It is this:

Il est entendu que les sujets de Sa Majesté Britannique, de quelque côté qu'ils arrivent, soit de l'Océan soit de l'intérieur du continent, jouiront à perpétuité du droit de naviguer librement et sans entrave quelconque, sur tous les fleuves et rivières qui, dans leurs cours vers la mer Pacifique, traverseront la ligne de démarcation sur la lisière de la côte indiquée dans l'Article III de la présente Convention.

Therefore, when you look at the original, there is not any doubt about it at all, because they refer, most properly, to the "lisière de la côte"; and if you will turn back to Article III you will find there the lisière described.

Mr. Justice HARLAX.—What are the English words in Article VI corresponding to lisière?

Sir RICHARD WEBSTER.—I will read it:

May cross the line of demarcation upon the line of coast.

The expression "line of coast" is not the proper translation—it ought to be "strip of coast". "Strip" is the correct translation of "lisière", if I may be permitted to say so Mr. President, and no doubt if I am wrong you will correct me. "Lisière" is "selvage"—"strip"—like the edge of cloth—"border".

Lord HANNEN.—You might suggest yet another word—"margin".

Sir RICHARD WEBSTER.—I will read now Article VII, which corresponds with the American Article IV.

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

Not the *lisière*; and if you look at the French, which is perfectly plain description, the words are:

Les golfes, havres et criques sur la côte mentionnée dans l'Article III—

Without any reference to "lisière" at all. The only feeling I have in dealing with this matter, is that it is a little cruel to my friends to be exposing the impossibility of maintaining the argument by which Mr. Carter has said, in his opinion, Mr. Blaine, to his entire satisfaction was completely successful in showing that Behring Sea was excluded from the Pacific Ocean, and that Northwest coast had this meaning by those treaties.

MR. JUSTICE HARLAN.—Would you turn to Article III and tell me what is the "coast" mentioned there.

SIR RICHARD WEBSTER.—Yes. The coast mentioned in Article III, is—

The line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the north-west.

That is from about 54° 40' right up to the point where 141° West longitude strikes the Arctic Ocean, and I submit there is no question about it.

The line of demarcation runs behind the *lisière* until it gets to Mount St. Elias, and then it goes straight up.

MR. JUSTICE HARLAN.—What do you say is the point of the shore referred to as the "coast" in Article VII?

SIR RICHARD WEBSTER.—The "coast" is the whole of the coast up to Behring Straits.

MR. JUSTICE HARLAN.—Up to Behring Straits?

SIR RICHARD WEBSTER.—The line of demarcation is a complete line. It divides the British possessions from the Russian possessions; it has nothing to do with the *lisière*.

Now I will read the translation, and perhaps, Mr. President, you will kindly follow it in French. I am reading from page 54 of the British Case. It is not my translation but I believe it is correct. It is this:

The line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the north-west, shall be drawn in the manner following:

Commencing from the southernmost part of the island called Prince of Wales' Island, which point lies in the parallel of 54° 40' north latitude, and between the 131st and the 133rd degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude "of the same meridian"; and, finally, from the said point of intersection, the said meridian-line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British possessions on the continent of America to the north-west.

I submit (remembering that the line of demarcation was to be complete with reference to the coast referred to as the north-west coast of the continent, and the Islands of America to the north west), that nobody who can take an impartial view of this matter can come to any

other conclusion than that the coast referred to in Article VII is the whole coast; and when we remember that in the United States the expression *littore* does not occur at all, and that Article III of the United States treaty speaks of the north-west coast of America north of 50° 40', and that I am justified in saying that Mr. George Canning believed that he was getting the same for Great Britain as the United States had got from Russia—there is not any answer, at any rate, apparent (unless I have made some grave blunder) to the contention that the right of Great Britain to visit, during ten years, inland creeks, and harbours, and to visit for the purpose of navigation and fishing the seas which washed the American coasts extended right away from 54° 40' up to the point to which I have called attention.

Extracts from the Speech by the Hon. Charles Sumner, of Massachusetts, on the Cession of Russian America to the United States in 1867. H. R. Ex. Doc. 117, 40th Congress, 2nd Session, Pages 124-189.

[Reprinted in the British Case in the Fur Seal Arbitration, Appendix I, Vol. 4 of Congressional Edition pages 269-270, 286-288.]

MR. PRESIDENT: You have just listened to the reading of the Treaty by which Russia cedes to the United States all her possessions on the North American Continent in consideration of 7,200,000 dollars, to be paid by the United States. On the one side is the cession of a vast country with its jurisdiction and its resources of all kinds, on the other side is the purchase-money. Such is this transaction on its face.

BOUNDARIES AND CONFIGURATION.

In endeavouring to estimate its character I am glad to begin with what is clear and beyond question. I refer to the boundaries fixed by the Treaty. Commencing at the parallel of 54° 40' north latitude, so famous in our history, the line ascends Portland Channel to the mountains, which it follows on their summits to the point of intersection with the 141° west longitude, which line it ascends to the Frozen Ocean, or, if you please, to the North Pole. This is the eastern boundary, separating this region from the British possessions, and it is borrowed from the Treaty between Russia and Great Britain in 1825, establishing the relations between these two Powers on this continent. It will be seen that this boundary is old; the rest is new. Starting from the Frozen Ocean, the western boundary descends Behring Straits, midway between the two islands of Krusenstern and Ratmanov, to the parallel of 65° 30', just below where the Continents of America and Asia approach each other the nearest; and from this point it proceeds in a course nearly south-west through Behring Straits, midway between the Island of St. Lawrence and Cape Chonkotski, to the meridian of 172° west longitude, and thence, in a south-westerly direction, traversing Behring Sea, midway between the Island of Atton on the east, and Copper Island on the west, to the meridian of 193° west longitude, leaving the prolonged group of the Aleutian Islands in the possessions now transferred to the United States, and making the western boundary of our country the dividing line which separates Asia from America.

Look at the map and see the configuration of this extensive region, whose estimated area is more than 570,000 square miles. I speak by the authority of our own Coast Survey. Including the Sitkan Archi-

pelago at the south, it takes a margin of the mainland, fronting on the ocean 30 miles broad and 300 miles long, to Mount St. Elias, the highest peak of the continent, when it turns with an elbow to the west, and then along Behring Straits northerly, when it rounds to the east along the Frozen Ocean. Here are upwards of 4,000 statute miles of coast, indented by capacious bays and commodious harbours without number, embracing the Peninsula of Alaska, one of the most remarkable in the world, 50 miles in breadth and 300 miles in length; piled with mountains, many volcanic, and some still smoking; penetrated by navigable rivers, one of which is among the largest of the world; studded with islands which stand like sentinels on the coast, and flanked by that narrow Aleutian range which, starting from Alaska, stretches far away to Japan, as if America were extending a friendly hand to Asia. This is the most general aspect. There are details specially disclosing maritime advantages and approaches to the sea, which properly belong to this preliminary sketch. According to accurate estimates the coast-line, including bays and islands, is not less than 11,270 miles. In the Aleutian range, besides innumerable islets and rocks, there are not less than fifty-five islands exceeding 3 miles in length; there are seven exceeding 40 miles, with Oumimak, which is the largest, exceeding 73 miles. In our part of Behring Sea there are five considerable islands, the largest of which is St. Lawrence, being more than 96 miles long. Add to all these the group south of the Peninsula of Alaska, including the Shumagins and the magnificent Island of Kodiak, and then the Sitkan group, being archipelago added to archipelago, and the whole together constituting the geographical complement to the West Indies, so that the north west of the continent answers archipelago for archipelago to the south-east.

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ANTICIPATION OF GREAT BRITAIN.

4. Another motive to this acquisition may be found in a desire to anticipate the imagined schemes or necessities of Great Britain. With regard to all these I confess my doubts, and yet, if we may credit report, it would seem as if there was already a British movement in this direction. Sometimes it is said that Great Britain desires to buy if Russia will sell. Sir George Simpson, Governor-in-chief of the Hudson Bay Company, declared that without the strip on the coast underlet to the former by the Russian Company the interior would be "comparatively useless to England." Here, then, is a provocation to buy. Sometimes report assumes a graver character. A German scientific journal, in an elaborate paper, entitled, "The Russian Colonies on the North-west Coast of America," after referring to the constant "pressure" upon Russia, proceeds to say that there are already crowds of adventurers from British Columbia and California now at the gold mines on the Stikine, which flows from British territory through the Russian possessions, who openly declare their purpose of driving the Russians out of this region. I refer to the "Archiv für Wissenschaftliche Kunde von Russland," edited at Berlin as late as 1863, by A. Erman, vol. xxii, pp. 47-70, and unquestionably the leading authority on Russian questions. At the same time it presents a curious passage bearing directly on British policy from the "*British Colonist*," a newspaper of Victoria, on Vancouver's Island. As this was regarded of sufficient importance to be translated into German for

the instruction of the readers of a scientific journal, I shall be justified in laying it before you restored from the German into English. It is as follows:

[*This article from the "British Colonist" appears in the United States Case, Appendix, pages, 321-323.*]

Thus, if we may credit this colonial ejaculation, caught up and preserved by German science, the Russian possessions were destined to round and complete the domain of Great Britain on this continent. The Russian "Eagle" will give way to the British "Lion." The Anglo-Norman was to be master as far as Behring Straits, across which he might survey his Russian neighbour. How this was to be accomplished is not precisely explained. The promises of gold on the Stikine failed, and it is not improbable that this colonial plan was as unsubstantial. Colonists become excited easily. This is not the first time in which Russian America has been menaced in a similar way. During the Crimean war there seemed to be in Canada a spirit not unlike that of the Vancouver journalist, unless we are misled by the able pamphlet of Mr. A. K. Roche, of Quebec, where, after describing Russian America as "richer in resources and capabilities than it has hitherto been allowed to be either by the English who shamefully gave it up, or by the Russians who cunningly obtained it," the author urges an expedition for its conquest and annexation. His proposition fell on the happy termination of the war, but it exists as a warning, with a notice also of a former English title "shamefully" abandoned.

This region is distant enough from Great Britain; but there is an incident of past history which shows that distance from the Metropolitan Government has not excluded the idea of war. Great Britain could hardly be more jealous of Russia on these coasts than was Spain in a former day, if we may credit the Report of Humboldt. I quote again his authoritative work, "*Essai Politique sur la Nouvelle-Espagne*" (Tom. 1 p. 345), where it is recorded that as early as 1788, even while peace was still unbroken, the Spaniards could not bear the idea of Russians in this region, and when in 1790 the Emperor Paul declared war on Spain the hardy project was formed of an expedition from the Mexican ports of Monterey and San Blas against the Russian Colonies, on which the philosophic traveller remarks, in words which are recalled by the Vancouver manifesto, that "if this project had been executed the world would have witnessed two nations in conflict, which, occupying the opposite extremities of Europe, found themselves neighbours in another hemisphere on the eastern and western boundaries of their vast Empires." Thus, notwithstanding an intervening circuit of half the globe, two Great Powers were about to encounter each other on these coasts. But I hesitate to believe that the British of our day in any considerable numbers have adopted the early Spanish disquietude at the presence of Russia on this continent.

Minister Scott on the Alaskan boundary.

[Extract from Debates of the Senate of the Dominion of Canada, Third session, seventh Parliament, January 30, 1893, p. 15.]

This boundary of Alaska is a very old subject. It crops up periodically. It was up some fifteen or twenty years ago, and at several periods since. Alaska, as hon. gentlemen probably know, is that part

of the country ceded by Russia to the United States on this continent. By the treaty between Great Britain and Russia in 1825, a boundary line was established between British territory and Russian territory on the western side of this continent, and I am sorry to say that, as in the case of a great many other treaties where the lands of Canada were made the subject of treaties by plenipotentiaries from the mother country, Canada got the worst of it. If any one looks at the map he will see how very illogical it is to give away, or to consent to a foreign country occupying so much of the coast line of this continent as Russia then insisted upon occupying of our Canadian territory on the north-west. But the boundary line between the two countries was made rather a puzzle: Prince of Wales Island (strange to say, one would have thought the very name would have saved it as a possession of the British Crown) was freely given away to Russia, and the line was then run to the head of Portland channel and by a devious crooked line to Mount Elias. It is that very devious crooked line that is now engaging the attention of the two Governments. If I had any advice to offer to the two Governments, I should say adopt a true line running straight north, wholly irrespective of the height of land mentioned in the treaty. Under the treaty the line was to follow the height of land. Where the height of land was more than ten marine leagues distant from the shore, then a line running parallel to the shore and ten leagues from it was to be followed. The mountains of course do not follow the coast in a direct line, they bend towards the shore, and they bend inland, and so the line is an exceedingly difficult one to draw. I think, therefore, that the two Governments ought to agree upon a degree of longitude, a straight line which would run north to Mount Elias.

The Alaska boundary question.

[The Year Book of British Columbia, R. E. Gosnell, Victoria, B. C., 1897 to 1901 (pp. 93-99).]

The United States was allowed by purchase, on the 13th of March, 1867, the year of our Dominion nativity, to become the owner of a stretch of country 1,100 miles in its fullest extent and 800 miles at its greatest width. The sum paid was \$7,200,000. It has turned out to be a gilt-edge real estate investment, notwithstanding that at the time there was strong opposition to it in the United States. Little was known of the resources of Alaska then, and the folly of buying a field of ice and a sea of mountains was forcibly commented upon.

No doubt political rather than material reasons weighed with the Administration at Washington, because it gave a foothold in the north of the Continent, in addition to the possession of a vast realm in its southern half. For political, if for no other reasons, Great Britain should have prevented such an accomplishment. If her statesmen had made themselves familiar with the conditions of the Coast from narratives of the distinguished navigators of their own country, or the history of the Hudson's Bay and Russian Fur Companies, they must have known that the wealth of furs and fish alone would have justified its purchase, to say nothing of rounding off their North American possessions. * * *

Russia acted wisely in relieving herself of a responsibility that brought little or nothing in return. Great Britain lost an immense

opportunity thereby, and inherited as a consequence the Behring Sea dispute and the Alaska Boundary question, the costs of which combined, it is safe to say, would have paid for the territory. Since that time Alaska has developed rich gold mines, a great fur trade, and a salmon canning industry that have rendered it extremely valuable, with possibilities of much greater things.

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Numerous requests on the part of the Canadian Government, inspired by representations from British Columbia in the interests of law and order, were made to the United States through Great Britain, to have the boundary line defined. The question had not then been raised as to the Portland Canal. The latter was practically accepted by both parties as the proper boundary. It was important, owing to the interest taken in mining matters, that there should be no mistake as to where the boundary really was according to the terms of the treaty. Although the American Government professed an anxiety to have it settled, and a bill was introduced in Congress in 1872 to give effect to a commission of inquiry, nothing was done, on the ground that more important legislation demanded attention, and that Congress would not vote so large a sum of money as was required, something like a million and a half dollars. A suggestion was made by the American Government that in lieu of an accurate and exhaustive determination it would be "quite sufficient to decide upon some particular points, and the principal of these they suggested should be the head of the Portland Canal, the points where the boundary line crosses the Rivers Skoot, Stakeen (Stikine), Taku, Isleat and Cheleat, Mt. St. Elias, and the points where the 141st degree of west longitude crosses the Rivers Yukon and Porcupine." The Canadian Government was quite willing to accept the proposition, but for some reason or other nothing more was done, notwithstanding that the question was pressed time and again on their attention by the Canadian Government.

In 1877 Mr. Joseph Hunter, civil engineer, Victoria, was delegated by the Dominion Government to make a survey of the Stikine River for the purpose of defining the boundary line where it crosses that river. Of course his report was not expected to be final, and the work was necessarily hurried; but it was important, and settled the matter for the time being. He fixed the boundary line at 19.13 miles from the coast at right angles, and 24.74 miles by the river. His findings were accepted without prejudice to the rights of their contention by the American Government, and it so stands until finally settled by the present commission. From Mr. Hunter's observations it is quite clear that there is a range of mountains running parallel with the coast, the summit of which forms the boundary. That I believe is the Canadian contention. The Americans, on the other hand, have claimed that there is no defined mountain range governing the case, and that the line must follow the sinuosities of the coast.

Up to 1885 it does not appear that a line "through Portland Channel" was ever questioned as the true boundary line. The issue was raised by the late Mr. Justice Gray, of Victoria, B. C., one of the fathers of Confederation, and an able jurist. As it stands, the Alaska Boundary Question presents two phases, one being the delimitation of the line from the "head of Portland Channel," wherever that may be shown to be, and the other is the interpretation of Article III. With the former we will not deal. It is a matter of survey, and is in

the hands of competent men. The latter involves an interpretation of Clause III. of the treaty.

In 1885 Mr. Justice Gray made a report to the British Columbia Government, in which he pointed out that the line running through Portland Channel, as marked on the maps, did not harmonize with the other conditions of the Article. To understand his contention involves no fine legal skill; it is a plain statement. The line commencing at the southernmost point of Prince of Wales Island, Cape Chacon, is to "ascend to the north along the channel called the Portland Channel." Portland Canal is fifty miles from Prince of Wales Island, and a line to there would not ascend to the north, but go in a south-easterly direction. It may be held that it does go north on the ground that the general direction is north; and if no other conditions were demanded, that might hold good, although not strict interpretation. It, however, is required that the line is to go north along the Portland Channel, until it strikes the 56th degree of latitude at a point of *the continent*. Portland Channel does not reach the 56th degree of latitude at all, and being wholly *within* the continent, a line following its channel could not possibly strike a point on "the continent." Then, again, it is stipulated that Prince of Wales Island is to belong "wholly" to Russia. There can be only one inference from that, when we consider that a large group of islands, the principal of which is Revilla Gígedo, intervenes between Prince of Wales Island and the mainland, and that is that some other channel than Portland Canal was intended, otherwise it would have been stipulated that the group of islands inside of it, and not Prince of Wales, should belong "wholly" to Russia. The channel separating Prince of Wales island from these islands, or in other words, Clarence Straits, must have been meant. If Prince of Wales Island is to belong wholly to Russia, what about the group of islands which intervenes? If, on the other hand, you discard the Portland Canal, and carry your line up either Behm's Canal or Clarence Straits, you meet all conditions, striking the continent exactly at the 56th degree of north latitude, leaving Prince of Wales Island wholly within Alaska territory.

More than that, the Portland Canal boundary, in continuing it, lands you into a second absurdity. As was pointed out by Mr. Justice Gray, the head of Portland Canal is far east of the Coast range of mountains, and in order to strike their summit, the line would have to cross several intervening mountains, making as is shown in Mr. Hunter's map, a sudden dip at right angles. Continuing the boundary directly northward, from Point Chacon through Behm's Canal or Clarence Straits, you follow the Coast Mountain Range naturally. Every circumstance and reasonable assumption favors the contention that the Portland Canal of Vancouver's charts is not the Portland Channel meant in the treaty.

It is not known what maps were used at the convention. Doubtless Vancouver's charts were. However, it is not likely that Great Britain would concede more territory to Russia than what Russian maps showed Russia claimed. There is in Victoria an old French map, 1815, copied from maps in St. Petersburg bearing date of 1802, and the dividing line as shown there is up Clarence Straits with Revilla Gígedo and all the islands included within the British Possessions.

The question in this case is not one of delimitation so much as of construction. Taken by themselves, the words "through the Port-

land Channel" are explicit, and would come under the rule that what is plain needs no interpretation, consequently binding without cavil; but where, as in this, the provisions are inharmonious and contradictory, interpretations must be resorted to. The rules of interpretation are clear. We must take all the conditions of the article and judge from the intention of the framers.

The Alaska Boundary question really resolves itself into three main physical divisions, each one of which is dependent upon a distinct series of evidence or independent data, which, taken in order, are:—

1. The construction of the clause of the Treaty of 1825 by which the line of demarcation from Cape Chacon, the southernmost point of the Prince of Wales Island, is to be determined until it reaches a point of the Continent at the 56th degree of north latitude.

2. The determination of the line of demarcation from the last named point following along the coast line (see Clause III. of the Treaty quoted in the foregoing) until a point on the coast is reached where it is intersected by the 141st degree of west longitude.

3. Fixing astronomically the 141st degree of west longitude and its prolongation northward "as far as the frozen ocean."

The first of these involves, as has already been pointed out, the construction of the language of the Treaty according to well-understood and firmly established rules of interpretation adopted in international disputes of this character. This division of the subject has been fully dealt with in the foregoing.

The third phase of the dispute is dependent entirely upon astronomical definition, and is a simple matter, having already been practically disposed of by the work of surveyors.

The second is perhaps the most difficult of the three and upon the settlement of the dispute involved the most important issues hinge. Settlement rests not only upon physical data, regarding the requirements of which the character of the country presents many obstacles, but upon a judicial arbitrament as to what physical data are admissible as evidence, and also as to how certain terms, such as "coast," "ocean" and "summit of the mountains" are to be construed in relation thereto. So far there has never been any official presentment of the respective facts made, as that stage of the proceedings has not yet been reached where a formal submission of claims before, or for the appointment of, a court of arbitration is necessary, and hence there is no clear or authoritative definition of issues. The issues have been mainly formulated in newspapers and magazines, and the territory in dispute has been indicated by map makers rather than jurists. The main fact to be observed is that the United States Government have assumed possession, which to them has constituted the essential "nine points of the law."

Briefly, however, it would appear that the respective contentions are (these have been so succinctly and fairly outlined in a recent editorial on the subject in the Victoria "Daily Colonist" that the treatment cannot very well be improved upon by a layman, and the liberty is taken of transferring the editor's remarks to these columns):

In a general way the United States is understood to intend to hold that the word "ocean," in the treaty of 1825 between Great Britain and Russia, means the waters inside of the Archipelago, that there is no "summit" within the meaning of the Treaty in the mountain range running along the coast and within ten marine leagues therefrom, wherefore the boundary must be drawn at a uniform distance of ten marine leagues from the continental coast line, disregarding the islands altogether,

which line would be parallel to the sinuosities of the coast and hence put all the inlets within Alaska. The Canadian position may, in the same general sense, be said to be that by the word "ocean" in the Treaty the high sea outside of the Archipelago is meant, and that the boundary must be drawn ten marine leagues from the outer rim of the Archipelago, except where the summit is nearer the coast than ten marine leagues, in which case the line will follow such summit. This would give Canada all of the inlets and even a portion of some of the islands, which latter would appear to have been contemplated by the Treaty, for that document expressly provides that the whole of Prince of Wales Island shall belong to Russia. The legal and natural inference from this would be that the whole of the other islands might not belong to Russia when the line was located. A secondary claim on the part of Canada is that, admitting the water on the shore of the Mainland to be the ocean, there is a summit nearer the coast than ten marine leagues, and that the two inlets above-mentioned extend beyond it. Should the claim of the United States, as above defined, be sustained, Canada would have no harbour on the coast between the 56th and 60th parallels of north latitude. If the Canadian claim is held good the head of Lynn Canal and of Taku Inlet would be in Canada, and if the contention that the boundary shall not be at a greater distance than ten marine leagues from the outer rim of the Archipelago prevails, Canada would own the whole of the Stikine River.

The Canadian view of the Alaskan boundary dispute as stated by Hon. David Mills, minister of justice, in an interview with the correspondent of the Chicago Tribune on the 14th August, 1899.

[Published by the Government Printing Bureau, Ottawa, 1899.]

You ask me to state to you the Canadian view of the Alaskan boundary dispute. I shall not in endeavoring to meet your wishes, claim to do more than express my own view upon the subject.

* * * * *

The convention between His Britannic Majesty and the Emperor, was a convention settling a boundary between territories admittedly belonging to Great Britain and territories to which it was conceded that Russia had valid claim; that is, the part of the continent north of 54 degrees 40 minutes of north latitude. The territories south of 54 degrees 40 minutes north latitude were territories that were still in controversy between Great Britain and the United States.

The first Article of this convention declares, wholly contrary to the action and contention of the government of the United States in reference to the Behring Sea, that the subjects of the High Contracting parties shall not be troubled or molested in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing on the coast in parts not already occupied, to trade with the natives.

Article II provides that in order to prevent the *right of* navigating and fishing exercised upon the ocean by the subjects of the High Contracting parties from becoming a pretext for illicit commerce, they mutually agree that subjects of His Britannic Majesty shall not land at any place where there is a Russian establishment, without the permission of the Governor or Commandant, and that Russian subjects shall not land without permission at any British establishment on the north-west coast.

Under these articles, the freedom of navigation is recognized. Article III and Article IV provide for the demarcation of the boundary which is to separate the territories of the one, from the territories of the other. Let me read to you those articles in precise terms:

* * * * *

It will be seen that the starting point is the southernmost point of the Island called Prince of Wales Island, which lies in 54 degrees 40 minutes north latitude and that this line is to ascend north. From whence? Why from the starting point—the southernmost point of Prince of Wales Island. It is perfectly true that the boundary is to ascend north along the channel called Portland Channel but it cannot ascend north along the channel called Portland Channel by commencing at the southernmost point of Prince of Wales Island, the place of beginning, a line more than one hundred miles in length running due east, must be drawn from the southern end of Prince of Wales Island before Portland Channel can be reached. The first question then to be considered is, whether the description of the direction of the latitude and longitude of the line is to yield to the use of the word "Portland Channel," or whether the name "Portland Channel" must be subordinated to the direction and description contained in these articles. If Clarence Channel, which lies immediately east of Prince of Wales Island is taken, there is an exact conformity to the description. You may ascend north from the southernmost point of Prince of Wales Island along Clarence Channel, but you cannot ascend north from the southernmost point of Prince of Wales Island along Portland Channel. You can ascend to a point on Clarence Channel as far as the point on the continent where it strikes the 56th degree of latitude. You cannot ascend Portland Channel to a point on the continent where it strikes the 56th degree of north latitude, because Portland Channel does not reach that far north. The difference between drawing the boundary from Portland Channel and from Clarence Channel is this—the boundary upon the mainland commences where the 56th degree of north latitude cuts the shore in the one instance, and in the other it commences at a point at the head of Portland Channel which falls short of the place designated as the place of beginning.

By Article IV, the line is to be drawn so as to leave the whole of Prince of Wales Island to Russia. If a due east line is to be drawn from the southernmost point of the island, to the entrance at Portland Channel, these words "leaving the whole of Prince of Wales Island to Russia," are surplusage, because a due east line would not only leave the whole of the Prince of Wales Island to Russia, but would leave several other large islands, of which no mention is made, lying between this island and the mainland. If Clarence Channel is taken, there is an obvious reason for providing in the treaty, the words, that the whole of the Prince of Wales Island shall be left to Russia, because a line ascending from the southernmost point north, would cut off the southeastern portion of the island, but these words have no proper place in the treaty if the line starting from the southernmost point of Prince of Wales Island is to be extended eastward to the entrance of Portland Channel, as it would not be a line "ascending north" from the southernmost point of Prince of Wales Island. It will be observed that this qualification found in Article IV of the description given of the liminary line in Article III is unaccountable, if a line is first to be drawn eastward from the Prince of Wales Island to the entrance to Portland Channel. Why should this portion of the description have been omitted altogether? It is, I think, clear from the wording of the treaty, that the use of the words "Portland Channel" cannot refer to the body of water commonly so designated, and the whole of this part of the description of the boundary is inapplicable.

Let any intelligent reader with a map before him, undertake to draw

the line from the description which the treaty furnishes. If he begins at the southernmost point of Prince of Wales Island, which lies in 54 degrees, 40 minutes of north latitude, he cannot from that point ascend to the north along Portland Channel. The name of the channel through which the line is drawn are words subordinate to the direction, description and relation of the line so drawn to the starting point, which determines, in my opinion, through what waters the line is to so ascend that the whole of the Prince of Wales Island is to remain in Russia. It is assumed in the words of description, found in the treaty, that the line that ascends to the north along the channel, can do so as far as to the point of the continent, where it strikes the 56th degree of north latitude. This is a point, up on the shore, in which the boundary upon the mainland is to begin, and so the words are wholly inapplicable to Portland Channel, as it falls short, by several miles, of extending to that degree of latitude. The channel which lies immediately east of Prince of Wales Island, and through which the descriptive words of the treaty requires the boundary to be drawn does not extend, so that the geographical conditions fit in with the description in the one case, and do not in the other.

By the third article the line of demarcation is to follow the summit of the mountains, situated parallel to the coast as far as the intersection of the 141st degree of west longitude; and the fourth article provides that whenever the summit of the mountains, which extend in a direction parallel to the coast from the 56th degree of north latitude, shall prove to be at the distance of more than ten marine leagues from the coast, the limit between the British possessions and the line of coast which is to belong to Russia shall be formed by a line parallel to the windings of the coast, and which shall never exceed the distance of ten marine leagues therefrom.

It is too clear to require argument that the limitary line was to follow the coast range and the summit of that coast range, whether high or low was to be the boundary, when it was not more than ten leagues from the coast. In many places inlets extend through canyons through the mountains, and so much of each of those inlets as would be cut off, by a line drawn from the summit of the mountain upon the one side, to the summit of the mountain upon the other, is Canadian territory. The line cannot be removed further inland, because there may be a gap in the mountains into which an arm of the sea extends. The coast range approaches these inlets on each side, in most cases, near the waters of the ocean. When you pass the Lynn Inlet, it will be found that the coast range embraces peaks from 10,000 to 18,000 feet high, and it does seem to me preposterous to contend that the provisions of the treaty can be applied by drawing a line in the rear of those mountains, as certainly would be done, if the boundary passed around the head of Lynn Inlet.

It is, I think, manifest that the framers of the treaty assumed, that harbours, inlets, and arms of the sea, would be found, when the boundary was drawn, within British territory, and certain provisions of the treaty were entered into upon this assumption.

Article VI provides that the subjects of Her Britannic Majesty from whatever quarter they may arrive, whether from the ocean, or from the interior of the continent, shall forever enjoy the right of navigation freely, and without any hindrance whatever, all the rivers and streams, which in their course towards the Pacific Ocean, may cross the line of demarcation on the line of the coast. As some of those

rivers flow into Behring Sea, it is perfectly obvious, that the contracting parties assumed that the navigation of that sea was open to British vessels.

