Treaties Affecting the North Pacific Coast

Read by F. C. Wade, K.C.
Before
Sixth Annual Conference
Association of Canadian
Clubs
Vancouver, August 4, 1914

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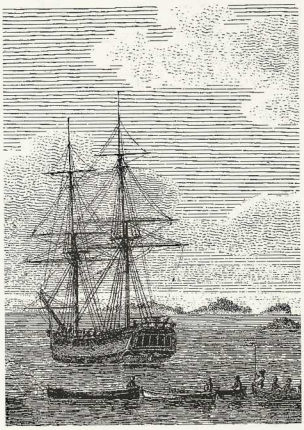

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THE principal treaties and conventions affecting the North Pacific Ocean and its coast line and the adjoining territory are largely devoted to delimiting land and water boundaries. They were necessitated by the conflicting claims to early discovery and occupation set up by the various nations. In some instances rights of a more spiritual nature were asserted. By the Bull of Pope Alexander VI, promulgated in 1493, the whole undiscovered world was evenly divided between Spain and Portugal. The dividing line ran from the North to the South Pole, through a point one hundred leagues West of the Azores.

To understand the treaties which composed the various differences, it is necessary to be familiar with the conflicting claims themselves, and this entails careful enquiry into all the particulars of discovery and occupation within a certain period. It may be, as asserted in the annals of the Chinese Empire, based on the report of Hoei-Shin in 499 A.D., that Chinese Buddhist priests discovered Western America in the fifth century, but interesting as this topic might prove to be, it need not be inquired into when we are examining claims to ownership based on discovery followed by effective occupation.

The earliest discoveries on both the Pacific and Atlantic seaboards are to some extent shrouded in mystery. "The true sources of history," says Prof. Wrong, "lie somewhere in the wonderland of myth and tradition. Canadian history seems to have its proper beginning in that vague atmosphere, colored with adventure and romance, which surrounds the westward voyagings of the Northmen." Is it true that when Harold Harfager in the ninth century undertook to feudalize Norway the Vikings fled to the Faroes and Iceland, and that finally about 986 A.D. Eric the Red established a great colony in Greenland? Is it true that Beorn was

swept from Greenland far to the West and South till he sighted unknown shores? Is it true that Leif Ericson was impelled by Beorn's example to undertake an expedition about 1000 A.D. which landed him at Stoneland, Bushland and Vineland in succession, and are these places represented today by Labrador, Newfoundland and Nova Scotia or Massachusetts? There are the Icelandic sagas recording the adventures of Eric and Lief Thorfin, but after them all is silent for nearly five centuries.

Similarly on the Pacific seaboard, it is difficult to separate history and tradition. Is it true, as stated by Hoei-Shin, that Chinese priests discovered Western America in the fifth century? An Arab merchant named Sulaiman, who visited China in the ninth century, declared that he had sailed upon the new ocean. During the thirteenth and fourteenth centuries Marco Polo and his successors sailed for the East and discovered an ocean of unknown extent, which they partially explored. All is uncertain with regard to Sulaiman, and there is not much that is definite with regard to Marco Polo and his successors. However uncertain these early stories of discovery may be, they are always interesting. No one will contend that they have been of the slightest assistance in the practical work of settling boundaries on either land or sea.

Even during the more recent period when the various operations took place upon which claims to ownership were subsequently based, the world at large knew little of what was proceeding. Spain so carefully concealed her voyages of discovery that when at last it became necessary to drag her records from their hiding places into the light of day, her romantic tales were regarded with incredulity. She had deprived herself of the support of notoriety so essential to the establishment of claims to early discoveries. Russia afterwards lamented that she had pursued the same mistaken policy: "If," exclaims the Chevalier de Poletica in a letter to the Secretary of State at Washington, February 28th, 1882, "the Imperial Government had at the time published the discoveries made by the Russian navigators after Behring and Tchirikoff, viz., Chlodiloff, Serebreanicoff, Kraselnicoff, Paycoff, Poushcareff, Lazereff, Medivedeff, Solowief, Lewasheff, Kremstein, and others, no one could refuse to Russia the

right of first discovery, nor could anyone deny her that of first occupation."

However unfortunate to Russia the omission may have been, it is not impossible to imagine the Royal Printer shrinking from so formidable a task. To detail the names alone is no ordinary exploit.

