NORTH AMERICA. No. 4 (1873).

(B.)

NORTH-WEST AMERICAN WATER BOUNDARY.

MEMORIAL ON THE CANAL DE HARO

AS THE

BOUNDARY LINE

OF THE

UNITED STATES OF AMERICA.

PRESENTED IN THE NAME OF THE AMERICAN GOVERNMENT

TO

HIS MAJESTY

WILLIAM I,

GERMAN EMPEROR AND KING OF PRUSSIA,

AS ARBITRATOR,

BY THE AMERICAN PLENIPOTENTIARY,

GEORGE BANCROFT.

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

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

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MEMORIAL.

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

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

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

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

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

The Point for Arbitration.

The point submitted for arbitration is limited with exactness. By Article I of the Treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, it was stipulated that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the point on the 49th parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca's Straits, to the Pacific Ocean." The British Government claim that the water-line here referred to should run through a passage which they have thought proper to name the Straits of Rosario, and which the United States, for the purpose of this reference, permit to go by that name. The United States claim that the water-line runs through the Canal de Haro. The Arbitrator is to say finally, and without appeal, which of those claims is *most in accordance* with the true interpretation of the Treaty of June 15, 1846. That is the point submitted, and that alone; nothing more and nothing less.

Appendix No. 1, p. 15.

Appendix No. 2, p. 15.

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

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

How this Discussion will be conducted.

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

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

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

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

A parallel of latitude, extending from the Atlantic to the Pacific, was a usual boundary established by England for its Colonies in North America. The Charter granted in 1620 by James I to the Company of Plymouth for New England, bounded its territory by the parallels of 48° and of 40° north latitude "in length and breadth throughout the mainland from sea to sea." The Charter granted by Charles I to Massachusetts in 1628 had in like manner for its northern and southern boundaries parallels of latitude running from sea to sea. So, too, had the old Patent of Connecticut: so, too, had the Charter to Connecticut, granted by Charles II in 1662. The Charter granted in 1663 by Charles II to the Lords Proprietors of Carolina adopted as their northern boundary the parallel of 36°, and as their southern boundary the parallel of "31° of northern latitude, and so west in a direct line as far as the South seas." The precedent was followed by George II in the charter granted in 1732 for Georgia; and in 1761 George III officially described that colony as extending by parallels of latitude "westward in direct lines" to the Pacific.

Appendix No. 3, p. 16.
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Appendix No. 3, p. 16.

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

Appendix No. 4, p. 17.

In the first Convention between the United States of America and Great Britain, signed at Paris on the 30th of November, 1782, the Northern Boundary Line of the United States was carried by the two Powers through the great Upper lakes to the most north-western point of the Lake of the Woods. If from that point the line was to be continued, the Treaty, adopting the precedent of the past century of colonization and foreshadowing the rule of the future, prescribed "a due west course."

The same Rule applied to the Boundary of Louisiana.

Appendix No. 5, p. 17.

By the Treaty of April 30, 1803, between the United States of America and the French Republic, the United States came into possession "for ever and in full sovereignty" of the colony and territory of Louisiana.

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

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

Appendix No. 6, p. 17.

Appendix No. 7, p. 17.

Appendix No. 6, p. 17.

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

Appendix No 50, p. 36.

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

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

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

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

Appendix No. 12, p. 19.

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

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

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

Mr. Huskisson objects to the Division of Vancouver Island.

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

Appendix No. 8, p. 18.

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

Appendix No. 9, p. 18.

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

Appendix No. 9, p. 18.

Appendix No. 10, p. 18.

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

Appendix No. 11, p. 19.

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

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

Convention with Great Britain, August 6, 1827.

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

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

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

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

Appendix No. 16, p. 20.

Appendix No. 19, p. 21.

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

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

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

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

"EDWARD EVERETT."

Appendix No. 20, p. 23.

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

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

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

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

The Pamphlet of Mr. Sturgis.

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

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

Mr. Buchanan negotiates with Mr. Pakenham.

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

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

Appendix No. 28, p. 26.

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

Appendix No. 29, p. 26.

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

Appendix No. 30, p. 27.

Appendix No. 31, p. 27.

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

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

Appendix No. 34, p. 28.

Final Proposal of the Earl of Aberdeen.

Lord Aberdeen confessed that it now fell to him to propose a peaceful solution of the long controversy. Mr. Everett had left him no doubt as to the utmost departure from the parallel of 49, which the United States, under the late Administration, could have conceded. The only doubt was now: if the United States would still be willing to yield so much. The rude rejection of Mr. Buchanan's proposal had roused and united their people. Mr. Calhoun, the late Secretary of State, and the ablest Senator from one section of the country, declared himself in the Senate for the 49th degree as the boundary line. Mr. Webster, the former Secretary of State, who had settled with Lord Ashburton the north-eastern boundary, repeatedly "said as plainly as he could speak, or put down words in writing, that England must not expect any thing south of 49°." All those Members of Congress who were of a different mind, Mr. John Quincy Adams, a late President of the United States, Mr. Cass, afterwards Secretary of State, Mr. Sevier, then the Chairman of the Committee on Foreign Affairs, contended, not for less than the line of 49°, but, under the heirship from Spain, for very much more. The voice of England became loud for the line of the 49th parallel. Mr. Bates, an American naturalized in Great Britain by Act of Parliament, and much trusted by both Governments, wrote from London: "The 49°, to the strait, giving Vancouver's Island to Great Britain, is as much as any American, be he Bostonian or Carolinian, will I think consent to give up. If Great Britain is not satisfied with that, let them have war if they want it."

Appendix No. 35, p. 29.

Appendix No. 35, p. 29.

Appendix No. 36, p. 30.

Appendix No. 33, p. 28.

The British Government sought anxiously to know what proposition the American Government would consent to receive, and the American Government proved its firmness by its moderation. To protect the rights of the country Congress voted to give to Great Britain the twelve months' notice required by Treaty for terminating the Convention of 1827, and thus open the region of the north-west to the progress of American colonization. Meanwhile, on the 26th of February, 1846, Mr. Buchanan answered that the President would consent to consult the Senate on the proposition to

Appendix No. 32, p. 28.

Appendix No. 37, p. 31.

divide the territory between the two countries "by the 49th parallel and the Straits of Fuca," so that "the Cape of Vancouver's Island would be surrendered to Great Britain." This was exactly the proposition of Mr. Everett.

On the 15th of May, 1846, information of the notice for terminating the Convention of 1827 was received by the British Ministry in London. For four years Lord Aberdeen had been striving to close this question of boundary. He had privately and publicly censured his subordinate, Mr. Pakenham, at Washington, for rejecting the parallel of 49. He had taken pains to learn what deviation from that parallel the United States might accept. The Secretary of State for the United States, after minute inquiry concerning the probable vote of the Senate, had promised not at once to reject the offer of the line proposed by Mr. Everett, and not to listen to any demand for a larger concession. This had been formally communicated to the British Government by Mr. MacLane, the American Minister at London. And now, within two days after receiving news of the termination of the Convention of 1827, Lord Aberdeen held a lengthened conference with Mr. MacLane, in which the nature of the proposition he contemplated submitting for an amicable settlement of the Oregon Question "formed the subject of a full and free conversation." Mr. MacLane was a calm and experienced statesman, trained in business, exact in his use of words, careful especially in reporting what was said by others. Lord Aberdeen in the House of Lords publicly expressed his esteem for him, founded on an acquaintance which dated from fifteen or sixteen years before.

Appendix No. 42, p. 32.

Appendix No. 42, p. 32.

Appendix No. 42, p. 32.

Appendix No. 45, p. 34.

With this knowledge of Mr. MacLane's character and of the confidence reposed in him by Lord Aberdeen, I request the Imperial Arbitrator to take in hand the map of the Oregon territory by Wilkes, which had been published in England as well as in America in 1845, and which was the latest, most authentic, and best map of the territory, as well as the only one recognized by the American Senate; and, with this map, in hand to read the following extract from Mr. MacLane's official Report of the interview made on the 18th of May, 1846:—

Map F.

Appendix No. 41, p. 32.

"I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow to submit a new and further proposition on the part of this Government for a partition of the territory in dispute.

"The proposition, most probably, will offer substantially:—

"First. To divide the territory by the extension of the line on the parallel of 49 to the sea: that is to say, to the arm of the sea called Birch's Bay, thence *by the Canal de Arro and Straits of Fuca to the Ocean.*"

Appendix No. 42, p. 32.

* * * * * *

Here follow other clauses conceding to the Hudson's Bay Company a temporary use of the Oregon River for navigation, with other advantages, and protection to British subjects who would suddenly come under the jurisdiction of the United States. To these clauses the phrase "most probably" applies, for they were not precisely ascertained; but not to the boundary. On that point the further statement of Mr. MacLane in the same dispatch leaves no room for a doubt. His words are: "During the preceding Administration of our Government, the extension of the line on the 49th parallel to the Straits of Fuca, *as now proposed by Lord Aberdeen, was actually suggested by my immediate predecessor* (*Mr. Everett*), as one he thought his Government might accept."

Appendix No. 42, p. 32.

Appendix No. 42, p. 32.

Now what the proposal of Mr. Everett had been we know from the citations which I have made from his despatches; and I have already referred to the fact that he had drawn the line of demarcation upon the map, and specially directed the attention of Lord Aberdeen to it.

On the same day Lord Aberdeen sent the Treaty which Mr. Pakenham was to invite Mr. Buchanan to sign. In the accompanying Instruction to Mr. Pakenham he accepted the parallel of 49° as the radical principle of the boundary, and described the line as a line of demarcation "leaving the *whole of Vancouver Island with its ports and harbours in the possession of Great Britain.*"

Appendix No. 43, p. 33.

Appendix No. 45, p. 34.

Appendix No. 43 p. 33.

A suspicion of ambiguity could not lurk in the mind of any one. Mr. Benton found the language so clear that he adopted it as his own. In his speech in the Senate on the day of the ratification of the Treaty, he said:—

"The Ist Article of the Treaty is *in the very words* which I myself would have used, if the two Governments had left it to me to draw the boundary line between them. * * * The line established by the Ist Article follows the parallel of 49° to the sea, with a slight deflection, through the Straits of Fuca, *to avoid cutting off the south end of Vancouver's Island.* * * When the line reaches the channel which separates Vancouver's Island from the continent, it proceeds to the middle of

Appendix No. 44, p. 34.

the channel, and thence, turning south *through the Channel de Haro* (wrongly written Arro on the maps), to the Straits of Fuca, and then west, through the middle of that Strait, to the sea. This gives us * * * the *cluster of islands*, between *de Haro's Channel and the continent.*"

The language of the Treaty seemed perfectly clear to the Senate, to the President, to his Secretary of State, and to every one of his constitutional advisers, as departing from the line of the parallel of 49° only so far as to yield the southern extremity of Vancouver's Island, and no more. And so it was signed on the 15th of June, 1846, and returned to England for the exchange of ratifications.

Appendix No. 46, p. 34.

In the House of Commons Lord Palmerston welcomed it as honourable to both countries; Sir Robert Peel quoted from a despatch which proved that he was aware of the three days' debate in the American Senate on the Treaty before its approval. He cited every word of the Article on the boundary, and interpreted it thus :—

"Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca; that that parallel should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island, but that the middle of the channel shall be the future boundary, thus *leaving us in possession of the whole of Vancouver's Island*, with equal right to the navigation of the Straits."

Mr. Buchanan and Sir Robert Peel believed they had closed every cause of Dissension.

Appendix No. 46, p. 34.

It had been the special object of Mr. Buchanan to leave nothing in the Treaty which could give occasion to future controversy. And on the night before Sir Robert Peel retired from office, never again to resume it, he spoke of the Treaty as having averted the dreadful calamity of a war between two nations of kindred origin and common language, and having at length "closed every cause of dissension between the two countries." All Great Britain, all the United States, were gladdened by the belief that at last every controversy between the two nations had come to a happy end.

The Ministry of Lord John Russell renews Dissension.

And yet it was not so. My country has had no serious difficulties on its limits with any Power but Great Britain. When its boundary on the south with Spain was adjusted by Treaty, not a difference arose, though the line extended from sea to sea. When afterwards the southern boundary was regulated with Mexico under a Treaty most imperfect in its descriptions, Commissioners unrestrained by instructions promptly settled the line. It is with Great Britain alone that obstinate dissensions on boundaries, extending from the Gulf of St. Lawrence to the Pacific, have exercised disturbing influences for sixty-four years. At last we thought ourselves assured of quiet on that side also by the Treaty of 1846; and though its terms were not altogether satisfactory, the country, in expectation of rest, accepted cheerfully and unanimously the action of its Government. Yet, after a pause of hardly two years, the strife was reopened by the Ministry which succeeded that of Sir Robert Peel. Under instructions from Lord Palmerston, the British Minister at Washington, on the 13th of January, 1848, in a proposed draft of instructions to Commissioners for settling the boundary, indirectly insinuated a claim that the line of boundary should be drawn on the channel through which Vancouver, in 1792, had sailed from Admiralty Inlet to Birch's Bay.

This insinuation took the American Government by surprise. The history of the negotiation shows that no such line was suggested by either side to the other. Vancouver was an explorer, who examined every inlet and bay and passage, not a merchant seeking the shortest, most natural, and best passage. Nothing justifies a reference to his course of sailing from one interior bay to another, as the line of the Treaty. The suggestion is in open conflict with the law of nations. The draft of the Treaty was made entirely, even to the minutest word, by the British Ministry, and was signed by both parties without change. The British Government cannot, therefore, take advantage of an ambiguity of their own, otherwise the draft of the Treaty would have been a snare. Such is the principle of natural right, such the established law of nations. Hugo Grotius lays down the rule that the interpretation must be made against the party which drafted the conditions: "Ut contra eum fiat interpretatio, qui conditiones elocutus est." But no one has expressed this more clearly than Vattel, who writes :—

Appendix No. 45, p. 34, Appendix No. 46, p. 34. Appendix No. 46, p. 34.

H. Grotius, "De jure belli et pacis," iii, 20, § 26.

Vattel, liv. ii, § 264.