By Article VII for a period of ten years, the vessels of the two powers, and of their subjects respectively shall mutually be at liberty to frequent all the inland seas, the gulfs, havens and creeks on the coast mentioned in Article III. The coast mentioned in Article III is not the entire coast of the continent, but the coast north of 54 degrees 40 minutes.

By Article X every British or Russian vessel navigating the Pacific Ocean, which may be compelled by storms or by accident to take shelter in the ports of the respective parties shall be at liberty to refit therein, to provide itself with all necessary stores and to put to sea again without paying any other than port and lighthouse dues, which shall be the same as those paid by national vessels.

This is not a temporary arrangement but a permanent one which each party has within the ports of the other.

It has been contended by some of the United States press, that the waters belonging to Great Britain herein referred to, are those that lie south of the 54th degree 40 minutes of north latitude, but this is not so. Those territories were in dispute between Great Britain and the United States, and with reference to them no compact was entered into in the treaty between Russia and Great Britain. What is entered into is the establishment of a boundary north of 54 degrees 40 minutes, and it is with reference to this boundary, separating the territories of Russia from the territories of His Britannic Majesty, that all the provisions of the treaty referred,—Russia made no claim, in this treaty, to any territories further south. She set up no pretensions to any privileges further south; what was being settled was the dispute between Great Britain and Russia in respect to sovereign rights north of 54 degrees 40 minutes north latitude. The subjects of Great Britain were without any hindrance whatever to have liberty of navigating freely all the rivers and streams which in their course towards the Pacific Ocean may cross the boundary line, the line of demarcation, as set out in Article III of the convention. These rivers and navigable routes were not rivers south of 54 degrees 40 minutes north latitude, but rivers north of that latitude—rivers that flowed from British territory through the Russian territory upon the coast. All the provisions of the treaty relating to fishing and to navigation have reference to the territories and waters which were the subject of the treaty, and so it is wholly beside the question to refer to the convention between the United States and Russia of the previous year. It is as plain as anything can well be, that the contracting parties assumed that when the separating line came to be drawn, under the treaty, that there would be, in some places, harbours and inlets remaining on the British side of this boundary line, and Russia stipulated for the right of Russian navigators to use them, and for her ships to take refuge in them, as she had conceded a like right to the subjects of His Britannic Majesty. These would, indeed, be strange treaty stipulations, if upon the whole length of this boundary, from the 56th degree of latitude to Mount St. Elias, it never crossed an inlet, and at no point touched the sea. This is, in my opinion, a conclusion which no one who will candidly examine the treaty, can reach, and I ask a fair consideration of our side of the dispute by the people of the United States, to whom justice is far more important than success.

The Alaska boundary."

[From the Edinburgh Review, April, 1900.]

* * * * *

A reference to Articles III. and IV. of the treaty of 1825, quoted above, shows that the line, starting from the southernmost point of Prince of Wales Island, is to ascend to the north along the channel called Portland Channel, until it reaches the 56th degree of north latitude, from which point it is to follow the summit of the mountains situated parallel to the coast as far as their intersection by the 141st meridian, provided these mountains are within ten marine leagues from the ocean. Should the mountains at any point prove to be more than that distance from the ocean, then the limit shall be a line parallel to the windings of the coast, from which it shall never be farther distant than 10 marine leagues.

Having ascertained the southernmost point of Prince of Wales Island, one is suddenly confronted by the fact that between it and Portland Channel sixty miles of open ocean intervene. Furthermore, Portland Channel lies almost due east from the southernmost point. How then is the line joining the two to ascend to the north? Again, the line is to ascend to the north along Portland Channel, until it strikes the 56th degree of north latitude. But Portland Channel does not attain to latitude 56, and there is no provision made for the course the line is to take between the head of the channel and the point where the mountains situated parallel to the coast are crossed by that parallel. Then follow the all-important questions, (1) which are the mountains situated parallel to the coast? and (2) what is the coast?

Without pursuing the inquiry too minutely or entering into many of its details, it is proposed to set down here briefly the British and American interpretations of this treaty, in so far as their respective contentions can be ascertained from the published views and utterances of public men in Canada and the United States, for neither Government has as yet given out an official statement of its claim.

* * * * *

At the outset it may be observed that there exists a very general agreement to the effect that the negotiators of the treaty of 1825 relied largely upon Vancouver's charts and the narrative of his voyages for their information respecting the physical features of the country with which they found themselves called upon to deal. Both parties concur in holding Cape Muzon to be the southernmost point of Prince of Wales Island, though, as a matter of fact, it is not on Prince of Wales Island at all, and both acknowledge that the body of water to-day known as Portland Canal is, despite the erroneous description in the treaty, the channel along which the line is to ascend. Here, however, agreement ends. The United State holds that the line should enter Portland Channel by what since 1853 has been known as Portland Inlet, which is a part of the waters named by Vancouver 'Observatory Inlet.' The British contention is that the Portland Channel of the treaty is the channel so marked on Vancouver's charts and described in his narrative in terms that leave no doubt as to the body of water to which he intended them to apply. The deflection desired by the

"This article is printed anonymously, but it is understood to have been written at Ottawa, and to have emanated from official sources.

United States would give to that Power the principal islands lying at the entrance of Portland Canal, and thereby the command not merely of the inlet, but also of the harbour of Port Simpson in British Columbia, which, by reason of its natural advantages, is destined to become an important commercial and strategic point.

In support of this claim it is argued on the side of the United States that the line, departing from the southernmost point of Prince of Wales Island, should follow along the parallel of $54^{\circ} 40'$, which would bring it in at the mouth of Observatory Inlet. They base their contention on the fact that this latitude is expressly mentioned in the treaty in connexion with the point of commencement, and they urge that the reason of the omission to state that the boundary should proceed along that parallel is that the repetition was considered unnecessary.

The Canadians reply that when in the course of the negotiations of 1823-5 Russia was forced to abandon her extravagant pretensions put forward in the ukase of 1821, she took her stand upon the charter of the Emperor Paul, and claimed down to 55° . To that line she stubbornly adhered throughout. Inasmuch, however, as the parallel of 55° cuts Prince of Wales Island near its southern extremity, the Russian plenipotentiaries proposed that the portion of the island below that line should be included in the Russian possessions. In order to effect this result the starting point was fixed at the southernmost point of Prince of Wales Island, which happens to be in latitude of $54^{\circ} 40'$. Thus the extension to $54^{\circ} 40'$ was merely a local exception to fit a particular case. For similar reasons of convenience the continental line was carried south a few minutes of latitude to Portland Canal, which affords the first natural boundary on the continent south of 55° .

There can be little doubt from the text of the treaty that the southernmost point of Prince of Wales Island and not the parallel of latitude was intended as the point of beginning. The geographical co-ordinates are given for the purposes of identification merely. If they were intended to govern, the wording would be different, for the definition of a point by geographical co-ordinates must be by the intersection of two lines, and not by a parallel of latitude and two meridians seventy-five miles apart. Seeing that the line is to "ascend to the north," a claim that it is first to run sixty miles due east along a parallel of latitude seems manifestly untenable.

Canada also contends that, having determined the point of departure (Cape Muzon) and also the place on the continent where the boundary strikes the coast (the mouth of Vancouver's Portland Channel), it is agreeable to the rules of legal construction to hold, in the absence of any specific directions, that the line joining these two points should take the shortest way, which is not a parallel of latitude, but along the arc of a great circle.

Following the same rule of interpretation Canada maintains that the head of Portland Canal and the point where the 56th degree crosses the mountains situated parallel to the coast within ten marine leagues from the ocean, should be joined by a straight line.

The treaty continues:

De ce dernier point (that is, the intersection of the mountains by the 56th parallel) la ligne de démarcation suivra la crête des montagnes situées parallèlement à la côte, jusqu'au point d'intersection du 141-e degré de longitude ouest.

The difficulty here lies in the fact that this whole region is highly mountainous. There exists not one range, but many, rising one

behind the other in irregular fashion, connected in many places by spurs, the whole forming more or less a confused jumble of mountains.

The United States, according to General Foster, takes the ground that the treaty of 1825 was framed in the light of imperfect geographic knowledge: that the mountain range depicted on Vancouver's maps as almost bordering the coast has no existence in fact; that there is no continuous range or chain at all, and that consequently it is necessary to fall back upon the alternative provision of Article IV., under which they claim that the boundary line should be everywhere ten marine leagues inland from the coast, the distance being measured from the head of tide water round all the inlets. It will be observed that the United States read this clause as if it meant that the boundary line is to be "everywhere not less than" instead of "nowhere more than" ten leagues from the sea.

The British claim is that by the crest of the mountains situated parallel to the coast is meant the tops of the mountains nearest the ocean. Great Britain denies the necessity for a continuous 'range' or 'chain', and points out that neither word occurs in the treaty. The word 'parallel', it holds, is not to be taken in its strict geometrical sense as implying equidistance. It is unnecessary to search for mountains which are all at precisely the same distance from the coast, for Article IV. of the treaty contemplates the possibility of these mountains being sometimes more and sometimes less than ten marine leagues therefrom. It is a natural fact that mountains from 3,000 to 5,000 feet high lying within five or six miles of the sea border the coast throughout its entire length. When it is borne in mind that Vancouver had no knowledge of the interior country, his observations having been made from his ships, it does not seem unreasonable to suppose that the mountains depicted on his charts are those seen from the sea as fringing the coast line, to the serrated appearance of whose tops, heightened by their irregularity of outline, the word 'crest' is peculiarly applicable. Canada holds these to be the mountains of the treaty. She maintains that in delimiting this boundary the summit ridge of each of these mountains should be taken, and the valleys between crossed by straight lines from crest to crest, whether they contain streams, rivers, or such arms of the sea as do not form part of the ocean.

Thus, while Canada seeks to restrict her neighbour to a narrow strip of sea coast, having an average breadth of perhaps four or five miles, the United States claim an extensive tract of country running back in some places more than a hundred miles. * * *

*Review of the Alaska Boundary Question. By Alexander Begg,^a
Author of the History of British Columbia.*

[From the Scottish Geographical Magazine, February, 1901, pp. 90-91.]

* * * * *

As shown in Vancouver's *Atlas*, sheet 7, the waters of the Pacific ocean washed Prince of Wales Island from Cape Chacon, the southernmost portion of that island, along its eastern shores, following the

^a "Mr. Alexander Begg, the British Columbian historian, one of the very few intelligent persons who have studied the question from the standpoint of our national interests." The Canadian Magazine, January, 1902, p. 291.

northern shore, and turning southward at Point Baker, the name "Duke of Clarence Strait" is given along the island from Cape Chacon until the 56th degree of latitude is reached opposite Cape Decision. On the chart referred to, it is recorded that Captain Vancouver passed this point 22nd September 1793 and 24th August 1794.

But the treaty mentions that the boundary-line is required to reach latitude 56° at the coast of the continent. This is accomplished by passing along Clarence Strait and Ernest Sound to the coast. In Sir Charles Bagot's description (in Statement D) of the proposed line, to the Russian plenipotentiaries, which is recorded in a despatch to Mr. G. Canning, he says:

It would appear that a line traced from the southern extremity of the straits named Duke of Clarence Sound, by the middle of those straits, to the middle of the straits that separate the islands of the Prince of Wales and the Duke of York and the islands situate to the north of the said islands; thence towards the east by the middle of the same strait to the continent, and thence prolonged in the same direction and manner already proposed by His Majesty's plenipotentiary to Mount Elias, or to the intersection of the 140th (since changed to 141st) degree of longitude, would form a line of demarcation which would conciliate, perhaps in a satisfactory manner, the reciprocal interests, present and future, of both Empires in this part of the globe.

There is no mention of *Portland Canal* or going east in the foregoing description. Further, Mr. Canning in his instructions to Sir Charles, dated July 12, 1824, distinctly says: "His Majesty's Government have resolved to authorize your Excellency to consent to include the south points of Prince of Wales Island within the Russian frontiers, and to take, as a line of demarcation, a line drawn from the southernmost point of Prince of Wales Island, from SOUTH to NORTH, through Portland Channel, till it strikes the mainland in latitude 56°". The route was named Portland Channel, presumably, as Clarence Strait, as we have seen, was left opposite Ernest Sound. It would be necessary therefore, at the point on the coast of the continent, that a new departure should be made to reach the intersection of the line with the 141st meridian, near Mount Elias.

It would appear from article IV. of the treaty, that Stratford Canning decided on the boundary from that point, being drawn ten marine leagues from the ocean. The easiest, fairest, and most convenient plan to do that would be to retrace the line of deviation back to that already run through Clarence Strait, named Portland Channel in the treaty, and continue that line along the eastern and northern shore of Prince of Wales Island, as already outlined in this review. Such an arrangement would obviate the attempts of forming a boundary line along the frontier of the continent, which would prove useless and impracticable. It would leave the frontier of British Columbia intact, and furnish the United States (instead of Russia) with ample facilities to carry on any industry along the large islands fringing the Pacific Ocean, and along the strip of continent extending about five degrees of longitude from Glacier or Taylor's Bay, beyond Icy Strait. It would give them any number of excellent harbours, and the control of valuable fisheries, and the timber on Prince of Wales Island, and the other ocean frontier islands north to the continent at Cross Sound. The arrangement was made between two friendly powers, and after the treaty was signed, was acknowledged to be satisfactory to each, and it should be so to the present day, although many United States sympathisers do not seem to interpret the treaty in that light. * * *

PAPERS RELATING TO OCCUPATION ON LYNN CANAL.

Letters and Certificates given to Indians at the head of Lynn Canal.

H. H. B. Co's. "STEAMER OTTER"

Chilcarte August 1st 1866.

This testimonial is given to Canastee to quiet him as he is bothering a great deal for one. He is some son of a Chief among the Indians but I believe not one of the old school. He would not be a bad fellow—if he was not such an intollerable nuisance always bothering for something. But as he generally has a good quantity of skins that covers a multitude of sins; and consequently he is entitled to some seeming attention.

I. AMOLEY.

Chief Mate.

I certify that the above is a true copy from the original.

[SEAL.]

SOL RIPINSKY,

Notary Public in and for the District of Alaska.

HAINES, ALASKA, *May 8th, 1903.*

U. S. COAST SURVEY "KOH-KLUX"

Kot-kagh-too village. Chilkat River. August 7, 1869.

Before starting from Sitka upon the expedition to observe the solar total eclipse of this date at this place, Koh-klux, Principle Chief of the Chilkahs promised to give me his support and assistance and to insure a kind reception from his people.

He has fully carried out his promises: vacating his principle house and placing it wholly at the service of the party: supplying us daily with an abundance of fish and fuel: furnishing men whenever needed: and showing his good will in every instance. He is a man of great determination and power and wields a strong influence over the Chilkahs who believe he bears a charmed life. He is friendly to all Americans and when his confidence is gained he is good humoured and communicates information freely. He drew for me a fair map of the country from the mouth of the Chilkah to Fort Selkirk (Ghen-tub-san) on the Youkon.

GEORGE DAVISSON

Comd'g Expedition.

I certify that the above is a true copy of the original

[SEAL.]

SOL RIPINSKY,

Notary Public in and for the District of Alaska.

HAINES, ALASKA, *May 8th 1903.*

U. S. REVENUE STEAMER "WAYANDA"
Chilcat, Alaska, September 1868.

This is to certify that the bearer "Kakie" is sub Chief of the Lower Village, and I found him quite friendly.

J. W. WHITE, *U. S. R. M.*

I certify that the above is a true copy of the original.

[SEAL.]

SOL RIPINSKY,

Notary Public, In and for the District of Alaska.

HAINES, ALASKA, *May 9th, 1903.*

U. S. S. WACHUSET.
Chilcat, Alaska, Aug. 24th, 1881.

The bearer Kluhn-nat is a principal Chief of the lower Chilkat villages, and is hereby recognized as such, he is said to be a good man I hope all white men will treat him well and that he will do the same to them.

EDWARD P. LULL *Comdr Comd'g*
 H. E. NICHOLS, *Comd'g Pinta.*

U. S. PINTA, *May 20, 1885.*

I certify that the above is a true copy of the original.

[SEAL.]

SOL RIPINSKY,

Notary Public, In and for the District of Alaska.

HAINES, ALASKA, *May 9th, 1903.*

U. S. S. PINTA.
Chilecot, May 18th, 1886.

Klanat is recognized by me as the second Chief of the Chilecot Indians. I consider him to be a responsible man and a trusty one and any business intrusted to him or his care will be honestly carried out.

He is and should be the leading man among the packers, and I hold him responsible for the orderly conduct of all the Indians, and to suppress any and all trouble among them.

I am confident of his integrity.

H. E. NICHOLS,
Lt. Comdr U. S. N. Comd'g U. S. S. Pinta.

I certify that the above is a true copy of the original.

[SEAL.]

SOL RIPINSKY,

Notary Public, in and for the District of Alaska.

HAINES, ALASKA, *May 9th, 1903.*

DISTRICT OF ALASKA.
Executive Office, Sitka, August 13th, 1886.

To whom it may concern:

The bearer of this Kla-not-2nd chief of the Chilcats, claims that he has been belied, and that if he has in any instance wronged any white man, it has been the fault of the interpreter "Cultus Jack." He

appears so sincere in his statements and so earnestly declares his friendship for the whites that I am inclined to the belief that if fairly interpreted and honestly dealt with he will not be the cause of any further trouble. He has made me the most solemn promises of future good behavior, only stipulating that white men having business with him shall bring some other interpreter than "Cultus Jack," upon whom he lays the blame for all his trouble with the white people.

I bespeak for Kla-not who appears honest and well disposed, a fair trial and ask that white men having dealings with him be sure that both he and they fully understand the terms of any agreement that may be made with him.

S. G. SWINEFORD, *Governor.*

I certify that the above is a true copy of the original.

[SEAL.]

SOL RIPINSKY,

Notary Public, in and for the District of Alaska.

HAINES, ALASKA, *May 9th, 1903.*

Deposition of David Ik-ee-shaw.

UNITED STATES OF AMERICA

District of Alaska ss

David Ik-ee-shaw being first duly sworn deposes and says: I am a native of Alaska and a resident of Klukwan and a head man of the Karwanton family I have heard my people often speak of those medals which they became possessed of in the following manner: In early days three generations of chiefs back a Russian ship came up Lynn Canal and dropped anchor at what is now known as Pyramid Harbor, some of the Officers of the vessel sailed up the Chilkat River, in small boat to Klukwan, and those medals were then presented to Chief Kith-la-Kah.

Before Chief Kith-la-Kah died he turned over the medals to his son Shartrich and I David Ik-ee-shaw, received the medals about 15 years ago from my wife's father old Chief Shartrich before his death.

These three medals have been handed down from one to another as I have said and have never been out of our family.

his
DAVID X IK-EE-SHAW,
mark

Subscribed and sworn to before me this 12th day of May, 1903.

[SEAL.]

SOL RIPINSKY,

Notary Public, in and for the District of Alaska.

Exploratory survey of part of the Lewes, Tut-on-Duc, Parcupine, Bell, Trout, Peel, and Mackenzie rivers, by William Ogilvie, D. L. S.

[From Canadian Sessional Papers (No. 11) Vol. XXIII, No. II, 1890.]

OTTAWA, *16th July, 1889.*

To the Honorable The MINISTER OF THE INTERIOR, *Ottawa.*

SIR: I have the honor to submit the following report of my operations on the Lewes or Yukon River, in the season of 1887 (of which a preliminary sketch was published in the Annual Departmental Report

for that year), and on the Tat-on-Duc, Porcupine, Bell, Trout, Peel and Mackenzie Rivers during the season of 1888.

I left Ottawa on the 20th of April, 1887, for Toronto, where I remained two days doing some preparatory work in the magnetic observatory having relation to the magnetic observations which I intended to make during the progress of my expedition, and also supervising some changes and repairs of instruments, the chief object of which was to lessen their weight, and thus facilitate progress.

I had to stop one day at Winnipeg, to obtain an astronomical transit (F. O. 2). On the evening of the 2nd of May I reached Victoria, B. C., where I at once set about making the necessary preparations to start by the boat, which was advertised to leave on the 9th. The vessel did not arrive, however, until the 12th. I then found that she was much overloaded, and it was with some difficulty that I got Capt. Hunter to consent to take my outfit, which weighed in all about six tons, and, under the circumstances, it was a real act of kindness on his part to do so.

Owing to the heavy load, we made slow progress, and it was not until the 18th of May that we reached Fort Wrangel, at the mouth of the Stikine River. Here I parted from Dr. Dawson, whom I arranged to meet at the confluence of the Pelly and Lewes or Yukon River about the 20th of July following. We arrived at Juneau City on the evening of the 19th, remaining there and at Douglass Island until the evening of the 20th. At Douglass Island I had the opportunity of visiting the celebrated Treadwell gold mine and reduction works, containing one hundred and twenty stamps, which have since been doubled in number. The output of this mine, with the smaller number of stamps, was generally estimated at about \$70,000 per month, but no one seemed to know the exact amount.

As the boat was now much behind time she went direct to Sitka, instead of Chilkoot, as usual; thence in succession to Sitka, Killisnoo, Chilkat, and Chilkoot, where I landed in the morning of the 24th of May, and where my work began.

* * * * *

SECTION I.—*Exploratory Survey from the Head of Taiya Inlet, through Taiya Pass, and down the Pelly-Yukon River to the International Boundary between Alaska and the North-West Territories of Canada.*

On the 30th of May I commenced the survey by connecting Pyramid Island in Chilkat Inlet with Chilkoot Inlet at Haines mission. At this point a Protestant mission was established some years ago; but it is now abandoned, owing, as I was informed, to the very unpleasant conduct of the Chilkoot Indians. I could not learn that they had committed any overt act of hostility, but it appears the missionary tried to relieve the sufferings of a sick Indian child. Unfortunately, the child died, and the father attributed the death to the missionary, and from that time acted in so suspicious a manner towards the children of the latter that he considered it unsafe to remain in the vicinity, and moved into Juneau City.

The teacher of the United States Government school for Indians at Haines mission, Col. Ripinsky, told me he had got into trouble in the same way. A sick Indian to whom he administered medicine at first became much worse, in consequence, apparently, of the treatment, and during this time the patient's relatives walked about in an excited

manner, manifesting very unpleasant signs of hostility. Fortunately the man finally recovered, but Col. Ripinsky has no doubt that his life would not have been safe had he died.

The latitude and longitude of Pyramid Island were determined in 1869 by a United States Coast Survey party, who were sent out to observe the eclipse of the sun in the month of August of that year. The position then determined is given in the "Alaska Coast Pilot" as latitude $59^{\circ} 11' 43''.0$, longitude $135^{\circ} 27' 04''.5$. The longitude was determined by chronometers, thirteen having been used by the expedition. What point of the Island was fixed I could not ascertain, so I took the center. This island is pyramidal in form, as seen from the south-west or north-east, and about 500 yards long by 200 wide. It is composed of sand and clay, and rises about 80 feet above high tide, being evidently the result of glacial action. At low tide there is very little water on the north side of the island, and it is only a question of a few years until it will cease to be an island altogether, owing to the constant accumulation of drift brought down by the streams flowing into the inlet.

To carry the survey from the island across to Chilkoot Inlet I had to get up on the mountains north of Haines mission, and from there could see both inlets. Owing to the bad weather I could get no observation for azimuth, and had to produce the survey from Pyramid Island to Taiya Inlet by reading the angles of deflection between the courses. At Taiya Inlet I got my first observation, and deduced the azimuth of my courses up that point. Taiya Inlet has evidently been the valley of a glacier; its sides are steep and smooth from glacial action; and this, with the wind almost constantly blowing landward, renders getting upon the shore difficult. Some long sights were therefore necessary. The survey was made up to the head of the inlet on the 2nd of June. Preparations were then commenced for taking the supplies and instruments over the coast range of mountains to the head of Lake Lyndeman on the Lewes River. Commander Newell kindly aided me in making arrangements with the Indians, and did all he could to induce them to be reasonable in their demands. This, however, neither he nor any one else could accomplish. They refused to carry to the lake for less than \$20 per hundred pounds, and as they had learned that the expedition was an English one, the second chief of the Chilkoot Indians recalled some memories of an old quarrel which the tribe had with the English many years ago, in which an uncle of his was killed, and he thought we should pay for the loss of his uncle by being charged an exorbitant price for our packing, of which he had the sole control. Commander Newell told him I had a permit from the Great Father at Washington to pass through his country safely, that he would see that I did so, and if the Indians interfered with me they would be punished for doing so. After much talk they consented to carry our stuff to the summit of the mountain for \$10 per hundred pounds. This is about two-thirds of the whole distance, includes all the climbing and all the woods, and is by far the most difficult part of the way.

On the 6th of June 120 Indians, men, women, and children, started for the summit. I sent two of my party with them to see the goods delivered at the place agreed upon. Each carrier when given a pack also got a ticket, on which was inscribed the contents of the pack, its weight, and the amount the individual was to get for carrying it.

They were made to understand that they had to produce these tickets on delivering their packs, but were not told for what reason. As each pack was delivered one of my men receipted the ticket and returned it. The Indians did not seem to understand the import of this: a few of them pretended to have lost their tickets; and as they could not get paid without them, my assistant, who had duplicates of every ticket, furnished them with receipted copies after examining their packs.

* * * * *

While paying them I was a little apprehensive of trouble, for they insisted on crowding into my tent, and for myself and the four men who were with me to have attempted to eject them would have been to invite trouble. I am strongly of the opinion that these Indians would have been much more difficult to deal with if they had not known that Commander Newell remained in the inlet to see that I got through without accident.

* * * * *

Deposition of Sol Ripinski.

UNITED STATES OF AMERICA

District of Alaska, ss.

Sol Ripinski, being first duly sworn on oath deposes and says: I am a citizen of the United States and a resident of the District of Alaska, that I am of the age of 42 years; that I was born in Rypin, Poland. That I came to the District of Alaska in the year 1884.

That in the year 1886 I came to Haines Mission at the point now known as Haines, Alaska, as a teacher for the United States Government in the employ of the Interior Department.

That I have resided continuously at Haines, Alaska at a point two miles west of Haines, Alaska, known as Chilkat, Alaska, ever since said time.

That prior to 1886 I had been Government school teacher in the employ of the Interior Department, stationed in the Aleutian Islands in the District of Alaska at Unalaska.

That during all of my residence at Haines, Alaska and Chilkat, Alaska, all of the country along the shores of Lynn Canal and the shores of Chilkat Inlet and Chilkoot Inlet and tributary thereto was treated as and under the jurisdiction of the United States.

That the waters of Lynn Canal and Chilkat and Chilkoot Inlets were frequented from time to time by the vessels of the United States both of the Navy and Revenue Service and that the officials thereon and those under their command at all times when opportunity afforded, rendered assistance, aid and protection to the inhabitants of the country tributary to Lynn Canal and Chilkat Inlet and Chilkoot Inlet, and in all cases when present and their assistance could reach them, attempted to enforce the laws of the United States, and did so enforce them.

That although not then present I remember an incident of considerable notoriety occurring about the year 1886 when one Bishop Sagers on his way into the interior at or near Dyea, Alaska, had been slapped by an Indian Chief known as Klanot, and that thereafter the said Klanot came to Haines, Alaska where I was then living, and A. P. Swine-

ford, Governor of the District of Alaska came to Haines, Alaska and caused the said Klanot to be taken into custody and taken from Haines to Sitka, Alaska for the purpose of trial.

That I was present at Haines at the time the said Klanot was apprehended and taken into custody.

That I have specific recollection of that expedition in 1887 known as the expedition of William Ogilvie. That the said Ogilvie was a British subject and arrived at Haines, Alaska sometime in the Spring or early Summer of 1887 and was met at Haines, Alaska by the United States Gunboat *Pinta* in command of Lieutenant Commander Knowles, and that Lieutenant George Emmons was one of the officers of said vessel. That pursuant to the request of William Ogilvie the said Gunboat *Pinta* towed the supplies and persons composing the said expedition to Dyea in the District of Alaska at the head of Lynn Canal. That I accompanied the said party to Dyea, Alaska, being on board the *Pinta* as the guest of the captain of said vessel; and that pursuant to the request of the said William Ogilvie the *Pinta* remained at or near Dyea in District of Alaska until word had been received nine days later that the said Ogilvie had passed safely over what is known as Chilkoot Pass without hindrance or difficulty, with the Indians south of said pass.

In reference to the expedition of William Ogilvie I also remember that a request was made of the Captain of the *Pinta* by said Ogilvie for permission to use Pyramid Island as the starting point of the survey then contemplated by the said William Ogilvie either upon the expedition of 1886 or at some subsequent time when the said Ogilvie was passing into the Interior.

That about the year 1888 I remember that a Deputy Marshal of the United States whose name I cannot recall, came up to Chilkat Inlet for the purpose of making arrests and suppressing a disturbance among the Indians at or near Kluckwan in the District of Alaska.

That with him and as Special Deputies in his posse was one Stephen York and William York; that they proceeded up the Chilkat River as far as Kluckwan, and to the best of my recollection failed to make arrests at said time, but that thereafter the Sub Chief of the Chilkats, one Kodowat, surrendered himself into the custody of the United States Authorities upon charges made in connection with said matter and taken to Juneau, Alaska, and there tried before the United States District Court for the District of Alaska.

That I have specific recollections of this incident for the reason that I accompanied Kodowat from Haines, Alaska, to Juneau, Alaska when he surrendered himself.

That I remember about the year 1891, difficulties arose upon Chilkat Inlet in connection with the killing by one Jack Wade and troubles which grew out of said killing, and that I was at that time residing at Chilkat owning a store at that place, and was United States Postmaster at Chilkat and saw the killing which occurred in front of or near my store. That I recollect that among others arrested was one Indian Tom who was arrested at or near the point known as Oolachan Patch on the Chilkat River near Chilkat Inlet. I recollect that at said time the arrest was made by Jack Dalton, United States Deputy Marshal, and Jack Lindsay.