The territory with which I have to deal, that portion of the New World washed by the shores of the North Pacific Ocean, was discovered at a much later date than any other part of the North American torrid and temperate zones. No point was more remote from Europe and it could only be reached by doubling Cape Horn or the Cape of Good Hope. Balboa, while exploring the Isthmus of Panama on 29th September, 1513, was probably the first to get a glimpse of the great ocean lying to the West. On November 27th, 1520, Magellan sailed through the straits now called after him on to the bosom of the Mar Pacific, the peaceful sea, and in September, 1577, Drake was the first Englishman to sail Pacific waters. I have to deal with the North Pacific, however, and discoveries of a much later date.

Anything like a full relation of the early discoveries of the North Pacific navigators must not be undertaken, however one is tempted to expatiate on the events of a period so crowded with tales of hardship, daring and romance. Only a brief reference is possible, but brief as it may be, it is absolutely necessary. The following then are some of the events of greater importance to be borne in mind:

The Russians crossed Siberia to Kamchatka in 1697. In 1728-29 Behring established the separation of the continents as far North as 67° on the Asiatic Coast. In June, 1741, Behring sighted land in 58° 28′ North Latitude, and Tchirikoff in Latitude 56°. From 1741 to 1768 there were many Russian voyages to the Aleutian Islands and the Alaskan Peninsula. The Spanish Government sent three exploring expeditions along this coast between 1774 and 1779, touching points on the mainland up to the 60th degree of Latitude. La Perouse, for the French Government, made the mainland near Mount St. Elias in 1786. United States vessels first traded on the Northwest Coast in 1788. The first survey of the West Coast was made by Captain Cook in 1778, when he explored from 44° North

Latitude as far as Prince William Sound and Cook's Inlet, and took possession in the name of England. Captain James Hanna followed in 1785, Peters the same year, Portlock and Dixon in 1786, Meares in 1787, 1788 and 1789, and Vancouver in 1792-94. In 1789 at least twelve vessels were trading on the Northwest Coast. All were in search of furs. In 1792 quite twenty-eight vessels were reported on the coast, half of them in the fur trade. Vancouver gives a list of twenty-one vessels for that year, made up as follows: .English, 6; East Indies, 2; China, 3; United States, 7; Portugal 2, France, 1.

Bancroft, in his history of Alaska, thus describes the events of the time: "The events of 1787-88 must have been puzzling to the natives of Prince William Sound. Englishmen under the English flag, Englishmen under the Portuguese flag, Spaniards and Russians were cruising about, often within a few miles of each other, taking possession for one nation or the other of all the land in sight."

The Nootka Sound Convention, 1790

International disputes and the clash of arms were bound to ensue, and trouble on the North Pacific Coast began with the Nootka affair in 1789. John Meares, a half-pay lieutenant in His Majesty's Navy, engaged in the fur trade on the Northwest Coast in 1786. In January, 1788, Meares proceeded from China to Nootka with the Felici. Reaching there in June, he purchased ground from Maquilla, the Indian Chief, built a house and fort and completed the Northwest America, the first ship constructed on this coast. With a number of other vessels subsequently acquired he engaged in the fur trade along the coast, purchasing the exclusive right to trade with the Indian chiefs, and exploring and occupying wherever he went.

The victories of Cortez in Mexico in 1520 and Pizarro's conquest of Peru in 1526 firmly established Spain on the shores of the Pacific, and it would have been strange if Spain had passed unnoticed the extension of other influences along the Northwest Coast. In 1774 Perez was dispatched from Mexico on a voyage of exploration and reached the Southern Coast of Alaska.