"Voici une règle qui coupe court à toute chicane: *Si celui qui pouvoit et devoit s'expliquer nettement et pleinement ne l'a pas fait, tant pis pour lui: il ne peut être reçu à*

apporter subséquemment des restrictions qu'il n'a pas exprimés. C'est la maxime du droit Romain : *Pactionem obscuram iis nocere, in quorum fuit potestate legem apertius conscribere.* L'équité de cette règle saute aux yeux ; sa nécessité n'est pas moins évidente. Nulle convention assurée, nulle concession ferme et solide, si on peut les rendre vaines par des limitations subséquentes, qui devoient être énoncées dans l'acte, si elles étoient dans la volonté des contractans."

"Here is a rule which cuts short all chicanery: If he who could and should express himself plainly and fully has not done so, so much the worse for him; he cannot be permitted subsequently to introduce restrictions which he has not expressed. It is the maxim of Roman law: An obscure contract harms those in whose power it was to lay down the law more clearly. The equity of this rule is self-evident; its necessity is not less obvious. There can be no assured Convention, no firm and solid concession, if they can be rendered vain by subsequent limitations, which ought to have been enounced in the Act, if they existed in the intention of the Contracting Parties."

Plea for the Integrity of Sir Robert Peel's Ministry.

And can it be true, that Sir Robert Peel and Lord Aberdeen were insincere in their professions of an earnest desire to settle the boundary question in North-West America? Did they put into the core of the Treaty which they themselves framed, words interpreted in one way by all Americans and by themselves in public, and secretly interpreted by themselves in another? When Sir Robert Peel, on the last night of his official life, in the face of political enemies and friends, cast up the account of his Ministry for the judgment of posterity and declared in the most public and solemn manner that he had closed every cause of dissension between Great Britain and the United States," had he indeed planted the seed of embittered discord in the instrument that he and his associate Minister claimed as their own work, and extolled as a Convention of peace?

Appendix No. 46, p. 34.

My respect for Sir Robert Peel and his administration forbids the thought that they put any ambiguity into the Treaty which they themselves draughted. There attaches to human language such imperfection that an acute caviller may dispute about the meaning of any proposition. But the words of the present Treaty are so singularly clear that they may claim protection under the first general maxim of international law on the subject of interpretation: "qu'il n'est pas permis d'interpréter ce qui n'a pas besoin d'interprétation."

Vattel, liv. ii, 17, § 263.

The Words of the Treaty.

The words of the Treaty are as follows:—

"From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty, shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits to the Pacific Ocean: *Provided, however,* that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties."

Appendix No. 1, p. 15.

The Words of the Treaty, taken together.

The language of the Treaty, taken as a whole, admits no interpretation but the American. The radical principle of the boundary is the forty-ninth parallel of north latitude, and the only reason for departing from that parallel was to yield the whole of Vancouver Island and no more, to the power which would already possess the greater part of that island. To express this line concisely, in both countries it was described as the line of the "forty-ninth parallel and Fuca's Straits." This short form of expression occurs many times in the despatches of Mr. MacLane; in the instructions of Mr. Buchanan; in the letters of Mr. Bates from London; in an article in the London "Quarterly Review," written in February 1846, and published in March; and finally in the speech of Sir Robert Peel on the 29th of June, 1846, which I have already quoted. The description of the line as that "of the forty-ninth parallel and Fuca's Straits" was not only the usage of the day; it was also well chosen for all time. The 49th parallel can be found as long as the sun shall continue in the heavens;

Fuca's Straits end at the south-east cape of Vancouver Island, and will end there till nature shall heave with a convulsion. If the name of Haro does not specially appear in the Treaty, let it be borne in mind that neither does the name of the Gulf of Georgia.

The Channel.

The words of the description considered collectively, establish the American interpretation of the Treaty, and exclude every other; the same result follows from the consideration of each separate word. When the Treaty speaks of "*the channel*," for that part south and west of Birch's Bay, it must mean the Channel of Haro, for no other "channel" was known to the negotiators. The Channel of Haro was on the map of Vancouver, the highest English authority, and on the map of Wilkes, the highest American authority, at the time when the Treaty was signed, and no other channel is named on either of these maps, or on any map used by the negotiators. On the chart of those waters by Duflot de Mofras, published in 1844 under the auspices of Louis Philippe and the French Ministry, the Channel of Haro is named, and no other. In the collection of maps in the Royal Library at Berlin, not a single German or other map, anterior to June, 1846, names any other channel than that of Haro. How is it possible then, that any other channel could have been intended, when no other was named on any map which it can be pretended was known to Lord Aberdeen or Mr. MacLane, to Mr. Buchanan, or Mr. Pakenham?

Map C.
Map F.
Map E.

Again, the word "*channel*," when employed in Treaties, means a deep and navigable channel, and where there are two navigable channels, by the rule of international law preference is to be given to the largest column of water. Now, compared with any other channel through which a ship could pass from the sea at the 49th parallel to the Straits of Fuca, the Channel of Haro is the broadest and the deepest, the shortest, and the best. Its maximum width is six and a half English miles, and there is no other channel of which the maximum width exceeds four miles. The narrowest part of the Channel of Haro is about two and a quarter English miles, and there is no other channel of which the minimum width exceeds about one and a quarter English miles. With regard to the depth the contrast is still more striking. A cross section on the parallel of 48° 45′ shows the Canal de Haro to be about 120 fathoms deep, about twice as deep as any other; on the parallel of 48° 35′ the Canal de Haro is nearly 150 fathoms deep, against 30 fathoms for any competitor; on the parallel of 48° 25′ the Canal de Haro has nearly 110 fathoms, while no other passage has more than 40.

Map H.

Not only is the volume of water in the Canal de Haro vastly greater than that in any other passage; a single glance at any map shows that it is the shortest and most direct way between the parallel of 49° and Fuca Straits. Duflot de Mofras describes it as notoriously the best.

Appendix No. 48, p. 36.

If the Channel of Haro excelled all others only on one point, if it were the widest, not the deepest, or the reverse, or if, being the widest and deepest, it were not the shortest and best, there might be some degree of colour for cavil; but, since the Channel of Haro is the broadest and the deepest, and the shortest and the best, how can any one venture to pretend that any other is "the channel" of the Treaty?

"The Channel which separates the Continent from Vancouver's Island."

The next words of the Treaty are: "the channel which separates the Continent from Vancouver's Island," and this from latitude about 48° 46′ can be no other than the Canal de Haro. It is the only one which from that latitude to "Fuca's Straits" separates the Continent from Vancouver Island. There are other passages which divide islands from islands, but none other separates the Continent from Vancouver Island. In the statement the Continent is properly named first, because it is far away in the interior of the Continent that the line begins, and it is the Continent that the line leaves in going towards Vancouver. But when a great continent like North America is spoken of as distinguished from a large island lying near it, the intervening cluster of smaller islands would, according to all geographical usage, be taken as included with the Continent, and thus the Channel of Haro divides the Continent from Vancouver. But we will not waste words. Nobody can dispute that the Canal de Haro washes the eastern shore of Vancouver Island, and separates that island from the Continent.

"And thence Southerly."

The next words in the Treaty are: "and thence southerly." The southerly deflection from the 49th parallel is made to avoid cutting Vancouver Island, and must be limited to that object. The movement of the boundary line is steadily west to the Pacific. The Treaty knows only two points of compass: "*westward*," and this "*southerly*" deviation from the due west course. The southern deflection, therefore, must always be accompanied with the idea of a western direction, and of two channels going in a "southerly" direction, that which least interrupts the general "westward" direction of the line, must be chosen as the channel of the Treaty.

"Through the middle of the said Channel and of Fuca's Straits to the Pacific Ocean."

The next words of the Treaty are: "through the middle of the said channel and of Fuca's Straits to the Pacific Ocean." The Treaty contemplates a continuous channel to the Pacific; the channel of Haro and Fuca's Straits form such a continuous channel, and a glance at the map will show that no other channel can pretend to do so.

So then the description of the Treaty as a whole applies to no channel but that of Haro; and every single phrase taken separately, points also to that channel, and to that channel alone.

"The Straits of Rosario."

And yet the British Government ask the Imperial Arbitrator to find the channel of the Treaty in a passage for which in January 1848 they had no name and no other description than "the wide channel to the east of numerous islands, which is laid down by Vancouver," and which now in 1871 they call by the name of "the Rosario Straits."

My first request is that the Imperial Arbitrator will ascertain where, on the 15th of June, 1846, the day when the Treaty was signed, the negotiators supposed Rosario Straits to lie. On that day the name "Straits of Rosario" was *on every map used by the negotiators*, placed upon the waters which divide the Island of Texada from the Continent, far north of the parallel of 49°. There it lies fast anchored on the map of Vancouver, published in 1798; it holds the same place in the atlas of the French translation of Vancouver. There too it is found on the French map of Duflot de Mofras, published in 1844; and also on the map of Wilkes, published in 1845; and there too on the British map of Vancouver Island, published by the geographer to the Queen, so late as 1848. Then since all British and all American maps, which in 1846 had on them the name "Straits of Rosario," located those straits far to the north of 49°, how can the British Government invite your Majesty to say that the Straits of Rosario form the line of boundary established by British and American negotiators in that year, between the United States and the British territory?

Map C.

Map E.

Map F.

How and why the British unmoored the name from the waters to which they themselves had consigned it, and where it remained for just half a century, I leave to them to explain and to justify. I remark only that they cannot produce a map, English, French, Spanish, or German, older than 1848, on which the passage which they now call the Straits of Rosario bears that name. On Spanish maps the name is applied only to the very broad channel lying north of the Canal de Haro and of the 49th parallel of latitude.

Map B.
Map D.

Further, the so-called Straits of Rosario are not straits at all. It is the track of Vancouver, on his way from Admiralty Inlet to the north, as his map shows, but it received from him no name whatever. On British maps it never bore a name till after the British Government introduced a new interpretation of the Treaty of June 1846.

Again, and this remark is of conclusive importance, by itself alone sufficient to decide the question; the line of the Treaty must run from the middle of the channel which separates the continent from Vancouver's Island." Now the so-called Straits of Rosario neither touch the continent nor Vancouver Island. They divide small islands from small islands, and nothing else; they have no pretension to divide Vancouver from the continent, or the continent from Vancouver.

Moreover the water-line of the Treaty must be a channel which makes a continuous line with Fuca's Straits, for the words of the Treaty are "through the middle of the said channel and of Fuca's Straits." Now the so-called Straits of Rosario lead only to a sound, which Spanish voyagers called the Bay of Santa Rosa, they do not connect with Fuca's Straits, which cease at the south-eastern promontory of Vancouver Island. Reversing the track of Vancouver, and following the so-called

Map A.

Straits of Rosario southerly, the mariner would enter Admiralty Inlet, he never would reach the Straits of Fuca.

Then, too, compared with the Canal de Haro, the so-called Strait of Rosario is, as we have seen, a narrower passage, a shallower passage, and a roundabout passage.

Conclusion.

But enough; the rights of America cannot be darkened except by an excess of words. The intention of the parties to the Treaty is made plain by its history, and the boundary which we claim is clearly set forth in its words, taken collectively and taken separately. I will close by citing general principles of interpretation established by international law.

A party offering the draught of a Treaty is bound by the interpretation which it knew at the time that the other party gave to it. Lord Aberdeen cannot have doubted how the Treaty was understood by Mr. MacLane, by Mr. Buchanan, and by the Senate of the United States. "Where the terms of promise," writes Paley, whose work was long a text book at Oxford, "admit of more senses than one, the promise is to be performed in the sense 'in which the promiser apprehended at the time that the promisee received it.'

Appendix No. 49, p. 36.

"This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve; but we put the rule in the above form to exclude evasion, wherever the promiser attempts to make his escape through some ambiguity in the expressions which he used."

Again, "Where a right admits of different degrees, it is only the smallest degree which may be taken for granted."—"Ist ein Recht verschiedener Abstufungen fähig, so darf zunächst nur die geringste Stufe als zugestanden angenommen werden." This rule of Heffter fits the present case so aptly, that it seems made for it. There being degrees in the departure from the parallel of 49°, it must be taken that only the smallest degree was conceded.

Heffter's Völkerrecht, § 95, p. 176. Ed. 1867.

Finally and above all: there is a principle which not only controls the interpretation of Treaties, but the results of investigation in every branch of human knowledge. A theory which implies confusion and contradiction is at once to be rejected; of two rival theories, that which most nearly reconciles all phenomena is to be preferred; the theory that reconciles all appearances and all circumstances is to be received as true.

The British interpretation of the Treaty implies that the British who exclusively draughted it, sowed the seeds of future dissensions in the very instrument by which they proposed to settle every boundary question for ever; that among the negotiators of the Treaty there were those who duped, and those who were dupes. Lord Aberdeen ceases to be the "straightforward" man of Mr. MacLane's report. On the American side the statesmen appear void of spirit and of common sense, and easily circumvented.

The historical process by which the Treaty was arrived at becomes incomprehensible. The names on maps must be changed; the conformation of islands and continents and the highways of the great deep are made to expand and contract so as to suit the cavils of a Government which does not profess exactly to understand the true meaning of the Treaty, for every word of which it is itself responsible. Take the other theory: interpret the Treaty as the Americans accepted it, and there are no statesmen on the British side who attempted to dupe, and no dupes on the American side. The history of the negotiation becomes clear, and is consistent with its result. Mr. MacLane retains the reputation for prudence and clear perception and careful statement which has always been attributed to him. All words that fell from the pen or lips of every one concerned in framing, accepting, or approving the Treaty, agree together and bear the stamp of good intention and uprightness. Everything that was uttered by Mr. Everett, Mr. MacLane, and Mr. Buchanan, by Lord Aberdeen, Mr. Benton, or Sir Robert Peel, is perfectly reconciled, without even the semblance of contradiction. The straits and channels may rest where nature has set them, and old names may be restored to their rightful places. The completion of the Treaty does honour to the labours of honest and able statesmen, bent on establishing friendship and peace between "kindred nations." Persons and history and reports of conversations and the words of the Treaty, all chime together in the most perfect harmony; inviting an award which will command ready acquiescence, and leave nothing to rankle in the wound which it heals.

APPENDIX.

APPENDIX.

No. 1.

Extract from the Treaty of Washington of June 15, 1846.