I remember that about the year 1890 one F. H. Poindexter, then residing at Chilkat in the District of Alaska on the shores of Chilkat

Inlet, was United States Commissioner or Justice-of-the-Peace at said place and exercised the duties of that office for a number of years, and that he took cognizance of all cases civil and criminal within his jurisdiction arising on the shores of Chilkat Inlet or in the country adjacent or tributary thereto; and that from time to time he exercised such jurisdiction as occasion required. I also remember that during the incumbency of said Poindexter a consignment of liquors belonging to one William Leak was seized by John J. Healy, Deputy United States Marshal, and placed in the store of the said Poindexter on the shores of Chilkat Inlet, and thereafter said liquors were stolen through the floor of said store while under seizure.

That as early as the year 1894 I was duly appointed and commissioned as a Notary Public, at Haines, Alaska, and have since that time until the present date exercised the duties of a Notary Public.

That about the year 1898 I was appointed United States Commissioner at Haines, and from that time until the year 1900 I exercised the duties of said office and took jurisdiction of cases civil and criminal arising upon the shores of Lynn Canal or Chilkat Inlet and to points as far north as Pleasant Camp on the Klahena River west of Kluckwan in the District of Alaska.

That during all of my residence in Alaska I have had occasion to know and do know that the officials of the United States of all branches of the service in the District of Alaska for the District of Alaska and the various United States Commissioners' Courts for the District of Alaska have exercised their official authority and jurisdiction over the shores of Lynn Canal and Chilkat Inlet and Chilkoot Inlet unrestricted and unquestioned during all that time and in all country adjacent and tributary thereto as far north as the summits of the passes in the mountains north of the northerly termini of said bodies of water.

That at no time during my residence in the District of Alaska have I ever heard of or known of any official of the Canadian Government or of any of the British provinces or any British subject attempting to exercise official authority on the coast side of the passes in the mountains adjacent to said bodies of water, nor during my residence in the District of Alaska prior to the influx into said country known as the Klondike Rush, commencing in the year 1897 have I ever heard of any British Official or subject making any claim of authority or jurisdiction on behalf of the Canadian Government or any British province on the coast side of the summits of the passes, in the mountains adjacent to any of said bodies of water, nor prior to 1897 did there exist on the frontier of the British possessions or near the frontier of the British possessions in the country adjacent to said bodies of water any Customs post or any other office of officials of the Canadian Government or of British Provinces; and so far as I have been able to ascertain; and that I have, during all of said time, been in a position to know of the existence of such office had one existed.

That during all of my residence in Alaska all notices of location, evidences of title and the means of enjoyment of rights have been evidenced, claimed and protected under and by virtue of the laws of the United States; and all records in reference to titles or interests in lands or other property have been made in accordance with and under the jurisdiction of the laws of the United States in the country adjacent to said bodies of water as far as the summit of the passes adjacent to said bodies of water.

That in frequent occasions in said country adjacent to said bodies of water have the Land Department of the United States to my personal knowledge assumed jurisdiction of surveys and applications for patent of lands and that patent has issued to a portion of the land at Pyramid Harbor and Chilkat on the shores of Chilkat Inlet, and that patent has issued to a portion of the lands on the shores of Chilkoot Inlet a short distance from Haines.

That during my incumbency as United States Commissioner at Haines, Alaska, I had occasion during the absence of the United States Commissioner at Skagway, Alaska, to there sit as United States Commissioner and exercise jurisdiction over cases arising in and about the shores of Skagway Bay in the District of Alaska.

SOL RIPINSKI.

Subscribed and sworn to before me this 27th day of March, A. D., 1903.

[SEAL.]

J. J. CLARKE,

Deputy Clerk U. S. District Court for Division No. 1, Alaska.

UNITED STATES DISTRICT COURT, *Alaska.*

Deposition of Carl Spuhn.

UNITED STATES OF AMERICA

District of Oregon, ss

I, Carl Spuhn, being first duly sworn, depose and say: That I am a citizen of the United States, over the age of 21 years; that in the year of 1880, I with others established a Trading Post at a point now known as Haines, or Haines Mission, which point is near the head of Lynn Canal, in the Territory of Alaska; at said time there were no other white persons residing at or near said point, except those who were associated with me in said enterprise, and a year or two later the Presbyterians established a Mission adjoining our said Trading Post. Our place was located in what is known as Chilcoot Inlet. In the year of 1883 myself and associates constructed a Salmon Cannery at Pyramid Harbor in the Chilkat Inlet. In the same year M. J. Kinney, of Astoria, constructed a Cannery in the same Inlet about opposite the one constructed by myself and associates. The only exercise of authority by the United States Officials during that time, was exercised by the Collector of Customs at Sitka, Alaska, whose authority was recognized, and also a general supervision by Officials of the United States Navy, who might be stationed in the vicinity of said Lynn Canal.

In acquiring our right to occupy the land we filed notice of location with the Collector of Customs of Alaska, which was recorded by him in a Book for that purpose; there had been no survey of the said lands, nor was there any means for us to acquire title thereto. All of the settlers which I have named recognized the Government of the United States as having jurisdiction over said locality, as did the settlers who came afterwards; there never was at any time or by any person representing the Canadian Government any protest or opposition made or any claim by any Canadian officers either directly or indirectly that the lands occupied by us was within the Canadian Territory. It was uni-

versally conceded that the head of Lynn Canal being where the settlers above referred to were located, was upon American soil. At the time I located there it was generally known and understood by all persons to be a fact that the Hudson's Bay Company, chartered under the laws of Great Britain, composed of British subjects, had recognized the title of the Russian Government to all of the shores of Lynn Canal by accepting from that Government a lease of right of Fur Trading with the Chilcat Indians and other Indians who inhabited said country.

That the foregoing affidavit is true as I verily believe so help me God.

CARL SPURN.

Subscribed and sworn to before me this 27th day of April, 1903.

[SEAL.]

EDWIN MAYS,

Notary Public for Oregon.

Deposition of I. Myhre Hofstad.

UNITED STATES OF AMERICA

District of Alaska, ss.

I, Myhre Hofstad, being first duly sworn, on oath deposes and says: I am a citizen of the United States, a resident of the District of Alaska, and have resided in the District of Alaska ever since the year 1891. That during the year of 1893 I was appointed Inspector of Customs in the service of the Treasury Department of the United States. That about the year 1893, while Inspector of Customs, acting under orders of the Collector of Customs, and in company with one Paul Kegstad, an Inspector of Customs, and one Wm. Watt, a Deputy United States Marshal for the District of Alaska, I proceeded to Dyea, in the District of Alaska, at the head of Lynn Canal, to look into the importation of liquors at that place, which was then prohibited by the Statute of the United States. That after arriving at Dyea, we ascertained that liquors had been taken from Dyea towards the summit of Chilcoot Pass, and we proceeded to a point on Chilcoot Pass known as Stone House, and there found a number of ten gallon kegs and several cases of whiskey, which whiskey was being transported from Dyea, on Lynn Canal, into the interior of Alaska, over the Chilcoot Pass. That under and pursuant to the authority of the United States we seized upon said liquor, and there destroyed the same, transportation of the liquor from such point to a warehouse of the United States being impracticable. That to my knowledge the officers of the United States exercised their jurisdiction upon Lynn Canal, and as far inland therefrom as the summits of the mountains adjacent to said body of water. That during all of my residence in Alaska I have never heard of, or known of an assertion of any official authority by officers of the Canadian Government, or any other sovereignty, than the United States, upon the territory above described.

I, MYHRE HOFSTAD,

Subscribed and sworn to before me this 1st day of May, 1903.

[SEAL.]

C. C. HEID,

Notary Public for Alaska.

Deposition of John U. Smith.

UNITED STATES OF AMERICA *District of Hawaii, ss.*

John U. Smith, being first duly sworn according to law, deposes and says that he is a citizen of the United States of America, of the age of thirty-five years, residing at Hilo, on the Island of Hawaii, in the Territory of Hawaii.

That in the month of June, A. D. 1897, he was residing in the city of Portland, in the State of Oregon, and during that month was appointed by the President of the United States as United States Commissioner for the District of Alaska; and that subsequent thereto an order was issued by the President of the United States designating Dyea, Alaska, as the official residence of affiant, and that at some time in the month of July, A. D. 1897, said affiant left Portland, Oregon, for Dyea, Alaska, arriving there in the latter part of said month of July.

And affiant further deposes and says that within a very short time after his arrival at Dyea aforesaid, it was reported to him that there were a number of Canadian officers resident at Skagway, distant by direct line about two miles and by sea about five miles from the said Dyea. That said affiant hearing a rumor that said Canadian officials might endeavor to exercise jurisdiction for all purposes over said Skagway and said Dyea, visited said Skagway, said visit being made on or about the first day of August A. D. 1897. That upon his arrival at said Skagway said affiant was informed that certain Canadian officials had headquarters at certain tents in said Skagway, and in consequence of said information as to the residence of said officials, affiant visited said tents; that upon his said visit affiant found there an official, whose name affiant cannot now remember, who claimed to be and who appeared to be in charge of all Canadian police within said city of Skagway; that affiant is acquainted with the usual uniform of mounted Canadian policemen used in that vicinity at that time; that the person with whom affiant communicated on his visit to said tents was dressed in the usual uniform of the Canadian mounted police; that upon meeting said official, affiant informed said official that he, affiant, had been appointed United States Commissioner for the District of Alaska and had come to Dyea to assume his duties as such Commissioner, and that he, affiant, hoped there would be no difficulty between him as such Commissioner and any Canadian officials over or about the question as to whether the United States officials or Canadian officials had jurisdiction at either Dyea or Skagway. That thereupon said official informed affiant that there would be no difficulty relative to the question of jurisdiction, and that the Canadian officials resident at Skagway would, as soon as possible, move their headquarters "over the pass" and into the vicinity of Lake Tagish, in order that the headquarters of the Canadian officials should be at a point concerning which there could be no dispute whatever; that upon leaving Skagway the said Canadian officials would leave at Skagway and Dyea some person to notify miners of what would be required of them upon arriving at the Customs Camp to be established in the vicinity of Lake Tagish or Lake Bennett, and to notify said miners of the requirements of the laws of Great Britain upon their passing into British territory in the vicinity of Lake Bennett and Lake Tagish, with their goods.

That from the conversation which affiant had with said official, affiant is satisfied that said official was not claiming jurisdiction of any kind over either Skagway or Dyea; that shortly after said conversation, said Canadian officials and all mounted police in Skagway transported their goods and effects over the pass towards Lake Bennett.

And affiant further deposes and says that on or about the 6th day of August, A. D. 1897, he again visited said Skagway, and there, as United States Commissioner for the District of Alaska, met a number of persons representing themselves to be citizens of the United States of America, who desired to lay out the town of Skagway, and to locate and take up lots under the town-site laws of the United States of America; that at a meeting held for that purpose on or about the said 6th day of August, A. D. 1897, a man by the name of A. J. McKinner, formerly resident in Seattle, in the State of Washington, was elected Chairman, and Dr. H. R. Littlefield, now of Portland, Oregon, was elected Secretary, and affiant was elected as Recorder of town lots; that the survey of said Skagway was made by one Frank H. Reed; that on or about said 6th day of August, A. D. 1897, various persons claiming to be citizens of the United States of America, did post on various town lots of the said city of Skagway, notices of their intention to locate and take possession thereof, and did file with affiant for record duplicate copies of said notices, which said duplicate copies were recorded by affiant in a book, which said book was delivered by affiant to his successor, Charles A. Sehlbrede, now a resident of the city of Roseberg, in the State of Oregon.

That during all of the time affiant was United States Commissioner, he received location notices for record, and recorded the same in the manner hereinbefore set forth; that the laying out and the survey of said town of Skagway, and the location of lots therein, and the filing of location notices all took place with full knowledge on the part of the Canadian officials, and without any protest whatever from them.

Affiant further deposes and says that from the time of his first visit to Skagway as hereinbefore set forth, until he finally ceased to perform the duties of United States Commissioner in the month of May, A. D. 1898, he, as United States Commissioner, from time to time held Court in said town of Skagway, and exercised full jurisdiction as such Commissioner. That during all of said time persons dressed in the uniform of Canadian officials, and generally known as such, visited said town of Skagway, but never, on any occasion, attempted to exercise jurisdiction therein, or to interfere in any manner with the jurisdiction of affiant as United States Commissioner; that affiant kept a docket as such Commissioner which said docket was delivered to his successor hereinbefore named.

And affiant further deposes and says that at the time of his first visit to Skagway, and up to the time he left Alaska in May, A. D. 1898, the land on which the town of Skagway is located was never claimed or held save and except by persons claiming or holding under the laws of the United States of America; that part of the land on which the town is situated was claimed by one Bernard Moore, under the laws of the United States for a trading post, and that the said Bernard Moore was the only person claiming any rights in any land on which the town of Skagway is located, other than persons claiming town lots under the town-site laws of the United States; that at no time during affiant's residence in Alaska did any British citizen, or any person whomsoever,

claim any of said lands by virtue of the laws of Great Britain or the Dominion of Canada; that the fact that such lands were claimed by virtue of the laws of the United States of America must have been known to Canadian officials, who visited Skagway frequently, and that no Canadian official, to the knowledge of affiant, ever made any protest whatsoever to said land being claimed under the laws of the United States of America.

And affiant further deposes and says that from the said town of Skagway, leading inward and northerly to Lake Bennett, ran a trail known as "White Pass Trail", about thirty-five miles in length; that the said trail was built, to the knowledge of affiant, by citizens of the United States residing at Skagway; that during all of the time affiant resided in Alaska, he heard no complaint of interference by Canadian or British officials with any person passing over said trail, and at no time heard of any attempt on the part of Canadian or British officials to enforce the Customs laws of Great Britain against persons passing over said trail; that at no time was any complaint made to affiant as United States Commissioner by any citizen of the United States, or other person, that Canadian or British Customs officials were endeavoring to enforce British or Canadian Customs laws, or other laws against persons passing over said trail; that affiant as such United States Commissioner exercised jurisdiction over said trail and all offenses committed thereon, and in one instance directed citizens of the United States who had closed said trail for purposes of repair, to open the same for the passage of an American citizen and his livestock; that in all instances where reports were made of offenses committed along said trail, affiant assumed jurisdiction, issued warrants for the arrest of such offenders, and the deputy Marshal of the United States for said District served the same.

And affiant further deposes and says that upon his arrival at the head of Lynn Canal he found the land on which was subsequently located the town of Dyea in the possession of the firm of Healy & Wilson, with Samuel Herron as manager, the said firm conducting thereon a packing and trading business; that the members of said firm and the manager thereof were American citizens; that affiant was informed that the said land had been in the possession of said firm for from ten to fifteen years; that upon the arrival of affiant at Dyea he found a United States Post office, of which the said Samuel Herron was Postmaster.

And affiant further deposes and says that at some time in the month of September, A. D. 1897, the town of Dyea was laid out under the town-site laws of the United States of America, in a manner similar to that of the town of Skagway hereinbefore described; that the surveyor who surveyed the town of Dyea was one B. F. Flood; that affiant was Recorder of said town of Dyea, and recorded instruments in regard to town lots in the same manner as at Skagway; that during all of the time of his residence in Dyea, affiant from time to time held court as United States Commissioner, keeping a docket as such Commissioner, which docket was delivered to his successor; that during all of said period Canadian officials visited Dyea, and were acquainted with the fact that said affiant was holding Court as United States Commissioner, and at no time made any protest relative thereto.

And affiant further deposes and says that, extending inward and northwardly from Dyea to Lake Linderman, a distance of thirty miles,

was a trail over a pass known as Chilkoot Pass; that during all of the time affiant acted as Commissioner in and for the District of Alaska, he exercised jurisdiction over said trail, and issued, and had served, warrants for the arrest of persons charged with breach of the laws of the United States occurring on said trail; that about fifteen miles distant from said Dyea, and on said trail, was a settlement known as Sheep Camp; that affiant on several occasions tried persons accused of the commission of crimes at said Sheep Camp; and that on the 2nd. day of January, A. D. 1898, affiant, as Commissioner, visited said Sheep Camp and performed a marriage ceremony there; that on numerous occasions said Commissioner sent a deputy United States Marshal along said trail for the purpose of making arrests; that of the deputy marshals who acted in conjunction with affiant, he, the said affiant, now remembers the name of A. A. Richards, formerly of Idaho, H. J. McInnis, formerly of Portland, Oregon, John Cudahee, formerly of Seattle, Washington, and John W. Snook, still at Skagway.

And affiant further deposes and says that the fact that he exercised jurisdiction over said trail leading to Lake Linderman was well known to persons representing themselves to be Canadian officials, as such officials constantly visited Dyea; that at no time did any such officials in any manner protest against the actions of the affiant, and at no time, to the knowledge of affiant, did such officials themselves attempt to exercise any jurisdiction over said trail, except that, a short time prior to the date when affiant left Alaska, in May, A. D. 1898, affiant was informed that Canadian officials were on the summit of Chilkoot Pass, about eighteen miles distant northerly and inland from Dyea, and attempting to collect toll from miners under the Canadian Customs laws.

And affiant further deposes and says that offenses of many kinds were being constantly committed along said trail, and that the Canadian officials in that section of the country must have had knowledge that such offenses were being committed; that at no time did any Canadian official arrest any person charged with the commission of any offense, or in any manner attempt to prevent the commission of offenses or punish offenders.

And affiant further deposes and says that neither the assumption of jurisdiction by the United States officials in Dyea and Skagway and over both of said trails, nor the failure of the Canadian officials to assume jurisdiction, nor the failure of said Canadian officials to make any protest whatever, was in any manner the result of any fear on the part of said Canadian officials that the officials of the United States would forcibly assume and continue to exercise such jurisdiction; that during all of the time said affiant was in Alaska the Canadian officials in the vicinity were much more numerous than the officials of the United States, and that had said Canadian officials desired to have assumed and exercised jurisdiction, there was at their disposal a sufficient number of Canadian police to have forcibly ejected from any of the territory all officers of the United States, and to forcibly have prevented said United States officials from acting.

And affiant further deposes and says that in the month of September, A. D. 1897, he received instructions from both the Commissioner of the United States General Land Office at Washington, Hon. Binger Hermann, and from Burton E. Bennett, United States Attorney at Sitka, Alaska, directing affiant to investigate an alleged illegal cutting

of timber on American territory; that, for the purpose of making such investigation, affiant proceeded by the trail over Chilkoot Pass to Lake Linderman, thirty miles distant from Dyea, being accompanied by Deputy Marshal A. A. Richards, and Assistant United States Attorney Alfred J. Daly; that upon his arrival at Lake Linderman, affiant found American citizens engaged in cutting timber, floating it down a small creek to the head of Lake Linderman, and there sawing it into lumber by hand; that while at Lake Linderman said affiant met a man known as Capt. Strickland, who represented himself to be, and who appeared to be, a Canadian official, in charge of all other Canadian officers in that vicinity; that while in conversation with Strickland at Lake Linderman, affiant and Strickland were approached by a man claiming to be a miner, who represented to them that certain Indians had possession of his provisions and other property at Lake Linderman, and were holding possession of them under an unfounded claim; that said miner further stated that he desired the return of his goods, and desired the proper officers to take the necessary steps to secure him his rights; that thereupon the said Strickland in the presence of affiant refused to have anything to do with the controversy; that thereupon, to the knowledge of the said Strickland, and without protest from him, the said affiant, as Commissioner, assumed jurisdiction, and settled said controversy; that no record of said case was made, however, because, upon affiant's assuming jurisdiction, the parties concerned amicably settled the entire matter.

And affiant further deposes and says that some time about the first of October, A. D. 1897, while affiant was at Dyea at the house occupied by him as an office, he was visited by a man by the name of Bevan, who claimed to be, and who affiant believes to have been, an Inspector of Canadian police; that said Bevan discussed with affiant the question of jurisdiction over that part of the country, in order that there might be no clash; that said Bevan stated to affiant that the British Columbia officials had received orders to assume jurisdiction up to a certain line; that thereupon affiant and said Bevan made a rough drawing or map, intended to represent the line where the jurisdiction of the United States ended and the jurisdiction of Canada commenced; that in said conversation it was agreed that the United States should exercise jurisdiction over both trails to the head of Lake Bennett and of all of the portages between the two Lakes Bennett and Linderman; that said rough map or drawing was prepared partly by affiant and partly by said Bevan, and was intended to show Lake Bennett and Lake Linderman, the Skagway trail and the trail over the Chilkoot Pass to lake Linderman, and also the line dividing the jurisdiction of the United States and Canada; that affiant is unable to state who made the drawing itself, but remembers distinctly that the line dividing said jurisdiction was made by said Bevan, and that the word "Skagway" written on said drawing, intended to represent the Skagway trail, was written by the said Bevan; that attached hereto, marked Exhibit "A" and made a part hereof, is the said map or drawing, in exactly the same condition as at the time it was made.

And affiant further deposes and says that, upon said Bevan departing, he, affiant, made a memorandum of the occurrence, and read said memorandum to all persons who had been present at the conversation; except Bevan, his guide, and W. J. Jones, Inspector of Customs, there were present at said conversation between affiant and said Bevan the

following persons: Inspector Bevan and guide, affiant, A. A. Richards, U. S. Deputy Marshal, W. J. Jones, Inspector of Customs for the United States, E. T. Casey, of Denver, Colorado, and John Herberger, of Dyea, now resident at Skagway; that affiant has preserved said memorandum; that the same is attached hereto and marked Exhibit "B"; that said memorandum is in exactly the same condition as when completed, save and except that the words on the back thereof "Bet Sept 1 & Dec 1" were placed thereon by affiant a few days ago; that said memorandum fairly gives the substance of the conversation referred to above, and was prepared and written by affiant within five minutes of the time said conversation took place.

And affiant further deposes and says that during the time he resided in Alaska many deeds conveying title to real estate in Dyea and Skagway, Sheep Camp and Haynes Mission were filed with him for record, and by him recorded; that the book in which the same were recorded was delivered by affiant to his successor; that a discussion and newspaper controversy arose as to whether or not said deeds should be recorded with affiant or with the United States Commissioner at Juneau, and that by reason thereof the knowledge that said deeds were being filed for record with a United States official must have come to Canadian officials; and that at no time was any protest made by said officials against such transfers of land or against the recording thereof with officials of the United States; that at no time while affiant was in Alaska did Canadian or British officials establish any office or place at which land at any place mentioned in this affidavit and over which affiant exercised jurisdiction, could be taken up under their laws, nor was any office or place established at which transfers of any such lands could be registered under British or Canadian laws.

JOHN U. SMITH

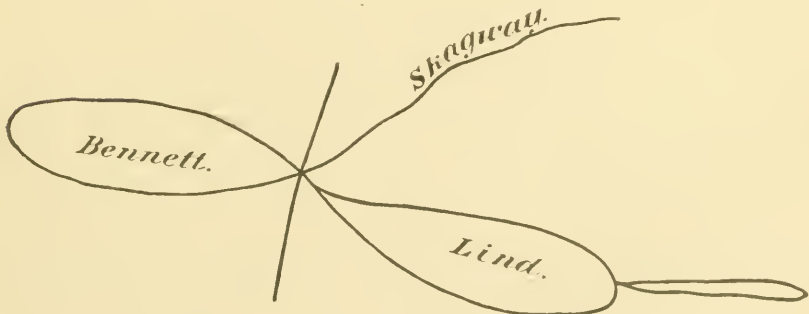
Subscribed and sworn to before me this 4th day of May, A. D. 1903.

[SEAL.]

W. B. MALING,

Clerk United States District Court, Territory of Hawaii.

(EXHIBIT "A")



(EXHIBIT "B")

MEMORANDUM.

In the presence of Inspector Bevan and guide, J. U. Smith, U. S. Commissioner, A. A. Richards, U. S. Deputy Marshal, W. J. Jones, Inspector of Customs for the United States, E. T. Casey, from Denver, Colo., and John Herberger, of Dyea, an agreement was made and it was understood that the jurisdiction of the United States Officers and the Canadian Officers should be as per attached drawing at Lake Bennett and Lake Linderman. The line marked "Skagway" by Bevan means the Skagway Trail, and the line crossing at the head of Lake Bennett is the point at which the British Officials have received orders to assume jurisdiction, from which it will appear that the United States Officers are to exercise jurisdiction over both trails to the head of Lake Bennett and all of the portages between the two lakes.

This memorandum was written within five minutes after the conversation was held, and in the presence of Messrs. Smith, Richards, Casey and Herberger.

Deposition of James W. Keen.

I, James William Keen, a citizen of Seattle, King County, of the State of Washington, of the United States of America, do make affidavit as follows:—

I was in the employ of the Hudson Bay Company from 1858 to 1863, during which time I was on board the Hudson Bay Company's steamer "Labershere" trading along the Coast of British Columbia and the Russian American Coast and Islands, from Portland Canal to Chileat and Cross Sound. We made from three to four trading trips yearly, during the spring, summer and fall, visiting Stiekheen, Sundum, Tarku, Pyramid Harbor and Swanson's Harbor, as it was permitted us by the lease from the Russians to trade with the Stiekheen, Tarku, Chileat and Hoonah tribes, but while we were not legitimately allowed to barter with the Island tribes, as we understood, we did include in these cruises the following points where we met the natives and traded with them:—

Security Bay	}	inhabited by the Kehk tribe
Cape Bendle		
Cape Fanshaw		
Tsar ta heen		inhabited by the Auk tribe
Pavloff Harbor	}	inhabited by the Hootz-ah-tar tribe
Killisnoo		

Traders Island—The Sitka tribe came here to trade

The Mainland Coast north of Portland Canal, including all of the Inlets and bays, and Islands of the Alexander Archipelago were always considered and spoken of by the Hudson Bay Company's employees as Russian Territory, and we considered that we had only the privilege to trade therein. The Hudson Bay Company never exercised any jurisdiction over this Territory or the native inhabitants therein. During this period, from 1858 to 1863, the Hudson Bay Company maintained no post on shore within these limits. At Pyramid Harbor as well as at the other Mainland points, the natives were required to come on board ship to trade. The officers and men were never permitted to go on shore except when absolutely necessary.

Upon the transfer of Alaska to the United States, Capt. Lewis of the Hudson Bay Company Steamer "Otter" was permitted to visit Alaska to settle all outstanding debts with the natives, and it was

reported that he stated to the natives that this was the object of his visit, as the country had been sold by Russia to the United States.

In 1869, I was pilot on board the U. S. S. Saginaw, Capt. Richard Mead, U. S. Navy, Commanding. The ship visited Pyramid Harbor for the purpose of taking prisoners any natives concerned in the killing of two white men on Admiralty Island about that time.

In 1869, while master of the trading schooner "Sweepstakes" I accompanied Secretary Seward and party, consisting of General Jeff Davis, U. S. Army, Henry Kinkead, and Capt. Dull to the Chilkat village of Cluckwan. I also acted as interpreter upon this occasion. When Secretary Seward informed the Chilkat chiefs that the United States had purchased all of Alaska from Russia, one of the old chiefs replied—"Yes, the Russians stole it from us; they were big thieves and sold us as though we were all slaves, as this was only their country in white man's fashion."

JAMES W. KEEN.

STATE OF WASHINGTON.

County of King, ss.

I, W. H. Llewellyn, a Notary Public in and for the State of Washington, residing at Seattle in the above named County and State, duly commissioned, sworn and qualified, do hereby certify that on this fifth day of May A. D. 1903, before me personally appeared James W. Keen to me known to be the individual described in, and who executed the within instrument, and acknowledged to me that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal this fifth day of May A. D. 1903.

[SEAL.]

W. H. LLEWELLYN,
*Notary Public in and for the State of Washington,
residing at Seattle in said County.*

Deposition of Hugh Murray.

STATE OF CALIFORNIA

City and County of San Francisco, ss.

Hugh Murray, being first duly sworn, deposes and says:

I am familiar with the location referred to in the annexed map, and have been familiar with it for more than ten (10) years last past. This map^a is a correct representation of the head of Lynn Canal, Alaska, showing Pyramid Harbor and the adjacent country, and also shows correctly the location of the United States surveys one (1), two (2), three (3) and four (4). Pyramid Harbor is the only safe harbor on Lynn Canal in length over one hundred (100) miles, and is very near the head of the navigable waters of that canal.

HUGH MURRAY.

Subscribed and sworn to before me this 8th day of May, A. D. 1903.

[SEAL.]

GEO. E. MORSE,
*United States Commissioner for the
Northern District of California at San Francisco.*

^aFor reproduction of the map referred to in the foregoing affidavit see Map No. 32 in the Atlas accompanying this Counter Case.

Deposition of Hugh Murray.

STATE OF CALIFORNIA

City and County of San Francisco, ss.

HUGH MURRAY, being first duly sworn, deposes and says:

I am a white male citizen of the United States, aged forty-nine (49) years, and my post office address is No. 308 Market Street, San Francisco, California:

I am by occupation, superintendent of the salmon cannery at Pyramid Harbor, Alaska, and I have been such superintendent since the year 1888. In that year I went to this place as superintendent and part owner of the Chilkat Canning Company, for whom I built a cannery in 1889 at a point on Chilkat Inlet, nearly opposite Pyramid Harbor. When I went there, there were already two canneries in operation, one at Pyramid Harbor belonging to the Pyramid Harbor Packing Company and the other belonging to the Chilkat Packing Company. I was informed that each of these canneries had been there four or five years and they are among the first of the salmon canneries built in Alaska. The value of the improvements at these points was approximately as follows:

Pyramid Harbor Packing Company	\$40,000
Chilkat Packing Company	\$25,000
Chilkat Canning Company	\$35,000

and there was annually canned and exported by these three canneries about 55,000 cases of salmon. The salmon was caught in the Inlet and in the Chilkat River by the Indians and by fishermen who were brought up from San Francisco.