It was the contention of Martinez that Perez, long before Cook, was the first to anchor in Nootka Sound, that caused the dispute which led to the Nootka Affair. That Perez sighted Queen Charlotte Islands is admitted, but whether he had ever landed at Nootka is by no means clear. Spain, however, took immediate action to expel the invaders. Martinez seized four of Meares' vessels and, according to the memorial presented to the British Government, put British subjects in irons and committed numerous outrages. Pitt demanded immediate reparation, refusing all discussion until that had been done. Meares' memorial, dated April 30th, 1790, was placed in the hands of the King and on the same day Pitt demanded adequate satisfaction and advised the fitting out of a squadron of ships of the line. Parliament voted £1,000,000 and England speedily placed in readiness an armament described in the introduction to Vancouver's Voyages as "the noblest fleet that Great Britain ever saw." .Floridablanca, Prime Minister of Spain, saw that resistance was useless, and lost no time in capitulation. To say that the French Revolution paved the way for the acquisition of British Columbia by Great Britain is rather startling, but nevertheless true. Spain had relied on the support of the Royal Family of France and the Family Compact of 1761, but the deposition of Louis XVI destroyed her hopes. The States General claimed the right to make peace and war, and refused to recognize any such right in the King. An appeal to the States General, then controlled by the Tiers Etat, was useless, and was not attempted. On October 28, 1790, the Nootka Sound Convention was signed, full reparation was made, and Spain's unrestricted claim to sovereignty of the Northwest Coast was forever abandoned. Article V provided that North of the parts already occupied by Spain whereon the subjects of either party had made settlements since 1789 or "shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade without any disturbance or molestation." The Treaty of Madrid, 1794, a supplementary treaty of January 11, 1794, recited the equal rights of the powers in frequenting Nootka Sound, provided against the creation of permanent establishments in the port, and bound the contracting nations to resist every attempt on the part of any other nation

to exercise sovereignty there. Mr. James White in "Canada and Its Provinces" notes that this secret treaty was probably not known to the American diplomats during the Oregon controversy, and was first published in 1862.

The Oregon Question

Peace had scarcely been arranged between England and the United States by the Treaty of Ghent (1814) when the Oregon question, which remained an open cause of dispute for more than a generation, and nearly led to another war, presented itself for solution. England had agreed to restore all territory captured during the war. In 1817 the United States determined to re-occupy the Columbia Valley and demanded the return of Astoria. At first Great Britain refused on the ground that Astoria had been purchased, but not captured. In 1818, however, the post was given up to the United States.

In 1819 Spain had ceded to the United States all her territorial claims North of 42°. In 1803 Napoleon, in need of funds for his war chest, had sold Louisiana to the United States for $15,000,000. In 1805-6 Lewis and Clarke, under the orders of President Jefferson, had passed down the Columbia River to the Pacific Ocean. In 1811 the Pacific Fur Company founded Astoria. In addition to all this Captain Gray, a United States citizen, had discovered the Columbia in 1792. On these grounds the United States claimed the whole coast between 42° N. to 49° N.

The British reply was that if the title of Spain as first discoverer or of France as original owner of Louisiana were valid, then either France or Spain already possessed the country when the United States pretended to have discovered it. On the other hand, if the United States were first discoverers, the claims of both Spain and France entirely disappeared.

Lousiana belonged to Spain when Gray discovered the Columbia, and when the Nootka Convention was signed. If it included the Columbia, the whole matter had been settled by the Nootka Sound Convention. In any event, the original grant of Louisiana by Louis XVI limited the territory to the country drained by the waters enter-

ing directly or indirectly into the Mississippi, and as that river had at no point crossed the Rocky Mountains, Louisiana could not extend to the coast. Moreover, if Gray could claim the coast from 42° N. to 49° N. because he, as a private American citizen, had entered the Columbia, Drake, Cook and Vancouver had all landed in the vicinity and taken possession of various parts of the coast in question, and Meares of the Royal Navy had entered the mouth of the Columbia and taken formal possession of the Straits of Juan de Fuca in 1788.

As to interior settlement and discovery, Mackenzie conducted the first expedition of civilized men West of the Rocky Mountains in 1793. Duncan McGillivray was the first white man to discover the upper waters of the Columbia in 1800. In 1806 the North West Company, a British corporation, established at Fort Fraser in 54° N. the first settlement made in the so-called Oregon territory by civilized men. Before Astoria was founded the same company had built at least four posts South of 49° N.

In the interior the British had long had settlements and trading posts both North and South of the Columbia and had navigated the river itself, while the Americans had never possessed a single post or settlement.

Such was the state of things in 1826, when negotiations for settlement of the boundary were still in progress. Nothing was done, however, and the two countries fell back again on the policy of joint occupation. Meantime the United States carried on an active immigration campaign, rushing settlers to the front to take possession of the disputed territory. In 1844 President Tyler asked Congress to extend the federal laws to Oregon. The Democratic Party finally in that year assumed a belligerent attitude and sounded the slogan,

"Fifty-four Forty or Fight"

Had they succeeded, the whole coast line North to Russian territory, the entire littoral of British Columbia, would have passed into the possession of the United States. Great Britain prepared for war, and Buchanan at last invited the British Government to propose a settlement. Professor Meany, of the University of Washington, has described the battle cry of "Fifty-four forty or

fight" as pure Yankee bluster from beginning to end. The sequel proved it.