ARTICLE I. From the point on the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the Continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean: Provided, however, that the navigation of the whole of the said channel and straits south of the 49th parallel of north latitude remain free and open to both parties.

Boundary established in 1846.

No. 2.

Extract from the Treaty of Washington of May 6, 1871.

THE NORTHERN BOUNDARY.

ARTICLE 34. Whereas it was stipulated by Article 1 of the Treaty concluded at Washington on the 15th of June, 1846, between the United States of America and Her Britannic Majesty, that the line of boundary between the territory of the United States and those of Her Britannic Majesty, from the point on the 49th parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude to the middle of the channel which separates the Continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca Straits to the Pacific Ocean; and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of Her Britannic Majesty and of the Government of the United States shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned Article of the said Treaty, shall decide thereupon finally and without appeal which of these claims is most in accordance with the true interpretation of the Treaty of June 15, 1846.

Matter and form of arbitration.

ART. 35. The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive, and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated. It shall be in whatsoever form His Majesty may choose to adopt. It shall be delivered to the representatives or other public agents of the United States and Great Britain respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ART. 36. The written or printed case of each of the two parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany, within six months from the date of the exchange of the ratification of this Treaty, and a copy of such case and evidence shall be communicated by each party to the other through their respected Representatives at Berlin. The High Contracting Parties may include in the evidence to be considered by the arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference, as they may consider necessary to the support of their respective cases. After the written or printed case shall have been communicated by each party to the other, each party shall have the power of drawing up and laying before the arbitrator a second and definitive statement, if it think fit to do so, in reply to the case of the other party so communicated, which definitive statement shall be so laid before the arbitrator, and also be mutually communicated in the same manner as aforesaid, by each party to the other, within six months from the date of laying the first statement of the case before the arbitrator.

ART. 37. If in the case submitted to the arbitrator either party shall specify or allude to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof, and either party may call upon the other through the arbitrator to produce the originals or certified copies of any papers

adduced as evidence, giving in each instance such reasonable notice as the arbitrator may require; and if the arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to hear one counsel or agent for each party in relation to any matter, and at such time and in such manner as he may think fit.

ART. 38. The representatives or public agents of the United States and Great Britain at Berlin, respectively, shall be considered as the agents of their respective Governments to conduct their cases before the arbitrator, who shall be requested to address all his communications and give all his notices to such representatives, or other public agents, who shall represent their respective Governments generally in all matters connected with the arbitration.

ART. 39. It shall be competent to the arbitrator to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both agents, and either orally or by written discussion, or otherwise. The arbitrator may, if he think fit, appoint a secretary or clerk for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This, and all other expenses of, and connected with, said arbitration, shall be provided for as hereinafter stipulated.

ART. 41. The arbitrator shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to in relation to this matter, which shall forthwith be paid by the two Governments in equal moieties.

ART. 42. The arbitrator shall be requested to deliver his award in writing, as early as convenient after the whole case on each side shall be laid before him, and to deliver one copy thereof to each of the said agents.

No. 3.

Extract from the Patent granted by James I of England, November 3, in the eighteenth year of his reign, to the Council of Plymouth.

English Colonial charters bounded English Colonies by parallels of latitude.

* * * * "Wee therefore, of our especiall Grace, mere Motion, and certaine Knowledge, by the Aduice of the Lords and others of our Priuy Councell, have for Us, our Heyrs and Successors, graunted, ordained, and established, and in and by these Presents, Do for Us, our Heirs and Successors, grant, ordaine, and establish, that all that Circuit, Continent, Precincts, and Limitts in America, lying and being in Breadth from Fourty Degrees of Northerly Latitude from the Equinoctial Line to Fourty-eight Degrees of the said Northerly Latitude, and in Length by all the Breadth aforesaid throughout the Maine Land, from Sea to Sea." * * * *

Extract from the Charter of Massachusetts Bay, granted by Charles I of England, March 4, 1628.

* * * * "We do give and grant all the Landes and Hereditaments within the Space of Three English Miles to the southward of Massachusetts Bay: and all those Landes and Hereditaments within the Space of Three English Miles to the Northward of the River called Merrimack, all Landes and Hereditaments whatsoever, lying within the Lymitts aforesaide, North and South in Latitude and Bredth, and in Length and Longitude, of and within all the Bredth aforesaide, throughout the mayne Landes there, from the Atlantick and Westerne Sea and Ocean on the East Parte to the South Sea on the West Parte:" * * * *

Extract from the old Patent for Connecticut.

* * * * "Robert, Earl of Warwick" * * "doth give" * "the Space of forty Leagues upon a straight Line *near* the Sea Shore, toward the *South-West, West and-by-South* or *West* as the Coast lieth towards Virginia, accounting three English Miles to the League, and also all and singular the Lands and Hereditaments whatsoever, lying and being within the *Lands* aforesaid, North and South in Latitude and Breadth, and in Length and Longitude, *of*, and *within*, all the Breadth aforesaid, throughout the main Lands there, from the Western Ocean to the South Sea," * * * *

Extract from the Charter granted by Charles II of England to the Lords Proprietors of Carolina, March 24, 1663.

* * * * "all that territory or tract of ground" * * * "extending from the North end of the Island called Lucke Island, which lieth in the Southern Virginia Seas, and within six-and-thirty degrees of the Northern Latitude, and to the West as far as the South Seas, and so Southerly as far as the River St. Matthias, which bordereth upon the coast of Florida, and within one-and-thirty degrees of Northern Latitude, and so West in a direct line as far as the South Sea aforesaid;" * * * *

Extract from the Commission of Governor Wright, of Georgia, of the 20th of January, 1764.

"George III, by the grace of God of Great Britain, France and Ireland, King, Defender of the Faith, and so forth; to our trusty and well-beloved James Wright, Esquire, greeting:

* * "We did, by our Letters Patent, under our Great Seal of Great Britain, bearing date at Westminster the 4th day of May, in the first year of Our Reign, constitute and appoint you, James Wright, Esquire, to be our Captain-General and Governor-in-Chief in and over our Colony of Georgia in America, lying from the most northern stream of a river there most commonly called Savannah, all along the seacoast to the southward, unto the most southern stream of a certain other great water or river called Altamaha, and westward from the heads of the said rivers, respectively, in direct lines to the South Seas." * * * *

No. 4.

Articles between the United States of America and His Britannic Majesty, November 30, 1782.

ARTICLE II.—"From the north-west angle of Nova Scotia" * * * "through Lake Superior" * * * "to the Long Lake, thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course." * * * *

First Treaty between the United States and Great Britain adopts for boundary a due west course.

No. 5.

Extract from the Treaty between the United States of America and the French Republic, April 30, 1803.

ARTICLE I.—Whereas, by the Article the third of the Treaty concluded at St. Ildefonso, the 9th Vendémiaire, an 9 (1st October, 1800) between the First Consul of the French and His Catholic Majesty, it was agreed as follows:—"His Catholic Majesty promises and engages on His part to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to His Royal Highness the Duke of Parma, the Colony or Province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the Treaties subsequently entered into between Spain and other States."

And whereas, in pursuance of the Treaty, and particularly of the third Article, the French Republic has an incontestable title to the domain and to the possession of the said territory: The First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, forever and in full sovereignty, the said territory with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic, in virtue of the above-mentioned Treaty, concluded with His Catholic Majesty.

The United States acquire Louisiana.

No. 6.

Additional and Explanatory Articles, signed the day of , 1807, *to be added to the Treaty of Amity, Commerce, and Navigation between His Britannic Majesty and the United States of America, signed at London, the* 31*st day of December*, 1806.

[Inclosed in Messrs. Monroe and Pinckney's letter of the 25th April, 1807, from London.]

ARTICLE V.—It is agreed that a line drawn due west from the Lake of the Woods along the 49th parallel of north latitude, shall be the line of demarcation (division line) between His Majesty's territories and those of the United States to the westward of the said lake, as far as the territories of the United States extend in that quarter: and that the said line shall, to that extent, form the southern boundary of His Majesty's said territories and the northern boundary of the said territories of the United States: Provided that nothing in the present Article shall be construed to extend to the north-west coast of America, or to the territories belonging to or claimed by either Party on the continent of America, to the westward of the Stony Mountains.

The United States and Great Britain agree on the 49th parallel as a division line.

No. 7.

Mr. Madison to Mr. Monroe and Mr. Pinckney.

(Extract.)

Gentlemen, *Department of State, July* 30, 1807.

* * * * * *

1st. THE modification of the Vth Article (noted as one which the British Commissioners would have agreed to) may be admitted in case that proposed by you to them be not attainable. But it is much to be wished and pressed, though not made an ultimatum, that the proviso to both should be omitted. This is in no view whatever necessary, and can have little other effect than as an offensive intimation to Spain that our claims extend to the Pacific Ocean. However reasonable such claims may

The United States respect the claims of Spain on the Pacific.

be compared with those of others, it is impolitic, especially at the present moment, to strengthen Spanish jealousies of the United States, which it is probably an object with Great Britain to excite by the clause in question.

No. 8.

Mr. Canning to Mr. King.

Foreign Office, April 20, 1826.

The British Government invite negotiations on the N.W. boundary.

THE Undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honour to request Mr. Rufus King, Envoy Extraordinary and Minister Plenipotentiary of the United States, to have the goodness to inform the Undersigned whether Mr. King is provided with instructions for the resumption of the negotiations of last year, with respect to a settlement of boundaries upon the north-west coast of America.

The Undersigned is particularly induced to make this inquiry by having received from Mr. Vaughan a copy of the communication, lately addressed by the President of the United States to the House of Representatives, of that part of Mr. Rush's correspondence of last year which relates to this important subject.

The Undersigned has to add that the British Plenipotentiaries, Mr. Huskisson and Mr. Addington, are perfectly prepared to enter into conferences with Mr. King thereupon; and either to renew the proposal brought forward by Mr. Huskisson and Mr. Stratford Canning in their conference of the 13th of July, 1824, and unanswered, or to bring forward another; or to discuss any new proposal on the same subject which may be suggested on the part of the Plenipotentiary of the United States.

The Undersigned, &c. (Signed) GEORGE CANNING.

Rufus King, Esq.,
&c. &c. &c.

No. 9.

Mr. Clay to Mr. Gallatin.

(Extract.) *June* 19, 1826.

The parallel of 49° the ultimatum of the United States.

AS by the Convention of 1818 the 49th parallel of north latitude has been agreed to be the line of boundary between the territories of the United States and Great Britain, east of the Stony Mountains, there would seem to arise, from that stipulation, a strong consideration for the extension of the line along the same parallel, west of them, to the Pacific Ocean. In bringing themselves to consent to this boundary the Government of the United States feel that they are animated by a spirit of concession and compromise which, they persuade themselves, that of Great Britain cannot but recognise, and ought not to hesitate in reciprocating. You are then authorized to propose the annulment of the third Article of the Convention of 1818, and the extension of the line on the parallel of 49 from the eastern side of the Stony Mountains, where it now terminates, to the Pacific Ocean, as the permanent boundary between the territories of the two Powers in that quarter. This is our ultimatum, and you may so announce it. We can consent to no other line more favourable to Great Britain.

Mr. Clay to Mr. Gallatin.

(Extract.) *Lexington, August* 9, 1826.

* * * * * *

"He [the President] is very desirous of an amicable settlement of all the points of difference between Great Britain and the United States on just principles. Such a settlement alone would be satisfactory to the people of the United States or would command the concurrence of their Senate. In stating in your instructions the terms on which the President was willing that the several questions pending between the two Governments might be arranged, he yielded as much to a spirit of concession as he thought he could consistently with the interests of this country. He is especially not now prepared to authorize any stipulations involving a cession of territory belonging to any State in the Union, or the abandonment, express or implied, of the right to navigate the St. Lawrence, or the surrender of any territory south of latitude 49 on the north-west coast." * * * *

"2. The President cannot consent that the boundary between the territories of the two Powers on the north-west coast should be south of 49. The British Government has not been committed by a positive rejection of a line on the parallel of 49; but if it had been, its pride may take refuge in the offer which, for the first time, you are to propose, of a right in common with us to the navigation of the Columbia River. There is no objection to an extension of the time to be allowed to British settlers to remove from south of 49 to a period of fifteen years, if you should find that it would facilitate an arrangement."

No. 10.

Mr. Gallatin to Mr. Clay.

Sir, *London, November* 25, 1826.

* * * * * *

Mr. Huskisson objects to dividing Vancouver Island.

THE latter part of our conversation was of a more conciliatory nature. Mr. Huskisson said that it would be lamentable that, in this age, two such nations as the United States and Great Britain

should be drawn to a rupture on such a subject as the uncultivated wilds of the North-West Coast. But the honour and dignity of both countries must be respected, and the mutual convenience of both parties should also be consulted. He then objected to the straight line which we proposed as having no regard to such convenience, and observed particularly that its cutting off the southern portion of Quadra and Vancouver's Island (that on which Nootka Sound is situated) was quite inadmissible. I told him that, taking only convenience into consideration, their proposal was far more objectionable.* * *

(Signed) ALBERT GALLATIN.

Hon. Henry Clay,
Secretary of State.

No. 11.

Mr. Gallatin to Mr. Clay.

Sir, *London, December* 2, 1826.

* * * * * *

MR. HUSKISSON then asked me whether I was authorized to deviate from the 49th parallel of latitude as a boundary. I did not think that he had any right to ask the question; but, as it was only from courtesy, and to avoid, at the opening of the negotiation, expressions at all savouring of harshness, that I had used the word "whilst insisting on the 49th degree," instead of the word "ultimatum;" and as in in fact the United States had nothing to conceal, I answered the question. To the 49th parallel of latitude the United States would adhere as a basis. If, on account of the geographical features of the country, a deviation founded on mutual convenience was found expedient, a proposal to that effect might be entertained, provided it was consistent with that basis, that is to say, that any deviation in one place to the south of the 49th parallel should be compensated by an equivalent in another place to the north of that parallel. I must observe that what I had in view was the exchange of the southern extremity of Nootka's Island (Quadra and Vancouver's), which the 49th parallel cuts in an incouvenient manner, for the whole or part of the upper branches of the Columbia river north of that parallel.