In 1888 there was a small settlement of American citizens at Haines' Mission and a small trading post at Dyea. At Haines' Mission there was a missionary establishment where there were about twenty-five Americans who lived there the year 'round and there were numbers of Indians who went to school at the mission.

Dyea was the point of departure into the interior over the Chilkoot Pass and was a trading post of some importance. Since that time these places have become much more populous and the town of Skaguay contains about 2500 people.

I have known F. H. Poindexter. He came to Pyramid Harbor before I did and his place was adjacent to mine. He was a Justice of the Peace as an American official, and had an office and exercised his authority as such Justice in disposing of the cases which came within his jurisdiction and which chiefly concerned the Indian litigants. I have personally attended a trial in his court and he continued to act as such Justice of the Peace until he left Alaska in or about the year 1890 or 1891.

I know many of the Indians who live in this vicinity and who have resided there all their lives. I have never heard from them or from anyone else that the Canadian officials ever claimed jurisdiction over any of said territory or made any opposition to the acts of the Americans in settling there. I have myself never seen a Canadian official in that country who was acting in his official capacity.

About eighteen or twenty miles above Pyramid Harbor there is an Indian village called Kluckwane. It is very near the boundary line between the American and British possessions, as we have always understood that line: being on the American side. At this village

there are some old Russian brass cannon, which the Indians have told me were placed there by the Russians prior to the cessions of the United States.

I am familiar with the surveys made by G. W. Garsidé, United States Deputy Surveyor for Alaska in the year 1891, known as surveys numbers one (1), two (2), three (3) and four (4). At that time, I was superintendent of a salmon cannery at Pyramid Harbor, Alaska. I afforded Mr. Garside at that time the assistance of two or three of my employes, to be used as chain-men and brush-men. These men were employed about eight or nine days in assisting Mr. Garside in making surveys numbers one (1), two (2), three (3) and four (4). I saw Mr. Garside and my several employes, whom I have allowed Mr. Garside to select as assistants in surveying, actually at work making the surveys referred to. In fact, Mr. Garside frequently consulted me with reference to matters connected with surveys numbers one (1), two (2), three (3) and four (4). These surveys were made by Mr. Garside, as above stated, in 1891, and to the best of my present recollection were made about the month of October, 1891.

HUGH MURRAY.

Subscribed and sworn to before me this 21st day of May A. D. 1903.

[SEAL.]

J. MANLEY,

*United States Commissioner for the
Northern District of California, at San Francisco.*

Deposition of Henry F. Fortmann.

STATE OF CALIFORNIA

City and County of San Francisco, ss:

HENRY F. FORTMANN, being first duly sworn, deposes and says:

I am a citizen of the United States, over the age of forty (40) years, and my post office address is No. 308 Market Street, San Francisco.

I am President of the Alaska Packers Association, a California corporation, and have been President of the Association ever since it was incorporated in 1893.

I am familiar with the location of the canneries at Pyramid Harbor on the Lynn Canal, Alaska, and have been for many years past familiar with the business there carried on and the general nature of the improvements in and about the harbor.

Pyramid Harbor is located on the western shore of Chilkat Inlet, Lynn Canal, and is by far the best harbor on Chilkat Inlet, having good holding ground, sufficient depth of water and protection from wind through the high bluffs surrounding it. Our cannery, as shown by the map, is located on the southern shore of the harbor. The map of 1891 shows that Pyramid Harbor is almost at the head of deep water navigation,—the water shallowing up rapidly about a mile above the cannery. The cannery site owned by us covers almost the entire level land which could be used for landing or industrial purposes. The bluffs on the east shore of Pyramid Harbor rise abruptly from the water. Our title to the location is derived as follows:

M. J. Kinney of Astoria prospected the Chilkat Inlet for salmon in

1882, and built a house on the present cannery location. The Northwest Trading Company, which was doing business at that time at Killisnoo, Alaska, followed him and built a cannery in 1883. This cannery was sold to the Pyramid Harbor Packing Company, (D. L. Beck & Sons of San Francisco, Agents), in 1888. This company had the first survey in Alaska made by D. N. Garside, United States Deputy Surveyor, in October, 1891, under the first land law for Alaska approved March, 1891. The plant has been sold to the Alaska Packers Association, who are now the owners. The land office, holding that the original survey included more land than was necessary for the business, requested that an amended survey should be made and filed, which was done in August, 1897, and the copy of the plat of the amended survey will show the changes. The third plat shows the improvements as existing at the beginning of the year, 1893.

The present permanent improvements are practically shown on this latter plat, consisting of large cannery, wharf, warehouse, lodging house, mess house, store house, blacksmith shop, China house, and various other small buildings. They are substantially constructed, principally of iron. This construction has been very costly, on account of the necessity of transportation of the material and labor from San Francisco—none being obtainable in the country. Quite an extensive and remunerative business has been developed there, as shown by the following figures:

Pack of season.

Cases of Salmon.		Cases of Salmon.	
1883	3,800	1893	13,668
1884	6,000	1894	38,781
1885	Not operated	1895	35,373
1886	8,600	1896	47,456
1887	5,000	1897	37,456
1888	19,300	1898	39,669
1889	13,400	1899	53,237
1890	12,300	1900	55,601
1891	18,300	1901	30,709
1892	28,964	1902	32,211

The number of men directly employed at the cannery is about 200. In addition to this about 300 Indians are engaged in fishing, who sell their catch to the cannery, or periodically are given other employment.

The Steamers "Elsie" and "Chilkat" and Launch "J. W. Clark" are used by us at Pyramid Harbor, and were especially built for the cannery business, and in addition to the same 100 large boats and lighters are used by our company at this place.

Up to 1892 the transportation of the material and laborers up, and the finished output and laborers down, was done in a desultory way by coast vessels.

In 1892	the Steamer	<i>Jennie</i>	was used for this purpose,
" 1893	"	Bark <i>Fresno</i>	
" 1894	"	Ship <i>J. C. Potter</i>	
" 1895	"	"	
" 1896	"	" <i>Two Brothers</i>	
" 1897	"	" <i>Invincible</i>	
" 1898	"	"	
" 1899	"	" <i>Two Brothers</i>	
" 1900	"	"	
" 1901	"	" <i>Oriental</i>	
" 1902	"	"	
" 1903	"	" <i>Star of France.</i>	

The United States Fish Commissioner's Steamer "Albatross," Captain Jefferson F. Moser commanding, made quite extensive investigations of this district, and copies of the reports are on file in the United States Fish Commissioner's office, which would verify and very likely add considerable to these statements.

The cannery and location is by far one of the best and most extensive in Alaska. The cannery is thoroughly equipped with the most modern machinery, electric light plant, etc.

The cannery locations and the business carried on at this point have been very well known to all of the people who are familiar with Alaskan affairs, for many years. No interference has ever been attempted to our possession and use of these locations, nor was there any adverse file by any one during the period of publication of posting for the purchase from the Government of these surveys. Our predecessors in interest settled upon the land, and we have made the improvements under the belief that the territory belonged to the United States; nor did we ever know of any question of this boundary line until the commencement of the gold excitement of the Klondike in the year 1897. Pyramid Harbor is the terminus of the Dalton Trail, which runs into the Yukon, and over which a large number of prospectors go. Through our sufferance all this landing of passengers, freight and live stock has been made upon our survey, which is the only available place in that neighborhood.

HENRY F. FORTMANN.

Subscribed and sworn to before me this 8th day of May, 1903.

[SEAL.]

GEO. E. MORSE,

*United States Commissioner for the
Northern District of California.*

Deposition of John J. Healy.

STATE OF ILLINOIS, *Cook County, ss.*

JOHN J. HEALY, a citizen of the United States of the Territory of Alaska, being duly sworn, deposes and says: I first went to the Territory of Alaska in the winter of 1885-6. I landed at Juneau and thence visited Sitka, returning to Juneau on the same steamer. Soon after my arrival I bought a schooner for the purpose of exploring and trading, and after obtaining at Sitka a license for her, I went to Haines Mission about April or May 1886, where I found a trader named George Dickinson, an American citizen; his wife was an Indian and was very prominent as a missionary woman. Dickinson remained there till the time of his death, being a resident for ten or twelve years. Haines' Mission is situated on Portage Bay at the head of Lynn Canal.

Soon after my arrival, in May 1886 I established a trading-post at a place now called Dyea, forming a partnership under the name of Healy & Wilson with Edgar Wilson, a native of Ohio and a veteran of the United States Army, who resided at Dyea up to the time of his death in 1895.

Dickinson from Haines' Mission established a branch store at Dyea in opposition to us a few years after. In the 80's there were a hundred or two hundred transient Americans passing through to and from the

Yukon region, and the business of our firm was in outfitting them with clothing and supplies. About the year 1888-89 Captain William Moore located the town of Skagway near the head of Dyea Inlet. His son Benjamin Moore came to settle there about the same time, and I understood that he took out his first papers as an American citizen in the United States Court at Juneau. He had to do this to enable him to hold such land as they might take up at Skagway. Captain William Moore had also to become an American citizen to hold land. The father and son have continued to reside at Skagway up to the present time.

During my residence at Dyea about the year 1888 some difficulty arose between me and the Chilkat and Chilkoot Indians. These Indians are two clans of the Tlinkit tribe and live on the headwaters of Lynn Canal and on the streams which empty into the inlets at its head. When the traffic across the passes into the Yukon region began to increase I saw that the Indians who had up to that time done all the packing over the passes would not be able to supply the demand, and I conceived the idea of putting a lot of mules on there. Some of the Indians went to Sitka and brought the Governor there to interfere and stop me. That was Governor Swineford. The Indians said I was using their old trail and they wanted to stop me. The Governor and some of his staff went over the trail and viewed it, and told the Indians that I was within my rights; that I was not interfering with their trail; that I was only improving their trail, and had a perfect right to use it. This trail follows the Dyea River to the Sheep Camp, at the foot of the Mountains. It used to be known on the map, in the early days as the Perier Pass. The trail went over the mountains, on to the summit of this pass, and then dropped off into the headwaters of the Yukon—into Crater Lake. The Indians being native Americans under the Russian Treaty, considered that the country belonged to them, and that they had an exclusive use of the pass and to the business of packing over the trail, as they and their fathers exercised this right.

In 1887 Mr. William Ogilvie, on his way into the Yukon country arrived at Dyea, while I was there, with two or three Peterburg canoes. He took them all the way from Peterburg, Canada. He was a land surveyor of the Dominion of Canada. He remained about ten days waiting for instruments which, he claimed, were to arrive from France. He passed up the Dyea River and into Canada, I don't know how far. He went down the Yukon several hundred miles.

He had expected to employ the American Chilkoot Indians to pack for him over the summit to the head of the lakes at the headwaters of the Yukon. But on account of the fact that these Indians, several years before, had some trouble with the Hudson Bay Company's representatives at Pyramid Harbor, at which a number of them were killed by the British, these Indians, by way of retaliation, demanded twenty dollars a hundred for packing, instead of nine dollars, which had been the customary price, and which was the price that Ogilvie had come prepared to pay out of government funds. In this predicament, he sent word to Capt. Newell, of the United States man-of-war, "Pinta," then lying at Haines' Mission. Capt. Newell came in his launch, and met Ogilvie in my store in Dyea. We talked the situation over. Capt. Newell refused to use his authority to compel or induce the natives to take the work for Ogilvie at nine dollars per hundred. Ogilvie said he could get some "Stick" Indians (The

“Takish” indians), who were there at Dyea then, trading at my store, to do the packing for him if they could be protected from the assaults of the American Chilcoot indians. Capt. Newell refused to extend any such protection, saying that the “Stick” indians were aliens, and had no right there. Whereupon, I offered to do the packing for Ogilvie at nine dollars per hundred. He asked how I could do this. I replied that I would employ the “Stick” indians. Ogilvie said this could not be done without trouble between the American indians and the Canadian indians. Thereupon, I suggested he could employ the American indians to the summit, where the American territory was supposed to end, for ten dollars per hundred. That was to the summit, about twenty miles from Dyea, and two-thirds of the whole portage; and then employ “Stick” indians to take the goods at the summit and pack them the rest of the way. This arrangement was made, and carried out. Owing to the fact that he was short of money, I doubt very much whether he paid the Canadian indians anything for their services beyond furnishing them with food; and in fact I think his own men did most of the work beyond the summit.

In the fall, after the summer when Ogilvie passed through, Dr. Dawson, who had gone into the interior by the way of the Stikeen River, and had passed from there down the Hootlinka River to the Yukon and then by the Yukon, and out by the way of Dyea, came over Chilcoot summit and down to Dyea, where he staid four or five days. He told me he was looking at the country geologically. He was a geologist. He was joined at Dyea by Mr. McConnell shortly after his arrival. McConnell had come up the Yukon River and over the pass.

Ogilvie, Dawson and McConnell were the only Canadian officials I saw in that region during the time I lived there. I had considerable talk with them during their visit. They made no protest against the occupation at the head of Lynn Canal by Americans, and made no claim to the region as belonging to Canada.

Considerable surveying was done at the head of Lynn Canal, near Chilcoot in 1889, 1890 and 1891 by George W. Garside, a United States Land Surveyor. He surveyed fishing sites for settlers. I had him survey a fishing site for me; and I had him survey a store site for a store that I built there. And he surveyed for canning companies there. They were all American companies. There was nothing else doing business there.

Previous to my leaving the Chilkat and Chilcoot country, which was in 1891, I was appointed and acted as a Deputy United States Marshal and Deputy Collector of Customs. My jurisdiction extended over all the strip of country at the head of Lynn Canal, including Chilkat inlet, Chilcoot inlet, and Dyea inlet. As Deputy Marshal I was not confined to one district, but could go into any district where my duties took me. As Deputy Collector I used to have “a little hell of my own,” destroying stills and whisky made by Indians and brought in by smugglers. I seldom had occasion to go far inland, but United States officers went as far up Chilkat inlet and river as twenty miles after criminals.

About the year 1891, Max Edelman, a Deputy United States Marshal, with my help, arrested George Slatrich, an indian, at Pyramid Harbor, upon a charge of resisting officers. About 1889, on a previous occasion, a great many indians threatened to take my store at Dyea, and during the trouble two of the indians were killed. I sent

a man in a boat down to Juneau for help, and about twenty five white citizens of Juneau, led by a United States Deputy Marshal, came to our relief, and the trouble was settled with the natives. About the year 1887, the American indians about Dyea intended to kill a slave girl, the property of old man Shatrich, a Chilcat chief, who had died a day or so previously, because her master had died. I went down to where the "Pinta" lay, at Haine's Mission, about twenty miles down the canal, and reported this matter to Capt. Nichols. He sent a launch with an officer up to Dyea to get the girl away, but she could not be found, and in fact never was found.

JOHN J. HEALY.

Subscribed and sworn to before me this 20th day of May, A. D. 1903.

[SEAL.]

M. E. PATTERSON,
Notary Public Cook Co., Ill.

GEOGRAPHICAL AND TOPOGRAPHICAL INFORMATION RELATIVE TO SOUTHEASTERN ALASKA.

PORTLAND AND PEARSE CANALS.

Superintendent of Coast Survey to the Secretary of State.

TREASURY DEPARTMENT,
OFFICE OF THE COAST AND GEODETIC SURVEY,

Washington, May 19, 1903.

The Honorable, The SECRETARY OF STATE, *Washington.*

SIR: I have the honor to forward herewith for your information two papers relating to Portland Canal. The one dated May 15th is by Mr. Herbert C. Graves, who holds the position of Nautical Expert in this Survey; the other, dated May 18, is by Mr. S. P. Shidy, Chief of the tidal Division, also in this Survey.

Very respectfully,

O. H. TITTMANN, *Superintendent.*

Report of Herbert C. Graves.

TREASURY DEPARTMENT,
OFFICE OF THE COAST AND GEODETIC SURVEY,

Washington, D. C. May 15, 1903.

Mr. HERBERT G. OGDEN,

Inspector of Hydrography & Topography,

U. S. Coast and Geodetic Survey, Washington, D. C.

SIR:—In compliance with your instructions to state the relative advantages from a mariner's point of view of entering Portland Canal through the main channel between Pearse Island and Point Ramsden on the one hand, and through the passages to the westward on the other, I submit the following:

Portland Inlet is a broad open channel, free from dangers, with plenty of room for any vessel to work, and with moderate tidal currents which run generally true with the channel. These conditions especially favor sailing vessels. There are no abrupt changes of course, and the probability of holding winds that would be moderately true would be greater in the wider Portland Inlet than in the narrower channels to the westward. These conditions would lead any man in a sailing vessel to select Portland Inlet if bound up Portland Canal; with ordinary precautions this channel can be navigated in the night.

The channels westward of Pearse and Wales islands are very narrow in places, have many known dangers in places and a probability of others not known, have several abrupt changes in direction, and have strong tidal currents (velocity 3 to 4 nautical miles an hour) which do not run true with the channel and form bad swirls over the numerous dangers and at the junction of the various channels. In those narrow channels the winds are confined and increased in force, being felt in heavy gusts or williwaws. These conditions render the channels westward of Pearse and Wales islands undesirable for all vessels, especially for sailing vessels. The deep water in these passages makes close to the dangers, rendering it unlikely that an anchorage could be made in case of necessity, and if a vessel should become unmanageable through baffling winds she would almost certainly go on the rocks or ashore owing to lack of room to maneuver. Some of these passages require good conditions of daylight and clear weather even for those with good local knowledge to use them, and their navigation at night or in thick weather is out of the question.

Steamers, while not influenced by the same reasons as sailing vessels, would avoid the contracted and in places dangerous passages with strong tidal currents and swirls, for the broad clear passage where they could run during either day or night and at full speed throughout.

The matter of distance by the two routes is different for the several approaches. In approaching from southward in Chatham Sound the shortest route up Portland Canal is through Portland Inlet. In approaching from westward in Dixon Entrance the distance is about the same by going up Portland Inlet, or by going through Tongass Passage and Pearse Canal. For a steamer coming from the vicinity of Cape Fox the distance would be somewhat longer by the way of Portland Inlet, but from my knowledge of the conditions I would say that no master would be justified in attempting the other route. Small local steamers, like those used by the canneries, might find it to their advantage in bad weather to enter northward and eastward of Tongass Island, or through Tongass Passage, between Sitklan and Wales islands, and go through Pearse Canal, but these vessels go anywhere, and take risks that other or larger vessels would not be justified in doing.

In corroboration of my opinion of these passages I submit the following extracts from the report of Lieut. Comdr. (now Captain) Charles M. Thomas, U. S. Navy, who surveyed them in 1888. These opinions were endorsed by the late Captain H. E. Nichols, U. S. Navy, who used almost the same language in the Alaska Coast Pilot (edition 1891), pages 78 and 80-81.

[Extracts from report dated March 31, 1889, of Lieut. Comdr. Charles M. Thomas, U. S. Navy, commanding U. S. Coast & Geodetic Survey Steamer Patterson, engaged in the survey of Portland Canal and vicinity, Southeast Alaska, during 1888.]

Portland Inlet and Portland Canal are free from all hidden dangers and the navigation of these waters is perfectly simple if a vessel keeps an ordinary distance from the shore line. The numerous outlying islets and detached rocks are close inshore and well indicated upon the chart.

Pearse Channel from its junction with Portland Canal to Wales Passage is clear to navigation, but south of this point to the end of the channel near its junction with Tongass Pass it is foul ground and the most ordinary prudence would forbid its attempted navigation. All that portion of Pearse Channel abreast Fillmore Island is filled with numerous islets, some of them thickly wooded, some with nothing but a light growth of brush and standing low out of water, while others are entirely

barren, and there are a great number of rocks at varying distances from the main shore line on each side, a few of them being near the middle of the channel. These rocks vary in height from those that are awash or slightly covered at low water, to those that are in the same condition at high water.

Great care was taken with the sextant as many as possible of these rocks, and on one occasion at low water, neap (spring?) tides, all the Assistants in the three steam launches were detailed to take angles from every rock in sight, and it is believed that none escaped being located.

Pilot E. H. Francis, who had over thirty years experience in the navigation of the waters of Southeast Alaska, and who was generally regarded as the best informed man living on the waters of Alaska during the last fifteen years of his life, held the same opinion of Portland Inlet and the passages westward of Pearse and Wales islands as expressed by Lieut. Comdr. Thomas, for whom he served as pilot while engaged in the surveys. I was associated with Pilot Francis in 1900 and 1901 engaged in the compilation of the 1901 edition of the Alaska Coast Pilot, and had good opportunities for learning his opinion on the subject.

Yours respectfully,

HERBERT C. GRAVES,
Nautical Expert, C. & G. Survey.

Respectfully forwarded

HERBERT G. OGDEN,
Inspector Hyd. & Top.

Report of L. P. Shidy.

TREASURY DEPARTMENT,
OFFICE OF THE COAST AND GEODETIC SURVEY,
Washington, D. C., May 18, 1903.

MR. ANDREW BRAID,
Assistant in charge of Office.

SIR: In reply to the Superintendent's request of the 15th instant, I have to state that the tide which occurs in the upper portion of Portland Canal, say north of latitude 55° 05', comes chiefly through Portland Inlet.

On account of the small cross section of Pearse Canal, at the narrows, between Wales Passage and Winter Harbor, there is a difference of about a quarter of an hour in the time of tide at that place and at the northern end of Pearse Island. This causes sufficient difference in surface level of the water to make a tidal current of two or more knots in the narrows. A large part of the water which enters Pearse Canal, however, merely fills and empties its upper portion, so that only a part of it passes into Portland Canal.

While the tidal currents in Portland Inlet are weaker than those in Pearse Canal, the total volume of tidal water in the former is so much greater than in the latter, that at least 90 per cent of the tides in Portland Canal ebb and flow through Portland Inlet.

Respectfully yours,

L. P. SHIDY,
Chief of Tidal Division.

The Assistant Adjutant General to the Secretary of State.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, May 21, 1903.

The Honorable The SECRETARY OF STATE,

Washington, D. C.

SIR: I have the honor to enclose herewith a report made by Captain D. D. Gaillard, Corps of Engineers, relating to the navigation of Pearse Canal and the topography at the head of the Portland Canal.

Very respectfully,

W. V. HALL,
Assistant Adjutant General.

Report of Captain D. D. Gaillard, U. S. A.

WASHINGTON, D. C., *May 19, 1903.*

The ADJUTANT-GENERAL, U. S. ARMY.

Washington, D. C.

SIR: In accordance with your instructions I have the honor to submit the following description of Pearse Canal and of the head of Portland Canal, S. E. Alaska, based upon notes taken and information secured while engaged in official work at those localities in 1896.

PEARSE CANAL.

On September 12, 1896, while erecting storehouse #1, Wales Island, a sudden storm of great violence sprung up and it became necessary for the U. S. Light House steamer "Manzanita," from which supplies were being obtained to seek refuge in Winter Harbor, Pearse Canal, which was reached by passing through Wales Passage and through a short stretch of Pearse Canal, which at the narrowest point encountered was but about a third of a mile in width.

Between Winter Harbor and the North end of Pearse Island, Pearse Canal is straight, has an average width of about a mile, with ample depth, and apparently presents no special difficulties of navigation.

In order to familiarize myself with all of the waters in this vicinity, I was very desirous of passing through that part of Pearse Canal between Wales Passage and the waters of Dixon Entrance, but my pilot, Capt. J. E. Lennan, a man thoroughly familiar with Alaskan waters, strongly advised against my attempting to take the steamer through this part of Pearse Canal, calling my attention to the large number of obstructions shown on the Chart (U. S. C. & G. S. #8100) and the crooked nature of the channels, which he stated caused strong tidal cross-currents, and would prevent steering by compass at night, or when caught in one of the fogs to which this locality is very subject.

He further stated that, in his opinion in addition to the charted obstructions, there were doubtless some obstructions not yet discovered.

As Capt. Lennan had proved himself an efficient pilot and a man of sound judgment in matters pertaining to his calling, I did not feel

PHOTOGRAPHIC VIEWS

accompanying the Report of Captain D. D. Gaillard.

(See page 211.)



BEAR RIVER VALLEY
from a point near the 56th parallel.



BEAR RIVER VALLEY
from Portland Canal.

justified in risking the safety of the vessel, and reluctantly abandoned the idea of navigating this part of Pearce Canal.

As a consequence of the menaces to navigation just described, Pearce Canal was at the time mentioned rarely used by steam vessels, and not at all by sailing vessels.

HEAD OF PORTLAND CANAL AND BEAR RIVER VALLEY.

Portland Canal terminates at its head in a flat foreshore of mud, the slope of which is so small that the distance between the high and the low water lines is about half a mile. In prolongation of the same gorge in which Portland Canal is situated lies the valley of Bear River, a swift glacier-fed stream apparently draining a large stretch of country.

A reconnoissance of nearly 6 miles made by me up Bear River Valley in September, 1896, showed that for a distance of about 12 or 14 miles above the head of Portland Canal this valley is a straight prolongation of the same mountain-bordered indentation in which lies Portland Canal.

Bear River Valley is generally low and flat, covered in places by a dense growth of undergrowth and rather small trees, while in other places marshes and open gravel-covered areas are of frequent occurrence.

Two photographic views of Bear River Valley were taken, looking toward the North and directly up the valley,—the first from a point a little South of the 56° parallel of North Latitude and the second while the "Manzanita" was lying at anchor about five-eighths of a mile from the head of Portland Canal.

I touched with the U. S. Light House steamer "Manzanita" at the Hudson's Bay Company's important trading post, Port Simpson, British Columbia, at the mouth of Portland Canal, twice while engaged in constructing the store houses on Portland Canal for the purpose of making some minor purchases at the Hudson's Bay Company's store. On each occasion the "Manzanita" remained at the Company's wharf for some time enabling me to visit all parts of this interesting post.

Respectfully submitted,

D. D. GAILLARD,
Capt. of Engineers, U. S. Army.

The Acting Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT,
Washington, May 22, 1903.

SIR: I have the honor to enclose herewith, for the Hon. John W. Foster, a report of Captain Charles M. Thomas, U. S. Navy, upon the navigability of the waters of Portland Inlet, Portland Canal, and Pearce Channel, Southeast Alaska.

I have the honor to be, sir, your obedient servant,

CHAS. H. DARLING,
Acting Secretary.

The Honorable the SECRETARY OF STATE.

Report of Captain Charles M. Thomas, U. S. N.

U. S. R. S. FRANKLIN,

U. S. Navy Yard, Norfolk, Va., May 20th, 1903.

Sir: I. In obedience to instructions contained in letter No. 2518-3-JRC, under date of May 16th, 1903, from the Chief of Bureau of Navigation, I left Norfolk, Virginia, on the evening of May 18th, 1903, and, upon arrival in Washington, D. C., reported to the Chief of Bureau of Navigation for special temporary duty, and was directed to prepare a report from my observation as Chief of a Surveying Party in Portland Inlet, Portland Canal, and Pearse Channel, upon the navigability of those waters.

2. During the latter part of January, 1887, I was ordered by the Secretary of the Navy to report to the Secretary of the Treasury, by letter, for duty under the Superintendent of the U. S. Coast and Geodetic Survey, and by the latter was assigned to the Command of the U. S. C. & G. S. Steamer Patterson for the continuation of the Survey in Alaskan Waters, and was retained on said duty until April, 1889, working two seasons in Alaska, 1887 and 1888. During the latter year, and while engaged in the survey of Stephen's Passage, I received instructions from the Superintendent, U. S. Coast and Geodetic Survey about the latter part of May to cease work upon which then engaged, and to proceed to the vicinity of Portland Inlet for the survey of those waters, Portland Canal and Pearse Channel, and, in obedience to said instructions, commenced the latter survey July 5th and concluded the same September 19th, 1888.

3. From an inspection of the U. S. C. & G. S. Charts covering the waters of Southeast Alaska as above described, it will be seen that the best approach to Portland Canal for vessel coming through Dixon entrance or from Chatham Sound is via Portland Inlet.

4. For entering Portland Canal, navigation is clear via Wales Passage and Pearse Channel (now called Pearse Canal), but, in the latter water, violent swirls will be encountered opposite the narrow entrance to Hidden Inlet, and from my report of the season's work (1888), under date of March 31st, 1889, and addressed to the Superintendent of the U. S. Coast and Geodetic Survey, I find the following remarks concerning this matter:

Hidden Inlet, a narrow arm of five miles in length, empties into Pearse Channel, on the western side, eight miles below its junction with Portland Canal. The small passage connecting the main body of the Inlet with the Pearse Channel is not over 130 meters in width and about one-third of a mile in length, and through this limited space must pass the large volume of water filling the Inlet at each flood tide and flowing out again on the ebb, causing a current at this point estimated to be from 10 to 12 knots an hour, forming immense swirls at the full strength of the tide, similar to those observed in Seymour Narrows, B. C. These swirls extend across Pearse Channel about one-third of its width opposite Hidden Inlet.

5. The approach to Portland Canal via Tongass Passage or Tongass Narrows, and Pearse Channel, is possible for steam vessels of small size, but it is exceedingly dangerous on account of foul ground, narrow and contracted passages, and violent swirls to be encountered at every change of the tide. No prudent navigator would undertake this method of reaching Portland Canal with the wide and unobstructed waters of Portland Inlet open to him.

6. During my two seasons surveying work (1887-1888) in the waters of Southeast Alaska, it was necessary for the U. S. C. & G. S. Steamer

Patterson to stop at Port Simpson, both going and returning, with occasional visits during the season for the purpose of receiving coal and supplies, so I had frequent interviews with the Factor of the Hudson Bay Company, at Port Simpson, a Canadian, who practically governed in that region of British Columbia, and when alluding to the various islands and waters in the vicinity of his charge, he invariably referred to Wales and Pearse Islands as "your side" of the dividing waters, and to Port Simpson, Somerville Island, Observation Inlet, etc., as "our side." There was no discussion at all as to the boundary line, it being well understood by the Factor, the Indians, and all parties concerned, that the line ran through the middle of Portland Inlet up through the middle of Portland Canal. I also consulted the Factor of the Hudson Bay Company on the subject of erecting Signal Stations upon the Canadian side of the waters that I was directed to survey, and to which he assured me that there was not the slightest objection. Of course, I made no such request concerning the Stations to be erected upon the north side of the Inlet, as there was, at that time, no question as to its being United States territory.