The Oregon Treaty

Finally, on June 15, 1846, the Oregon Treaty was signed at Washington. The boundary was declared to follow the 49th Parallel from the Rockies "to the middle channel which separates the continent from Vancouver Island and thence Southerly through the middle of said channel and of Fuca Straits to the Pacific Ocean," the whole of the channel South of the 49th parallel to remain free and open to both parties. Another article provided for the free navigation of the Columbia. The sovereignty of the coast from 42° to 54° 40′ was settled.

Perhaps no purpose will be served by pointing out the extent and value of this territory lost to Great Britain by the arrangement arrived at. Whatever may be said of the merits of the settlement, it was the inevitable result of the attitude of the two nations, official England's indifference owing to the remoteness and lack of knowledge of the country, and the master stroke of the Americans in refusing to arrange a treaty until the country had been settled by United States subjects. "Finlayson, I would not give the most barren hills in the Highlands for all I see around me," exclaimed Captain Gordon, a brother of Lord Aberdeen, who was here in 1845 in command of H.M.S. America. This was the same Captain Gordon who objected to catching salmon without a fly. Mr. White in "Canada and Its Provinces" ranks this story as one of the usual boundary dispute fables, but Mr. Scholefield, in "British Columbia," gives us the authentic story for the first time from Roderick Finlayson's manuscript history of British Columbia. Lord Ashburton was equally non-enthusiastic. This, and the great influx of settlers in 1842-43, saved Oregon to the United States.

The San Juan Controversy

In 1859 a pig belonging to the Hudson's Bay Company nearly involved the two countries in a bloody war. This notorious animal, having been shot by an American citizen on the Island of San Juan, international complica-

tions ensued, which led to the landing of United States troops. The Oregon Treaty had declared the water boundary to be the "channel which separates the continent from Vancouver Island," but as there were different channels penetrating an extensive archipelago, and the ownership of San Juan depended on which was the right one, the fat was in the fire once more. England contended for the Rosario Strait, or in default of that a channel midway between Rosaria Strait and Haro Strait, the water boundary insisted upon by the United States. By the Treaty of Washington, May 8, 1871, the dispute was submitted to the arbitration of the German Emperor, who decided in favor of the United States contention.

The Behring Sea Fur-seal Dispute

Early in the eighteenth century, by the discoveries of Vitus Behring before referred to, Russia acquired a portion of the Northwest Coast of North America. In 1867 this territory was sold to the United States and became known as Alaska. In 1870 the United States leased the Pribyloff group of islands to the Alaska Commercial Company for a considerable sum and certain royalties. As it was found that Canadian sealers by pelagic sealing were making inroads on the revenues of the lessees of the Pribyloff group, a number of them were seized in Behring Sea, seventy miles from land, for taking fur seals in Alaska waters. The question of the jurisdiction of the United States over Behring Sea was thus put in issue, and in 1892 a Board of Arbitrators of distinguished jurists was appointed to determine the matter. As the right of exclusive fishing in international law extends only to three miles from the shore, in attempting to justify the seizure of vessels fishing from 70 to 100 miles from land the United States set itself a heavy task. In 1821, the Emperor of Russia had issued an ukase, one of the rules annexed to which granted exclusively to Russian subjects all fisheries and other commerce on the Northwest Coast, from Behring's Straits to 51° North Latitude and from the Aleutian Islands to the Siberian Coast, and provided for the inspection of all foreign vessels landing on Russian territories, or approaching them within less than 100 Italian miles. Great Britain and the United States at

once protested. In 1824 Russia and the United States settled their differences by treaty. The United States was conceded full rights to navigate and fish the Pacific Ocean and to resort to unoccupied coasts, and the spheres of influence were divided by parallel 54° 40′ North Latitude. Practically the same concessions were made to England in 1825. Having purchased the "territory and dominion of Russia," in 1869, the United States justified the seizure of Canadian ships on the ground that Behring Sea was a mare clausum, and not part of the Pacific Ocean.