Mr. Gallatin proposes to exchange Vancouver south of 49° for an equivalent on the mainland.

(Signed) ALBERT GALLATIN.

Hon. Henry Clay,
Secretary of State.

No. 12.

Extract from Vancouver's "Voyage," vol. i, page 312.

"AS we were rowing on Friday morning (June 22nd, 1792) for Point Grey * * * we discovered two vessels at anchor under the land. * * * These vessels proved to be a detachment from the Commission of Señor Melaspina, who was himself employed in the Philippine islands; that Señor Melaspina had, the preceding year, visited the coast, and that the vessels, His Catholic Majesty's brig the "Sutil," under the command of Señor Don D. Galiano, with the schooner "Mexicana," commanded by Señor Don C. Valdes, both Captains of frigates in the Spanish navy, had sailed from Acapulco on the 8th of March, in order to prosecute discoveries on this coast. Señor Galiano, who spoke a little English, informed me that they had arrived at Nootka on the 11th of April, from whence they had sailed on the 5th of this month, in order to complete the examination of this inlet, which had in the preceding year been partly surveyed by some Spanish officers, whose chart they produced.

Spanish explorers preceded Vancouver.

I cannot avoid acknowledging that, on this occasion, I experienced no small degree of mortification in finding the external shores of the gulph had been visited, and already examined a few miles beyond where my researches during the excursion had extended. * * * *

No. 13.

Mr. Everett to Mr. Webster.

Sir, *London, October* 19, 1842.

* * * * * *

LORD ABERDEEN, in the conference which ensued after the exchange of the ratifications, observed that his only subject of regret in connection with the Treaty was, that the boundary between the two countries on the Pacific Ocean had not been provided for, and expressed a strong wish that I might receive instructions on that subject. * * * *

Lord Aberdeen wishes to settle the Oregon boundary.

(Signed) EDWARD EVERETT.

Daniel Webster, Esq.,
Secretary of State.

No. 14.

Mr. Everett to Mr. Webster.

Sir, *London, November* 18, 1842.

* * * * * *

Lord Aberdeen wishes to negotiate on the boundary without delay.

ON arriving at the Foreign Office I was told that Lord Aberdeen wished to see me, and was conducted to his room. He informed me that he wished to read me a copy of a despatch which he had addressed to Mr. Fox, directing him to make known to the President the strong desire of Her Majesty's Government to engage, without delay, in a negotiation for the settlement of the boundary between the two countries on the Pacific Ocean, and his wish that instructions should be sent to me for that purpose. * * * In the conversation which ensued, he dwelt with great earnestness on the danger to the good understanding between the two countries, so happily established by the Treaty of Washington, to be apprehended from leaving this question in its present unsettled state.

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(Signed) EDWARD EVERETT.

Daniel Webster, Esq.,
Secretary of State.

No. 15.

Mr. Everett to Mr. Upshur.

(Confidential.)
Dear Sir, *London, August* 17, 1843.

* * * * * *

Mr. Everett thinks the negotiation can be best carried on at Washington.

WHEN Lord Aberdeen spoke of instructing Mr. Fox on the Oregon question, he added an expression of his regret that the negotiation should fall into *his* hands. He has, on many occasions, expressed a wish that I should be charged with the negotiation. Could I hope to bring it to a successful issue, it would, of course, be very agreeable; but it seems to me out of the question to carry on such a negotiation anywhere but at Washington. * * * *

(Signed) EDWARD EVERETT.

Hon. A. P. Upshur.

No. 16.

Mr. Upshur to Mr. Everett.

Sir, *Department of State, Washington, October* 9, 1843.

Full powers are sent to Mr. Everett to negotiate on the Oregon boundary.

THE President directs that you take an early occasion to bring again to the attention of Her Majesty's Government the subject of the claims of the two countries respectively to the territory west of the Rocky Mountains. The difficulties which the conflicting claims of Russia to a portion of this territory have heretofore interposed, are now happily removed by the Treaty of April, 1824, which defines the limits within which that Power engages to restrict its settlements; so that the questions now to be settled rest exclusively between Great Britain and the United States. * * *

The offer of the 49th parallel of latitude, although it has once been rejected, may be again tendered, together with the right of navigating the Columbia upon equitable terms. Beyond this, the President is not now prepared to go. * * * *

You will receive herewith the necessary powers to negotiate upon the subject. If, however, the British Government prefers that the negotiation shall be conducted in Washington, that arrangement will be perfectly agreeable to the President. * * * *

(Signed) A. P. UPSHUR.

Edward Everett, Esq.

No. 17.

Mr. Everett to Mr. Upshur.

(Confidential.)
Sir, *London, November* 2, 1843.

The negotiation transferred to Washington.

BY the steamer of the 16th October I had the honour to receive your despatch No. 62, inclosing a full power from the President to treat with this Government for the adjustment of the Oregon boundary, and containing your instructions on that subject. I lost no time in applying for an interview with Lord Aberdeen, and saw him the first day of his return to town. On apprising him of the disposition of the President to open a negotiation on this subject at London, Lord Aberdeen informed me that such an arrangement would have been altogether agreeable to him if somewhat earlier made, and reminded me that he had very often, in the course of the last winter, expressed the wish that the President would authorize me to treat on the subject. He had, however, lately come to a conclusion and taken a step that made it necessary to treat upon the subject at Washington; this was the recall of Mr. Fox, and the appointment of a successor. Among the grounds for adopting this measure was the belief that there would be decided advantage in putting the management of this subject into new

hands, and consequently that had been and would be assigned as a leading reason for the contemplated change. This course, he said, had not been resolved upon till they had entirely given up the expectation that I should be authorized to treat on this subject. * * * *

(Signed) EDWARD EVERETT.

A. P. Upshur, Esq.,
Secretary of State.

No. 18.

Mr. Everett to Mr. Upshur.

(Private and Confidential.)

Sir, *London, November* 14, 1843.

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Mr. Everett argues for the parallel of 49°.

I HAD a long and upon the whole quite a satisfactory conversation with Lord Aberdeen at his dwelling-house on the 6th instant. He was on a visit to Windsor Castle, from which he wrote me a note, requesting me to call upon him at Argyll House (his town residence), and I believe he came to London principally for the purpose of holding this interview. He returned to the Castle to dinner. He told me that he had communicated to Mr. Fox, by the steamer of the 4th, that his successor was appointed. * * * He then led the way to a free and desultory but general and comprehensive conversation on the Oregon question, observing in the outset that it was chiefly in the hope of putting this question in a favourable train of adjustment that Mr. Fox had been recalled and Mr. Pakenham appointed. * * * Lord Aberdeen assented also to my remark, that the numerous stations which the Hudson's Bay Company had established south of the 49th degree of north latitude since the year 1818, though they might and unquestionably would embarrass the British Government in reference to that Company, and through them in reference to public opinion, ought not to prejudice the claims of the United States. This I think a very important point, to be firmly kept in view. * * * In offering the 49th degree of latitude as the boundary we make a very fair, equitable, and liberal offer, an offer founded on the obvious and natural principles of distribution; while they, in refusing this offer and insisting on the Columbia River, proceed upon no such principle, but simply insist upon a boundary very favourable to themselves. Our offer, I said, proceeded on the old principle of the English Charters of running northern and southern boundaries from sea to sea. If it be objected by Lord A. (as it was) that lines of latitude were arbitrary, and might be very unnatural and inconvenient boundaries, I told him that this circumstance was as likely to be in their favour as ours; that lines of latitude had the advantage that they could always be ascertained by men of science; and that, in point of fact, the 49th degree had proved a very convenient line for 1,000 miles. In fact, the part of the boundary running on the parallel is the only part in reference to which no controversy has arisen, or is to be feared. Another natural and obvious principle I observed connected with this, but not identical, was the extension of contiguous territory. * * * *

Lord Aberdeen thinks there will be not much difficulty in settling the boundary.

This train of remark produced an obvious effect upon Lord Aberdeen, and after making some inquiry as to the course which things would probably take in Congress, during the approaching session, in reference to this subject, and expressing a strong hope that no step would be taken by either House to embarrass the two Governments in the negotiation, he said, if this can be avoided, "I do not think we shall have much difficulty;" and this remark he repeated. As not a syllable fell from me authorizing the expectation that the United States would be induced to run the line below the 49th degree, I considered that remark, twice made, coupled with the tenour of my own observation on the reasonableness of that boundary, as authorizing the inference that Mr. Pakenham would be instructed to assent to it. The main difficulty in the way of this will be that the 49th degree has twice been offered by the United States, or rather thrice, and declined by England. Lord Aberdeen on former occasions has admitted as much. To meet this difficulty, it may deserve the President's consideration whether he would not agree to give up the southern extremity of Quadra and Vancouver's Island (which the 49th degree would leave within our boundary), on condition that the entrance of the Straits of Juan de Fuca should at all times be left open and free to the United States, with a free navigation between that island and the main land, and a free outlet to the north. * * * *

Mr. Everett suggests a deflection from 49° would leave to Great Britain the whole of Vancouver Island.

If there is any reliance in appearance and professions, Mr. Pakenham will go to America with the best feelings for an honourable adjustment of the matter in discussion.

(Signed) EDWARD EVERETT.

A. P. Upshur, Esq.
Secretary of State.

No. 19.

Mr. Everett to Mr. Upshur.

(Confidential.)

Sir, *London, December* 2, 1843.

Mr. Everett and Lord Aberdeen discuss the boundary.

I HAD a long and important conversation with Lord Aberdeen on the 29th ultimo, which I now beg leave to report to you confidentially for the information of the President.

I have observed to you in a former communication that, though the negotiation relative to the Oregon boundary had, in consequence of the recall of Mr. Fox and the appointment of Mr. Pakenham, been transferred to Washington, I should use my best efforts to produce such an impression on Lord Aberdeen's mind, as to the prominent points of the question, as might have a favourable influence in the preparation of the instructions to be given to Mr. Pakenham. With this end in view I had in a former interview, as I have already informed you, gone over the ground generally in support of our

claim, particularly urging, and as I thought with some effect, the reasonableness of the terms on which the United States have uniformly offered to adjust the boundary. In my interview with Lord Aberdeen on the 29th I pursued the same line of argument. * * * *

I first made some remarks on the claim of the United States, as the representatives of Spain, to an extension on the north-western coast of America, originally indefinite, and limited only by the compacts with Russia, to which Spain and the United States are parties. * * * *

Passing from this topic, I urged, with all the force in my power, the extreme reasonableness of the proposal of the United States to run the line on the 49th parallel to the sea, on the grounds of extension of contiguous territory; of giving to each Power the tract due west of its acknowledged territory; and on the ground that in a final appropriation of a region at present unappropriated (assuming, for the sake of argument, that Oregon territory is in that condition) that the United States certainly were entitled, besides their own share, to two other shares, in the right of France and Spain, whose title they had combined with their own. * * * *

After considerable discussion of these points, Lord Aberdeen finally said that these were grounds which, in the main result, had been long ago taken by the United States, and rejected by England; that the question was quite different from what it would have been if now presented for the first time; and that it was impossible for the present Ministry to accept what had been rejected in 1824 and 1826; that they did not suppose that we, any more than themselves, could now agree to terms which we had declined then, and that consequently there must be concession on both sides; that they were willing to act on this principle, and that we must do the same.

I regarded this observation, now made to me for the first time, although the Oregon boundary since my residence in England has been the subject of very frequent conversation between Lord Aberdeen and myself, as very important. I told Lord Aberdeen that I thought it would be very difficult for the United States to make any modification of their former proposal, except in one point, which I did certainly regard as very important to England, if she entertained any views to the future settlement of the country. I thought the President might be induced so far to depart from the 49th parallel as to leave the whole of Quadra and Vancouver's Island to England, whereas that line of latitude would give us the southern extremity of that island, and consequently the command of the Straits of Fuca on both sides. If the country is to be occupied by a dense population, as there is no reason to doubt would one day be the case, this would be a valuable concession to England, without implying a great sacrifice on our part. I observed I was not authorized to say this would be agreed to; I could only say I thought and wished it might be. I then pointed out on a map the extent of this concession, and Lord Aberdeen said he would take it into consideration.

Mr. Everett points out on a map the deflection from 49° that would leave Vancouver to Great Britain.

He then asked me if I was confident of the accuracy of the statement which I had made relative to the offer in 1826 on the part of Great Britain to give us a port within the Straits of Fuca, with an adjacent territory. * * * *

I accordingly considered his inquiry to proceed from some anxiety lest I should be mistaken, and a wish to have the fact established that they had then offered us a territory north of Columbia, in order now to facilitate the way for an abandonment of the Columbia as the boundary.

I may be in an error in this view of the subject; but it is the result of the closest consideration I have been able to give it, that the present Government, though of course determined not to make any discreditable sacrifice of what they consider their rights, are really willing to agree to reasonable terms of settlement. * * * *

I spoke with considerable earnestness in reprobation of the conduct of the Hudson's Bay Company in multiplying and pushing their posts far to the south of the Columbia, and said I trusted that the Government would not allow itself to be embarrassed by this circumstance. Fair warning had been given to the Company, in 1818, that no settlements after that date should prejudice the rights of either party. He said he did not consider the existence of those settlements as a very serious matter, but the navigation of the Columbia was a serious one. * * * *

(Signed) EDWARD EVERETT.

A. P. Upshur, Esq.,
Secretary of State.

Mr. Everett to Lord Aberdeen.

(Inclosure B to the above.)

(Private.)

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

Mr. Everett presents his proposition to Lord Aberdeen in writing.

THE proposition relative to a port within the Straits of Fuca and an adjacent tract of country was made by Mr. Huskisson and Mr. Addington to Mr. Gallatin, on the 1st December, 1826, and will be found recorded in the Protocol of the third Conference, which was held on that day.

It appears from Mr. Gallatin's correspondence that at a former conference Mr. Huskisson had especially objected to the extension of the 49th degree to the Pacific, on the ground that it would cut off the southern extremity of Quadra and Vancouver's Island.

My suggestion yesterday would obviate this objection. I ought, however, to repeat, in thus alluding to that suggestion in writing, that though it would have been within my competence to propose it (subject to the approbation of my Government), had the negotiation remained in my hands, it would have been so only under the general authority to propose and receive terms of compromise. The suggestion itself is not specifically alluded to in my instructions.