Respectfully,

CHAS. M. THOMAS,
Captain, U. S. Navy, Commanding.

The SECRETARY OF THE NAVY,
(Bureau of Navigation.)

MAPS AND CHARTS. "

[NOTE.—To avoid confusion the numbering of the maps and charts in this list is continued from the list submitted in the Appendix to the Case of the United States, pages 511-520.]

88. (1801). Atlas du Voyage de Vancouver.

This is the French edition, published at Paris in the year VIII of the republican calendar (1801).

89. (1826). Atlas of the South Sea or Pacific Ocean, by Contre-Admiral Krusenstern, published by order of His Imperial Majesty the Emperor of Russia, at St. Petersburg, in 1826, according to the Russian title-page, and in 1827 according to the title-page in French. It is called Part II in the Russian title.

The double-page map No. 16 is entitled "Carte Générale de l'Océan Pacifique, Hémisphère Boréal, 1827." The boundary of Russian America is represented about in the usual way. East of the meridional part of the boundary and parallel to it is the inscription: "Limites des possessions Russes et Anglaises d'après la Traité de 1825." The boundary follows the usual continental course, around the head of each inlet, but is rather straighter than customary in the lower part of its course.

90. (1832). "British North America. By permission dedicated to the Honourable Hudson's Bay Company, containing the latest information which their documents furnish. By their obedient servant, J. Arrowsmith, London, 15 Feb'y, 1832."

On this map the Russian boundary is represented in the usual manner from Mount St. Elias to the head of Portland Canal. The line is not continued down the channel to the sea, but Pearse and Wales islands are distinctly shown as part of the Russian territory by the tinting.

"The maps and charts listed will be produced before the Tribunal, or, if the originals cannot be so produced, then duly authenticated photographic copies will be submitted.

91. (1845). "The Life and Travels of Thomas Simpson, the Arctic Discoverer. By his brother, Alexander Simpson. London, 1845."

This volume contains a small "Map of the Country north of Athabasca Lake, North America," on the scale of 160 miles to an inch. The boundary of the Russian possessions is indicated by a dotted line, extending from the Arctic Ocean to Mount St. Elias and thence in the usual manner, as a line entirely on the continent and approximately parallel to the windings of the coast, to a point about 50 miles south of the Stikine River, where it runs off the map. This map is marked "London, Richard Bentley, 1845."

92. (1849). "Atlas of the Northwest Coast of America from Bering Strait to Cape Corrientes and the Aleutian Islands, with the addition of certain places on the Northeast Coast of Asia. Compiled by Captain of the First Rank Tebenkof, 1852."

The first map (preceding the numbered series and therefore perhaps an afterthought) is entitled "General Chart of the northern part of the Pacific Ocean, New Archangel, 1849." It shows the boundary of Russian America from the latitude of 67° to the head of the Portland Canal. The line follows about the usual course, though in the southern part of the *lisière* it is rather straight, and in consequence it cuts close to the head of Taku Inlet. Neither Portland Canal nor Observatory Inlet is given a name, and the common approach to them, generally called Portland Inlet, is very carelessly drawn, the southern shore being swung so far back to the south-eastward as to make a broad gulf in the place of the comparatively narrow passage which actually exists. The Nass River is called the "Naak" and is made to flow into the Alice Arm of Observatory Inlet. Several distinct and scattered ranges of mountains are indicated in the interior.

93. (1860). "Facts and Figures relating to Vancouver Island and British Columbia," by J. Despard Pemberton, Surveyor General V. I. London, 1860.

This book contains a small map which shows only a very small part of Russian America. The boundary starts at the head of Portland Canal and sweeps to the northwest, as far as the edge of the map, about 131° west longitude.

94. (1863). Russian Admiralty Chart. Plan of the river Stachine, from a survey in 1863 from the corvette Rynda by Sub-Lieutenant Butyrkine.

This map is on quite a large scale, about 2,376 feet to an inch, and shows the shore line, together with the islands and sand bars in the river and a line of soundings from the mouth to a point about 11 nautical miles above the so-called "Big Bend." No features of the topography along the river are indicated on this map, which in this respect is decidedly inferior to the small sketch map of Professor Blake, who accompanied the party that made this survey.

95. (1865). "Vancouver's Island and British Columbia" by Matthew Macfie, F. R. G. S., Five years resident in Victoria, Vancouver's Island. London, 1865. pp. 574.

This work, which is dedicated to the secretary of state for the colonies, contains a map upon which the boundary of Russian America is drawn from the head of the Portland Canal, following the usual course, to a point north of the Stikine River, where the map terminates.

96. (1865). "The North-west Passage by Land." By Lord Milton and Dr. Cheadle, London, 1865.

At the end of this volume is a map entitled "General Map of British North America, showing the route of Lord Milton & Dr. Cheadle in 1862-3." The border of the Russian territory is colored blue, and the boundary is drawn with substantial accuracy. The name "Portland Canal" appears in Dixon Entrance, but evidently intended to be applied to the whole of Portland Inlet and Canal, as the name terminates at a point close to the mouth of Portland Inlet.

97. (1867). U. S. Coast Survey map of Alaska. Published in connection with the speech of Hon. Charles Sumner, delivered in the Senate of the U. S. in support of the treaty of cession of Alaska. Printed at the Congressional Globe Office, 1867.

Map reproduced as No. 24, in Atlas accompanying the Case of the United States.

98. (1868). Russian Admiralty Chart No. 1345. "Chart of the Icy Sea and the Eastern Ocean, compiled from the latest surveys at the Hydrographic Department of the Marine Ministry. 1844. Corrections to 1868."

This map shows the western boundary of 1867, according to the treaty of cession to the United States, and also retains the boundary separating the territory from the British possessions in the usual position. This line is marked "Former boundary between Russia and England." The word "former" is not yet applied to the designation of the territory itself, which is marked "Russian Dominions."

99. (1868). "Travel and Adventure in the Territory of Alaska," etc., by Frederick Whymper, London, 1868.

This book contains a map of Alaska which shows the boundary as following the course claimed by the United States.

100. (1868). Journal of the Royal Geographical Society of London, 1868, vol. 38.

This volume contains, at page 119, a map entitled "Map of British Columbia reduced from the original map by Mr. Alfred Waddington." On this map the Alaskan boundary is drawn in the usual way from the head of Portland Canal. From that point it runs to the northwestward for about 80 miles, without crossing or even closely approaching any inlet, to the edge of the map. The name Portland Canal, in fair-sized Roman letters, parallels the whole length of the canal, but does not extend below its junction with Pearse Canal. The name Observatory Inlet appears in very small italics east of the head of the main arm and extends in an easterly direction. The words "United States Terr'y" extend nearly north and south in the portion of the *lisière* shown on the map, west of Portland Canal and the boundary line.

101. (1868). The Handy Royal Atlas, A. Keith Johnston, Edinburgh and London, 1868.

Map 38, North America, shows "Russian America," in spite of the cession to the United States in the preceding year. The boundary line is correctly drawn.

102. (1869-1903). The British Colonial Office List for years 1869 to 1903. "Compiled from Official Records etc., etc. with permission of the Secretary of State for the Colonies" by A. A. Birch and W. Robinson "of the Colonial Office."

It contains, facing the title page, "A general map of the British Dominions," showing the Alaska *lisière* substantially as claimed by the United States. Similar maps appeared in the annual issues of the "Colonial Office List" up to 1895.

In the issue for 1895 another map was substituted entitled "The World on Mercator's Projection," with the inscription "Reprinted from Parliamentary Paper (C. 7553), by permission of the Controller of H. M. Stationery Office." This map has the *lisière* indicated, as in the previous map, substantially in accordance with the claim of the United States. The same map was reproduced in the annual issues up to and including 1902. In the issue of 1901 there appeared at the foot of the title page the following: "This List, though compiled from official records, is not an official publication," which also was contained in the later issues.

In the "Colonial Office List" for 1903 the map disappears, and the preface says: "A number of new Maps have been added (for which the Editors desire to express thanks to the Colonial Governments concerned, and to the British South African Company), and some of the older maps have been discarded as out of date. They hope to replace these with new maps in the future."

103. (1869). Map of Alaska. Plate No. 19, at end of Petermann's Mittheilungen for 1869, accompanying an article by W. H. Dall, entitled "Die Telegraphen-Expedition auf dem Yukon in Alaska."

This map is similar to the one prepared in 1867 at the Coast Survey Office for the Department of State, except that it is much smaller. The title is "Nordwest-Amerika mit dem von Russland an die Verein. Staaten cedirten Territorium Alaska. Mit Benutzung der neuesten Amerikanischen Aufnahmen, besonders der unter W. H. Dall im Coast Survey Office Bearbeiteten Karte. Von A. Petermann. Maassstab 1:9,000,000." Alaska is tinted red and the border is outlined by a narrow band of deeper tint, which is carried out through Dixon Entrance.

104. (1871). "Map of British Columbia to the 56th Parallel, North Latitude. Compiled and drawn at the Lands and Works Office, Victoria, B. C., under the direction of the Honourable J. W. Trutch, M. Inst. C. E., F. R. G. S., Chief Commissioner of Lands and Works and Surveyor General. 1871. J. B. Launders, Draughtsman. Lands and Works Office, Victoria, B. C., May 9th, 1870. Additions to January, 1871. Scale 1:1,584,000 or 25 English statute miles to 1 inch."

The boundary of Alaska is shown by a waving, broken line from the north edge of the map, in the latitude of about $56^{\circ} 30'$, to the head of Portland Canal, which is here called Portland Channel. The line curves to follow the bends of the coast at a distance of approximately 30 statute miles from the heads of the principal indentations of this part of the coast. From the head of Portland Canal the line is continued southward through the middle of the passage, but west of Hattie Island, to the northeastern point of Pease Island. So far as indicated the line of demarcation here terminates, but Portland Inlet is properly named and the islands and the neighboring shores are drawn with a good degree of accuracy, showing the passage northwest of Pease and Wales islands as narrow and obstructed by islets.

105. (1874). Map in "Canada on the Pacific, etc." by Charles Horetzky, Montreal, 1874.

This map shows the boundary in Portland Canal and for a short distance to the northward, on the continent.

106. (1874-1880). "Province of Manitoba and North-West Territory," Ottawa, 1878.

This volume contains a small, but fairly good map of the Dominion of Canada, on which the Alaskan boundary is drawn with substantial accuracy from the head of Portland Canal to a point north of Mount Fairweather.

In the second edition of the volume this map is given in colors and with the date 1880. In the first edition the map is dated 1874.

In the volume called "Letters by James Trow, M. P., Department of Agriculture, Ottawa, 1878," the uncolored map of 1874 also appears.

107. (1875). Chart of the World on Mercator's Projection, constructed by Hermann Berghaus. Gotha. Justus Perthes. Eighth edition, 1875. (First edition, 1863.)

The boundary of the British possessions on the Northwest Coast is shown as on the first edition, which was reproduced in the Atlas accompanying the Case of the United States (Map No. 21). The name Alaska appears in place of the former Russian America, and this is the only noticeable change.

108. (1875). The new standard atlas of the Dominion of Canada, pp., lvi. 151. 47 maps, fol. Montreal and Toronto, Walker and Miles, 1875.

The maps in this atlas show the boundary with substantial accuracy.

109. (1875). "Dayspring in the Far West." Sketches of Mission-Work in North-west America by M. E. J. With twenty-four engravings and a map. London, 1875.

The map facing the title-page, prepared by Stanford's Geographical Estab't., 6 & 7 Charing Cross, shows the Alaskan boundary with substantial accuracy.

110. (1877). Royal Atlas of Modern Geography, A. Keith Johnston, 1877.

Map 41, North America, has the boundary of Alaska correctly drawn.

111. (1877). Map of the country to be traversed by the Canadian Pacific Railway, to accompany progress report on the exploratory surveys, 1877, Sandford Fleming, Engineer-in-Chief.

This map, marked "Sheet No. 1," was drawn by J. Johnston, C. D., Dominion Lands Office. It shows the southern portion of Alaska and represents the boundary as passing through Dixon Entrance and up the Portland Canal, beyond which estuary this map does not extend.

112. (1878). "Map of part of North America, designed to illustrate the official reports and the discussions relating to the boundaries of the Province of Ontario, and shewing the boundaries as settled by the Arbitrators, viz: The Right Hon. Sir Edward Thornton, the Hon. Sir Francis Hincks and the Hon. Chief Justice Harrison, on the 3rd August, 1878. Compiled under the direction of the Government of Ontario by Thomas Devine, F. R. G. S., etc., Deputy Surveyor General, Ontario, 1878." Scale 80 miles to an inch.

This map includes the whole of the Alaskan boundary, which is drawn in about the usual way to the head of Portland Canal.

113. (1880). Physical Atlas, etc., of the Dominion of Canada. By J. Beaufort Hurlbert, M. A., LL. D. Entered, etc., 1880. Map No. 1 is entitled "(Polar Projection) General Map shewing the Provinces and Territories of the Dominion of Canada. Published by authority of the Rt. Hon^{ble} The Minister of the Interior."

The political subdivisions are indicated by different colors. The boundary of Alaska agrees almost exactly with that claimed by the United States.

All of the other maps in the atlas are similar.

114. (1880). "Dominion of Canada, comprising the provinces of Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Manitoba, British Columbia, North-West Territories. Ottawa, Department of Agriculture, 1880."

This volume contains a small, but fairly good map of Canada and part of the United States, "compiled from the latest authorities, 1880," printed by the Burland Lith. Co., Montreal.

The Alaskan boundary starts from the head of Portland Canal and runs around the heads of all the inlets to a point north of Mount Fairweather, where it runs off the edge of the map.

115. (1884). "Malby's Terrestrial Globe, compiled from the latest and most authentic sources, including all the recent geographical discoveries. Manufactured and published under the superintendence of the Society for the Diffusion of Useful Knowledge by Thomas Malby & Son, Map and Globe sellers to the Admiralty, 37 Parker Street, Little Queen Street, Holborn, London, January 1st, 1884."

The boundary of Alaska is drawn in the usual way from the Arctic Ocean to the head of Portland Canal, which name appears on the globe. Pease and Wales islands are indicated by the tint as belonging to Alaska. A definite mountain range is represented as running all the way from Puget Sound and New Westminster to the head of Lynn Canal. The British territory is bordered by a red line, which runs widely clear of Lynn Canal.

116. (1888). Colonial Church Histories. Diocese of Mackenzie River by Right Reverend William Carpenter Bompas, D. D., Bishop of the Diocese, with map. London, 1888.

The small map facing the title-page shows the Alaskan boundary with substantial accuracy.

117. (1889). Canada. A memorial volume published under the direction of the Government Departments, by E. B. Biggar, Montreal. London, 1889.

This volume contains a map of Canada, on which the Alaskan boundary is about the same as that drawn by the U. S. Coast Survey.

118. (1889). Canada. Ontario. Sessional Papers, vol. XXI, part VI, 3d Session of Sixth Legislature of the Province of Ontario, Session of 1889, Toronto, 1889.

This paper contains a map of part of North America, upon which the southern portion of the Alaskan boundary is shown as a continental line, from the head of the Portland Canal well up toward the Taku Inlet, which is off the map.

119. (1890). Problems of Greater Britain. By the Right Honourable Sir Charles Wentworth Dilke, Bart. London and New York, 1890.

This work contains a map of British North America (prepared by Stanford's geographical establishment) which represents the boundary of Southeastern Alaska with substantial accuracy.

120. (1890). Library Reference Atlas of the World, by John Bartholomew, London, 1890.

Map 58, North America, is a small-scale map, on which the Alaskan boundary is correctly drawn.

Map 59, Dominion of Canada, is on a larger scale. On this map the northern part of the boundary is correctly drawn until the vicinity of Burroughs Bay is reached, when the line is deflected to that estuary and thence runs down Behm Canal and Clarence Strait.

121. (1890). Philips' Imperial Atlas of the World, London, 1890.

Map 56, North America, shows the Alaskan boundary correctly as far south as the head of Portland Canal, but does not represent it in the water passages. Pearse and Wales islands are not given.

Map 61, British Columbia, etc., by William Shawe, F. R. G. S., on the scale of 48 miles to the inch, shows the boundary very well from a point a little north of Burners Bay to the head of Portland Canal. At the point of beginning, i. e., at the north edge of the map, the line is drawn quite close to Lynn Canal, apparently upon the summits of the mountains rising directly from the sea, and then swings eastward well up the valley of the Taku, then gradually back again toward the coast, crossing the Stikine below the confluence of the Iskoot, then running to the southeastward a little east of a nearly straight mountain range, marked "Lincoln Mts.," to the head of Portland Canal, below which point the line is not continued. The tinting of the shore line, however, shows that both Pearse and Wales islands are considered part of Alaska, and the main passage south of them is marked "Portland Inlet."

122. (1890). Complete Atlas of the World, by George W. Bacon, F. R. G. S., London, 1890.

Maps of North America and of the Dominion of Canada show the Alaskan boundary substantially as claimed by the United States. On the map of the Dominion, which is on a larger scale than the general map, Mount St. Elias is at the angle of the boundary.

123. (1891). Bacon's Complete Atlas, London, 1891.

Map of the Dominion of Canada shows the Alaskan boundary with substantial accuracy.

124. (1891). *Geography of the Dominion of Canada and Newfoundland*, by Rev. William Parr Greswell, Oxford, 1891.

A general map of Canada, facing page 1, is small and poorly drawn. The Alaskan boundary remains upon the continent until it reaches Burroughs Bay.

The physical map of Canada, facing page 17, shows the boundary correctly.

The map of British Columbia, facing page 81, is on a larger scale. It shows the lower part of the boundary, from just south of the Stikine River to Portland Canal with substantial accuracy. Pearse and Wales islands are claimed as British territory.

125. (1894). *The Royal Atlas of Modern Geography, etc.*, by the late Alexander Keith Johnston, etc., with corrections and additions to the present date by T. B. Johnston, Geographer to the Queen, F. R. G. S., F. R. S. E., F. S. A. S., etc. W. & A. K. Johnston, Edinburgh and London, 1894.

Map 45, North America, shows the boundary substantially as claimed by the United States, though nearer the coast than it is usually drawn, as far south as the Stikine River. The line is then deflected to Burroughs Bay and thence down Clarence Strait. There is also another line (merely a streak of green) from the point where the Stikine is crossed to the head of Portland Canal and down the west side of same to its mouth. This may be intended to represent the claim of the United States, for comparison, but if so, there is nothing to so indicate.

Map 46, Dominion of Canada (Western Sheet), shows the boundary from near Mount Fairweather to the Portland Canal substantially as claimed by the United States. The line nowhere cuts the coast line, and the line of color bordering the British possessions runs down the left (east) bank of Portland Canal and Inlet, leaving both Pearse and Wales islands to the United States. This map is on a much larger scale than the general map.

126. (1896). "Through the Sub-Arctic Forest." W. Pike, London and New York, 1896.

This book contains a map of Alaska and British Columbia, upon which the boundary line is correctly drawn. It is also carried down through Portland Inlet and out by Cape Muzon.

127. *British Admiralty Charts*, especially Nos. 787, 2168, 2172, 2288, 2430, 2431, 2458, 2461, 2462, 2558, 2683.

128. (1870-1897). *Chambers Encyclopedia*, Edinburgh, 1870.

"America, Russian—now Alaska, a territory of the United States—was purchased from the Russian Government in 1867 for \$7,200,000. It is bounded, on the side of British America, above, between the two bordering oceans, by the meridian of 141° W., and below, down to the parallel of 54° 40' N., by a conventional line to be drawn at a distance of 30 miles from the continental coast." Accompanying the article from which the above extract is taken is a map of North America, upon which the boundary is correctly drawn.

The same statement appears in the edition of 1873.

The subscription edition of 1891 has an article on Alaska, from which the following is extracted: "Southeastern Alaska consists of a narrow strip of continental land, together with the Alexander Archipelago, lying near the mainland. This region is extremely mountainous and has many great glaciers nearly reaching the sea." The boundary is correctly given on the map of the territory, by J. Bartholomew, F. R. G. S., drawn on the scale of 140 miles to the inch.

The edition of 1897 repeats the description given in that of 1891 and contains maps both of North America and of Alaska, on each of which the boundary is correctly shown.

129. *Encyclopedia Britannica*.

The eighth edition gives a map of North America upon which the boundary of Russian America is correctly drawn. The name of Portland Canal is not given, but the boundary starts from the head of the canal.

The ninth edition appeared under several different imprints. That issued by Little, Brown & Co., of Boston, in 1876, after the Edinburgh edition, contains at the end of Volume II a map of Canada, on heavy paper, upon which the Alaskan boundary is correctly drawn. The line not only runs to the head of Portland Canal, but is carried down the middle of the passage and out to sea. The name of Portland Canal appears.

In the original Edinburgh edition, Volume IV, there is given a double-page map of Canada (Pl. XXXV), drawn by J. Bartholomew, Edinburgh, upon which the boundary is correctly drawn from Demarcation Point to the head of Portland Canal, without crossing any arm of the sea, and then is continued down Portland Canal and out to sea, between Queen Charlotte and Prince of Wales islands. Portland Canal is marked "Portland Ch."

The map of North America (Vol. I, Pl. X) has much the same delineation of the boundary, but the drawing of this small-scale map is defective, Portland Canal being entirely omitted. The boundary is drawn to the sea about where the canal should have been shown.

The tenth edition issued in 1902 and 1903 by Adam and Charles Black and the London Times Printing House has an article on Alaska (Vol. 25, p. 240) which describes the *lisière* as lying north of $54^{\circ} 40'$ and quotes part of the language of the treaty of 1825. On page 241 is a small map of Alaska, in the letterpress, upon which the boundary is shown with substantial accuracy.

Volume 34 is devoted to maps and includes the following, which show the Alaskan boundary: No. 58 is a map of North America, on the scale of 370 English statute miles to 1 inch. It shows the boundary of the Alaskan *lisière* with substantial accuracy, though the line of demarcation is perhaps a little too straight, somewhat disregarding the minor sinuosities of the coast.

No. 59 is a map of the Dominion of Canada and Newfoundland, on the scale of 245 English statute miles to 1 inch. This map shows a close agreement with No. 58, just described. On each map the line of demarcation crosses the Stikine above the confluence of the Iskoot. Neither map gives the names of Portland Canal and Observatory Inlet.

No. 60 is a map of Manitoba, British Columbia, and the Northwest Territories, on the scale of 120 English statute miles to 1 inch. In most respects it closely resembles the maps already described, but the larger scale permits more detail to be given. The name Portland Canal appears west of that passage and parallel to it, above Pease Island. The name Observatory Inlet runs off to the eastward from a point above Nass Bay. The boundary, as represented by a broken line, is drawn throughout the length of Portland Canal and Inlet, passing east and south of Pease and Wales islands, and from the mouth of Portland Inlet is carried westward on a parallel of latitude past Cape Muzon.

No. 116 is a map of Alaska, on the scale of 120 English statute miles to 1 inch, the same as No. 60, which it very closely resembles. The name Portland Canal extends southward to the vicinity of Cape Fox. An inset map, on the scale of 60 miles to an inch, shows Lynn Canal and the coast southward to the vicinity of Fort Wrangell more clearly. The line of demarcation preserves the same characteristics as already described.

130. Maps of the Dominion of Canada and New Foundland, published by the Canadian Department of the Interior, 1902.

MISCELLANEOUS.

EXTRACTS FROM A VOYAGE OF DISCOVERY TO THE NORTH PACIFIC, ETC.,
CAPTAIN GEORGE VANCOUVER, LONDON, 1798.

[Vol. I, Dedication.] Under the auspices of Your Majesty, the late indefatigable Captain Cook had already shewn that a southern continent did not exist, and had ascertained the important fact of the near approximation of the northern shores of Asia to those of America. To those great discoveries the exertions of Captain Vancouver will, I trust, be found to have added the complete certainty, that, within the limits of his researches on the continental shore of North-West America, no internal sea, or other navigable communication whatever exists, uniting the Pacific and Atlantic oceans.

[Introduction, pages V-VI.] The charts accompanying the accounts of their voyages, representing the North West coast of America to be so much broken by the waters of the pacific, gave encouragement once more to hypotheses; and the favorite opinion that had slept since the

publication of Captain Cook's last voyage, of a north-eastern communication between the waters of the pacific and atlantic oceans, was again roused from its state of slumber, and brought forward with renovated vigour. Once more the archipelago of St. Lazarus was called forth into being, and its existence almost assumed, upon the authority of a Spanish admiral named De Fonte, De Fonta, or De Fuentes; and of a Mr. Nicholas Shapely, from Boston in America, who was stated to have penetrated through this archipelago, by sailing through a mediterranean sea, on the coast of North-West America, within a few leagues of the oceanic shores of that archipelago; where he is said to have met the Admiral. The straits said to have been navigated by Juan De Fuca were also brought forward in support of this opinion; and, although the existence or extent of these discoveries remained still to be proved by an authenticated survey of the countries which had been thus stated to have been seen and passed through, yet the enthusiasm of modern *closet philosophy*, eager to revenge itself for the refutation of its former fallacious speculations, ventured to accuse Captain Cook of "hastily exploding" its systems; and, ranking him amongst the *pursuers of peltry*, dared even to drag him forward himself in support of its visionary conjectures.

[Instructions appearing in Introduction, pages XVIII-XIX.] "In which examination the principal objects which you are to keep in view, are,

"1st, The acquiring accurate information with respect to the nature and extent of any water-communication which may tend, in any considerable degree, to facilitate an intercourse, for the purposes of commerce, between the north-west coast, and the country upon the opposite side of the continent, which are inhabited or occupied by His Majesty's subjects.

"2dly, The ascertaining, with as much precision as possible, the number, extent, and situation of any settlements which have been made within the limits above mentioned, by any European nation, and the time when such settlement was first made.

"With respect to the first object, it would be of great importance if it should be found that, by means of any considerable inlets of the sea, or even of large rivers, communicating with the lakes in the interior of the continent, such an intercourse, as hath been already mentioned, could be established: it will therefore be necessary, for the purpose of ascertaining this point, that the survey should be so conducted, as not only to ascertain the general line of the sea coast, but also the direction and extent of all such considerable inlets, whether made by arms of the sea, or by the mouths of large rivers, as may be likely to lead to, or facilitate, such communication as is above described.

[Introduction, page XX.] "The particular course of the survey must depend on the different circumstances which may arise in the execution of a service of this nature; it is, however, proper that you should, and you are therefore hereby required and directed to pay a particular attention to the examination of the supposed straits of Juan de Fuca, said to be situated between 48 and 49 north latitude, and to lead to an opening through which the sloop Washington is reported to have passed in 1789, and to have come out again to the Northward of Nootka. The discovery of a near communication between any such sea or strait, and any river running into, or from the lake of the woods, would be particularly useful.

“If you should fail of discovering any such inlet, as is above mentioned, to the southward of Cook’s river, there is the greatest probability that it will be found that the said river rises in some of the lakes already known to the Canadian traders; and to the servants of the Hudson’s bay company: which point it would, in that case, be material to ascertain; and you are, therefore, to endeavour to ascertain accordingly, with as much precision as the circumstances existing at the time may allow: but the discovery of any similar communication more to the southward (should any such exist) would be much more advantageous for the purposes of commerce, and should, therefore, be preferably attended to, and you are, therefore, to give it a preferable attention accordingly.”

[Extract from Advertisement from the Editor.] The two first volumes, excepting the introduction, and as far as page 288 of the third and last volume, were printed; and Captain Vancouver had finished a laborious examination of the impression, and had compared it with the engraved charts and headlands of his discoveries, from the commencement of his survey in the year 1791, to the conclusion of it at the port of Valparaiso, on his return to England in the year 1795. He had also prepared the introduction, and a further part of the journal as far as page 408 of the last volume. The whole, therefore, of the important part of the work, which comprehends his geographical discoveries and improvements, is now presented to the public, exactly as it would have been had Captain Vancouver been still living. The notes which he had made on his journey from the port of Valparaiso to his arrival at St. Jago de Chili, the capital of that kingdom, were unfortunately lost; and I am indebted to Captain Puget for having assisted me with his observations on that occasion.

[Vol. III, pages 504–505.] The extensive archipelago, in which De Fonta had sailed through crooked channels 260 leagues; the river navigable for shipping that flowed into it, up which he had sailed in his ship 60 leagues; the water becoming fresh after he had entered and passed in it 20 leagues; its communicating by other lakes and rivers with a passage, in which a ship had arrived from Boston in New England; are all so circumstantially particularized, as to give the account, at first sight, an air of probability, and on examination, had it been found reasonably connected together, which is by no means the case: a trifling difference in point of description or situation would have been pardoned.

The Rio de los Reyes Mr. Dalrymple states (according to the Spanish geographers, under the authority of which nation De Fonta is said to have sailed) to be in the 43d; according to the English in the 53d; and according to the French, in the 63d degree of north latitude, on the western coast of North America. If it be necessary to make allowance for the ignorance of De Fonta, or the errors in his observations, any other parallel along the coast may be assigned with equal correctness.

Under the 43d parallel of north latitude on this coast, no such archipelago nor river does exist: but between the 47th and 57th degrees of north latitude, there is an archipelago composed of innumerable islands, and crooked channels; yet the evidence of a navigable river flowing into it, is still wanting to prove its identity; and as the scrupulous exactness with which our survey of the continental shore has been made within these limits, precludes the possibility of such a river having been passed unnoticed by us, as that described to be of Rio de los

Reyes, I remain in full confidence, that some credit will hereafter be given to the testimony resulting from our researches, and that the plain truth undisguised, with which our labours have been represented; will be justly appreciated, in refutation of ancient unsupported traditions.