Arbitration of Paris, 1893

The contention that Behring Sea was a mare clausum was abandoned at an early stage of the proceedings, owing largely to the fact that the translator was discovered to have falsely translated much of the Russian evidence in the United States case supporting that contention. The American case was therefore based on the exclusive right to the seal fisheries. The British argument, on the contrary, contended that fur seals were animals, ferae naturae, and incapable of ownership. As Sir Charles Russell said:

"Now it is said that these animals resort to the islands to breed and resort there in compliance with what has been picturesquely described as the 'imperious instincts of their nature.' They do.

"And when they get there what do the representatives of the United States do? Can they do anything to improve the breed? Nothing. Do they make any selection of sire and dam: of bull or cow? Indeed, could they? No. What do they do? They do two things, one positive and the other negative, and two things only. The positive thing is that they do what a preserver of games does: he has a gamekeeper to prevent poaching; they have people on the islands to prevent raiding. The negative thing they do is that they do not kill all. They knock on the head a certain number, but exercise a certain amount of discrimination or a large amount of discrimination. That is the whole sum and substance of what they do, no more, no less . . . the only thing that Nature does not do is that she does not knock them on the head."

The contention of the United States that the seal herd was as much a subject of domestication as sheep or cattle on the plains was challenged by Russell. "There "was but one instance given in the case of the United "States, he said, in which an attempt was made to tame "a young seal—the case of the pup called 'Jimmie.' His "mother gave birth to him away from the rookeries while "on her way from the killing grounds to the water, and "he was taken in charge by an employee of the sealing "company with a view to saving his life and making a pet "of him. As stated by the witness, the pup could not be "made to eat, and generally bit those who attempted to "feed him. Spoons and nursing bottles were tried in vain; "and after two weeks or more of futile effort, a flexible "tube was put down his throat, and by means of a syringe "a pint of cow's milk was injected into his stomach. After "the operation he showed in the 'most unmistakable man-"'ner the greatest of seal delight' by lying on his back "and side bleating and fanning and scratching himself. "The next morning he was dead. A single fact, continued "Sir Charles, rendered the complete domestication of the "seals impossible, and that was that if you attempted to "keep them under control and on land they would inevit-"ably die. To use the words of the United States case, "by 'the imperious necessity of their nature' they must "go to sea."

Needless to say, Great Britain won on both points, but finally agreed to give up pelagic sealing for fifteen years for $200,000, and in 1894 accepted $425,000 as damages arising out of the seizure. In 1911 Canada followed the lead of Great Britain, agreeing to the prohibition of pelagic sealing for fifteen years for the sum of $200,000 cash, and other advantages which I need not enumerate.

The Alaska Boundary

The Convention between Great Britain and Russia of the 28 (16th) February, 1825, by which the rights of the contending parties on the Pacific Ocean, Behring Sea and with regard to the water boundary were supposed to have been finally settled, also delimited the boundary line between Russian America, now Alaska, and the British

possessions in North America. Having acquired Russian sovereignty and dominion by the purchase of March, 1867, the United States laid claim to a vast amount of territory which Great Britain regarded as British under the Treaty of 1825. The same over-reaching spirit, which had been shown in laying claim to Behring Sea, its islands and even its ferae naturae, was shown by the United States in seeking to deprive Canada of the Northwest Coast line and a vast extent of the territory of British Columbia and the Yukon.

A convention of 1903 provided for the appointment of "six impartial jurists of repute." The breach of faith on the part of the United States in appointing to the tribunal three members who could be "relied on" is too notorious to call for comment at this stage. Nor was the conduct of Great Britain much less reprehensible. Canada vigorously protested against the American commissioners. The Colonial Office admitted the justice of this protest, but asked our consent to avoid breaking off the negotiations. Without waiting for our reply the Treaty was signed by Mr. Hay and Sir M. Herbert. This was a bad beginning, but a fitting prelude to the final act in the drama which deprived the Dominion forever of a vast territory and closed the ports of the Northwest Coast line against us.

According to the Treaty the line between Russian and British territories "on the coast of this continent" was to begin at 54° 40′, follow the Portland Canal to 56° North Latitude, and then follow the crest of the mountains situated parallel to the coast to the 141st degree of West Longitude and then to the Arctic Ocean. Where the crest of the mountains which extend parallel to the coast was more than ten marine leagues from the ocean, the line was to follow sinuosities of the coast, but nowhere to be placed further back than ten marine leagues.