A glance at the map shows its importance as a modification of the 49th degree, and I should be

truly rejoiced if, in regarding it in that light, your Lordship would permit it to become the basis of a final settlement of this serious difficulty.

(Signed) EDWARD EVERETT.

The Earl of Aberdeen,
&c. &c. &c.

No. 20.

Mr. Everett to Mr. Nelson.

Sir, *London, April* 1, 1844.

* * * * * *

THE principle of running the 49° of latitude to the sea and leaving to each party west of the Rocky Mountains the continuation of its territory east was, in all other respects, the most natural and equitable basis of settlement.

Mr. Everett and Lord Aberdeen continue the discussion.

I had on previous occasions pursued substantially this line of argument with Lord Aberdeen, and I received from him now the same answer to it as formerly, viz., that Great Britain could not now accept terms which she had distinctly refused before; that he felt that we were under the same necessity; that he did not expect the United States to agree to what they had already rejected; and that consequently it must, he thought, be assumed as the basis of negotiation that something must be yielded on each side. To this I replied that, though as a general principle of negotiation under such circumstances this might be admitted, it was impossible to leave out of view the substantial character of the former propositions on either side; and that in proportion as he, Lord Aberdeen, should, on reconsidering the subject, be inclined to think that the offer formerly made by the United States to continue the 49th parallel to the sea was an equitable offer, and one founded on natural and reasonable principles of adjustment, he ought to be satisfied with but a moderate departure from that proposal; particularly if such a modification, without involving a great sacrifice to us, were eminently advantageous to them. In fact, such a modification was the only one which the United States could, in my opinion, be brought to agree to. The modification which I had formerly suggested, viz., that the United States would waive their claim to the southern extremity of Quadra and Vancouver's Island, which would be cut off by the 49th degree of latitude, was precisely of this kind.

It could be of no great importance to us to hold the southern extremity of an island of which the main portion belonged to England; while the entire possession of the island, and consequently the free entrance of the Straits of Fuca would be a very important object to Great Britain. I repeated what I had often observed before, that I had no authority to say that this modification would be agreed to by the United States, but that I thought it might.

Lord Aberdeen did not commit himself on the point, whether or not this proposal, if made by the Government of the United States, would be accepted. He however stated (as I understood him) that he had caused a map to be coloured as I suggested; that he was desirous to go as far as possible for the sake of settling the controversy; that Mr. Pakenham's original instructions were drawn up in this spirit; and that since he left home, he (Lord Aberdeen) had enlarged his discretionary powers. I confess from these facts, viz., that Lord Aberdeen does not expect us to agree to the Columbia as the boundary, not even with the addition of Port Discovery and an adjacent tract of country within the Straits of Fuca (which we refused in 1826); that he has never negatived the idea of the 49th degree with the suggested modification; that he has uniformly said that he did not think there would be great difficulty in settling the question; and this, although I have as uniformly assured him that, in my opinion, the United States would not stop short of the 49th degree, except in the point above stated, I draw the inference that this proposal would in the last resort be accepted. I am satisfied that the Ministry sincerely wish to settle the controversy, and are willing to go as far as their views of consistency and the national honour will permit to effect that object.

Mr. Everett thinks that Great Britain will accept the line of 49° with the proposed deflection.

They do not, therefore, I imagine, much regret the agitation of the subject in the United States, and are willing we should advance a claim to the 54° 40′; such a course on our part will make it easier for them to agree to stop at 49°. * * * *

(Signed) EDWARD EVERETT.

John Nelson, Esq.,
Secretary of State *ad interim.*

No. 21.

Extract of a Lecture delivered by Mr. William Sturgis before the Mercantile Library Association of Boston, January 22, 1845.

* * * I DEEM it very desirable that the question of boundary should be speedily adjusted, and that the limits and the rights of each party be so clearly established and defined as to prevent all danger of collision hereafter.

Views of Mr. Sturgis.

In this opinion I doubt not that the distinguished statesmen, Messrs. Pakenham and Calhoun, who now have charge of the negotiation, will cordially concur; and it seems to me that each party will attain their object, and justice be done to both, by adopting as the boundary a continuation of the parallel of 49° across the Rocky Mountains, to tide-water, say to the middle of the "Gulf of Georgia;" thence by the northernmost navigable passage (not north of 49°) to the Straits of Juan de Fuca, and down the middle of those Straits to the Pacific Ocean; the navigation of the Gulf of Georgia and the Straits of Juan de Fuca to be forever free to both parties—all the islands and other territory lying

south and east of this line to belong to the United States, and all north and west to Great Britain. By this arrangement we should yield to Great Britain the portion of Quadra and Vancouver's Island that lies south of latitude 49°, which in a territorial point of view, is of too little importance to deserve a moment's consideration; and both parties would secure, for a considerable extent, a well-defined natural boundary, about which there could hereafter be no doubt or dispute. Will Great Britain accede to this? I think she will. Up to the close of the last negotiation, in 1827, the free navigation of the Columbia was declared to be indispensable to Great Britain by the British Commissioners; but subsequent developments will probably render the British less pertinacious upon this point. The "summary" presented by the Commissioners in 1827, shows that the Columbia was then supposed to be the most convenient—in fact, the only—navigable channel of communication between the Ocean and most of the numerous establishments of the Hudson's Bay Company, west of the Rocky Mountains. Within a few years past, however, several rivers of considerable magnitude have been explored from the interior to the seas into which they empty, north of latitude 49°. These are "Frazer's River," which disembogues about that parallel; the river called by Harmon the "Nachaottatain," in about the latitude 53°; "Simpson's River," a little north of latitude 55°; and "Stickene River," in 55° 50'. All these would be within the British territory, or are so situated that the British, by their Convention with Russia, would have the right of navigating them; and they would afford convenient communication with most of their establishments north of 49th°: and if this adjustment should be made they would retain none south of that line. I should be reluctant to cede to Great Britain the free navigation of the Columbia, for there are serious objections to giving to any nation the unlimited right of using a stream where it flows wholly through the territories of another. For obvious reasons, the exercise of such a right must endanger the harmony and peace of the parties: and, especially at such a remote point, would be a fruitful cause of jealousy, and very likely to occasion collision. But Great Britain will not relinquish the right to the free navigation and use of the Straits of Juan de Fuca, if she retains the territory north of 49°. The use of these Straits would, in fact, be indispensable to her, for through them is the only convenient access to a considerable portion of this territory. * * * *

No. 22.

Mr. Everett to Mr. Calhoun.

Sir, *London, February* 28, 1845.

* * * * * *

Mr. Everett thinks that the line of 49° deflected so as to give the whole of Vancouver to Great Britain, is all that either party will concede.

I HAVE anticipated in some degree another point, to which Lord Aberdeen has given great prominence in all our conversations, viz., the entire impossibility that England should accept terms which she has already refused. I do not think I can be mistaken in saying that, unless it comes in the form of an award, she will never agree to the naked proposition of the forty-ninth degree. I have, however, a pretty confident belief that she would accept that line with the modification alluded to in my despatches above-mentioned; viz., the southern extremity of Quadra and Vancouver's Island, though cut off by the 49th parallel, to be theirs. Lord Aberdeen has never told me they would agree to this; but I am still of the opinion expressed in my former despatches, and for the reasons therein stated, that they would do so, and I am confident that this is the best boundary which we can get by negotiation. The concession of the southern end of the island, while of little importance to us, would be a great boon to them, as giving them a passage through the Straits of Fuca; and on the ground of this advantage I am of opinion that they would consider themselves justified in acceding in other respects to the 49th°; but if the expectation prevails that they can be led by negotiation to agree to a boundary which we should regard as more favourable than this, I am confident that expectation will prove delusive. At the same time I have spared no pains to impress upon Lord Aberdeen's mind the persuasion, that the utmost which the United States can concede is the 49th parallel with the modification suggested, taking care always to add, that I had no authority for saying that even that modification would be agreed to. * * * *

(Signed) EDWARD EVERETT.

John C. Calhoun, Esq.,
Secretary of State.

No. 23.

Mr. Everett to Mr. Calhoun.

Sir, *London, March* 7, 1845.

* * * * * *

I TOOK an opportunity a few days since to explain to the Comte de St. Aulaire, the French Ambassador, at his request, the merits of the claim of the United States, and the present state of the controversy. I have since done the same thing in conversation with the Chevalier Bunsen, the Prussian Minister, who, at my recommendation, has made himself acquainted with Mr. Greenhow's work.

Lord Ashburton thinks there will be not much difficulty in coming to an adjustment.

A day or two since I had a good deal of conversation with Lord Ashburton on the general question. Knowing that he is habitually consulted by the Government on American subjects, I thought it of some importance to endeavour to impress his mind with the reasonableness of the American pretensions. Having done this I stated to him my confident opinion that the Government of the United States would never accept a boundary materially less favourable than the 49° of latitude. He said he did not think there would be much difficulty in coming to an adjustment, unless steps were taken on our side which wore the appearance of defiance and menace. Any such step would put it out of the power of

England, as a similar step on her part would put it out of the power of the United States, to compromise on any terms. I attach the greater importance to these remarks, because Lord Ashburton has lately conferred with Lord Aberdeen on the subject. * * * *

(Signed) EDWARD EVERETT.

John C. Calhoun, Esq.,
Secretary of State.

No. 24.

Mr. Everett to Mr. Calhoun.

(Confidential.)
Sir, *London, April* 2, 1845.

* * * * * *

A PERSON very high in the confidence of the Government, but not belonging to it, informed me a day or two since that he considered the view of the Oregon question lately delivered on the subject in Boston by Mr. William Sturgis, as fair and candid.

Mr. Sturgis' pamphlet regarded by a friend of the British Ministry as fair and candid.

(Signed) EDWARD EVERETT.

John C. Calhoun, Esq.,
Secretary of State.

No. 25.

Lord Ashburton to Mr. Sturgis.

Sir, *London, April* 2, 1846.

YOUR lecture on the Oregon question reached me last week, and as the subject itself interests me, and still more so everything connected with the maintenance of peace and friendly intercourse between our countries, I lost no time in reading it. I beg you will accept my very best thanks for your obliging attention. Your treatise enables me every day to answer satisfactorily the question put to me so often, where is the Oregon and what is this dispute about? You have stated the case distinctly in a few pages, and what is indeed uncommon, you have stated it with great impartiality. Your leaning is perhaps to the side of the American argument, but if those who have to settle the subject by negotiation, treat it with the same fairness and candour you have done, there can be no danger of its leading to consequences which all honest men would deprecate. I have personally a high opinion of the future destinies of that portion of the coast of the Pacific. The Northern Pacific Ocean, and in the course of time probably the Eastern shores of Asia will find their masters in the country North of California. But I have a very low opinion of any interest either your country or mine are likely to have in any division of the territory: from the moment it becomes of any real importance, it will not be, and should not be governed from either Washington or from Westminster. You do not, or should not want land, and we certainly do not want colonies, and least of all such as would be unmanageable from their distance, and only serve to embroil us with our neighbours. I am not without a wish that this new Pacific Republic should be founded by our own race, which, with all their defects, are likely to spread the best description of Christian civilization; but to say the truth I care little whether this be done from Old England directly, or intermediately through New England. What I do care about is that we should not quarrel about this or any other measure, and I really believe that we should all be better by leaving this question to sleep again for another half century.

Lord Ashburton regards Mr. Sturgis' pamphlet as distinct and impartial.

Repeating my thanks for your obliging attention, &c.

I have, &c.
(Signed) ASHBURTON.

The Hon. Wm. Sturgis.

No. 26.

Mr. Bates to Mr. Sturgis.

(Strictly Confidential.)
My dear Sir, *London, May* 1, 1845.

I WROTE you some weeks since to thank you for the pamphlets you were so kind as to send me on the Oregon question. Since the date of my letter the few copies of your address sent over have circulated pretty rapidly, and have been read by all the Ministers, I have no doubt. I now inclose you an article cut from the "Examiner" of last week. It was written by my friend Senior, the political economist, as you will see with your paper before him. He showed it to me before it was printed, as he frequently does his articles for reviews (I suppose for the purpose of getting a common-sense opinion), and I advised him to send it to Lord Aberdeen, with a note to say, if he found anything amiss in it that it should not be published. Lord Aberdeen answered that it was all right, except an unimportant omission in regard to the negotiations of 1818-19. A few days since Lord Aberdeen, amongst others, dined with Mr. Van der Weyer. After dinner Lord Aberdeen came to me, and, talking on various matters, got to America and the Oregon question. I carefully avoided leading the conversation, but he seemed desirous to talk Oregon. The sum of what he said was this: he complimented your paper as a clear and sensible view of the matter; that the declaration [of] the President required to be met by a declaration of some sort from this Government; that what had been said he hoped would be

Lord Aberdeen pronounces Mr. Sturgis' pamphlet clear and sensible.

taken in the sense it was given, as meaning simply that the British Government do not admit that the United States have a right to *the whole* of Oregon. I told him that the declaration of the President appeared to have excited very little attention in the United States. He seemed anxious to impress on my mind that this country was disposed for peace and an amicable settlement of the question.

* * * * * *

(Signed) JOSHUA BATES.

The Hon. Wm. Sturgis.

Extract from an Article by Mr. , Senior, in the London "Examiner," No. 1943, *Saturday, April* 26, 1845.

The only rea. claim of the British rests on contiguity.

"IF arbitration be unobtainable, the only mode of accommodation is mutual concession; and the terms which we suggest for that mutual concession are those which, if we were arbitrators, we should award, namely, that the boundary should be the 49th parallel until it meets the Pacific, and then the sea. Our only real claim rests on contiguity, and this would give us more than mere contiguity entitles us to. *This would give us the whole of Vancouver's Island,* and it would give us an abundance of good harbours. It would also give us the country which is best for the purposes for which we use it, the fur trade. * * * Whatever be Lord Aberdeen's policy, the Opposition will, we trust, not add to its difficulties. * * * * We trust that the English negotiators will not deny every principle of law, however sacred, which they find opposed to them, and every fact, however notorious, that makes against them."

No. 27.