I do not, however, mean positively to deny the discoveries of De Fouta, I only wish to investigate the fact, and to ascertain the truth; and I am content with having used my endeavours to prove their improbability as published to the world. The broken region which so long occupied our attention, cannot possibly be the archipelago of St. Lazarus, since the principal feature by which the identity of that archipelago could be proved is that of a navigable river for shipping flowing into it, and this certainly does not exist in that archipelago which has taken us so much time to explore; hence the situation cannot be the same, and for that reason I have not affixed the name of De Fouta, De Foute, or Fuentes to any part of those regions. It is however to be remembered, that our geography of the whole coast of North West America is not yet complete, and that the French navigators, who have stated the archipelago of St. Lazarus to be in the 63d degree of north latitude, may yet not be in an error.

The stupendous barrier mountains certainly do not seem to extend in so lofty and connected a range to the northward of the head of Cook's inlet, as to the southeastward of that station; and it is possible that in this part, the chain of mountains may admit of a communication with the eastern country, which seems to be almost impracticable further to the southward. In this conjecture we are somewhat warranted by the similarity observed in the race of people inhabiting the shores of Hudson's bay and those to the northward of North West America.

In all the parts of the continent on which we landed, we nowhere found any roads or paths through the woods, indicating the Indians on the coast having any intercourse with the natives of the interior part of the country, nor were there any articles of the Canadian or Hudson's bay traders found amongst the people with whom we met on any part of the continent or external sea shores of this extensive country.

LETTER FROM SIR J. H. PELLY, BART., TO EARL GREY, DATED 13 SEPTEMBER, 1849—PARLIAMENTARY PAPERS, HOUSE OF COMMONS, 11 JULY, 1850.

" * * * * I have now the honour to forward to you a statement of the rights as to territory, trade, taxation and government claimed and exercised by the Hudson's Bay Company on the Continent of North America, accompanied with a map of North America, on which the territories claimed by the Hudson's Bay Company, in virtue of the charter granted to them by King Charles the Second, are coloured green, the other British territories pink, and those of Russia yellow. I have, etc.,

(Signed) J. H. PELLY."

[NOTE.—The map referred to is the one reproduced as No. 19 in the Atlas accompanying the British Case.]

L'UNIVERS, PARIS, 1849, FIRMIN DIDOT FRÈRES, ÉDITEURS.

[Page 62.] Article: L'Orégon: "En 1825 un autre traité fut conclu entre la Russie et la Grande-Bretagne, qui fixait ainsi la délimitation du territoire de cette dernière puissance en Amérique. Elle devait commencer dorénavant au point le plus sud de l'île du prince de Galles, par les 54° 40' vers l'est, jusqu'à la grande entrée sur le continent appelée Portland Channel, en se prolongeant par le milieu de ce passage jusqu'au 56° de latitude. À partir de là on lui faisait suivre le sommet des montagnes bordant la côte à dix lieues de profondeur nord-ouest jusqu'au mont Saint-Élias; puis on la prolongeait au nord, en la dirigeant jusqu'à l'intersection des montagnes avec le 141° de longitude (méridien ouest de Greenwich) jusqu'à la mer Glaciale."

[Page 65.] "L'Amérique Russe comprend la partie la plus reculée de la côte nord-ouest; son étendue est ainsi fixée géographiquement par M. Yermoloff: L'extrémité sud de ces possessions commence dans l'île nommée du prince de Galles, au 54° deg. 40' de latitude nord; puis la limite continue vers le nord-nord-ouest, le long de la côte continentale comprenant toute cette côte elle-même et les îles adjacentes. À partir du mont Élie la frontière intérieure tourne brusquement au nord-est, et court à travers les terres vers l'océan Arctique."

[Translation.]

[Page 62.] "In 1825 another treaty was concluded between Russia and Great Britain which thus fixed the boundary of the American territory of the latter power. This boundary was henceforth to begin at the most southern point of Prince of Wales Island, to proceed eastward along the parallel of 54° 40' as far as the great inlet of the continent which is called Portland Channel and to extend to the 56th degree of latitude, passing through the middle of this channel. From that point the line was to follow the summit of the mountains extending along the coast at a distance of ten leagues therefrom, as far as Mount St. Elias; and after reaching the intersection of the mountains with the 141st degree of longitude west of Greenwich it was to run due north to the Arctic Sea."

[Page 65.] "Russian America includes the most remote part of the Northwest Coast; its geographical extent is thus stated by Mr. Yermoloff: The southern extremity of these possessions commences in the island called Prince of Wales, at 54° 40' of north latitude; the boundary then extends to the north-northwest, along the continental coast, including all of that coast itself and the adjacent islands. From Mount St. Elias the inland boundary turns abruptly to the north-east and runs across country toward the Arctic Ocean."

EXTRACT FROM "THE SEA OF MOUNTAINS, AN ACCOUNT OF LORD DUFFERIN'S TOUR THROUGH BRITISH COLUMBIA IN 1876, BY MOLYNEUX ST. JOHN." LONDON, HURST & BLACKETT, 1877.

Volume I, page 280, the author says, speaking of miners returning from the Cassiar diggings: "These men were on their way southward from the Cassiar mines, up the Stickeen River, where there are about

two thousand men working. The mines are in British territory, but there is a strip of Alaska, about thirty miles broad, which intervenes between Canada and the sea at this point and the miners therefore make their way to Wrangel, where they are picked up by the vessels from Sitka."

REPORT OF H. J. CAMBIE, ENGINEER IN CHARGE OF RAILWAY EXPLORATORY SURVEYS. SESSIONAL PAPERS, 115 TO 208, CANADA, VOL. XIII, NO. 11, 1880. P. 39. (APPENDIX NO. 2)

[Extract in regard to Wark Inlet.]

"Point Wales is situated opposite the entrance and would appear from the chart to be only about three and a half miles distant, while in reality it is little if anything short of eight miles distant.

This is a matter of some importance, for it is the southern extremity of Alaska, and were it as close as is shown, a battery placed there by the Government of the United States could prevent vessels entering or leaving Wark Inlet."

On page 71, in the report of Geo. A. Keefer, the following occurs: "The entrance to Wark Inlet from the Portland Channel, some eight miles wide at this point, is easy of approach, but not exceeding 2000 feet in width, with deep water to the base of the bluffs forming the shores on either side."

A DIRECTORY FOR THE NAVIGATION OF THE NORTH PACIFIC OCEAN, WITH DESCRIPTIONS OF ITS COASTS, ISLANDS, ETC., FROM PANAMA TO BEHRING STRAIT, AND JAPAN; ITS WINDS, CURRENTS, AND PASSAGES. THIRD EDITION. BY ALEXANDER GEORGE FINDLAY, F. R. G. S., ETC. LONDON, RICHARD HOLMES LAURIE, 53 FLEET STREET, E. C., 1886.

[Page 556.] "Maskelyne Point, the S. E. entrance point of Portland Inlet, was so named after the astronomer; it lies $1\frac{1}{2}$ mile N. $\frac{1}{2}$ E. of Parkin Islands, and S. E. $\frac{1}{2}$ S., 3 miles from Wales Point, the N. W. point of Portland Inlet entrance.

[Page 561.] Wales Island, on the N. W. side of the entrance to Portland Inlet, is about 7 miles long east and west. * * *

Portland Inlet extends N. by E. $\frac{1}{2}$ E. from the N. E. part of Chatham Sound for 10 miles, thence N. by E. for 10 miles, where it divides, Observatory Inlet continuing northward, and Portland Canal taking a N. W. and northerly direction. It is from $2\frac{1}{2}$ to 4 miles wide, and the shores are high and bold, especially the eastern. *Needle Peak*, on the S. E. side of Nasoga Gulf, is a sharp snow-clad pinnacle, 5000 ft. high. The entrance, between Wales and Maskelyne Points, is about 3 miles wide.

Point Wales is situated opposite the entrance of Wark Inlet, and would appear, from the chart to be only $3\frac{1}{2}$ miles distant, while in reality it is little, if anything, short of 8 miles distant.—Mr. H. J. Cambie (Engineer in charge of Railway Surveys in 1879).

[Page 562.] Pearse Island forms the western side of Portland Inlet, York Islet, 5 cables N. E. of the north extreme of Wales Island (p. 561),

on the west side of Portland Inlet, is wooded and 100 ft. high. [Center Id. ?] Abreast it an intricate channel [Wales Passage ?] leads westward to Tongas Passage. * * * Portland Point, about 18 miles within the inlet, lies $8\frac{1}{2}$ miles north of Lizard Point; it forms the turning point into Portland Canal, and is high and bold.

Ramsden Point, which divides Observatory Inlet from Portland Canal, lies $2\frac{1}{4}$ miles N. N. E. of Portland Point, and has a dangerous cluster of rocks, awash and sunken, extending 4 cables S. E. of it. * * *

[Page 565.] Portland Canal (so named from the noble family of Bentinck) diverges from Point Ramsden, in a N. W. direction, for about 6 miles; thence it trends north 13 miles farther, and from thence to its head the bearing is N. W. by W. 42 miles, the canal trending westward of this line. It terminates in low, marshy land, in lat. $55^{\circ} 56'$, 80 miles from its entrance in Chatham Sound. * * * Portland Canal is the boundary between the British possessions and the Alaska territory of the United States; it is only frequented by the Hudson's Bay Company's officers in their steam-vessel for the purposes of occasional trade with the natives. The continental shore to the northward belonged to Russia and was ceded by purchase, to the United States in 1867, as detailed in the next chapter.

Ramsden Point is described on p. 562. * * *

Tree Point is the north extreme of Pearse Island, and westward of it is the entrance of a channel leading to Tongas Passage. This channel runs parallel with the direction of the main inlet, and gradually decreases in width southwestward, continuing 13 miles from its N. E. entrance to an opening to the S. E. into the main channel. Pursuing the same direction, it enters much broken land, intersected by arms, forming an island about 10 miles in circuit, to the N. E. of which is an arm running in a N. E. direction, ending in low, steep, rocky shores. * * *

Bear River flows between high mountains, through an extensive wooded valley and flat, at the head of Portland Canal, and divides near its mouth into several streams. The Observation Spot, at the wooded high-water mark of the point near the centre of the mouth of Bear River, is in lat. $55^{\circ} 56' 3''$ N., long. $130^{\circ} 3' 27''$ W. The river rises 10 miles inland, at the foot of Disraeli Mountains, the highest peak of which is a snow-clad pinnacle 7000 ft. high. * * *

Tongas, the southernmost of the military posts established by the United States in their new territory, is on a small island, one of the Wales Island group, which form the north side of the entrance to the Portland Canal.

GEOLOGICAL AND NATURAL HISTORY SURVEY OF CANADA. ALFRED R. C. SELWYN, DIRECTOR. ANNUAL REPORT, VOL. III, PT. I.^a

[Pages 12B-13B, 1887-88.] The Coast Ranges, with an aggregate average width of about eighty miles, the whole of which is closely set with high, rounded or rugged mountains, constitutes the most important orographic uplift in the entire region, and here reproduces geographically and geologically the features characteristic of it in the

^a Report on an Exploration in the Yukon District, N. W. T., and Adjacent Northern Portion of British Columbia. By George M. Dawson.

more southern portion of British Columbia. Beyond the vicinity of Lynn Canal, this mountain axis runs behind the St. Elias Alps, ceasing to be the continental border, and may be said to be entirely unknown, as any indications of mountains which have appeared on this part of the map are purely conjectural. Notwithstanding the great width of the Coast Ranges, it is not known that any of their constituent mountains attain very notable altitudes, but it is probable that a great number of the peaks exceed a height of 8000 feet. These ranges are composed of very numerous mountain ridges, which are not always uniform in direction, and, so far as has been observed, there is no single culminating or dominant range which can be traced for any considerable distance.

GEOLOGICAL SURVEY OF CANADA. G. M. DAWSON, DIRECTOR. ANNUAL REPORT, VOL. VII, 1894.

*Report on the area of the Kamloops Map-Sheet, British Columbia,
By George M. Dawson.*

On referring to any general map of British Columbia, it will be seen that the Kamloops sheet includes but a narrow selvage of the inland side of the Coast Ranges, or wide belt of mountainous country which runs parallel to the coast for the entire length of the province. This selvage consists in fact of but one of the component minor ranges of this complex of mountains, bounded to the east by the Fraser Valley and to the west by a somewhat important parallel depression which has not been explored, but which appears to be occupied by the headwaters of the Salmon River and Quioieek River. The axis of this range is granitic, while both its flanks consist largely of altered stratified rocks, often schistose or slaty but not true crystalline schists. Except in the greater importance of these stratified rocks here, this part of the Coast Ranges is, however, so far as known, identical in its character and structure with the whole extent of the mountainous country in this vicinity and may thus be taken as typical of it.

From the valley of the Fraser, no adequate idea of the topography of the Coast Ranges can be formed, as the lower shoulders of the mountains preclude any general view of their higher parts. A fine view of one part of the range may be had from the line of the railway, between Lytton and Nicoamen, in ascending the Thompson valley; but in order to obtain a just conception of its character, it must be seen from points along the east side of the Fraser of more than 5000 feet in height, or from some of its own summits.

The side of the range bordering the Fraser, is found to present a nearly uniform wall of mountain slopes to the river, and is composed of very steeply inclined high spurs of nearly similar form, each of which is separated from the next by a deep narrow gash, which may either be that of a small torrent or that of one of the main streams rising far back in the range. Above and behind these spurs, the mountains become more rugged in shape and show more bare rock, while here and there an apparently dominant peak stands notably above the rest and carries large patches of snow throughout the summer.

Such a view of the range may be gained from almost any of the mountains on the east side of the Fraser, but on ascending one of the peaks of the range itself to an elevation of 8000 feet or more, it is found that the points which seemed to dominate, as viewed from lower levels and from the eastward, owe this appearance chiefly to their proximity to the edge of the range. From such a peak, it will be observed that there is little regularity in the trend of the component mountain masses of the range, but that there is a very notable uniformity in the elevation of its higher points. It will be observed that a large number of these approximate in height to 8000 feet, while a few only, reach or slightly surpass 9 00 feet; that there are few instances of really dominant summits with lesser subsidiary mountains grouped around them, but that in widely extended views to the south, west, or north, the very numerous and closely set sharp summits run together to form a jagged, but in the main nearly level horizon line. To illustrate this point, it may be mentioned that, on one occasion, from Stein Mountain, looking over the crests of all the nearer mountains, the summit of Mount Baker, of the Cascade Range, more than a hundred miles distant, was clearly recognized as a markedly outstanding point, although its elevation is not much more than 10,000 feet.

THE YUKON TERRITORY, LONDON, 1898.

[Containing narratives by W. H. Dall, George M. Dawson and William Ogilvie.]

From the narrative of an exploration made in 1884 in the Yukon District by George M. Dawson, D. S., F. G. S.

[Pages 248-250.] I therefore decided to set about the building of another boat, suitable for the ascent of the Lewes, and on the second day after we had begun work, Mr. Ogilvie very opportunely appeared. After having completed our boat and obtained Mr. Ogilvie's preliminary report and map-sheets, together with the necessary provisions, we began the ascent of the Lewes, and from its head-waters we crossed the mountains by the Chilkoot Pass and reached the coast at the head of Lynn Canal on the 20th September.

In addition to the physical obstacles to be encountered on the long route above outlined, some anxiety was caused by reported Indian troubles on the Yukon. On reaching the mouth of the Lewes we ascertained that the story was entirely false, but it had none the less kept us in a state of watchfulness during a great part of the summer.

The entire distance travelled by us during the exploration amounts to 1,322 miles. This, taken in connection with the coast-line between the Stikine and Lynn Canal, circumscribes an area of about 63,200 square miles, the interior being, even yet, but for the accounts of a few prospectors and reports of Indians, *terra incognita*. The same description, with little qualification, applies to the whole surrounding region outside the surveyed circuit, but much general information concerning the country has been obtained.

The region traversed by the routes just mentioned, including the extreme northern part of British Columbia and the southern part of the Yukon district (as previously defined), is drained by three great river systems, its waters reaching the Pacific by the Stikine, the MacKenzie, (and eventually the Arctic Ocean), by the Liard, and Behring

Sea, by the Yukon. The south-eastern part of the region is divided between the two first-named rivers whose tributary streams interlock, the Stikine making its way completely through the Coast Ranges in a south-westerly direction, while the Liard, on a north-easterly bearing, cuts across the Rocky Mountains to the Mackenzie valley. The watershed separating these rivers near Dease Lake has a height of 2,730 feet, and both streams may be generally characterized as very rapid.

To the north-westward, branches of the Stikine and Liard again interlock with the head-waters of several tributaries of the Yukon, which here unwater the entire great area enclosed on one side by the Coast Ranges, on the other by the Rocky Mountains. The actual watershed, between the Liard and Pelly, on our line of route, was found to have an elevation of 3150 feet, but it is, no doubt, much lower in the central portion of the region between the Rocky Mountains and Coast Ranges.

To the north of the Stikine, at least one other river, the Taku, also cuts completely across the Coast Ranges, but its basin is comparatively restricted and little is yet known of it.

It will be noticed, that while the several branches of the Yukon conform in a general way to the main orographic axes, the Stikine and Liard appear to be to a large degree independent of these, and to flow counter to the direction of three mountain ranges.

The region, being a portion of the Cordillera belt of the west coast, is naturally mountainous, but it comprises as well important areas of merely hilly or gently rolling country, besides many wide, flat-bottomed river-valleys. Higher in its south-eastern part—that drained by the Stikine and Liard—it subsides gradually, and apparently uniformly, to the north-westward: the mountains at the same time becoming more isolated, and being separated by broader tracts of low land. The general base level, or height of the main valleys, within the Coast Ranges, thus declines from about 2500 feet, to nearly 1500 feet at the confluence of the Lewes and Pelly rivers, and the average base-level of the entire region may be stated as being a little over 2000 feet.

[Page 264.] The width of the belt of granitoid rocks composing the Coast Ranges is, on the Stikine, about sixty-five miles, measured from their sea border inland at right angles to the main direction of the mountains. It is somewhat less in the latitude of the Chilkoot Pass, but may be assumed to occupy a border of the mainland about fifty miles in width along the whole of this part of the coast. Broadly viewed, however, the coast archipelago in reality represents a partly submerged margin of the Coast Ranges, and granitic rocks are largely represented in it also. The examination of these two northern cross-sections of the Coast Ranges, serves, with observations previously made, to demonstrate the practical identity in geological character of this great orographic axis, from the vicinity of the Fraser River to the 60th parallel of north latitude—a length, in all, of about 900 miles.

[Page 278.] Since the year 1873, when the placer gold mines of Cassiar were first developed, the Stikine River has become a somewhat important avenue of communication from the coast to the interior of the northern part of British Columbia. Like the Fraser, the Skeena, the Naas and the several other smaller streams, it rises to the east of the broad belt of mountains which constitutes the Coast Ranges, and cuts completely through this belt with a nearly uniform gradient. In size and general character the Stikine closely resembles the Skeena, which reaches the coast 200 miles further south. It is navigable for stern-wheel steamers of light draught and good power, to Glenora, 126

miles from Rothsay Point, at its mouth, and under favorable circumstances to Telegraph Creek, twelve miles farther. Above Telegraph Creek is the "Great Cañon" which extends for many miles and is quite impassable either for steamers or boats, though traversed by miners in winter on the ice. The headwaters of the Stikine are unknown, but lie for the most part to the south of the 58th parallel of north latitude, in a country said to be very mountainous. From Telegraph Creek, the head of navigation, a pack-trail sixty-two miles and a half in length, constructed by the British Columbian Government, follows the valley of the Stikine, generally at no great distance from the river, and eventually crosses from the Tanzilla or Third North Fork to the head of Dease Lake, which may be regarded as the centre of the Cassiar mining district.

[Pages 289-290.] Though the position of the Stikine is indicated on Vancouver's charts by the open channels of the river, and the shoals about its estuary are mapped, the existence of a large river was not recognized by that navigator, who visited this part of the coast in 1793. According to Mr. W. H. Dall, the river was first found by fur traders in 1799. In 1834 the Hudson Bay Company fitted out a vessel named the *Dryad* for the purposes of establishing a post and colony at the mouth of the Stikine, but the Russians, being apprised of this circumstance, sent two small-armed vessels to the spot, and constructed a defensive work, which they named Fort Dionysius, on the site of the present town of Wrangell. Finding themselves thus forestalled, the Company retired. This dispute was compromised in 1837, when an arrangement was made by which the Company leased for a term of years all that part of the Russian territory which now constitutes the "coast strip" of Alaska, and the "fort" was handed over to the Company, the British flag being hoisted under a salute of seven guns, in June, 1840.

[Page 349.] The several ruined chimneys of Fort Selkirk still to be seen, with other traces on the ground, are in themselves evidence of the important dimensions and careful construction of this post. The establishment consisted, I believe, in 1852, of one senior and one junior clerk, and eight men. The existence of this post in the centre of the inland or "Wood Indian" country had, however, very seriously interfered with a lucrative and usurious trade which the Chilkoote and Chilkat Indians of Lynn Canal, on the Coast, had long been accustomed to carry on with these people; acting as intermediaries between them and the white traders on the Pacific and holding the passes at the headwaters of the Lewes with all the spirit of robber barons of old. In 1852, rumors were current that these people meditated a raid upon the post, in consequence of which the friendly local Indians stayed by it nearly all summer, of their own accord. It so happened, however, that they absented themselves for a couple of days, and at that unlucky moment the Coast Indians arrived. The post was unguarded by a stockade, and, yielding to sheer force of numbers, the occupants were expelled and the place was pillaged, on the 21st of August. Two days afterward Campbell, having found the local Indians, returned with them and surrounded the post, but the robbers had flown.

[Pages 374-375.] Having heard reports of the existence of a second pass from Taiya Inlet to the lakes on the head-waters of the Lewes, Mr. Ogilvie sent Capt. W. Moore to make an examination of it, with

instructions to rejoin the party to the east of the mountains. This pass Mr. Ogilvie has named White Pass in honour of the late Minister of the Interior. It leaves the coast at the mouth of the Shkagway River^a five miles south of the head of Taiya Inlet, and runs parallel to Chilkoot Pass at no great distance from it. The distance from the Coast to the summit is stated as seventeen miles; the first five miles are of level bottom-land, thickly timbered. The next nine miles is in a cañon-like valley where heavy work would be encountered in constructing a trail. The remaining distance of three miles, to the summit, is comparatively easy. The altitude of the summit is roughly estimated at 2600 feet. Beyond the summit a wide valley is entered, and the descent to the first little lake is said to be not more than one hundred feet. The mountains rapidly decrease in height and abruptness after the summit is passed, and the valley bifurcates, one branch leading to the head of Windy Arm of Tagish Lake, the other (down which the water drains) going to Pako Arm of the same lake.

There is still another route into the interior, which the Indians occasionally employ in winter when the travelling is good over the snow. This leaves the Nourse or west branch of the Taiya, and runs west of the Chilkoot Pass to the head of Lake Lindeman.

The first map of the Chilkoot and Chilkat Passes and their vicinity is due, as mentioned further on, to Dr. A. Krause. The passes connecting the coast with the interior country, from the heads of Lynn Canal to the upper waters of the Lewes, were always jealously guarded by the Chilkat and Chilkoot Indians of the coast, who carried on a lucrative trade with the interior or "Stick" Indians, and held these people in a species of subjection. Though the existence of these routes to the interior was known to the traders and prospectors, the hostility of the Chilkats and Chilkoots to the passage of whites long prevented their exploration.

"SAILING DIRECTIONS FOR BERING SEA AND ALASKA, INCLUDING THE NORTH-EAST COAST OF SIBERIA. COMPILED FROM VARIOUS SOURCES BY VICE-ADMIRAL J. P. MACLEAR. PUBLISHED BY ORDER OF THE LORDS COMMISSIONERS OF THE ADMIRALTY, LONDON, 1898.

[Page 27.] "*Dixon Entrance*.—Vessels from sea bound to Port Simpson, B. C., to Tongass, or to Wrangell by way of Clarence strait, usually enter here; it is practicable, however, to enter south of Queen Charlotte islands by Hecate strait, and by Brown and Edey passages into Chatham sound. The description of this last route is given in the *British Columbia Pilot*. The boundary line between British Columbia and Alaska runs east and west through Dixon entrance."

BRITISH COLUMBIA PILOT, SECOND EDITION, PUBLISHED BY ORDER OF THE LORDS COMMISSIONERS OF THE ADMIRALTY, LONDON, 1898.

[Page 1.] "British Columbia, a province of the Dominion of Canada, entered the confederation in 1871. It includes Vancouver Island, (first constituted a British colony in 1849), also the numerous islands

^aSo named on chart in U. S. Coast Pilot; Schkague River of Krause.

and adjacent mainland of North America lying between Roberts point in Georgia strait, latitude 49° N., and the centre of Portland canal, latitude 54° 40' N. to 56° N. The average breadth of British Columbia is about 250 miles, and the area, including Vancouver island and Queen Charlotte islands, is roughly estimated at 466,000 square miles."

Deposition of Homer P. Ritter

UNITED STATES OF AMERICA, *San Francisco, California, ss.*

Homer P. Ritter being duly sworn deposes and says: I am a civil and topographical engineer by profession and at present in the service of the United States Government holding a position as assistant in the Coast and Geodetic Survey. I held this position in 1893 when I was ordered to duty in Alaska as topographer. I was then thirty-eight years of age. I proceeded from Victoria, British Columbia, on the steamer *Hassler* and arrived at Holkham Bay on the tenth day of May. The next day I joined the Canadian topographic party under Mr. A. J. Brabazon. From this date until the second of September I depended upon this party for food and transportation.

The area of country covered by the topographic reconnaissance made during this season extends from the entrance of Holkham Bay on the north to Port Houghton on the south. I ascended five or six different mountains with Mr. Brabazon from which I had a good view into the interior. From these view points I saw a great mountain system, the culminating peaks of which were beyond the limits of the topography delineated by us. The mountain masses are so distributed that no defined mountain range trending north and south parallel to the coast can be said to exist within the area described by me. Within the range of vision the altitudes of numerous crags and peaks, which I saw, gradually increase from the coast inland.

HOMER P. RITTER,
Ass. U. S. C. & G. Survey.

Sworn and subscribed to before me this 29th day of April 1903.

THOMAS S. BURNES,
Notary Public, in and for the City & County of San Francisco.

My term of office expires Jan. 8th A. D. 1904.

There is seal which reads: Thomas S. Burnes, Notary Public, City & Co. San Francisco, Cal.

Deposition of John F. Pratt.

UNITED STATES OF AMERICA, *Seattle, Washington, ss.*

John F. Pratt, having been duly sworn, deposes and says: I am a civil engineer by profession and at present in the service of the United States Government holding the position of assistant in the Coast and Geodetic Survey. In this capacity I made my first trip to Alaska on survey work in 1893 at which time I was forty-five years of age. I was attached to the party of Mr. O. H. Tittmann, then an assistant in

the Coast and Geodetic Survey, and accompanied him from Port Townsend on the steamer *Hassler*. As we approached Fort Wrangell we had a good view of the mountains in the Stikine Valley. High snow clad peaks which were many miles inland were noted over the tops of the nearby mountains. On the 10th day of May I joined the Canadian topographical party under Mr. J. Gibbon and from that date until the third of September this party furnished me with food and transportation. I accompanied Mr. Gibbon in the ascent of the ten or more mountains on the mainland from which the topography of the area bounded by the Stikine River on the south and east and on the north by a line at right angles to the coast through Thomas Bay was developed.

During the season I ascended the Stikine River as far as the Great Glacier about 25 miles from Point Rothsay in an air line and climbed a peak on the west side of the river just below this point. From this elevation of 4,800 feet I obtained a good view of the mountains toward the interior which are much higher than those toward the coast, and many of which do not appear on the Canadian map of the region. From this and the other peaks ascended by me I could readily determine that there is no defined mountain range anywhere within this region described by me within ten marine leagues from the coast, nor is there any formation of mountains which can be strung out into a range interrupted or pierced by the Stikine River. The great field of glacier with which a large portion of the country described by me is covered, slopes gently towards the coast, and if not interrupted by the Stikine River would be continually higher as you recede from the coast.

Again in 1894 I had charge of the survey around the head of Lynn Canal and during the season went up the Chilkat River to a point four miles above Kluquan and up the Taiya River and to the summit of Chilkoot Pass. In my trips up and down Lynn Canal I was impressed by the topography of the country on each side. In general the mountains rise abruptly from the sea but the mountains increase in elevation from the south towards the passes and east and west from the shores of the canal. The disposition of the mountain masses about Lynn Canal is such that no mountain axis trending in an easterly and westerly direction is anywhere interrupted by the canal. Along the entire coast from Chilkoot Pass to the Stikine River I have seen only a broken irregular mountain system, with peaks becoming higher as you go from the coast, without anything like the continuity of a mountain range extending north and south parallel to the coast.

J. F. PRATT.

Sworn and subscribed to before me this 1st day of May, 1903.

[SEAL.]

WILLIAM B. ALLISON.

*Notary Public in and for the State of Washington,
Residing at Seattle.*

Deposition of P. A. Welker.

UNITED STATES OF AMERICA, *Key West, Florida, ss.*

P. A. Welker, having been duly sworn, deposes and says: I am a civil and topographical engineer by profession. I am at present in the service of the United States Government holding the position of

assistant in the Coast and Geodetic Survey. I held this position of assistant in 1893 at which time I was 36 years of age. In this year, 1893, I accompanied the party of Mr. H. G. Ogden, an assistant in the Coast and Geodetic Survey, on the steamer *Patterson* sailing from Port Townsend, Washington, for Alaska. On the 11th of May I was landed at the entrance of Endicott Arm of Holkham Bay and joined the Canadian topographical party in charge of Mr. J. J. McArthur, and on this party I became dependent for food and transportation.