As the negotiators of the Treaty of 1825 had Vancouver's narrative before them, the British case contended for the Portland Canal, as described by Vancouver. The Americans contended for the lower estuary. The tribunal unanimously agreed that the channel contended for by Great Britain was the one intended by the Treaty, that is the channel North instead of the channel South of Pearse and Wales Islands. In a further answer, the

majority extended the boundary South of Sitklan and Kannaghunut Islands and through the channel of Tongass, a route which Vancouver had not pursued and which had not been claimed in the United States argument. Of this "gross travesty of justice," to use Mr. Aylesworth's words, I will have something to say later.

The most important branch of the case concerned the mountains, or lisiere boundary along the coast between Portland Canal and the 141st Meridian near St. Elias. Count Nesselrode, on behalf of Russia, in the negotiations preceding the Treaty had expressed the Russian claim when he said: "We restrict our demands to a small strip (lisiere) of coast on the continent." The Canadian contention was that there were mountains parallel to the coast within the meaning of the Treaty, and that the tops of the mountains nearest the sea should be the line of demarcation. The United States contended that an unbroken chain of mountains exactly parallel to the coast was intended and that as no such chain existed (or ever did exist in the known world) the boundary line should everywhere be placed back ten marine leagues, or thirty-five miles from the shore, including in the term "shore," the heads of all inlets, bays, etc. The Tribunal found the Canadian contention to be correct as to the existence of mountains within the terms of the Treaty, but arbitrarily chose mountains not along its coast but at a great distance from it. Canada achieved the victory "but," to use Mr. Aylesworth's words, "the fruits of victory are taken from Canada by fixing as the mountain line a row of mountains so far back from the coast as to give the United States substantially nearly all the territory in dispute." "Instead of taking the coast line of mountains," continued Mr. Aylesworth, "a line of mountains has been drawn far back from the coast, clearing completely all bays, inlets, and means of access to the sea, and giving the United States a complete land barrier between Canada and the sea from Portland Canal to Mount St. Elias." Speaking for himself and Sir Louis Jette, Mr. Aylesworth added: "We have been compelled to witness the sacrifice of the interests of Canada, powerless to prevent it, though satisfied that the course the majority determined to pursue in respect to the matters above specially referred to, ignored the just rights of Canada."

To return to the question of the islands: It will be recalled that the Canadian members of the Tribunal stated that when the British commissioners (including Lord Alverstone) met, the view of all three was that the four islands belonged to Canada and that the Canadian contention in that connection was unaswerable.

A memorandum, they stated, was prepared embodying these views, and "showing it to be beyond dispute that the Canadian contention upon this branch of the case should prevail." This memorandum has frequently been referred to, but has never yet seen the light. It was drawn up by Lord Alverstone and is as follows:

Second Question:

What Channel is the Portland Canal?

"The channel which runs to the North of "Pearse and Wales Islands, the islands of "Sitklan and Kannaghunut, and issues into the "Pacific between Kannaghunut Island and the "Island of Tongas.

"The answer to this question, as indicated "by the learned Counsel on both sides, depends "upon the simple question: What did the "contracting parties mean by the words, 'the "channel called the Portland Channel' in Article "III of the Treaty of 1825? This is a pure "question of identity. In order to answer it "one must endeavor to put oneself in the posi-"tion of the contracting parties and ascertain "as accurately as possible what was known to "them of the geography of the district so far "as relates to the channel called the Portland "Channel.

"There are certain broad facts which, in my "opinion, establish beyond any reasonable ques-"tion that the negotiators had before them "Vancouver's maps, the Russian map, No. 5 "in the British, No. 6 in the American Atlas, "Arrowsmith's maps (probably the map num-"bered 10 in the American Atlas), and Faden's "maps (British Appendix, pp. 10 and 11). I

"have, moreover, no doubt that the negotia-
"tors were acquainted with the information
"contained in Vancouver's narratives.

"I do not think it necessary to state in de-
"tail the evidence which has led me to these
"conclusions beyond stating that, quite apart
"from the overwhelming probability that this
"was the case, there are passages in the docu-
"ments which, in my judgment, establish it to
"demonstration, but, for the purpose of my
"reasons it is sufficient to say that I have come
"to that clear conclusion after the most care-
"ful perusal of the documents.