Narrative of the United States' Exploring Expedition, during the Years 1838, 1839, 1840, 1841, *and* 1842, *by Charles Wilkes, U.S.N., Commander of the Expedition. In five Volumes, and an Atlas. Philadelphia,* 1845.

Volume IV, Chapter XIV, 1841, page 484.

Wilkes surveys Canal de Haro in July 1841.

"A LARGE boat expedition was also fitted out, of which I took charge in person, to proceed across the Straits of the Fuca, to complete the survey of the Canal de Arro, with the adjacent bays and harbours, and thence to the mouth of Fraser's River. * * * *

"On the morning of the 25th (July, 1841), the brig parted company; and in the afternoon I set out, with seven boats, to cross the strait. * * * *

"On the 26th, we began the survey of this labyrinth of islands, which was continued the next day, 27th. * * * *

* * * On the 28th, the duties of our surveys were again resumed, and a finish made of those of the Canal de Arro. This was effected through the strenuous exertions of both officers and men. and the same night we reached the Vincennes. * * * We had completed that was essential for the navigation of the Canal de Arro." * * *

No. 28.

Mr. Buchanan to Mr. Pakenham.

(Extract.) *Department of State, Washington, July* 12, 1845.

Mr. Buchanan offers the line of 49° with free ports on Vancouver.

* * * HE (the President), has, therefore, instructed the Undersigned again to propose to the Government of Great Britain, that the Oregon territory shall be divided between the two countries by the 49th parallel of north latitude, from the Rocky Mountains to the Pacific Ocean; offering at the same time to make free to Great Britain, any port or ports on Vancouver's Island, south of this parallel, which the British Government may desire. * * * *

(Signed) JAMES BUCHANAN.

The Right Hon. R. Pakenham,
&c. &c. &c.

No. 29.

Mr. Pakenham to Mr. Buchanan.

(Extract.) *Washington, July* 29, 1845.

Mr Pakenham rejects Mr. Buchanan's offer.

* * * THE Undersigned, therefore, trusts that the American Plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon question, more consistent with fairness and equity, and with the reasonable expectations of the British Government, as defined in the statement marked D, which the Undersigned had the honour to present to the American Plenipotentiary at the early part of the present negotiation. * * * *

(Signed) R. PAKENHAM.

Hon. James Buchanan,
&c. &c. &c.

No. 30.

Mr. Buchanan to Mr. Pakenham.

(Extract.) *Department of State, Washington, August* 30, 1845.

* * * "SUCH a proposition as that which has been made, never would have been authorized by the President, had this been a new question

Mr. Buchanan withdraws his offer.

"Upon his accession to office, he found the present negotiation pending. It had been instituted in the spirit and upon the principle of compromise. Its object, as avowed by the negotiators, was not to demand the whole territory in dispute for either country; but, in the language of the first Protocol, 'to treat of the respective claims of the two countries to the Oregon territory, with a view to establish a permanent boundary between them westward of the Rocky Mountains to the Pacific Ocean."

Placed in this position, and considering that Presidents Monroe and Adams had, on former occasions, offered to divide the territory in dispute by the 49th parallel of latitude, he felt it his duty not at once abruptly to arrest the negotiation, but so far to yield his own opinion as once more to make a similar offer.

Not only respect for the conduct of his predecessors, but a sincere and anxious desire to promote peace and harmony between the two countries, influenced him to pursue this course. The Oregon question presents the only intervening cloud which intercepts the prospect of a long career of mutual friendship and beneficial commerce between the two nations, and this cloud he desired to remove.

These are the reasons which actuated the President to offer a proposition so liberal to Great Britain.

And how has this proposition been received by the British plenipotentiary? It has been rejected without even a reference to his own Government. Nay, more: the British plenipotentiary, to use his own language, "trusts that the American plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon question, more consistent with fairness and equity, and with the reasonable expectations of the British Government."

Under such circumstances, the undersigned is instructed by the President to say that he owes it to his own country and a just appreciation of her title to the Oregon territory to withdraw the proposition to the British Government which had been made under his direction; and it is hereby accordingly withdrawn.

In taking this necessary step, the President still cherishes the hope that this long-pending controversy may yet be finally adjusted in such a manner as not to disturb the peace or interrupt the harmony now so happily subsisting between the two nations.

* * * * * *

(Signed) JAMES BUCHANAN.

The Right Hon. Richard Pakenham,
&c. &c. &c.

No. 31.

Mr. MacLane to Mr. Buchanan.

Sir, *London, October* 3, 1845.

I RECEIVED on the 29th ultimo your despatch No. 9, dated the 13th September, transmitting a copy of your last note (30th of August, 1845) to Mr. Pakenham, relative to the Oregon question.

Lord Aberdeen censures the rejection of the American proposition by Mr. Pakenham.

On the day following I was invited by Lord Aberdeen, in the note hereto appended, to an interview at his house in Argyll Street, which I granted accordingly. The object of the interview, as I had anticipated, related exclusively to the posture in which the negotiations between the two Governments had been placed by your note of the 30th August to Mr. Pakenham, and the withdrawal of the proposition, which the President had previously directed.

Lord Aberdeen not only lamented but censured the rejection of our proposition by Mr. Pakenham, without referring it to his Government.

* * * He stated that if Mr. Pakenham had communicated the American proposition to the Government here, as he was expected to have done, he, Lord Aberdeen, would have taken it up as the basis of his action, and entertained little doubt that he would have been enabled to propose modifications which might ultimately have resulted in an adjustment mutually satisfactory to both Governments. * * * *

I did not fail, however, to take the occasion to press upon Lord Aberdeen the great difficulties with which, in the present state of public sentiment in the United States, the President could concede even that which he had done in the proposition he had authorized. * * * *

It was quite obvious to me that Lord Aberdeen had become convinced in his own mind, though in what way I do not pretend to conjecture, that the terms which it was his intention ultimately to propose or assent to would be accepted by the President, and that, on this account, he particularly regretted the interruption in the negotiation without affording an opportunity for that purpose.

(Signed) LOUIS MAC LANE.

Hon. James Buchanan,
Secretary of State.

No. 32.

Mr. MacLane to Mr. Buchanan.

Sir, *London, December* 1, 1845.

Lord Aberdeen would have taken Mr. Buchanan's offer as the basis of negotiations.

ALTHOUGH it is well understood here that, in the present posture of the Oregon question, my connection with it must be in a great degree informal, the Earl of Aberdeen occasionally makes it a subject of conversation.

At his request I have recently had an interview with him, when he put into my hand, to read, two despatches from Mr. Pakenham, one in explanation of his rejection without reference to his Government of the President's proposition; the other containing a statement of his subsequent attempts to induce you to allow the President's proposition to stand ,as the basis of further negotiation, or to have some assurance of the answer which a new proposition from the British Government would receive * * The principal object of Lord Aberdeen, in seeking the interview appeared to me to be, to point out the embarrassment in which he thought the President's withdrawal of his proposition had placed this Government. It was quite evident, indeed he expressly said that he was not prepared to accept the the President's proposition, but desired only to make it the basis of further negotiation and modified propositions from this Government, which he would have done, notwithstanding the rejection of it by Mr. Pakenham, if it had not been withdrawn by direction of the President.

* * * * Although I am quite sure that the Earl of Aberdeen has no idea at present of accepting the compromise contained in the President's proposition, it would not surprise me if an arrangement upon that basis should prove acceptable to large and important classes in this country, indeed, complained of principally by the Hudson's Bay Company and those in its interest.

That the Ministry would find it difficult and hazardous to prefer war to such a settlement may well be imagined, although you may assume it to be certain that when war becomes inevitable it will receive the undivided support of the British people.

I believe the Government and people here are quite prepared for the reassertion in the Message of the President's opinions expressed in his inaugural address, and, perhaps, for a recommendation by him to terminate the joint occupation in the manner provided by the existing Treaty.

And I also think that unless the recommendation in the Message should be such as to discourage further negotiation, and to manifest a determination to insist upon our whole right, they would not lead to any immediate measures upon the part of this Government, or materially add to the embarrassment in which the relations between the two countries appear to be at present involved.

* * * * * *

(Signed) LOUIS MAC LANE.

James Buchanan, Esq.,
Secretary of State.

No. 33.

Mr. Bates to Mr. Sturgis.

(Private.)
Sir, *London, December* 2, 1845.

* * * * * *

Hudson's Bay Company prevent settlement. No American will concede more than the line of 49° and Fuca's straits.

OUR RELATIONS WITH THE UNITED STATES.—WHEN I last wrote to you on this subject I gave you to understand that the negotiations were going well, but I soon after learned that there had been a hitch at Washington, and a very awkward one it is; for the British Government must now make the first move, and whether they will make that move remains to be seen. One thing is consolatory, viz., that after the publication of Mr. Webster's speech here yesterday consols improved. The stockjobbers say that "the 49° is about right and there can be no difficulty." That will be the feeling of nine-tenths of the people of G. B., but this has been refused by so many Ministers previously that Lord Aberdeen may hesitate; the western members of Congress will rail, and merchants will be kept in hot water another year. The Hudson's Bay Company prevent a settlement I have no doubt; they might have twenty years' occupation and the right of pre-emption to their lands under cultivation, and to become Americans or not at the expiration of the time, as they may choose, always conforming to any laws the United States may establish for the Government of the territory. This with the 49° to the Strait, giving Vancouver's Island to G. B. is as much as any American, be he Bostonian or Carolinian, will, I think, consent to give up. If G. B. is not satisfied with that, let them have war if they want it.

(Signed) JOSHUA BATES.

Hon. Wm. Sturgis.

No. 34.

Mr. MacLane to Mr. Buchanan.

Sir, *London, February* 3, 1846.

* * * * * *

Mr. Pakenham's conduct strongly disapproved in England.

IT will be preceived from the remarks of Lord John Russell, and Sir Robert Peel more particularly, that the observations I have heretofore made of the effect upon public opinion in this country, of the President's proposition for compromise are fully confirmed, and that the rejection of the proposition by Mr. Pakenham, without sending it to his Government, at least as the basis of negotiation, is strongly

disapproved by both parties. I have reason to know also, that there is an expectation with all classes here, that this disapprobation should have its influence in disposing our Government to give a favourable and amicable reception to any future overtures which may be made for resuming the negotiation. * *

On the subsequent night, Friday the 23rd of January, the subject was again introduced to the notice of the House of Commons by Lord John Russell. He said:—"It would appear, that a proposition for a compromise had been made from the President to Her Majesty's Government, and he (Lord John Russell) conceived that that proposition had changed the state of the question. The proposition itself might be satisfactory, or not satisfactory; but having been made, it did appear to him to require a statement from those in authority in this country of the terms on which they would be satisfied to settle this question. That proposition, he understood, had not been received by Her Majesty's Government, but had been declared to be wholly inadmissible by our Minister in America. He (Lord John Russell) confessed he thought that was a hasty proceeding on the part of the representative of Her Majesty in the United States, but what he wished to ask was, whether the negotiations had recommenced, or were going on." * * * *

Lord John Russell calls Mr. Pakenham's rejection of the American offer a hasty proceeding.

Sir Robert Peel observed:—"On the subject of the Oregon Territory, I have to state that a proposition was made by Mr. Buchanan, with the authority of the President of the United States, to Mr. Pakenham, and that the proposal so made suggested a division of the territory. Whether or not that proposal ought to have been accepted, I cannot say. Mr. Pakenham thought that the terms proposed were so little likely to be acceptable, that he did not feel himself warranted in transmitting the proposal to the Government at home; and on signifying this to Mr. Buchanan, the latter immediately stated that the proposal was withdrawn. This is the state of the negotiation at present, so far as I am informed, respecting the proposal submitted by Mr. Buchanan. I have the highest opinion of Mr. Pakenham, I have the greatest respect for his talents, and the greatest confidence in his judgment; yet I must say, that it would have been better had he transmitted that proposal to the Home Government, for their consideration, and if found in itself unsatisfactory, it might possibly have formed the foundation for a further proposal." (Hear!) * * * *

Sir Robert Peel says that Mr. Pakenham ought to have referred the American offer to his Government.

"We have no hesitation in announcing our sincere desire for the interests of this country, for the interests of the United States, and for the interests of the civilized world, in continuing to strain every effort, which is consistent with national honour, for the purpose of amicably terminating those disputes." (Hear!) * * * *

Sir Robert Peel for a peaceable settlement of the Oregon question.

"I think it would be the greatest misfortune, if a contest about the Oregon between two such powers as England and the United States, could not, by the exercise of moderation and good sense, be brought to a perfectly honourable and satisfactory conclusion." (Cheers.) * * * *

After these observations, I owe it more particularly to myself to state that, believing from the history of our previous negotiations, as to the Oregon question, that it may now be settled upon the basis of a compromise, and with reference to interests which have grown up during the joint occupation of the territory, without a violation of any duty which a public man owes to the rights and honour of his country, I would not be unwilling, taking the President's proposition of the 12th July, as a basis, to urge a final adjustment of the question according to that proposition, but conceding to the Hudson's Bay Company a continuance of the privileges of joint occupation, including the navigation of the Columbia, for a period of seven or ten years longer; and I hope I may be allowed to add that, I would be willing to assume the responsibility of assenting to an adjustment by extending the boundary to the Pacific by the 49th parallel and the Strait of Fuca with free ports to both nations; or by extending the free navigation of the Columbia River for a longer period, provided similar advantages upon the St. Lawrence could thereby be secured to the United States.

Mr. MacLane reports that the British Government will accept the line of 49° and the Straits of Fuca.

I believe that upon one of these grounds, perhaps upon either, an adjustment may be concluded, and I have a strong conviction that the first indicated is entirely practicable.

I am, however, constrained at the same time to state, from all that has come to my knowledge here, that I have no reason to believe that more favourable terms than those I have above adverted to, would under any circumstances be consented to by this Government. * * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 35.

Extract from the Speech of Mr. Calhoun, of South Carolina, in the Senate, March 16, 1846.

* * * THE past history of the affair, the fact that it had been frequently offered by us substantially as an ultimatum, added to the fact that 49° was the boundary on this side of the Rocky Mountains, left no doubt on my mind that, if settled by compromise, it must be on that basis. * * * *

The line of 49° the only line admissible.