The field work of the season commenced on May 24 and continued until the first day of September. During this season I made not less than fifteen ascents of mountain peaks ranging from 2,000 feet to 5,000 feet, and over, in height. These mountain peaks, ascended, are distributed along the coast from a point near the entrance to Endicott Arm, to a point near the head of Taku Inlet, and are within twenty miles of the continental shore; the one most remote from the shore being about five miles from the mouth of Speel River. Over this entire area the shores are very steep and rocky, and landing places for the canoe and sail boat scarce; especially about the head of Holkham Bay where in many places rocky cliffs rise almost perpendicularly from the water's edge to a height of 3,000 feet and over. Almost the entire interior of the country is covered with glacier bearing mountains. From the various mountain peaks that I ascended on the mainland, I observed the general character of the topography of the country, as far inland as twenty to thirty miles beyond the inner limits of the country explored. The highest peaks which are visible are from twenty to thirty miles further inland than the inner limits of the explored region and are not shown on the maps of the International Boundary Commission Survey. One of the inner peaks, which I called Tent Mountain, which was distinctly higher than any peak on Holkham Bay or Tracy Arm, I determined to lie nearly in the axis of Tracy Arm and about two miles from its head.

Although the results of my topographical reconnoissance show spurs of mountain ranges running in almost all directions, the entire country explored by me during the season of 1893 is really covered by one immense connected mountain system, the protruding peaks of which increase in height with the increased distance from the coast. My opportunities for seeing the mountain masses along the stretch of coast and in the interior within the territory described by me were ample to permit me to say that nowhere within ten marine leagues from the coast does there exist within these regions, a defined mountain range which extends in a direction north and south parallel with the coast. There does not exist within this territory anything like a defined mountain chain, running north and south generally parallel to the coast, which in its course crosses Endicott Arm, Holkham Bay, Tracy Arm, Port Snettisham, Taku River or either of them, neither is there such a range which might be considered as pierced by all or either of them.

P. A. WELKER.

Sworn and subscribed to before me this 7 day of May, 1903.

FRANK DELANEY, *Notary Public*.

There is seal which reads: Frank Delaney, Notary Public. Monroe County, Florida.

Deposition of John Nelson.

UNITED STATES OF AMERICA,

Washington, D. C., ss.

John Nelson being duly sworn, deposes and says as follows: I am a civil engineer by profession. I am now employed in the Coast and Geodetic Survey as an assistant, and in 1898 in this capacity was engaged in making a topographical survey of the area, on the east side of Chilkoot Inlet which surrounds the valley and tributaries of the Katzechin River. In the accomplishment of this survey I ascended the valley of the said river for a distance of about fifteen (15) miles. From my points of observation on the summits of the mountains in this region I was enabled to note the character of the topography to a distance of thirty (30) miles from the coast. There exists in this region no definite mountain range lying in a north and south direction parallel with the trend of the coast, but rather a series of snow-capped peaks from five (5) to seven (7) thousand feet high, which increase in height as you recede from the coast. From my points of observation at the head of the Katzechin River I did not see any water shed or divide, the drainage being all toward the Lynn Canal.

JOHN NELSON.

Sworn and subscribed to before me this 26 day of May, 1903.

[SEAL]

N. G. HENRY, *Notary Public.**Deposition of George H. Halpin.*

UNITED STATES OF AMERICA,

*Northern District of California,**City and County of San Francisco, ss.*

George H. Halpin, being first duly sworn, deposes and says that he is a citizen of the United States, above the age of twenty-one years, and a resident of the city and county of San Francisco, State of California. That he is the manager of the firm of Britton & Rey, lithographers, whose place of business is situated at number 525 Commercial street, in the city and county of San Francisco, State of California, and as such manager of such firm is the custodian of and has the custody and control of the books of said firm, including the book known as and called the "Stone Index Book", the "Journal", and the "Ledger", containing the requisite entries of the business of said firm during the year 1876.

Affiant further makes oath and says that the document which is hereunto annexed and marked Exhibit "A" and made a part of this affidavit, is a true and correct copy of the entries which appear in the "Stone Index Book" of said firm for the months of January, February, March, April and May, in the year 1876, which entries appear upon a single page of said book, and which page is not numbered.

Affiant further makes oath and says that the document which is annexed hereto and marked Exhibit "B", and made a part of this affidavit, is a true and correct copy of the entries which appear in the book called the "Journal" of said firm during the year 1876, at page 41 of said book.

April

104	Macondray 1234 Blank	2 Paks	500 sets.
9	Map Olney & Co. backl.		3800
+ 9	Murphy Grant Cheek Red in Dom. Kelly Co.	5	1000
22 Emery Green		1000
27	Maps of Carsons & Pinkerton's Addition Miller Labels		20 200 imp.
64	Do Ratafia Labels	2 labels	4000 each
	Map of San F. Directory (colors)		4200
× 35	Mexican Exch. Juan Somellara & Co. Mazatlan Macondra Neck Labels		500 3000
Large	Map of Cornstock Lode for News Letter	2 colors	11260
× 9	Mitchell G. & S. M. Co. Share		1000

EXHIBIT "B."

41

San Francisco February 1876.

	Sundries Dr. to Mdse.		62550
15	Harrison & Co.		
	Engraving Momento and printing same		20
213	British Consul		
	Lith. map of Cassiar District		
	“ “ “ Cariboo	1000	250
213	South St. Louis Mining Co.		
	Engraving C. of S. printing 1000 b. & no		75
185	Selby Smelting and Lead Co.		
	Lith. Silver Creek and binding same		7
156	Leopard Mining Co.		
	Lith. 2000 C of S. binding & no.		80
143	Bank of Nevada Co.		
	Printing 1000 checks stamped paper		
	Binding and numbering		3850
142	Rideout and Smith		
	Printing 400 Exchange. Bind & no.		10
196	Owens and Moore.		
	Altering heading & printing 1500 circ. and 1000 headings.		35
189	Flood and O'Brien.		
	Engraving letter head and printing 3 reams		35
211	Sprucemont Mining Co.		
	Engraving C. of S. printing 1000 b. & no.		75

213

EXHIBIT "C."

	Dr.	Ehrenberg Copper M. Co.	Cr.	
		1876		
Feb'y	To Mdse.	40 <u>75</u>	October 1 By T. & L.	123 <u>75</u>
	<u>British Consul</u>			
		1876		
Feb'y	To Mdse.	41 <u>250</u>	July 13 By Cash	92 <u>250</u>
	<u>South St. Louis M. Co</u>		(R. B. Noyes)	
		76		
Feb'y	To Mdse.	41 <u>75</u>	Aug. 9 By Cash	100 <u>75</u>
	<u>Hopkins and Haley</u>			
		1876		
Feb'y	To Mdse.	42 <u>50</u>	March By Cash	47 <u>50</u>
April	" "	64 <u>79</u>	May 5 " "	66 <u>79</u>
Sept.	To Mdse.	115 <u>10</u>	Sept. " "	111 <u>10</u>
Oct. 11	To Mdse.	127 <u>3750</u>	Oct. 30	136 <u>6250</u>
" 28	" "	137 <u>25</u>		
		<u>6250</u>		<u>6250</u>
Nov. 17	To Mdse.	146 <u>4250</u>	Nov. 28 By Cash	152 <u>4250</u>
Dec. 18	To Mdse.	160 <u>26</u>	Dec. 28 By Cash	14 <u>26</u>

MISCELLANEOUS DOCUMENTS, ETC.

Instructions given to Dr. Mendenhall.

DEPARTMENT OF STATE,

Washington, D. C., September 8, 1892.

THOMAS C. MENDENHALL, Esq.,

Superintendent of the United States

Coast and Geodetic Survey, Washington, D. C.

SIR: I enclose herewith a commission appointing you the Commissioner of the United States under the Convention concluded in this city on July 22, 1892, providing for a joint delimitation of the existing boundary line between the United States and her Britannic Majesty's possessions in North America, in respect to such portions of said boundary as may not in fact have been permanently marked in virtue of treaties heretofore concluded.

Article I says:

That a coincident or joint survey (as may be found in practice most convenient) shall be made of the territory adjacent to that part of the boundary line of the United States of America and the Dominion of Canada dividing the Territory of Alaska from the Province of British Columbia and the Northwest Territory of Canada, from the latitude of 54° 40' North to the point where the said boundary line encounters the 141st degree of longitude westward from the meridian of Greenwich, by Commissioners to be appointed severally by the High Contracting Parties, with a view to the ascertainment of the facts and data necessary to the permanent delimitation of said boundary line in accordance with the spirit and intent of the existing treaties in regard to it between Great Britain and Russia and between the United States and Russia.

By Article II:

The High Contracting Parties agree that the Government of the United States and of Her Britannic Majesty in behalf of the Dominion of Canada, shall, with as little delay as possible, appoint two Commissioners, one to be named by each party, to determine upon a method of more accurately marking the boundary line between the two countries in the waters of Passamaquoddy Bay in front of and adjacent to Eastport, in the State of Maine, and to place buoys or fix such other boundary marks as they may determine to be necessary.

The Act providing for deficiencies, approved May 13, 1892, appropriates the sum of Twenty-five thousand dollars to be available until expended, for the purpose of making the preliminary survey. It also provides that the "whole expense of this survey on the part of the United States shall not exceed the sum of sixty thousand dollars."

Congress has seen fit to place the money under the control of the Treasury Department. You will, therefore, have to consult the Secretary of the Treasury as to the mode of utilizing it. Moreover, it being especially assigned as an appropriation for the Coast and Geodetic Survey, I presume you will find no difficulty in having the expenditures of it met through the Disbursing Officer of the United States Coast and Geodetic Survey.

Article I of the Convention provides that the respective Commissioners shall meet at Ottawa within two months after the necessary appropriations shall have been made, and shall proceed as soon as practicable thereafter to the active discharge of their duties. They shall complete the survey and submit their final reports thereof within two years from the date of their first meeting. It is further provided that

The Commissioners shall, so far as they may be able to agree, make a joint report to each of the two governments, and they shall also report, either jointly or severally, to each government on any points upon which they may be unable to agree.

I deem it only necessary to invite your attention to these conventional provisions, feeling every confidence that your intelligence and ability in prosecuting such work will enable you to successfully complete it to the satisfaction of our Government and with the least possible delay.

I am, Sir, Your obedient servant,

(Signed) JOHN W. FOSTER.

Enclosures: Commission as above. Copies of treaty.

THE ALASKA BOUNDARY, BY T. C. MENDENHALL.

[From the Atlantic Monthly, Boston, April, 1896.]

* * * The convention of 1824 between the United States and Russia, and that of 1825 between Russia and Great Britain (in which are to be found the boundary-line articles quoted above), were the result of a determination on the part of the two English-speaking nations to break down the Russian Emperor's ukase of 1821, in which territory extending as low as 51° north latitude was claimed by Russia, as well as complete jurisdiction over nearly all water north of this line, thus threatening the fishing and whaling interests and the carrying-trade of both nations. The limitation of Russian possessions to that part of the coast above 54° 40' north latitude and the granting of certain maritime privileges for a limited time were the principal results sought after and accomplished, and unquestionably little thought was given to the definition of a boundary line which traversed a region esteemed to be of little value, either present or prospective. In consequence of this indifference and the apparent absence of geographical instinct in framing the treaty, we have an agreement through which it is now proposed to "drive a coach and six" in the interests of the ever aggressive and persistently expanding British Empire.

It is therefore important for intelligent Americans to understand the weakness of the articles of agreement upon which our Alaska boundary claims are assumed to rest. They can best be considered in the order of definition in the treaty.

In the first paragraph is found the not uncommon but always unfortunate error of "double definition", or rather, in this particular case, of attempting to fix an astronomical position by international treaty. It could not be known in 1825, and, as a matter of fact, it is not now known, that the southernmost point of Prince of Wales Island is on the parallel of 54° 40' north latitude, for it is almost absolutely certain not to be on this parallel. No harm comes from this, however,

as in a subsequent article (IV.) the possibility of this definition resulting in a divided jurisdiction over the lower extremity of that island is prevented by the provision that the whole island shall belong to Russia (now to the United States). The incident is quite worthy of note, however, as illustrating the claim that the *dominant idea was the 54° 40' line*. The prominence of this idea, indeed, in the minds of the several powers was so great as to give rise to the second ambiguity in the boundary-line definition, which follows immediately upon the heels of the first.

The description says: "Commencing from the southernmost point" (Cape Muzon), etc., "the said line shall ascend to the north along the channel called Portland Channel." Now, an examination of the sketch-map of Alaska, shown above, will make it clear that, beginning with the point of departure as defined above, one must proceed to the east for about fifty miles in order to reach the entrance of Portland Channel, or Portland Canal, as it is often called. On the absence of anything in the treaty in reference to this eastward line has been founded a claim that the use of the name "Portland Channel" is an error, an oversight, and that the line was meant to be drawn by turning to the north as soon as possible, which would be after passing Cape Chacon, the easternmost of the two capes at the southern extremity of Prince of Wales Island, and "ascending to the north" through Clarence Strait and Behm Canal, and finally intersecting the 56th parallel of north latitude in Burroughs Bay. The effect of this would be to throw the whole of the great Revilla-Gigedo Island, together with a large territory between that and Portland Canal (all of which has been almost universally recognized as belonging to Alaska), over to the British side.

Preposterous as is this claim, it has for some years received official support at the hands of the Canadian authorities, who have so drawn the line on several of their official maps. It is found on a general map of the Dominion of Canada published by the Interior Department in 1887, and it is drawn in the same way upon what purports to be a copy of an official Canadian map of 1884 (accompanying Executive Document 146, Fiftieth Congress, second session), although an original, now before me, of same date and title, and with which the copy is almost identical in other respects, exhibits the line as following the Portland Canal, in accord with the traditional claims of the United States. In recent English dispatches it has been announced that new facts relating to the treaty have been discovered which greatly strengthen the later Canadian interpretation of this part of the line, but it is hardly to be believed that English diplomats will consider this line in any other light than as affording excellent material with which to "trade" in convention, or on which to "yield" in arbitration.

On entering the mouth of the Portland Channel, which is struck almost in the center by the 54° 40' line, we meet with another claim of comparatively recent date. Just to the north of what must be admitted to be the real entrance to this channel are two considerable islands, Wales Island and Pearce Island. North of these is a narrow, dangerous channel separating them from the mainland, and joining Portland Canal above with the open sea. It is claimed that, admitting Portland Channel, as laid down on the maps, to be the real channel referred to in the treaty, this comparatively narrow passage is a part of it, and the boundary line must be drawn through it so as to put

Wales Island and Pearse Island on the Canadian side. This claim is not recognized on the official Canadian map referred to above, dated 1884, but it is upon that of 1887. It can have but little value, except when it comes to the "general scramble" which is evidently being prepared for.

The Portland Canal presents another difficulty in the fact that it does not actually reach the "56th degree of north latitude", as seems to be implied in the language of the treaty, and this has been used as an argument to prove that Portland Channel was not really the channel through which it was originally intended to draw the boundary line. But this canal comes to within a very short distance of the 56th parallel, probably falling short of it by not more than three or four miles, and possibly by not more than a fraction of a mile. The Salmon and Bear rivers debouch into this canal at its head, and the bed of either may represent the extension of the inlet to the 56th parallel. In any event, it is a matter of no great importance, as some sort of hiatus must necessarily exist in a line passing from the level of the sea to the summit of mountains.

Altogether the most serious trouble is to be anticipated in the interpretation of that part of the treaty which defines the line as it is to be drawn from the head of Portland Canal to the 141st meridian of west longitude near Mount St. Elias.

In Article III, the language used is that "from this last-mentioned point" (where Portland Channel strikes the 56th degree of north latitude) "the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude," etc. But as there was, apparently, even then a doubt as to the position if not the existence of such a range, the second paragraph of Article IV, was inserted, defining the distance of the line from the winding of the coast, in case the assumed mountain range might be found to run further from the shore than was then supposed. Although most interested in the other features of the treaty, it is evident that British diplomacy, with its accustomed shrewdness, was looking after secondary as well as primary questions, and was by no means disposed to trust to the possible meanderings of any little-known range of mountains, even though drawn upon the map by its own explorers.

It was provided, therefore, that while the "summit of the mountains parallel to the coast" should furnish the boundary line whenever such line would be ten marine leagues, or less, from the coast, if it should appear in the future that said mountains carried their summits to a greater distance inland, then the line was to be drawn "parallel to the winding of the coast," and so as never to "exceed the distance of ten marine leagues therefrom." It is important to note that this article may be regarded as containing something stronger than a quasi-admission on the part of Great Britain that the strip of territory conceded to belong to Russia should be in width ten marine leagues from the coast line; it also implies that this is the *maximum* width to which she will consent, and that there is nothing in the treaty to prevent her making it one league or half a league, if, in the future, she is able to do so, and the *mountains parallel to the coast* do not stand in the way.

When this treaty was made, and indeed until a comparatively recent date, the charts of the region prepared under the direction of Vancouver were the most reliable at hand. One of them (it is likely to

have been the French edition) was doubtless before the authors of the articles defining the boundary line. All show a well-defined range of mountains, running nearly parallel to the coast line, and removed from it by a varying distance, sometimes as great as forty miles or more. It is now known, however, and has been known for several years, that the very regular and neatly drawn mountain ranges which Vancouver's map exhibits owe their origin to the imagination of his draughtsman more than to anything else; that is, as far as their form goes. Indeed, it is probably just to say that they were intended only as conventional representation of the fact that mountains were seen in almost every direction, and especially in looking from the coast toward the interior. Within the past few years many topographical maps have been executed, and many photographs have been made of these mountains as viewed from the summits of some of those which are accessible. Very excellent views have been obtained from elevations of four thousand and five thousand feet, looking towards the interior and extending far beyond any claim of the United States. These show a vast "sea of mountains" in every direction, generally increasing in elevation as the distance from the coast increases.

Seen from a distance or from the deck of a ship at sea, they might easily create the impression of a range or ranges "parallel to the winding of the coast". As a matter of fact, there is nothing of the kind, but only the most confused and irregular scattering of mountains over the whole territory, at least until the Fairweather range, south of Mount St. Elias, is reached. Of course it is quite possible to draw a series of lines from mountain summit to mountain summit, which would form a line parallel to the coast, or any other assumed line, but no one can deny that the language of the treaty implies a range of summits extending "in a direction parallel to the coast." As the mountains which actually exist cover the territory down to the water's edge, the logical application of the mountain-summit definition, if it is to be applied at all, is to draw the line from peak to peak along the seacoast, and this our friends on the other side have not hesitated to do. It is so drawn on the official Canadian map dated 1887, and also by Dr. G. M. Dawson, director of the Dominion Geological Survey, on his map submitted to show proposed conventional boundary lines. Naturally, this line, in common with all recently drawn maps of the Canadian government, practically leaves little to us except the group of islands lying off the mainland. While nominally allowing us a narrow strip, which is perhaps not quite all covered by high tides, it makes several short cuts which serve to break the continuity of our coast line, and to give considerable seacoast to British Columbia.

Against the mountain-summit theory, the contention of the United States is, or should be, that as it is unquestionably proved that no such range of mountains exists as was shown on the charts of Vancouver, and as the high contracting parties evidently had in mind when they agreed to the treaty, it becomes necessary to fall back upon the alternative definition, which places the line "parallel to the winding of the coast," and not more than ten marine leagues distant therefrom. It may be claimed that this was to have application only in localities where the range of "mountains parallel to the coast" was more than ten marine leagues from the coast, and that it vanishes when said range disappears. In reply it may be said that there are indications strongly pointing to the actual existence of such a range

far beyond the boundary limit towards the interior; but even if it be finally known that no such range exists, either more or less than ten marine leagues from the sea, the *intent* of the agreement can be distinctly proved; and in the impossibility of executing one of its provisions, an alternative, specially provided for the failure of that one, must be accepted.

But as soon as we suggest that both the spirit and the letter of the treaty would be satisfied by drawing the line ten marine leagues from the coast, we are met with some astounding arguments as to what is meant by the coast. A well-known English authority has contended, in effect, that the coast line from which this distance should be measured should be drawn tangent to, and so as to include, the islands lying along the coast. The effect of this would be practically to exclude us from the mainland, and to throw valuable parts of the islands themselves over to the Canadian side. In the face of the plain statement that the line is to be drawn "parallel to the winding (*sinuosité*) of the coast," it is not believed that this point can be seriously urged.

Should it be found possible to project a line satisfactory to both parties, from Dixon's Entrance, at some point of which it must begin, to the region of the Mount St. Elias Alps, there will be no difficulty in agreeing upon the remainder of the boundary. From the point where it strikes the 141st meridian west longitude it is to be extended along that meridian "as far as the Frozen Ocean." Since it is an astronomical line its position can be ascertained as accurately as circumstances require.

In order to remove a not uncommon but erroneous impression that the Alaskan boundary line is now, and has been for some time, in a state of adjudication, it may be well to say that thus far nothing has been done except to execute such surveys as have been thought desirable and necessary for the construction of maps, by which the whole subject could be properly presented to a joint boundary-line commission whenever such should be appointed, and on which the location of the line could be definitely laid down if a mutual agreement should be reached. Such a survey was first brought to the attention of Congress in a message of President Grant in 1872. It was not until 1889, however, that the work was begun by the United States Coast and Geodetic Survey, which sent two parties to the valley of the Yukon, in the vast interior of the territory, with instructions to establish camps, one on that river and the other on its branch the Porcupine, both to be as near the 141st meridian as possible. These parties were to carry on a series of astronomical observations for the purpose of determining the location of the meridian, to execute such triangulations and topographical surveys as were necessary for its identification, and to establish permanent monuments as nearly as might be upon the meridian line.

They remained at their posts, under stress of weather and other unfavorable conditions, for two years, during which their work was done in a manner quite sufficient for any demands ever likely to be made upon it. The two most important points on the boundary, where it intersects the two great rivers named above, were thus determined, and a year or two later the position of the boundary meridian in relation to the summit of Mount St. Elias was established. It is difficult to see what more will be required for a long time to come, as far as

relates to this part of the boundary line. In southern Alaska, where all the uncertainties as to definition of the boundary line exist, peculiar and in a certain sense insuperable obstacles are met with in the actual survey or "running" of a line in the ordinary sense. In nearly all of the proposed routes most of the line passes through a region practically inaccessible, or at least not accessible without the expenditure of enormous sums of money and many years of time, wholly disproportionate to the end to be gained. To attempt to make anything like a detailed topographical survey of the wide region covered by the several claims, of sufficient accuracy to satisfy the conditions, and to "run" a line whenever it should finally be located, would involve labor and expense impossible to estimate in advance, but sure to be extraordinarily great.

In view of these facts, it was determined to make such a survey as would enable a boundary-line commission to fix upon any one of several "conventional" lines which had been suggested already as satisfactory substitutes for that of the treaty now generally admitted to be impossible of realization. In July, 1892, an agreement was entered into between the United States and Great Britain for the execution of a joint or coincident survey of this region, for boundary-line purposes. It was agreed by the commissioners appointed to make this survey to carry out, in effect, the plan mentioned above. Astronomical stations were to be established at the mouths of the principal rivers which flow across the boundary line, namely, at the head of Burroughs Bay, the mouths of the Stikine and the Taku, and the head of Lynn Canal. A series of triangles were to be run from these up the river valleys, until a point beyond the probable or possible location of the boundary was reached. Topographical sketches were to be made and a good deal of photographic topography was to be done, especially by the Canadian parties. This plan, which was successfully carried out, received the approval of the Department of State, and the representatives of the two governments cooperated in its execution. It is believed to have furnished all information, besides what had been previously accumulated, necessary to a full discussion and a complete settlement of the controversy.

One of the important results of this work has been the accumulation of evidence, if indeed any were needed, of the impossibility of the "mountain-summit" line, and the consequent necessity of falling back upon a line at a measured distance from the coast. That this distance, in accordance with the spirit and intent of the treaty of 1825, should be practically ten marine leagues is apparent from the treaty itself and from contemporaneous history. It was evidently meant to convey, or rather to confirm, to Russia a "strip of the coast", complete and unbroken, from the parallel of 54° 40' north latitude to Mount St. Elias. The word *lisière* used in the treaty to describe this strip, and which becomes "line" in the English version, means much more than that, being originally equivalent to "border", "selvage", "fringe", or "list" of cloth, always standing for something of very definite width and continuity. Contemporary writers might be quoted, showing a common belief among Englishmen themselves that the treaty accorded to Russia a very definite and continuous strip of the mainland, which by cutting off direct access to the coast, "rendered the great interior of comparatively little value".

In conclusion, the situation may be summed up as follows:

Our purchase of Alaska from Russia in 1867 included a strip of the coast (*lisière de côte*) extending from north latitude 54° 40' to the region of Mount St. Elias. This strip was thought to be separated from the British possessions by a range of mountains (then supposed to exist) parallel to the coast, or, in the case of these mountains being too remote, by a line parallel to the windings (*sinuosités*) of the coast, and nowhere greater than ten marine leagues from the same. As the advantage of an alternative line could hardly have been intended to accrue to one only of the contracting parties, and as Great Britain would benefit by every nearer approach of the alleged mountain range than ten marine leagues, it must be inferred that the spirit and intent of the treaty was to give Russia the full ten leagues wherever a range of mountains nearer to the coast than that did not exist. For more than fifty years there was, as far as is known, no claim on the part of Great Britain to any other than this simple interpretation of the treaty, and up to a very recent date all maps were drawn practically in accord with it.

Above all, it is clear, both from the language of the treaty and from contemporaneous history, that the strip of coast was intended to be *continuous* from the parallel of 54° 40' north latitude. The right of complete jurisdiction over this coast, exercised so long by Russia without protest from Great Britain, became ours by purchase in 1867. Since that date the development of the northwest has shown the great value of this *lisière*. Its existence has become especially disagreeable to Great Britain, because through its waterways and over its passes much of the emigration and material supplies for her northwestern territory must go. The possession by us of the entire coast of North America north of 54° 40' to the Arctic Ocean is not in itself in harmony with her desire or her policy. The Alaska boundary-line dispute offers an opportunity to break the continuity of our territorial jurisdiction, and by securing certain portions of the coast to herself greatly to diminish the value of the remaining detached fragments to us. The wisdom of this from the Downing Street standpoint cannot be questioned. Those of us who desire to assist in its accomplishment have only to urge the importance of submitting every controversy of this kind, no matter whether we are right or wrong, to the court of arbitration. Arbitration is compromise, especially when two great and nearly equally strong nations are engaged in it.

No matter how much or how little a nation carries to an arbitration, it is tolerably certain to bring something away. Once before a board of arbitration, the English Government has only to set up and vigorously urge all of the claims referred to above, and more that can easily be invented, and it is all but absolutely certain that, although by both tradition and equity we should decline to yield a foot of what we purchased in good faith from Russia, and which has become doubly valuable to us by settlement and exploration, our *lisière* will be promptly broken into fragments, and, with much show of impartiality, divided between the two high contracting parties.

It is to be regretted that our share in recent important events has tended to lead us toward this end rather than away from it. We have thrust ourselves into a controversy over a boundary line on another continent, in which we can have no interest, except perhaps that which

grows out of a very foggy and uncertain sentiment. We have assumed that a European power is about to "extend its system" to a part of the western continent, or that England is on the point of "oppressing" the people of a South American republic, or of "controlling the destiny" of their government.

Against this we have an active and aggressive protest, and have clearly intimated that if Great Britain does not submit this boundary question to arbitration we shall make trouble. In so doing we have once more put ourselves exactly where far-sighted English statesmanship would have us. Under ordinary circumstances our attitude on this question would be considered as almost an offence, and the channels of diplomatic correspondence would not be as clear and uninterrupted as they now are.

The truth is that Great Britain is meeting our wishes in this matter with almost indecent haste, because the arbitration of the Alaska boundary line, by which she hopes and expects to acquire an open sea coast for her great northwest territories, and to weaken us by breaking our exclusive jurisdiction north of 54° 40', is enormously more important to her than anything she is likely to gain or lose in South America.

Having driven her to accept arbitration in this case, it will be impossible for us to refuse it in Alaska, and we shall find ourselves again badly worsted by the diplomatic skill of a people who, as individuals, have developed intellectual activity, manliness, courage, unselfish devotion to duty, and general nobility of character, elsewhere unequalled in the world's history, but whose diplomatic policy as a nation is and long has been characterized by aggressiveness, greed, absolute indifference to the rights of others, and a splendid facility in ignoring every principle of justice or international law whenever commercial interests are at stake.

T. C. MENDENHALL.

Instructions issued in 1894 by Dr. T. C. Mendenhall, superintendent of the United States Coast and Geodetic Survey.

WASHINGTON, D. C., Mar. 21st, 1894.

J. F. PRATT.

Assistant C. & G. Survey, Seattle, Wash.

SIR: As you are already aware from previous instructions and from verbal conference you will again be assigned to duty in Alaska in connection with the Boundary survey.

On the receipt of these instructions you will please arrange to proceed by the Steamer "Hassler", which will furnish transportation to and from the field for your party and outfit and which will sail from Seattle about April 27 to Lynn Canal, where you will execute the triangulation and topographical reconnaissance of the Chilkat and Taiya Inlets to the 10 marine league limit. You will also establish an astronomical station on the west side of Chilkat Inlet and connect it by triangulation with the old station on Pyramid island. The astronomer attached to your party will attend to the astronomical and magnetic observations, and on each return of the "Hassler" which will carry chronometers to and fro between your astronomical station

and that at Sitka, will make comparison of the carried chronometers with those of your station. The traveling astronomer, in charge of the carried chronometers will independently make the same comparisons, and in case of disagreement a repetition by both will be necessary. Time observations should be made as frequently as possible so that a good rate for the station chronometers may be obtained.

Assistant E. F. Dickins will on the completion of his work on the Unuk River transfer his party to the Chilkat and render such assistance to your party as may be necessary.