"I will now endeavor to summarize the facts
"relating to the channel called Portland Chan-
"nel, which the information afforded by the
"maps and documents to which I have referred,
"establish. The first and most important is
"that it was perfectly well known before, and
"at the date of the Treaty, that there were
"two channels or inlets, the one called the
"Portland Channel, the other Observatory
"Inlet, both of them coming out to the Pacific
"Ocean.

A. C. App. p. 122
B. C. App. p. 33

"That the seaward entrance of Observatory
"Inlet was between Point Maskelyne on the
"South and Point Wales on the North.

B. C. App. p. 146

"That the seaward entrance of Portland
"Channel was between the island now known
"as Kannaghunut and Tongas Island.

B. C. App. pp. 144, 145

"That the latitude of the mouth or entrance
"to the channel called Portland Channel, as
"described in the Treaty and understood by
"the negotiators, was at 54° 45′.

A. C. App. p. 159
B. C. App.

"For the purpose of identifying the channel,
"commonly known as Portland Channel, the
"maps which were before the negotiators may
"be useful. This is one of the points upon
"which the evidence of contemporary maps as
"to general reputation is undoubtedly admis-
"sible. It is sufficient to say that not one of
"the maps which I have enumerated above in
"any way contradicts the precise and detailed

A. At., No. 6
B. At., No. 5
B. At., Nos. 10 and 11

"situation of Portland Channel and Observ-"atory Inlet given by Vancouver's narrative, "and the other documents to which I have "referred. The Russian map of 1802 shows "the two channels distinctly; and the same "may be said of Faden's maps, on which so "much reliance was placed on the part of the "United States.

"I desire to say that I do not attach partic-"ular importance to the way in which the "names are written or printed, and therefore "I do not rely upon the fact that, in the case "of some of these contemporary maps, the "words 'Portland Channel' are written so as "to include the lower part of the channel "which is in dispute within that name. From "past experience I have found that it is not "safe to rely upon any such difference, I only "notice it in order to observe that they in no "way contradict or throw any doubt upon the "conclusion at which I have independently "arrived.

"After the most careful consideration of "every document in this case, I have found "nothing to alter or throw any doubt on the "conclusion to which I have arrived, and there "are certain general considerations which "strongly support it. Russia and Great Britain "were negotiating as to the point on the coast "to which Russian dominion should be "conceded.

"It is unnecessary to refer to all the earlier "negotiations, but it is distinctly established "that Russia insisted upon her dominion ex-"tending to 55° of Latitude, and it was in "furtherance of this object that Portland Chan-"nel, which issues into the sea at 54° 45′ was "conceded and ultimately agreed to by Great "Britain. No claim was ever made by Russia "to any of the islands south of 54° 45′, except "Prince of Wales Island, and this is the more "marked because she did claim the whole of

"Prince of Wales Island, a part of which "extended to about 54° 40′.

"The islands between Observatory Inlet and "the channel to which I have referred above "as the Portland Channel, are never mentioned "in the whole course of the negotiations."

If Lord Alverstone can explain his action in a way that will be satisfactory to his Canadian colleagues on the Tribunal, and to the people of Canada generally, he certainly should do so. How did it happen that he showed one judgment to his colleagues, giving all the islands to Canada, and delivered another depriving them of Sitklan and Kannaghunut? Why did he conceal the change which his mind had undergone? What right had he to represent to them that he would support the Canadian claim, and then oppose it in part without even the pretense of further consideration? When Mr. Aylesworth's comments were brought to his attention at Nottingham by a representative of the London "Daily Mail," the latter announced that Lord Alverstone was inditing a reply to Mr. Aylesworth which would be given to the press. The Aberdeen "Journal" later pointed out that the promised explanation had not yet appeared. It is not too late to clear up a point of such great importance, and the Canadian people would be only too glad if a satisfactory explanation were forthcoming.

In the meantime, it looks very much as though diplomacy completely usurped judicial methods in the Alaska Boundary Award, and that President Roosevelt spoke indiscreetly perhaps, but none the less in accordance with the facts, when he exclaimed, "This is the greatest diplomatic victory of our time."

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Bib: 2744359 bsc

SATURDAY
SUNSET
PRESSES
VANCOUVER
B. C.