Extract from the Speech of Mr. Webster, of Massachusetts, in the Senate, March 30, 1846.

* * * I WAS not very far out when I took the precaution of reducing what I intended to say to writing. What I said was (and I presumed not to dictate, or to speak as *ex cathedrâ*), that in my judgment public opinion in both countries tended to a union on the general basis of the proposal made by this Government to that of England in 1826. * *

* * * What I meant, and what I said, was, that if 49° should be agreed on as a general basis, I was satisfied to negotiate about all the rest. But the gentleman from Ohio and

Great Britain cannot expect anything south of 49°.

the Senate will do me the justice to allow that I said, as plainly as I could speak or put down words in writing, that England *must not expect anything south of* 49°. I said so in so many words. * *

Extract from the Debate on the Oregon Question, in the House of Representatives, February 9, 1846.

John Quincy Adams regards America's title as clear to all territory on the Pacific south of 54° 40′.

Mr. T. B. King: * * * I SHOULD like, with all respect and deference to the learned and venerable gentlemen from Massachusetts (Mr. Adams), to ask whether, in his judgment, our title to the entirety of the Oregon Territory is "clear and unquestionable?"

Mr. John Quincy Adams: * * * According to the construction we give to "clear and indisputable," in relation to the question of right and wrong, I say that our title is clear and unquestionable. * * * *

Extract from the Speech of Mr. J. Q. Adams, in the House of Representatives, April 13, 1846.

* * * I AM not for settling the question at the line of 49°. * * If this House pass this Bill, and instead of putting down "south of the line of 49°," as is proposed by this amendment, will say "south of latitude 54° 40′," I will vote for it. * * * * Great Britain had no claim whatever. I believe she has no pretensions to any now. * *

Extract from the Speech of Mr. Cass, of Michigan, in the Senate, June 1846.

To accept the line of 49° regarded as a sacrifice.

* * * WE are seeking a doubtful good, at the certainty of a great sacrifice. * * * Those who believe that our title to all Oregon is so "clear and unquestionable" that no portion of it ought to be relinquished, may well contend for its whole extent and risk the consequences. * * * *

Extract from the Speech of Mr. Sevier, of Arkansas, Chairman of the Committee on Foreign Relations, in the Senate, March 25, 1846.

Many Americans claim 54° 40′ as the boundary, and would fight for 49°.

* * * SIR,—I am not sure but that a majority of the people of the United States would rather fight Great Britain to-morrow than yield up to her *any part of Oregon south of* 54° 40′. I am not sure but that a majority of the people of the United States are now ready to *assert the title of the United States* to the whole of Oregon, believing, as that majority do, that the title of their country to the whole of it is unquestionable; and with this assertion of their title, I am not sure but that this majority are not now ready, upon the slightest intimation from those who have control of our public affairs, to maintain it at all hazards. * * * * These people, with these impressions, are now looking and reading about Gregon, and are quietly and firmly forming their resolves upon the subject. 54° 40′ are chalked upon doors and windows, and upon walls, pillar, and post, everywhere. * * * * These people are in no temper for unjust concessions in the form of compromises. Is there, Sir, a man in America, of any party or of any sect, that would not sooner fight Great Britain to-morrow than yield up any part of Oregon *south of* 49°? In support of our title up to that line and for everything south of it, we should find even our Quaker friends in uniform, with arms in their hands, crying aloud, in the highways and byways, "To your tents, O Israel?"

No. 36.

Extract from the London "Quarterly Review" for March, 1846, *vol.* LXXVII, *page* 603.

The "Quarterly" in favour of the line of 49° and Fuca Straits.

* * * WE believe that the proposition for a division by the 49° and the Straits of Fuca—which we have hitherto called *Mr. Dargan's,* but of which we hear no more under that name—would have been, at any time and under any circumstances, received with as much satisfaction as now. We are more and more convinced by the advices which we have lately received, that the American Cabinet will not and—if it would—*could* not make any larger concession. It is, we believe, all that any American statesman could hope to carry, and we are equally satisfied that, on our part, after so much delay and complication, and considering it in its future effect on the tranquillity of the district itself, it is the best for our interests and sufficient for our honour.

No. 37.

Mr. Buchanan to Mr. MacLane.

Sir, *Department of State, Washington, February* 26, 1846.

* * * * * *

THE President, since the date of his Message, has seen no cause to change his opinion, either in regard to our title to Oregon, or to the manner in which it ought to be asserted. But the Federal Constitution has made the Senate, to a certain extent, a co-ordinate branch of the Treaty-making power. Without their advice and consent no Treaty can be concluded. This power could not be entrusted to wiser or better hands. Besides, in their legislative character, they constitute a portion of the war-making, as in their executive capacity they compose a part of the Treaty-making Power. They are the representatives of the Sovereign States of this Union and are regarded as the best index of the opinion of their constituents. A rejection of the British ultimatum might probably lead to war; and, as a branch of the legislative power, it would be incumbent upon them to authorize the necessary preparations to render this war successful. Under these considerations, the President, in deference to the Senate, and to the true theory of the constitutional responsibilities of the different branches of the Government, will forego his own opinions so far as to submit to that body any proposition which may be made by the British Government not, in his judgment, wholly inconsistent with the right and honour of the country. Neither is the fact to be disguised that, from the speeches and proceedings in the Senate, it is probable that a proposition to adjust the Oregon question on the parallel of 49 would receive their favourable consideration.

The President may consent to consult the Senate on any British proposition.

The President is desirous so to adjust the Oregon question as not to leave open any source from which might proceed new difficulties and new dangers, again to threaten the peace of the two countries. * * * *

The President wishes not to leave open any source of new difficulties.

The President would also consent, though with reluctance, to submit to the Senate the second proposition suggested by you, dividing the territory in dispute between the two countries "by extending the boundary to the Pacific by the 49th parallel and the Straits of Fuca;" but without the superadded words "with free ports to both nations." These words are indefinite and he cannot infer from them the extent of your meaning. In case the first proposition to which you refer should be made by the British Government, the President would not object to the terms of his offer of the 12th July last "to make free to Great Britan any port or ports on Vancouver's Island south of this parallel, which the British Government may desire." If the cape of this island should, however, be surrendered to Great Britain, as would be the case under the second proposition, then he would consider the question in regard to free ports as terminated. I need not enlarge to you upon the inconvenience, not to say impossibility under our system of government, after one or more States shall have been established in Oregon, (an event not far distant) of making any of their ports free to Great Britain or any other nation. Besides, our system of drawbacks secures to other nations the material advantages of free ports without their inconveniences.

The President would submit to the Senate the line of 49° and the Straits of Fuca.

There is one point which it is necessary to guard, whether the first or the second proposition should be submitted by the British Government. The Straits of Fuca is an arm of the sea, and under the public law all nations would possess the same right to navigate it, throughout its whole extent, as they now have to the navigation of the British Channel. Still, to prevent future difficulties, this ought to be clearly and distinctly understood. * * * *

(Signed) JAMES BUCHANAN.

Louis MacLane, Esq.,
&c. &c. &c.

No. 38.

Mr. MacLane to Mr. Buchanan.

Sir, *London, March* 3, 1846.

* * * * * *

I SOUGHT and obtained an interview with Lord Aberdeen on the 25th February. * *

I have little or no expectation that this Government will offer, or assent to, a better partition, than the extension of a line on the 49th parallel to the Straits of Fuca, and thence down the middle of the strait to the Pacific; and, if the line of the 49th parallel should intersect the Columbia, according to Mr. Gallatin's proposition, at a point from which it is navigable to the ocean, with the free navigation of that river, at least for such a period as may be necessary for the trade of the Hudson's Bay Company. They will also, I am quite sure, expect some arrangements for the protection of the present agricultural settlements of British subjects south of the 49° of latitude, and north of the Columbia. If the Columbia River be not navigable from the point at which it would be intersected by the extension of a line along the 49th parallel, I believe it quite certain that the navigation of the river would not be insisted on. * * * *

Mr. MacLane reports that Great Britain will assent to no better partition than the line of 49° and Fuca's Straits.

I must, however, repeat the opinion that, whatever may be the result of any present expectation, and according to any view it may take of the question, this Government will not be likely to propose, or assent to a basis of partition, different from that I have already stated in the foregoing part of this dispatch. If there be a disposition on the part of our Government to treat upon the basis, I have great confidence that the negotiation would result in an amicable settlement of the question. * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 39.

Mr. Bates to Mr. Sturgis.

My dear Sir, *London, April* 3, 1846.

The Oregon question sure to be settled on the American basis.

THE Oregon question is now as good as settled, provided the Senate by a good majority pass their pacific resolutions. Your pamphlet, by fixing public attention on a reasonable mode of settlement, on both sides of the water has done more than all the diplomatic notes. I claim the merit of suggesting the mode of getting rid of the question of the Hudson's Bay Company, and the navigation of the Columbia by allowing the Company to enjoy it for a fixed number of years. Mr. MacLane and the Governor had not thought of it. In the "Quarterly" is an article written by Crocker, which adopts completely these views. * * * *

(Signed) JOSHUA BATES.

No. 40.

Mr. MacLane to Mr. Buchanan.

Sir, *London, April* 17, 1846.

The British Government wait for Congress to give notice of the abolition of the Treaty for the non-occupation of Oregon.

MY despatch of the 17th of March, after an opportunity had been afforded of seeing and reflecting upon your final answer to Mr. Pakenham's proposal to arbitrate, acquainted you that very soon after the date of the last note of the Earl of Aberdeen to Mr. Pakenham, I had positively ascertained that this Government would take no further step towards renewing the negotiation until after Congress had finally acted upon the question of notice. * * * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 41.

Extracts from the Speech of Mr. Dix, of New York, in the Senate, February 19, 1846.

Wilkes' map of Oregon the map used by the American Senate.

* * * THE historical facts are too well authenticated to be permanently misunderstood. They were so well known at the time, that even the rivalry—not to say the detraction—of the day conceded to Gray the merit of the discovery by designating the river by the name he gave it—the name of the vessel that first entered its waters." * * * * * *
"Look at the map of Oregon on your table by Captain Wilkes, and you will find Gray's Bay, so named by Broughton (see 'Vancouver's Journal,' vol. iii., page 92), on the north side of the Columbia and higher up than Astoria. According to Gray's own log, he anchored the day he discovered and entered the river, ten miles above the entrance, and three days after he sailed twelve or fifteen miles higher up. He must therefore have been from six to fifteen miles above the site of the settlement at Astoria." * * * *

No. 42.

Mr. MacLane to Mr. Buchanan.

Sir, *London, May* 18, 1846.

* * * * * *

Mr. MacLane and Lord Aberdeen discuss the Oregon question.

IN my last despatch dated on the 3rd instant, after an interview with Lord Aberdeen, I informed you that, as soon as he received official intelligence of the Senate's vote upon the resolution of notice, he would proceed finally to consider the subject of Oregon, and directed Mr. Pakenham to submit a further proposition upon the part of this Government, and also that it was understood that he would not be prevented from taking this course by any disagreement between the two Houses as to the form of the notice.

I have now to acquaint you that after the receipt of your despatches on the 15th instant by the "Caledonia," I had a lengthened conference with Lord Aberdeen, on which occasion the resumption of the negotiation for an amicable settlement of the Oregon question, and the nature of the proposition he contemplated submitting for that purpose formed the subject of a full and free conversation.

I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow, to submit a new and further proposition on the part of this Government, for a partition of the territory in dispute.

The proposition, most probably, will offer substantially:—

The British Government will offer to divide the territory by the parallel of 49°, Birch's Bay, Canal de Haro, and Fuca's Straits.

First. To divide the territory by the extension of the line on the parallel of 49 to the sea; that is to say, to the arm of the sea called Birch's Bay, thence by the Canal de Arro and Straits of Fuca to the Ocean, and confirming to the United States, what indeed they would possess without any special confirmation, the right freely to use and navigate the Strait throughout its extent.

Second. To secure to the British subjects occupying lands, forts, and stations anywhere in the region north of the Columbia and south of the 49th parallel, a perpetual title to all their lands and stations of which they may be in actual occupation; liable, however, in all respects, as I understand, to the jurisdiction and sovereignty or the United States as citizens of the United States. Similar privileges will be offered to be extended to citizens of the United States who may have settlements north of the 49th parallel; though I presume it is pretty well understood that there are no settlements upon which this nominal mutuality could operate; I have no means of accurately ascertaining the extent of the

present British settlements between the Columbia and the 49th parallel. They are not believed by Lord Aberdeen to be numerous, however; consisting, as he supposes, of a few private farms and two or three forts and stations. I have already, in a previous despatch, taken the liberty to remind you that by their Charter the Hudson's Bay Company are prohibited from acquiring title to lands, and that the occupations to be affected by this reservation have been made either by the squatters of that Company, or by the Puget's Sound Land Company, for the purpose of evading the prohibition of the Hudson's Bay Charter.

They are in point of fact also, according to Captain Wilkes' account, cultivated and used chiefly by the persons employed in the service of the former Company, and as auxiliary to their general business of hunting and trapping, rather than with a view, as it has been generally supposed, of colonizing or of permanent settlement.

Lastly. The proposition will demand for the Hudson's Bay Company the right of freely navigating the Columbia River.

It will, however, as I understand, disclaim the idea of sovereignty or of the right of exercising any jurisdiction or police whatever on the part of this Government or of the Company, and will contemplate only the right of navigating the river upon the same footing and according to the same regulations as may be applicable to the citizens of the United States.

It is scarcely necessary for me to state that the proposition as now submitted has not received my countenance.

Although it has been no easy task, under all the circumstances, to lead to a reopening of the negotiations by any proposition from this Government, and to induce it to adopt the parallel of 49 as the basis of a boundary, nevertheless I hoped it would have been in my power to give the present proposition a less objectionable shape, and I most deeply lament my inability to accomplish it. I have, therefore, felt it my duty to discourage any expectation that it would be accepted by the President; or, if submitted to that body, approved by the Senate.

I do not think there can be much doubt, however, that an impression has been produced here that the Senate would accept the proposition now offered, at least without material modification, and that the President would not take the responsibility of rejecting it without consulting the Senate. * *

It must not escape observation that, during the preceding administration of our Government, the extension of the line on the 49th parallel to the Strait of Fuca, as now proposed by Lord Aberdeen, was actually suggested by my immediate predecessor (Mr. Everett), as one he thought his Government might accept. * * * *

The above proposed boundary line is that suggested by Mr. Everett.