Sub Assistant F. A. Young, Aid J. F. Hayford and Temporary Aid A. L. Baldwin and a Recorder will be assigned to your party, Mr. Hayford being the astronomer who will be left in charge of the astronomical station. The traveling astronomer Mr. J. Page for convenience will be considered as attached to Assistant Morse's party, but in case of sickness or disability of Mr. Hayford, will relieve the latter at your astronomical station. Messrs Young, Hayford and Baldwin will report to you at Seattle in time for the sailing of the "Hassler", and have each been instructed to purchase round trip tickets from Washington good for eight months and to render the accounts for their traveling expenses to you for settlement. Their compensation and that of your recorder will be as follows:

F. A. Young	\$1,400 per annum
J. F. Hayford	900 per annum
A. L. Baldwin	60 per month
Recorder	60 per month

and each will also receive actual subsistence and traveling expenses.

Prior to taking the field, you will as heretofore arranged procure for the Alaska parties the requisite number of canoes and see that they are properly shipped to their respective destinations.

The Hydrographic Inspector will furnish a boat and outfit and a steam launch for the use of your party.

Parties under the charge of Messrs J. A. Flemer and H. P. Ritter will be operating in the mountain regions adjoining the Chilkat and Taiya Inlets and will use your camps as a base of supplies, &c., and you will please cooperate with them in every way possible without interfering with the progress of your own work. It is also probable that Assistant McGrath after completing the work assigned to him in the vicinity of Yakutat Bay will reinforce your party and assist in the completion of your survey.

It will be borne in mind that the triangulation to the 10 marine league limit and the topographical reconnaissance of the upper portions of the inlets are of the first importance and if it is found necessary to leave any part of the work unfinished it should be the topography of the lower portions.

At the close of the season your party and outfit will be carried to Seattle by the Steamer "Hassler", and Messrs Young, Hayford and Baldwin will then proceed to Washington and your Recorder to San Francisco.

These instructions will cover all necessary expense of travel and transportation incurred in their execution.

Respectfully, yours,

T. C. MENDENHALL, *Superintendent.*

UNITED STATES COAST AND GEODETIC SURVEY.

Washington, D. C., Mar. 22d, 1894.

FREMONT MORSE,

Assistant C. & G. Survey, San Francisco, Cal.

SIR: During the coming season you will again be assigned to duty as astronomer in connection with the Alaska Boundary Survey and on receipt of these instructions you will please arrange to proceed to Sitka, at such time as the Steamer "Patterson" may be ready to sail, probably about April 21st.

Your duties at Sitka will be the same as during last year and chronometers will be carried by the Steamer "Hassler" between your station and one to be established on the Chilkat Inlet by Assistant Pratt. Mr. J. Page will attend to the chronometers on the "Hassler" and will be considered as a member of your party. He will at each station make the comparison of its chronometers with those of the vessel and the station astronomer will do the same independently, and in case of disagreement the comparison will be repeated by both.

In case of the sickness or disability of either astronomer, Mr. Page will take his place and the care of the Hassler chronometers will then devolve upon one of the officers of that ship.

Mr. Page's compensation will be \$60 per month and subsistence at the rate of \$1.00 per day and his traveling expenses to and from the field will be paid. He will purchase here a round trip ticket to San Francisco, and will render to you all accounts for expenditures incurred under his instructions.

Magnetic observations will again be made at Sitka and the instruments will then be forwarded to the Chilkat station, there being but one set of instruments available.

At the close of the season you will without further instructions proceed to San Francisco, transportation being furnished you by the "Patterson" or "Hassler" as the case may be.

These instructions will cover all necessary expenses of travel and transportation incurred in their execution.

Respectfully, yours,

T. C. MENDENHALL, *Superintendent.*

UNITED STATES COAST AND GEODETIC SURVEY.

Washington, D. C., Mar. 22d, 1894.

E. F. DICKINS,

Assistant C. & G. Survey, San Francisco, Cal.

SIR: As you have already been informed you will be again assigned to duty in Alaska in connection with the Boundary Survey and you will please arrange for the continuation of the reconnaissance of the Unuk River from the point reached by you last year to the 10 marine league limit.

On the completion of this work you will be conveyed by the Steamer Hassler from Burroughs Bay to the Chilkat Inlet, where you will render such assistance to the party of Assistant Pratt as may be necessary. The funds for the Boundary Survey being limited it will be necessary to practice the most rigid economy, and it will be well to consider the advisability of discharging most of your men on the completion of the Unuk work, their expenses to their homes being of course

paid. As the trigonometrical survey of the Chilkat and Taiya Inlets to the 10 marine league limit is of the greatest importance, the topography (of the lower portions at least) being secondary, you will first assist in the triangulation, and for this purpose your full party will probably not be required.

It will be necessary to arrange in advance with the commanding officer of the Steamer "Hassler" as to the time of calling for you at Burroughs Bay, and in case of failure to connect at that time a second trip may be made later unless in your judgment it is more economical to transport your reduced party and outfit by the mail steamer from Loring to Sitka and thence by the "Hassler" to Chilkat. In forming your judgment on this matter the cost of the Hassler's trip need not be taken into account, as she will have some work to do in the vicinity, which can as well be done at that time as any other.

Transportation to the field will be furnished for your party and outfit by the Steamer "Patterson", which will sail from San Francisco about April 21st, but you are authorized to proceed by rail to Port Townsend and join the ship at that point. Mr. S. B. Tinsley will be assigned to your party as "Temporary Aid", and will report to you at Port Townsend and accompany you on board the "Patterson". His compensation will be at the rate of \$60.00 per month and actual subsistence and traveling expenses.

The Hydrographic Inspector will furnish a whale boat and outfit for the use of your party and Assistant Pratt will attend to the purchase of such canoes as may be required.

At the close of the season you will without further instructions return to San Francisco, the Steamer "Patterson" or "Hassler" as the case may be, furnishing the transportation.

Mr. Tinsley having a round trip ticket between Washington and Port Townsend will be landed at the latter point and will proceed to Washington, D. C.

These instructions will cover all necessary expenses of travel and transportation incurred in their execution.

Respectfully, yours,

T. C. MENDENHALL, *Superintendent.*

UNITED STATES COAST AND GEODETIC SURVEY,
Washington, D. C., Mar. 24th, 1894.

J. E. McGRATH,

Assistant C. & G. Survey, Washington, D. C.

SIR: You are hereby assigned to the charge of one of the parties to be employed this season upon the survey of the boundary of South Eastern Alaska, and will please arrange to proceed to San Francisco in time to ship your outfit by the Steamer "Patterson", which will sail about April 21st. You will then proceed by rail to Port Townsend, complete the organization of your party and join the Patterson on her arrival there.

Dr. H. W. Edmonds will be assigned to your party and will be instructed to report to you on your arrival at San Francisco and to join the ship at that point. His compensation will be at the same rate as last year, viz:—\$100 per month and actual subsistence and travel-

ing expenses, and his assignments will take effect from the date of his reporting to you at San Francisco.

The work entrusted to you will be the continuation of the survey from the South end of the Malaspina Base to the delta of the Tahitse River. You will be landed by the Patterson at Yakutat Bay and will then proceed to that part of the coast nearest to Mt. St. Elias where you will measure another base line for the purpose of determining accurately the distance of the mountain from the coast line. You will at the same time secure all possible additional geographical information particularly as to the distance and elevations of other peaks and will then run a traverse line to connect the new base with the one at Malaspina, incidentally tracing the intervening shore line.

The Steamer "Patterson" will call for you at Yakutat at such time as you may have agreed upon with her commanding officer and will then transport yourself and party to the head of Lynn Canal where you will render such assistance to the parties there at work as may be necessary to ensure the completion of that survey.

On your way to Yakutat, or, if circumstances are not then favorable, on your return therefrom, you will if practicable land at Lituya Bay where you will measure another base and determine the elevations and distances from the coast of the principal mountain peaks in that region. As this Lituya Bay work will only occupy a short time, the Steamer will await its completion and your return on board.

After completing this work and that in the vicinity of Mt. St. Elias and Yakutat Bay you will consider the advisability of reducing your party by the discharge of such hands as will not be required for the work in Lynn Canal. Their traveling expenses by mail steamer to the point where engaged will of course have to be paid.

At the close of the season you will proceed by the Steamer "Patterson" to Port Townsend and thence by rail (*Via* San Francisco if necessary) to Washington.

Dr. Edmonds and such remaining members of your party as are engaged at San Francisco will continue on board the "Patterson" until her arrival at that port, and the others will be discharged at Port Townsend.

You will for the sake of economy purchase at Washington a round trip ticket to San Francisco, good for 8 or 9 months.

These instructions will cover all necessary expenses of travel and transportation incurred in their execution.

Respectfully, yours,

T. C. MENDENHALL, *Superintendent.*

UNITED STATES COAST AND GEODETIC SURVEY.

Washington, D. C., Apl. 9, 1894.

J. A. FLEMER,

Assistant C. & G. Survey, Washington, D. C.

SIR: On receipt of these instructions you will please arrange to proceed to Alaska and make a topographical reconnaissance of the country to the northward and eastward of Taiya Inlet and River to the 10 marine league limit.

You will purchase a round trip ticket to Seattle, good for 9 months, and proceed to that point in time to complete your arrangements and join the Steamer "Hassler" which sails for Alaska about April 27th,

and which will furnish transportation for yourself, party and outfit to Chilkat Inlet. The work will be of the same general character as that executed by you last year, and you will give special attention to the sketching and mapping of the mountain peaks and ranges, if such exist, and locate them as accurately as the means and time at your disposal will permit.

The party of Assistant Pratt will be engaged in the survey of the Chilkat Inlet and river to the boundary, and his camps may be used by you as a base of operations when practicable. You will confer with him from time to time, as occasion offers, relative to the progress of the work and the time of closing field operations, and on the latter point you will be guided strictly by his decision.

At the close of the season you will return by the Steamer "Hassler" or "Patterson" to Seattle or Port Townsend where you will discharge your party and without further instructions proceed to Washington, D. C. These instructions will cover all necessary expenses of travel and transportation incurred in their execution.

Your estimates for the work have been duly approved in the sum of \$1500 and an allotment of that amount has been placed to your credit.

Respectfully, yours,

T. C. MENDENHALL, *Superintendent.*

UNITED STATES COAST AND GEODETIC SURVEY.

Washington, D. C., Apl. 9th, 1894.

MR. HOMER P. RITTER,

U. S. Coast & Geodetic Survey, Washington, D. C.

SIR: On receipt of these instructions you will please arrange to proceed to Alaska and make a topographical reconnaissance of the country to the northward and westward of the Chilkat Inlet and River to the 10 marine league limit.

You will purchase a round trip ticket to Seattle good for 9 months, and proceed to that point in time to join the Steamer "Hassler" which sails for Alaska about April 27th and which will furnish transportation for yourself, party and outfit to Chilkat Inlet.

The work will be of the same general character as that executed by you last year at Holkham Bay. You will give special attention to the sketching and mapping of the mountain peaks and ranges, if such exist, and locate them as accurately as the means and time at your disposal will permit. The party of Assistant Pratt will be engaged on the survey of the Chilkat Inlet and River to the boundary, and his camps may be used by you as a base of operations when practicable. You will confer with him from time to time as occasion offers relative to the progress of the work and the time of closing field operations and on the latter point you will be guided strictly by his decision.

At the close of the season you will return by the Steamer "Hassler" or "Patterson" to Seattle or Port Townsend, where you will discharge your party and without further instructions proceed to Washington, D. C. These instructions will cover all necessary expenses of travel and transportation incurred in their execution.

Your estimates for the work have been approved in the sum of \$1500 and an allotment of that amount has been placed to your credit.

Respectfully yours

T. C. MENDENHALL, *Superintendent.*

Statement of Rev. William Duncan.

At the request of the State Department of the United States I the undersigned make the following statement this 20th day of May 1903 at Metlakahla, Alaska. I was at Fort Simpson British Columbia in the year 1857 and remained in the Fort over three years with the Officers of the Hudson's Bay Company from whom I learnt that for the privilege of trading with the natives of Alaska, north of Portland Inlet, their Company paid a yearly rent to the Russian Government.

In the year 1862 I founded the settlement of Metlakahla, about 17 miles South of Fort Simpson, and on the 4th July 1863 I was appointed a Justice of the Peace for the district which office I filled for over 20 years. During all that time I was under the impression that British jurisdiction did not extend north of Portland Inlet so that if a criminal succeeded in getting that far, he was allowed to escape.

It was in the years from 1865 to 1868 (I think) British Naval Officers were engaged in a surveying ship all around the Northern waters of British Columbia. They visited Metlakahla frequently but we never heard that they extended their labors beyond or north of Portland Inlet.

WILLIAM DUNCAN,
U. S. Commissioner.

Deposition of Theodore Poindexter.

UNITED STATES OF AMERICA, NORTHERN DIS- }
TRICT OF CALIFORNIA, CITY AND COUNTY OF } ss.
SAN FRANCISCO. }

Theodore Poindexter, being first duly sworn, deposes and says that he is a citizen of the United States, over the age of twenty-one years. That he resides in the City and County of San Francisco, State and Northern District of California. That he is the son of the late Francis Poindexter, who was a Justice of the Peace at Chilkat, Alaska, during the year 1887 and for some years thereafter. That said Francis H. Poindexter died in the City of Los Angeles, in the State and Southern District of California about the month of October, in the year 1898.

THEODORE POINDEXTER.

SUBSCRIBED AND SWORN to before me this 3rd day of June A. D. 1903.

[SEAL]

J. S. MANLEY,
United States Commissioner
For the Northern District of California, at San Francisco.

EXTRACT FROM WHEATON'S INTERNATIONAL LAW, W. B. LAWRENCE,
BOSTON, 1855.

[Pages 224-225.] Great Britain had also formally protested against the claims and principles set forth in the Russian ukase of 1821, immediately on its promulgation, and subsequently at the Congress of Verona. The controversy, as between the British and Russian governments, was finally closed by a convention signed at Petersburg.

February 16-28, 1825, which also established a permanent boundary between the territories respectively claimed by them on the continent and islands of North-western America.

This treaty contained the following stipulations:

ART. 1. It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such part of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following articles:

ART. 2. In order to prevent the right of navigating and fishing, exercised upon the ocean by the subjects of the high contracting parties, from becoming the pretext for an illicit commerce, it is agreed that the subjects of his Britannic Majesty shall not land at any place where there may be a Russian establishment, without the permission of the governor or commandant; and, on the other hand, that Russian subjects shall not land, without permission, at any British establishment on the north-west coast.

By the 3rd and 4th articles it was agreed that "the line of demarcation between the possessions of the high contracting parties upon the coast of the continent and the islands of America to the north-west," should be drawn from the southernmost point of Prince of Wales's island, in latitude 54 degrees 40 minutes eastward, to the great inlet in the continent called Portland Channel, and along the middle of that inlet to the 56th degree of latitude, whence it should follow the summit of the mountains bordering the coast, within ten leagues northwestward, to Mount St. Elias, and thence north, in the course of the 141st meridian west from Greenwich, to the frozen ocean, "which line shall form the limit between the Russian and the British possessions in the continent of America to the northwest."

EXTRACT FROM A PROCLAMATION OF GEORGE III. (1763)

BY THE KING.

A PROCLAMATION.

GEORGE R.

Whereas we have taken into our royal consideration the extensive and valuable acquisitions in America, secured to our crown by the late definitive treaty of peace concluded at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our kingdoms as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation; we have thought fit, with the advice of our privy council, to issue this our royal proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said privy council, granted our letters patent under our great seal of Great Britain, to erect, within the countries and islands ceded and confirmed to us by the said treaty, four distinct and separate governments, stiled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz:

* * * * *

Fourthly, The government of Grenada, comprehending the island of that name together with the Grenadines, and the islands of Dominico, St. Vincent, and Tobago.

And to the end that the open and free fishery of our subjects may be extended to, and carried on upon the coast of Labrador and the adjacent islands, we have thought fit, with the advice of our said privy council, to put all that coast, from the river St. John's to Hudson's Straights, together with the islands of Anticosti and Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our governor of Newfoundland.

EXTRACT FROM BRITISH STATUTE, 14TH GEORGE III, CHAPTER 83 (1774)

Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all the territories, islands, and countries in *North America*, belonging to the crown of *Great Britain*. * * * and also all such territories, islands, and countries, which have since the tenth of *February*, one thousand seven hundred and sixty-three, been made part of the government of *Newfoundland*, be, and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of the province of *Quebec*, as created and established by the said royal proclamation of the seventh of *October*, one thousand seven hundred and sixty-three.

EXTRACT FROM BRITISH STATUTE, 49TH GEORGE III. CHAPTER 27 (1809)

XIV. And Whereas His Majesty by His Proclamation of the Seventh Day of *October* One thousand seven hundred and sixty-three, was pleased to declare that he had put the Coast of *Labrador* from the *River Saint John to Hudson's Straights*, with the Islands of *Anticosti*, and *Madelaine*, and all other smaller Islands lying on the said Coast, under the Care and Inspection of the Governor of *Newfoundland*: And Whereas by an Act passed in the Fourteenth Year of the Reign of His present Majesty, intituled *An Act for making more effectual Provision for the Government of the Province of Quebec in North America*, all such Territories, Islands and Countries, as since the Tenth Day of *February* One thousand seven hundred and sixty three had been Part of the Government of *Newfoundland*, were, during His Majesty's Pleasure, annexed to and made Part of the Province of *Quebec*, as created by the said Proclamation: And Whereas in pursuance of an Act passed in the Thirty-first Year of His present Majesty's Reign, intituled, *An Act to Repeal certain Parts of an Act, passed in the Fourteenth Year of His Majesty's Reign, intituled, An Act for making more effectual Provision for the Government of the Province of Quebec, in North America, and to make further Provision for the Government of the said Province*, the said Province of *Quebec* was divided into Two Provinces of *Upper and Lower Canada*, the latter including the Parts of the Coast of *Labrador* and the said Islands so formerly annexed to the Government of *Newfoundland*: And Whereas it is expedient that the said Coast of *Labrador*, and the adjacent Islands (except the Islands of *Madelaine*) should be reannexed to the Government of *Newfoundland*: Be it therefore enacted, That such Parts of the Coast of *Labrador* from the *River Saint John to Hudson's Straights*, and the said Island of *Anticosti*

and all other smaller Islands so annexed to the Government of *Newfoundland* by the said Proclamation of the Seventh Day of *October* One thousand seven hundred and sixty three, (except the said Islands of *Madelaine*.) shall be separated from the said Government of *Lower Canada*, and be again reannexed to the Government of *Newfoundland*; any Thing in the said Act passed in the Thirty-first Year of His present Majesty's Reign, or any other Act, to the contrary notwithstanding.

XV. And be it further enacted, That it shall be lawful for the said Supreme Court of Judicature of the Island of *Newfoundland* to hold Plea of all Crimes and Misdemeanors committed, and of all Suits and Complaints of a Civil Nature arising within such Parts of the Coast of *Labrador* from the River *Saint John* to *Hudson's Streights*, and the said Island of *Anticosti*, and all other smaller Islands so reannexed to the Government of *Newfoundland*, or on the Islands, Seas, and Harbours, to which Ships and Vessels repair from the Parts of the Coast of *Labrador* and the Island and Islands so re-annexed to the Government of *Newfoundland* for carrying on the Fishery, in the same Manner as the said Supreme Court holds Plea of Crimes and Misdemeanors committed, and of Suits and Complaints of a Civil Nature arising within the Island of *Newfoundland*, and on the Islands and Seas aforesaid, and on the Banks of *Newfoundland*.

EXTRACT FROM BRITISH STATUTE, 6TH GEORGE IV., CHAPTER 59 (1825)

IX. And Whereas under and by virtue of a certain Act passed in the Forty ninth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for establishing Courts of Judicature in the Island of Newfoundland, and in the Islands adjacent; and for reannexing Part of Labrador and the Islands lying on the said Coast, to the Government of Newfoundland*; and of the Act passed in the Fifth Year of the Reign of His present Majesty, intituled *An Act for the better Administration of Justice in Newfoundland, and for other purposes, the Coast of Labrador, from the River Saint John to Hudson's Streights, and the Island of Anticosti*^a and all the Islands adjacent to the said Coast, except the Islands of *Madelaine*, are annexed to and form Part of the Government of *Newfoundland*; and it is expedient that certain Parts of the said Coast of *Labrador* should be reannexed to and form Part of the Province of *Lower Canada*; Be it therefore enacted, That so much of the said Coast as lies to the westward of a Line to be drawn due North and South from the Bay or Harbour of *Auce Sablon*, inclusive, as far as the Fifty second Degree of North Latitude, with the Island of *Anticosti*, and all other Islands adjacent to such Parts as last aforesaid, of the Coast of *Labrador*, shall be and the same are hereby re-annexed to and made a Part of the said Province of *Lower Canada*, and shall henceforward be subject to the Laws of the said Province, and to none other; and so much of the said recited Acts passed in the Forty ninth Year of the Reign of His late Majesty King *George* the Third, and in the Fifth Year of the Reign of His present Majesty, as relates to such Parts of the Coast of *Labrador* as last aforesaid, and the said Island of *Anticosti*,^a and other adjacent Islands, shall be and the same is hereby repealed.

^a Sic.

The Director of the United States Geological Survey to the Secretary of State.

DEPARTMENT OF THE INTERIOR
UNITED STATES GEOLOGICAL SURVEY

Washington, D. C., June 4, '03.

THE HONORABLE THE SECRETARY OF STATE.

SIR: In accordance with your request, I send herewith a statement prepared by Alfred H. Brooks, Geologist in charge of Geologic Work in Alaska, of the mines located and now in operation in that part of the Territory of Alaska known as the *lisière*.

Yours with respect,

CHAS. D. WALCOTT, *Director.*

Statement as to Location of Mining Districts in Southeastern Alaska

DEPARTMENT OF THE INTERIOR
UNITED STATES GEOLOGICAL SURVEY

Washington, D. C., June 4, '03.

HON. CHAS. D. WALCOTT, *Director, U. S. Geological Survey.*

SIR: In accordance with your request, I have the honor to submit herewith a brief statement of the mines now being operated in the *lisière* of the territory of Alaska. The following list of mining districts is arranged geographically, beginning at the north.

PORCUPINE DISTRICT.

This district comprises several creeks which are tributary from the south to the Klabeela (Klehini) River, 12 miles above its junction with the Chilkat. These creeks carry placer gold and extensive exploitation and development has been going on in the past 4 years. The district is 22 miles distant from tidewater, at the head of Pyramid Harbor, a branch of Lynn Canal.

BERNERS BAY DISTRICT.

Under this heading is grouped a number of important gold and silver quartz mines, which are located in the peninsula which stretches to the south between Berners Bay and Lynn Canal. These mines represent heavy investments of capital and have been large producers for about 10 years.

JUNEAU DISTRICT.

Under this name is included a large group of important mines lying within 4 or 5 miles of tidewater at Gastineau Channel. The most important of these mines are in Gold Creek, which enters Gastineau Channel at Juneau from the northeast and on Sheep Creek which enters Gastineau Channel from the northeast, about 5 miles southeast of Juneau.

The Gold Creek mines, which include both placers and gold and silver quartz lodes, have been heavy producers for 20 years. They are all located within 4 miles of tidewater.

The Sheep Creek mines include gold and silver quartz lodes, which have been extensively developed and important producers for many years. The mines are all located within 4 miles of tidewater.

SNETTISHAM DISTRICT.

This district includes several mines which are located close to tidewater, in the peninsula which lies to the south of entrance to Port Snettisham. One group of mines is on the east side of the peninsula, about 1 mile southeast of Sentinel Point, and the other on the north side of the peninsula, about 2 miles southwest of Sentinel Point. These mines now being actively developed are chiefly gold and silver bearing quartz lodes. Some mining developments have also been made near the north end of Port Snettisham, about latitude 58° 6'.

SUMDUM DISTRICT.

This district includes a group of mines located on Endicott Arm. The mines developed are gold and silver bearing quartz lodes. The most important mine of this group is located on Sumdum Island. Other mining locations are close to tidewater, on the north side of Endicott Arm, northeast of Sumdum Island. A third mining locality in this district is also near tidewater on Sanford Cove, a minor indentation of the southern shore of Endicott Arm. This cove is about 2 miles southwest of Sumdum Island.

WINDHAM BAY DISTRICT.

This includes a group of mines which lies close to tidewater on Windham Bay, which is tributary to Stephens Passage. The most important developments in this district are the so-called Schuck gold placers, which are located at the mouth of the Schuck River, at the head of Windham Bay.

UNUK RIVER DISTRICT.

This comprises a newly developed district, located in the Unuk River Valley, 25 or 30 miles from tidewater. The Unuk River empties into Burroughs Bay, a branch of Behm Canal. The district, which comprises both gold placers and gold and silver bearing quartz lodes, is being rapidly exploited.

KETCHIKAN DISTRICT.

This is the southernmost of the mining districts of southeastern Alaska. It includes valuable gold, silver, and copper deposits. These are located on Prince of Wales, Gravina and Revilla-Gigedo islands, as well as on the mainland. Of those on the mainland the most important ones are on Helm Bay, near the southernmost point of the Cleveland Peninsula. In this region there are a number of producing mines with extensive equipments.

Gold placers have also been found in the Ketchikan District, near the head of Boca de Quadra, which is tributary from the northeast to Revillagigedo Channel.

Very respectfully,

ALFRED H. BROOKS,
Geologist in charge of geologic work in Alaska.

Letters given to Indians by officers of the United States.

U. S. COAST SURVEY STATION "KOH-KLUX,"
Kat-kugh-too Village, Chilkat River, August 7, 1869.

Tu-eek, a daughter of Shakes, the well-known Stakeen Chief, and wife of Koh-Klux, the principal Chief of the Chilkats, bears a good reputation for courage and firmness, combined with kindness. During the absence of her husband upon any undertaking she exercises all his power over the Chilkats, so that it is well to obtain her good will and confidence.

GEORGE DAVIDSON, *Comdg. Expedition.*

I hereby certify that the above is a true and correct copy of the original.

[SEAL.]

SOL. RIPINSKY,
Notary Public in and for the District of Alaska.

HAINES, ALASKA, *May 28, 1903.*

The bearer of this is Ka-Klutch, the principle Chief of the Chilkat tribe. He is probably the most powerful chief for good or evil among the Kolotians.

When he first made his appearance at my Head Quarters (in 1868) his manners and action were very haughty and insolent. His ill feelings toward the Americans showed itself very conspicuously on many occasions. He was the principal provoker of the difficulty at Sitka on New Year's day, 1869. His confinement in the Guard House on this occasion seems to have wrought almost an entire change in his conduct. I visited his village in the summer of 1869, with the Hon. Wm. H. Seward, and was exceedingly courteously received by him and his tribe.

He is imperious and trustfull by nature, but a firm and just course followed in dealing with him will, I think, manage him best.

JEFF. C. DAVIS,
Bvt. Maj. Gen., Com. of Dept.

STEAMER NEWHEON,
Chilkat Harbor, July 4th, 1870.

I hereby certify that the above is a true and correct copy of the original.

[SEAL.]

SOL. RIPINSKY,
Notary Public in and for the District of Alaska.

HAINES, ALASKA, *May 28th, 1903.*

U. S. FLAGSHIP "SARANAC,"
Chilkat River, Alaska, July 31st, 1873.

Koh-Klutch, High-Chief of Chilkats, visited this ship to-day and was entertained. His manner was mild and agreeable, and his unflinching bearing and fortitude during an examination made by "Our Medicine-

man," which must have necessarily caused him a great deal of pain, was a subject of general remark.

He is at present an invalid, and has our sincere hopes for a speedy recovery.

L. E. CHENERY, *Lieut.*

W. E. TAYLOR, *Surgeon (medicine man).*

W. B. HOFF, *Lt. Comdr.*

I hereby certify that the above is a true and correct copy of the original.

[NOTARIAL SEAL.]

SOL. RIPINSKY,

In and for the District of Alaska.

U. S. S. JAMESTOWN.

To Shattich, Head Chief of the Chilcats:

I am sorry to know that some of your tribe have been fighting, and I hope you will come with the leading men to Sitka to see me and settle the trouble without killing any more men.

There are other things I want to talk to you about so that I can help you settle all disputes among your Indians and keep peace.

The officer who gives you this will tell you what Indians I want you to bring with you and how I want to do all I can for all your tribe.

HENRY GLASS, *Commander, Comdy.*

I hereby certify that the above is a true and correct copy of the original.

[SEAL.]

SOL. RIPINSKY,

Notary Public in and for the District of Alaska.

HAINES, ALASKA, *May 28, 1903.*

U. S. S. "WACHUSETT."

Chilcat, Alaska, August 24, 1881.

The bearer, Satrich, is hereby recognized as the Chief of the Cinnamon Bear tribe of the Chilcat Indians.

He is said to be a good man, who has treated white men well.

I hope all white men will treat him well also.

EDWARD P. LULL,

Comdr. Comdy.

I hereby certify that the above is a true and correct copy of the original.

[SEAL.]

SOL. RIPINSKY,

Notary Public in and for the District of Alaska.

HAINES, ALASKA, *May 28, 1903.*

U. S. S. ADAMS.

Chilkat (Pyramid), May 29th, 1883.

The bearer, Shartrich, is recognized by me as Head Chief of the Chilkat village. He says that he will aid the whites in stopping mur-

ders for witchcraft and see that no slavery or liquor stays in his country. He should be treated with respect and consideration and all aid given him, and it would be well for all whites to uphold him in his dignity as a Chief. He is a manly indian. He has promised that all white people may go and come through the Chilkat country safely and without paying royalty to any Indian.

E. C. MERRIMAN,

Comdr. U. S. N., Comdg. in Alaska.

I recommend that whites needing Indians in his Country employ the Chilkats as far as possible. It will lead to good effects.

I hereby certify that the above is a true and correct copy of the original.

[SEAL.]

SOL. RIPINSKY,

Notary Public in and for the District of Alaska.

HAINES, ALASKA, *May 28th, 1903.*

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