I have myself always believed, if the extension of the line of boundary on the 49th parallel by the Straits of Fuca to the sea would be acceptable to our Government, that the demand of a right freely to navigate the Columbia River could be compromised upon a point of time, by conceding it for such period as might be necessary for the trade of the Hudson's Bay Company, north or south of the 49th parallel. * * * *

I have not the least reason to suppose it would be possible to obtain the extension of the 49th parallel to the sea, so as to give the Southern Cape of Vancouver's Island to the United States.

* * * * * *

(Signed) LOUIS MACLANE.

Hon. James Buchanan,
Secretary of State.

No. 43.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *May* 18, 1846.

THE boundary (said Lord Aberdeen) having been fixed by the Convention of 1818, between the possessions of Great Britain and the United States, and the line of demarcation having been carried along the 49th parallel of latitude, for a distance of 800 or 1,000 miles, through an unfrequented and unknown country, from the Lake of the Woods to the Rocky Mountains, it appeared to the Government of the United States that it was a natural and reasonable suggestion that this line should be continued along the same parallel for about half this distance, and through a country as little known or frequented, from the Rocky Mountains to the sea. And indeed, with reference to such a country, the extension of any line of boundary already fixed might equally have been suggested, whether it had been carried along the 49th or any other parallel of latitude.

Lord Aberdeen offers the 49th parallel, retaining the whole of Vancouver Island for England.

On the other hand, however, it may justly be observed that any division of territory, in which both parties possess equal rights, ought to proceed on a principle of mutual convenience, rather than on the adherence to an imaginary geographical line; and, in this respect, it must be confessed that the boundary thus proposed would be manifestly defective. It would exclude us from every commodious or accessible harbour on the coast; it would deprive us of our long-established means of water-communication with the interior for the prosecution of our trade; and it would interfere with the possessions of British colonists resident in a district in which it is believed that scarcely an American citizen, as a settler, has ever set his foot.

You will accordingly propose to the American Secretary of State that the line of demarcation should be continued along the 49th parallel, from the Rocky Mountains to the sea-coast, and from thence, in a southerly direction, through the centre of King George's Sound, and the Straits of Juan de Fuca to the Pacific Ocean, leaving the whole of Vancouver's Island, with its ports and harbours, in the possession of Great Britain.

No. 44.

Extract from the Speech of Mr. Benton, of Missouri, in the Senate, June 18, 1846.

(Debate on the Ratification of the Oregan Treaty. Appendix to the Congressional Globe, 1st Sess., 29th Cong., 1845—46, page 867.)

Mr. Benton finds that the boundary line passes through the Canal de Haro.

THE Ist Article of the Treaty—and it is the main one, and almost the whole Treaty—is in the very words which I myself would have used if the two Governments had left it to me to draw the boundary line between them. The line established by that Article—the prolongation of the boundary on the east side of the Rocky Mountains—follows the parallel of 49th degree to the sea, with a slight deflection through the Straits of Fuca to avoid cutting the south end of Vancouver's Island. * *

When the line reaches the channel which separates Vancouver's Island from the Continent (which it does within sight of the mouth of Fraser's River), it proceeds to the middle of the channel, and thence turning south, through the Channel De Haro (wrongly written Arro on the maps), to the Straits of Fuca; and then west, through the middle of that strait to the sea. * * *

No. 45.

Extract from the Speech of the Earl of Aberdeen, in the House of Lords, Monday June 29, 1846.

(Hansard's Debates, 87, 1038.)

Lord Aberdeen and Parliament are aware of the interpretation given to the Treaty by the United States' Senate.

WHEN I saw that the Senate and the House of Representatives had adopted resolutions of such a conciliatory and friendly disposition, I did not delay for a moment putting aside all ideas of diplomatic etiquette, which might have led me to expect that some steps would be taken on the other side; but, without waiting a moment, I prepared the draft of a Convention, which was sent by the packet of the 18th of May to Mr. Pakenham, to be proposed for the acceptance of the United States' Government. I have brought with me a letter from Mr. Pakenham, which I received this morning, and from which I shall read an extract. The letter is dated the 13th of June; and Mr. Pakenham says:—

"In conformity with what I had the honour to state in my despatch No. 68 of the 7th instant, the President sent a message on Wednesday last to the Senate, submitting for the opinion of that Body the draught of a Convention for the settlement of the Oregon Question, which I was instructed by your Lordship's despatch No. 19 of the 18th May, to propose for the acceptance of the United States' Government. After a few hours deliberation on each of the three days, Wednesday, Thursday, and Friday, the Senate, by a majority of thirty-eight votes to twelve, adopted yesterday evening a resolution advising the President to accept the terms proposed by Her Majesty's Government. The President did not hesitate to act on this advice; and Mr. Buchanan accordingly sent for me this morning, and informed me that the conditions offered by Her Majesty's Government were accepted by the Government of the United States, without the addition or alteration of a single word,"

Lord Aberdeen's regard for Mr. MacLane.

Gratifying as this intelligence is, I feel it is but an act of justice, as well as a pleasure, that I should bear the tribute of my testimony to the most friendly and conciliatory course which has been adopted by the United States' Minister in this country. That gentleman I have long known, and long had reason to esteem in official intercourse fifteen or sixteen years ago; and I am perfectly certain that, by every means in his power, he has contributed to this result. I am well assured that there is no person in this House, or in this country, who more cordially participates in the feeling of satisfaction which it is fitted to produce than Mr. MacLane.

No. 46.

Extract from the Speech of Sir Robert Peel in the House of Commons, Monday, June 29, 1846.

* * * SIR,—If anything could have induced me to regret that decision on the part of the House which terminates the Government, it would have been the wish that we should survive the day when intelligence might be received from the United States as to the result of our last attempt to adjust the differences with that country: differences which, unless speedily terminated, must probably involve both countries in the necessity of an appeal to arms. The House will probably recollect that, after we had offered to leave the dispute respecting the territory of the Oregon to arbitration, and that offer had been rejected, the President of the United States sent a message to Congress, which led to discussions with regard to the termination of the Convention entered into several years since, which provided for a temporary adjustment of our differences—at least, for a temporary avoidance of quarrel—and enabled the two countries jointly to occupy the territory of the Oregon. The two Houses of the American Congress advised the President to use his unquestionable power, and to signify to this country the desire of the United States to terminate after the lapse of a year the existing Convention. They, however, added to that advice, which might, perhaps, otherwise have been considered of an unsatisfactory or hostile character, the declaration that they desired the notice for the termination of the Convention to be given, in order that an amicable adjustment of the dispute between the two countries might thereby be facilitated. It appeared to us that the addition of that conciliatory declaration; the expression of the hope that the termination of the Convention might the more strongly impress upon the two countries the necessity of amicable adjustment—removed any barrier which diplomatic

punctilios might have raised to a renewal by this country of the attempt to settle our differences with the United States. We did not hesitate, therefore, within two days after the receipt of that intelligence —we did not hesitate, although the offer of arbitration made by us had been rejected, to do that which, in the present state of the protracted dispute, it became necessary to do—namely, not to propose renewed and lengthy negotiations, but to specify frankly and without reserve, what were the terms on which we could consent to a partition of the country of the Oregon. Sir, the President of the United States met us in a corresponding spirit. Whatever might have been the expressions heretofore used by him, however strongly he might have been personally committed to the adoption of a different course, he most wisely and patriotically determined at once to refer our proposals to the Senate—that authority of the United States whose consent is requisite for the conclusion of any negotiation of this kind; and the Senate, acting also in the same pacific spirit, has, I have the heartfelt satisfaction to state, at once advised acquiescence in the terms we offered. From the importance of the subject, and considering that this is the last day I shall have to address the House as a Minister of the Crown, I may, perhaps, be allowed to state what are the proposals we made to the United States for the final settlement of the Oregon question. In order to prevent the necessity for renewed diplomatic negotiations we prepared and sent out the form of a Convention, which we trusted the United States would accept. The Ist Article of that Convention was to this effect, that—

The words of the Treaty were chosen by the British Ministry.

"From the point on the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca's Straits to the Pacific Ocean: Provided, however, that the navigation of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both Parties."

Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca; that that parallel should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island, but that the middle of the channel shall be the future boundary, thus leaving us in possession of the whole of Vancouver's Island, with equal right to the navigation of the straits. * * * * Sir, I will not occupy the attention of the House with the mere details of this Convention. I have read the important Articles. On this very day, on my return from my mission to Her Majesty, to offer the resignation of Her Majesty's servants, I had the satisfaction of finding an official letter from Mr. Pakenham intimating in the following terms the acceptance of our proposals, and giving an assurance of the immediate termination of our differences with the United States:—

Sir Robert Peel's interpretation of the Treaty.

"My Lord, "*Washington, June* 13, 1846.

"In conformity with what I had the honour to state in my despatch No. 68 of the 7th instant, the President sent a Message on Wednesday last to the the Senate, submitting, for the opinion of that Body, the Draft of a Convention for the settlement of the Oregon Question, which I was instructed, by your Lordship's despatch No. 19 of the 18th of May, to propose for the acceptance of the United States.

"After a few hours' deliberation on each of the three days, Wednesday, Thursday, and Friday, the Senate, by a majority of 38 votes to 12, adopted yesterday evening a Resolution advising the President to accept the terms proposed by Her Majesty's Government. The President did not hesitate to act on this advice, and Mr. Buchanan accordingly sent for me this morning and informed me that the conditions offered by Her Majesty's Government were accepted by the Government of the United States, without the addition or alteration of a single word.

"I have, &c.

"The Right Hon. the Earl of Aberdeen, K.T., &c. (Signed) "R. PAKENHAM."

Thus, Sir, the Governments of two great nations, impelled, I believe, by the public opinion of each country in favour of peace—by that opinion which ought to guide and influence statesmen—have, by moderation, by mutual compromise, averted the dreadful calamity of a war between two nations of kindred origin and common language, the breaking out of which might have involved the civilized world in general conflict. A single year, perhaps a single month, of such a war would have been more costly than the value of the whole territory that was the object of dispute. But this evil has been averted, consistently with perfect honour on the part of the American Government, and on the part of those who have at length closed, I trust, every cause of dissension between the two countries. * * Sir, I do cordially rejoice that, in surrendering power at the feet of a majority of this House, I have the opportunity of giving them the *official assurance* that every cause of quarrel with that great country on the other side of the Atlantic is amicably terminated.

Sir Robert Peel declares every cause of dissension between Britain and America at an end.

No. 47.

Mr. MacLane to Lord Palmerston.

38, *Harley Street, July* 13, 1846.

* * * THE Treaty, as concluded and ratified by the President, appearing to be in all respects identical with the project admitted of Her Majesty's Government, the ratification on the part of Her Majesty may be anticipated as not likely to occasion any hesitation; and the Undersigned has been instructed to express a desire on the part of the President that he should be able, before

The American President regards the Treaty of June, 1846, as establishing amity.

the adjournment of Congress, to acquaint that body with the final consummation of an act which, he cherishes the hope, may be regarded as establishing the foundation of a cordial and lasting amity between the two countries. * * * *

(Signed) LOUIS MacLANE.

No. 48.

Extract from "Exploration du Territoire de l'Orégon, &c., exécutée pendant les années 1840, 1841, *et* 1842," *par M. Duflot de Mofras, Attaché à la Légation de France à Mexico; ouvrage publié par ordre du Roi, sous les auspices de M. le Maréchal Soult, Duc de Dalmatie, Président du Conseil, et de M. le Ministre des Affaires Etrangères. Paris,* 1844. (Tome ii, page 135.)

Mofras describes the channel of Haro as the best.

DANS l'espace qui s'étend de la terre ferme jusqu'à la partie est de la grande île de Quadra, il existe une foule de petites îles qui, malgré les abris sûrs qu'elles offrent aux navires, présentent à la navigation de grandes difficultés. Le passage le plus facile est par le canal de Haro, entre l'île de Quadra et Vancouver et celle de San Juan.

No. 49.

Paley's Works, Edition of 1825, *Vol. IV, page* 85.

II.—In what sense Promises are to be interpreted.

Ambiguity no escape from the proper sense of a promise.

WHERE the terms of promise admit of more senses than one, the promise is to be performed "in that sense in which the promiser apprehended, at the time, that the promisee received it."

* * * * * *

This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve; but we put the rule in the above form to exclude evasion in cases in which the popular meaning of a phrase, and the strict grammatical signification of the words, differ; or, in general, wherever the promiser attempts to make his escape through some ambiguity in the expressions which he used. * * * *

No. 50.

Secretary Monroe to the American Commissioners for Treating for Peace with Great Britain.

Gentlemen, *Department of State, March* 22, 1814.

American Commissioners instructed in 1814 to yield nothing south of 49°.

SHOULD a Treaty be concluded with Great Britain, and a reciprocal restitution of territory be agreed on, you will have it in recollection that the United States had in their possession, at the commencement of the war, a post at the mouth of the River Columbia, which commanded the river, which ought to be comprised in the stipulation, should the possession have been wrested from us during the war. On no pretext can the British Government set up a claim to territory south of the northern boundary of the United States. It is not believed that they have any claim whatever to territory on the Pacific Ocean. You will, however, be careful, should a definition of boundary be attempted, not to countenance, in any manner or in any quarter, a pretension in the British Government to territory south of that line.

(Signed) JAMES MONROE.

NORTH AMERICA. No 4 (1873).

(B.)

NORTH-WEST AMERICAN WATER BOUNDARY.

MEMORIAL ON THE CANAL DE HARO

AS THE

BOUNDARY LINE

OF THE

UNITED STATES OF AMERICA.

PRESENTED IN THE NAME OF THE AMERICAN GOVERNMENT

TO

HIS MAJESTY

WILLIAM I,

GERMAN EMPEROR AND KING OF PRUSSIA,

AS ARBITRATOR,

BY THE AMERICAN PLENIPOTENTIARY,

GEORGE BANCROFT.

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

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

LONDON:
PRINTED BY HARRISON AND SONS.